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## REPORTS OF THE COURSE

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### GROUP 1

#### PROTECTION OF VICTIMS OF CRIME IN THE CRIMINAL JUSTICE SYSTEM

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### I. INTRODUCTION

Group 1 agreed to discuss the following agenda.

#### A. First Response to Victims of Crime, Paying Special Attention to the Vulnerable such as Victims of Sexual Assault, Child Victims, Survivors of Homicide Victims, Etc.

1. Response to victims of crime
2. Institutional framework
3. Treatment of victims
4. Assistance/service provided to victims
5. Training of police officers

#### B. Protection of Victims of Crime and Witnesses from Offenders

1. Tougher bail conditions
  - a) Principles governing the granting of bail
  - b) Bail conditions
  - c) Cancellation of bail
2. Separation of waiting rooms between victims, witnesses and offenders
3. Witness protection programmes
4. Prohibition of access by the offender to the victim
5. Providing information on the offender to the victim

#### C. How to Minimize Secondary Victimization Especially In the Investigation Stage

1. Attitude and tips of criminal justice practitioners during investigation and interview of victims of crime
2. Confidentiality of information about victims and witnesses
3. Testimony via closed-circuit-television
4. Court escort and court attendant
5. Interdisciplinary co-ordination among criminal justice agencies

The discussions of the group were mainly centred on protection of victims of crime in the criminal justice systems. Much attention was given to the first response to victims of crime, and the protection of victims of crime from offenders. The later stages of the discussion were directed towards analyzing measures on how secondary victimization can be minimized during the investigation stage. The conclusion and recommendations for implementation when participants return back to their respective countries concludes this report.

## II. SUMMARY OF DISCUSSION

### A. First Response to Victims of Crime, Paying Special Attention to the Vulnerable such as Victims of Sexual Assault, Child Victims, Survivors of Homicide Victims, etc.

#### 1. Response to Victims of Crime

The group agreed that police have the primary responsibility to respond to the needs of vulnerable members of society, especially women and children.

In other countries the following also respond and provide services before the matter is taken up by the police:

- Support centres outside the police institutions (Thailand)
- Public prosecutors, different victim support organizations and NGOs (Japan)
- Hospitals, school authorities, and NGOs (Zimbabwe)
- Public prosecutors (Paraguay)
- Community leaders, women's groups and NGOs (Myanmar, China)
- Public prosecutors, hospitals, community centres, NGOs (Honduras)

#### 2. Institutional Framework

Participants from Myanmar and China stated that they do not have special units dealing with victims of crime. Participants from Honduras, Zimbabwe, Japan and Paraguay stated that they have special units that handle victims of crime. The group however appreciated a situation where:

- Special units can be created
- Such units are manned by trained investigators
- Secondary victimization will be minimized by the utilization of such units
- Female investigators are attached to such units

In countries where such special units cannot be created for certain reasons (e.g. budgetary reasons), the following were raised as possible alternatives:

- Special training of investigators for these crimes should be carried out
- Victims should be interviewed by specialists such as psychologists and psychiatrists

However, some participants felt that the use of specialists would create the following problems:

- Costs for hiring them
- Their availability
- Legal restrictions for their use because investigation authority is vested in the police

Also, another observation was made that these difficulties could be minimized through coordination between the police and NGOs which are willing to help victims of crime.

#### 3. Treatment of Victims

The group agreed that:

- Victims need to be treated with compassion
- Victims' rights and dignity need to be respected
- Victims are entitled to swift mechanisms of justice
- Victims need to be given proper assistance in a conducive environment
- Victims need not be discriminated on grounds of race, colour, sex, political opinion, etc.
- Victims need to be given emotional, direct and information support

#### 4. Assistance/Service Provided to Victims

The group agreed that victims do suffer emotionally, psychologically and physically as a result of the commission of criminal offences.

Criminal justice officials therefore need to:

- Encourage victims to report to the police especially children and women in domestic violence cases
- Empower victims with crime prevention initiatives
- Respond immediately when victims report cases to police

- Ensure that reporting centres are conducive, private and friendly
- Provide counselling services to victims in order to reduce trauma and emotional stress
- Inform victims on the need to preserve evidence because evidence strengthens victim claims
- Ensure the availability of competent investigators to deal with victims in police stations or reporting centres
- Refer victims to other experts outside police establishments e.g. psychiatrist and psychologists
- Ensure that victims are escorted whenever necessary

#### 5. Training of Police Officers

The group agreed that in order to protect and serve victims well, there is need for police to receive training in the following areas:

- Understand the treatment of victims
- Know how to access victim services
- Provide information for victims about proceedings
- Death notifications, etc. (survivors of homicide victims)
- Specialized training in domestic violence and handling of sexual offences
- Training in victim protection and prevention of secondary victimization

### **B. Protection of Victims of Crime and Witnesses from Offenders**

#### 1. Tougher Bail Conditions

Although bail is normally used as a mechanism to allow an offender legitimate freedom of movement while waiting to be tried in court, the group was more concerned with examining how tougher bail conditions could be effectively applied in a bid to protect victims of crime and witnesses from offenders.

During discussions, the group agreed that more often than not, offenders who are granted bail have a tendency of breaching bail conditions by doing one or more of the following acts:

- Defeating the administration of criminal justice by running away (absconding)
- Intimidating or killing witnesses
- Bribing witnesses or corruptly dealing with victims
- Destroying evidence

Therefore, only tougher bail conditions can guarantee witness protection by stopping the above activities from happening.

#### *(i) Principles governing the granting of bail*

The court will grant bail if it is satisfied that the accused, if released from custody, will do nothing to work against the interest of justice, by for instance interfering with witnesses. According to the discussion by the group in making its decision, the court takes the following factors into account:

- Whether or not justice would be endangered
- Whether or not the accused person would be likely to abscond
- Whether or not the accused person would be likely to interfere with witnesses
- Seriousness of the offence
- Likelihood of interfering with police investigations
- The interest of public safety
- The likelihood of the accused committing further offences if he/she is set free until his trial

In different countries tougher bail conditions are applied such as:

- Imposition of a higher amount of bail money in serious offences (Honduras)
- Remanding accused persons in custody for child abuse, drug abuse, sexual assault and also imposing movement restrictions on the accused where non-bailable offences are committed (Paraguay)
- Rape, robbery, sexual related offences and other serious offences are non-bailable offences. Bail is only granted in less serious offences (bailable) such as criminal intimidation, mischief, etc. (Myanmar)
- Bail is only granted for minor offences (China)
- There is no distinction between bailable and non-bailable offences. However, for serious offences such as murder, rape and sex offences, the court tends not to grant bail. And bail money is required

mainly in order to prevent absconding (Japan).

*(ii) Bail conditions*

Where bail is granted, the offender must comply with all the conditions of a recognizance stipulated by the judge. Conditions may also be imposed upon the sureties of the accused to ensure that the offender complies with his obligations. The following are some of the conditions that may be imposed.

- (i) Surrender by the offender of his passport or advise immigration and customs officials not to allow the offender to leave the country
- (ii) Time and place and to whom the accused must report e.g. police station
- (iii) Places where the accused is forbidden to go (e.g. where victim lives or goes on a daily basis)
- (iv) Prohibition against communication by the offender with state witnesses
- (v) Prohibited from consuming alcohol or drugs that may impair the offender's rational deductive judgment

Where the accused fails to appear for trial, the bail may be forfeited and he may then be arrested or be subjected to residential surveillance, etc.

In some countries where bail is available for every offence, the judge shall not, without the consent of the public prosecutor, allow bail or alter the person's conditions of bail in respect of serious offences such as for example:

- Murder
- Rape
- Car robbery
- Child abuse
- Sexual offences, etc.

*(iii) Cancellation of bail*

In many countries, bail may be withdrawn or cancelled whenever the accused breaches the conditions of bail.

2. Separation of Waiting Rooms between Victims, Witnesses and Offenders

According to the discussion by the group, ideally, it is better to have separate waiting rooms in the police, public prosecutors' offices and courts in order to protect victims/witnesses from offenders.

However, in some countries, separate waiting rooms are not available in courts, and in most countries, separate waiting rooms are not available at the police/public prosecutors offices.

As alternatives, in some countries, interviews of offenders and victims are conducted separately in terms of place and/or time (Zimbabwe, Myanmar, China, Japan).

Another alternative is to offer the victim another room, which may not be designated as a waiting room, as his/her waiting room where the specific victim is at risk of being intimidated/retaliated against by the offender (Japan's example, at court).

The following were the submissions:

- Separate rooms are only available at court (Paraguay, Honduras)
- No separate room exist at police stations but witnesses and offenders are interviewed separately (Zimbabwe, Myanmar)
- There are separate rooms at the police stations, public prosecutors offices and courts (China)
- No separation of waiting rooms for victims in the courts and public prosecutors offices. At the public prosecutors offices, victims/witnesses and offenders are interviewed separately. In court, separate waiting rooms are available for witnesses, which are also available for defence witnesses. In addition, there is no way to prohibit others from entering the room. However, where, in a specific case, there is a risk that the victim/witness may be intimidated by the offender, etc., the court offers another separate room (e.g. clerk's preparation room) to the victim as his/her waiting room (Japan).

3. Witness Protection Programmes

Victims can be escorted by the police or NGOs to court or hospital. The group nevertheless conclude

that where there is a high likelihood of the offender intimidating or seeking retaliation against the victim, then armed police officers only should be used for escorts.

Some of the witness protection programmes available are:

- Victim escorts to court and hospitals (Honduras, Paraguay, Zimbabwe)
- Arresting accused persons who violate bail conditions (Japan, China, Zimbabwe, Myanmar)
- Placement of victims into places of safety, e.g. homes and other institutions (Zimbabwe, Myanmar)
- Escort by NGOs to and from court (Japan)
- The closed-circuit TV system at court is for witness protection (Zimbabwe, Japan)
- Arresting accused persons who commit criminal intimidation, or who try to defeat or obstruct the administration of criminal justice (Myanmar, Japan, Zimbabwe)
- Non-disclosure of the name, address and whereabouts of victims/witnesses to the offender (Japan, Honduras)

#### 4. Prohibition of Access by the Offender to the Victim

On this agenda item, the group agreed that most of the measures have already been covered under agenda items B. 1., B. 2., B. 3. and B. 5.

#### 5. Providing Information on the Offender to the Victim

The provision of information on the offender to the victim helps in raising awareness of the situation regarding the whereabouts of the offender.

Other contributions were as follows:

- The police and the public prosecutor can provide information on the outcome of the proceedings, name and address of the offender, date of parole or release from prison (Myanmar)
- The police, public prosecutor, the judge and community leader can provide information to victims (China)

The group agreed that the following information may be provided to victims upon request:

- Information relating to the release of the offender (police, public prosecutors)
- Information relating to parole date and place of probation (police, public prosecutor)
- Information relating to bail conditions (police, public prosecutor, judge)
- Information relating to background, such as criminal record of offender (police, public prosecutor)

The group agreed that it is preferable to create a victim contact office responsible for information dissemination so that the victims will know where to obtain such information.

### **C. How to Minimize Secondary Victimization Especially in the Investigation Stage**

#### 1. Attitude and Tips of Criminal Justice Practitioners During Investigation and Interview of Victims of Crime

The group agreed that during investigation and interview of victims, secondary-victimization can be minimized through the following measures in addition to those mentioned under agenda item A. "Treatment of victims" "Assistance/Service provided to victims" and "Training of police officers".

- Both police officers and prosecutors need to show empathy for victims (in addition to those mentioned under agenda A. 3., 4. and 5.)
- Interviews to be conducted in a suitable separate room
- Investigators should explain purpose of recording statements and their use in court to victims
- Victims that are emotionally affected need to be counselled first before interview sessions
- Victims need to be reassured so that justice can be pursued in court
- Investigators need to establish good rapport and good communication skills with victims
- It is important to built a trusting relationship between the victim and interviewer (police and prosecutor)
- Victims should be interviewed when events are still fresh in their memory
- Explain to the victim about his/her role in the criminal justice process
- Detailed statements need to be taken from the victims to avoid bothering them later by requesting further details
- Explain to victims about all the necessary support available in the criminal justice process

## 2. Confidentiality of Information About Victims and Witnesses

The group agreed that confidentiality of information about victims needs to be preserved in order to control the degree of secondary victimization that can be created through publicity stigmatization and therefore agreed that:

- Details relating to statements and investigations should be safeguarded against getting into the wrong hands
- Police, public prosecutors and judges must have control over the privacy of information of the victim and communicate or coordinate with the media so that journalists from media organizations must not publicize names of victims in the press especially children and juveniles
- Police should be trained on how to preserve privacy and confidentiality

## 3. Testimony via Closed-Circuit-Television

Most participants agreed that although participants in most countries do not have a closed-circuit-television system, it is better to have the closed-circuit court system during the trial of sexual offenders because of the following advantages:

- Victim will not be intimidated by the offender during the trial through eye contact
- Victim will not be directly seen by members of the public
- Victim will not give testimony under psychological trauma
- A closed-circuit-television system preserves the victim's dignity and privacy

As an alternative, where a closed-circuit-television system is not available, the court can conduct trial proceedings in camera or use screen-setting methods.

## 4. Court Escort and Court Attendant

The group agreed that victims who attend court need to be given direct and psychological assistance such as:

- Assisting victims with transport to and from court
- Accompanying victims to court and providing them more support throughout trial proceedings
- Prevent victims from being intimidated or interfered with by the offender or his relatives
- Victims need to be shown the court rooms, waiting rooms and environment so that he/she can get settled before the commencement of court proceedings
- Victims need to be protected from journalists to avoid publicity
- Victims will enjoy peace and tranquillity in a separate waiting room

## 5. Interdisciplinary Co-ordination Among Criminal Justice Agencies

The group agreed that criminal justice agencies such as the police, doctors, prosecutors and judges will reduce considerably secondary victimization if:

- Police officers, prosecutors and judges are able to balance the treatment of suspects and victims without prejudice
- Agencies are exposed to workshops, conferences and symposiums where deliberations on victim care and treatment are carried out. This will improve the way they handle and treat victims
- Continuous cooperation communication, coordination and consultation among agencies are sustained
- Besides interdisciplinary coordination among criminal justice agencies directors of media institutions need to be involved

## **III. CONCLUSION**

In conclusion the group considered that it is highly likely that victims suffer secondary victimization more often while in the hands of the police than at the court. Although considerable effort is now taking place in different countries aimed at protection of victims and ensuring their active participation in the criminal justice process, a lot still needs to be done to improve the knowledge levels of criminal justice practitioners about the impact of crime on victims. Justice officials need therefore to exhibit positive attitudes towards crime victims and victims of abuse of power.

#### **IV. RECOMMENDATIONS**

At the end of the discussion the group reached a consensus that the following should be recommended as possible measures to take in order to protect victims of crime in the criminal justice process:

1. Provide adequate professional training to police investigators, prosecutors, and judges in order to change their attitudes and perceptions towards victims of crime, as well as to improve skills for protecting them.
2. Improve the public affairs office's information dissemination through both print and electronic media with a view to raising awareness levels on the problems and needs of victims.
3. Consider establishing a substantive and easily accessible victim contact office based, for example, at the national police agency headquarters.
4. Improve investigators' attitudes, questioning skills, etc. when interviewing victims of crime, so that the victims will not suffer from secondary victimization. Also, ensure they interview victims at the police stations or the public prosecutor offices in a separate room and/or time from offenders.