

POLICIES FOR VICTIM PROTECTION AND SUPPORT: CURRENT SITUATION AND PROBLEMS FACED BY VICTIMS OF CRIME IN HONG KONG

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I. INTRODUCTION TO HONG KONG

A. Geographical Location

Hong Kong is located in Eastern Asia, the southeast coast of the People's Republic of China, facing the South China Sea. Geographically, it consists of three main territories namely, Hong Kong Island, Kowloon and the New Territories. The geographical location of Hong Kong is at [Appendix A](#).

B. Size and Population

The area of Hong Kong is 1,104 sq km. The population at the end of 2012 was 7,173,000.

C. The Hong Kong Special Administrative Region

The Chief Executive (CE) is the head of the Hong Kong Special Administrative Region (HKSAR). The main administrative and executive functions of the Hong Kong Government are carried out by three secretary departments, 12 policy bureaux (consisting of 61 departments and agencies) and other services.

(a) Secretaries of Departments

- Chief Secretary for Administration
- Financial Secretary
- Secretary for Justice

(b) Directors of Bureaux

- Secretary for Transport and Housing
- Secretary for Home Affairs
- Secretary for Labour and Welfare
- Secretary for Financial Services and Treasury
- Secretary for Commerce and Economic Development
- Secretary for Constitutional and Mainland Affairs
- Secretary for Security
- Secretary for Education
- Secretary for Civil Service
- Secretary for Food and Health
- Secretary for the Environment
- Secretary for Development

(c) Other Services

- Commissioner of Police
- Commissioner of Independent Commission Against Corruption
- Commissioner of Customs and Excise
- Director of Immigration
- Director of Audit

The civil service employed approximately 156,000 people, or about 4% of the Hong Kong workforce. Apart from administering public services, its main tasks are to assist the Chief Executive and princi-

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pals in formulating policies and carrying out decisions.

D. Special Features

Hong Kong’s free economic system and low tax rate have created a favourable environment for the city’s development in finance, banking, trade, industry and commerce, real estate, shipping and civil aviation. Hong Kong is one of the most densely populated places in the world. The land population density in mid-2012 stood at 6,620 persons per sq km.

E. Visitors

In the year 2012, Hong Kong registered a record of 48.62 million visitor arrivals. Mainland visitors reached 34.91 million in 2012 and continued to be the largest source of visitors to Hong Kong.

F. Crimes

In 2012, a total of 75,930 crimes were reported. The overall crime rate was 1,064 per 100,000 persons.

II. HONG KONG POLICE FORCE

A. Command

The Hong Kong Police Force (the Force) is headed by the Commissioner of Police who is responsible to the Chief Executive of the Hong Kong Special Administrative Region for the administration and operational efficiency of the Force. He is assisted by two Deputy Commissioners. The Deputy Commissioner of Police (Operations) is responsible for operations, crime and security; whereas the Deputy Commissioner of Police (Management) is responsible for personnel, training, management services, finance, administration and planning.

At the end of 2012, the Force had 28,400 regular police officers, 4,700 civilian staff, and 4,500 auxiliary police officers. The police-population ratio in 2012 was 394 regular officers for every 100,000 persons.

B. Vision, Common Purpose and Values

The Force’s Vision, Statement of Common Purpose and Values have been in place since 1996.

Vision	That Hong Kong remains one of the safest and most stable societies in the world
Common Purpose	The Hong Kong Police Force will ensure a safe and stable society by: <ul style="list-style-type: none"> ● upholding the rule of law ● maintaining law and order ● preventing and detecting crime ● safeguarding and protecting life and property ● working in partnership with the community and other agencies ● striving for excellence in all that we do ● maintaining public confidence in the Force
Values	<ul style="list-style-type: none"> ● Integrity and honesty ● Respect for the rights of members of the public and of the Force ● Fairness, impartiality and compassion in all our dealings ● Acceptance of responsibility and accountability ● Professionalism ● Dedication to quality service and continuous improvement ● Responsiveness to change ● Effective communication both within and outwith the Force

C. Strategic Directions

The Force reviews its Strategic Directions on an annual basis. The Strategic Directions 2012-2014 cover Engaging the Community, Enhancing Personal and Professional Qualities of Force Members, Strengthening Criminal Intelligence Gathering Force-wide, and Supporting Frontline Units.

D. Classification and Detection of Crime

The Force classifies crimes into the following ten categories:

- (a) Violent Crime against Person
- (b) Violent Crime against Property
- (c) Burglary & Theft
- (d) Fraud & Forgery
- (e) Sexual Offence
- (f) Serious Drug Offences
- (g) Offences against Lawful Authority
- (h) Serious Immigration Offences
- (i) Miscellaneous Crimes
- (j) Preventive Crime

In 2012, 75,930 crimes were reported. 33,094 cases were detected; representing a detection rate of 43.6%, which was an increase of 1.1% when compared with 42.5% in 2011.

III. VICTIM PROTECTION AND SUPPORT

A. Problems Faced by Victims

It is not uncommon that police officers encounter victims of crime who are uncooperative during the investigation. Whilst there could be many forms and reasons for such behaviour, it is rather obvious that the attitude of victims could have a significant role in the quality and success of an investigation and subsequent prosecution. It is therefore of paramount importance that victims are given proper care and treatment.

It takes courage for victims to report a crime committed on them and going through various investigative and prosecutorial procedures. This is particularly true for victims of crimes that can be collectively known as abusive offences for instances domestic conflicts, family violence, sexual offences, child and elder abuse; whereby the abuser is often a relative or carer upon whom the victim is dependent and fears the loss of their support. As such, the victim might appear uncooperative in order to avoid causing disharmony or embarrassment within the family. Other reasons include a misplaced sense of shame or guilt, or concern about being disbelieved or blamed for being the cause of the problem.

There could be many reasons for a victim to be uncooperative; but generally speaking, problems faced by victims include but are not limited to:

- (a) Fear of revenge
- (b) Fear of losing care
- (c) Fear of publicity
- (d) Lack of confidence in government/police
- (e) Lack of knowledge regarding available assistance

- (f) Embarrassment
- (g) Incapacitated
- (h) Relationship with offender
- (i) Complicated investigative and legal procedures
- (j) Re-traumatized

Hong Kong accords high importance in providing protection and support to victims of crime with a view to achieving the dual purpose of preventing further crimes and prosecuting offenders. This support and protection comes in many ways including legislation, administrative measures, multi-agency approach, protection and support provided by the Force, other government departments, and non-government organizations.

B. Victim Protection and Support — Legislation

Hong Kong is a signatory member of core international conventions on human rights, and corresponding legislation is in place to protect victims of crime. Where appropriate, amendments to and enactment of legislation is made with a view to enhancing protection of victims. Below is a list of existing legislation in Hong Kong that has provisions or relevance in the protection and support of victims:

- (a) Evidence Ordinance (Cap 8)
 - Provisions to strengthen evidence given by children
- (b) Mental Health Ordinance (Cap 136)
 - To protect the welfare of mentally incapacitated persons, including provisions for a Guardianship Board
- (c) Domestic and Cohabitation Relationships Violence Ordinance (Cap 189)
 - Provisions of injunction orders to protect victims of domestic violence
- (d) Crimes Ordinance (Cap 200)
 - Provisions to protect the identity of sexual-offence victims
- (e) Offences Against the Person Ordinance (Cap 212)
 - Criminalizing various forms of child abuses
- (f) Protection of Children and Juveniles Ordinance (Cap 213)
 - Care or Protection Orders for children and juveniles in need
- (g) Criminal Procedure Ordinance (Cap 221)
 - Provisions to reduce stress and trauma of victims (vulnerable witnesses give evidence and cross-examined via live television link, support person scheme, closed court, non-disclosure of witness identity)
- (h) Summary Offences Ordinance (Cap 228)
 - Prohibits taking photographs etc. in court that may lead to identification of the victims
- (i) Sex Discrimination Ordinance (Cap 480)
 - To protect people from sex discrimination
- (j) Witness Protection Ordinance (Cap 564)
 - Provisions of a programme to protect witnesses and associated persons

- (k) Prevention of Child Pornography Ordinance (Cap 579)
 - To protect children from erotic acts
- (l) Racial Discrimination Ordinance (Cap 602)
 - To protect people from racial discrimination

C. Victim Protection and Support – Administrative Measures

1. Special Measures for Child Victims/Witnesses

In addition to the arrangements authorized under the law to avoid re-traumatizing child victims/witnesses while they are giving evidence in court, i.e. submission of video recorded interview as evidence during examination-in-chief, giving evidence by way of a live TV link in criminal proceedings, and victims accompanied by a support person while giving evidence in court (Witness Support Programme); other special measures for child victims/witnesses include:

- (a) Viewing his/her video recorded interview to refresh memory before the trial;
- (b) Paying a pre-trial visit to the court;
- (c) Provision of special passages when entering and leaving court;
- (d) Cases involving child victims will be given priority in listing; and
- (e) Postponement of trial would only be allowed in very exceptional circumstances in order to avoid child victims being burdened by additional stress.

2. Special Measures for Other Vulnerable Witnesses

In addition to protection and support available for child victims/witnesses, administrative measures are also in place to protect other vulnerable witnesses, e.g. victims of sexual-offence cases. To minimize stress or further trauma on victims of sexual offences during court proceedings, the Police may apply to a court for appropriate protective measures. Having considered the circumstances of each case, the following measures could be adopted:

- (a) Banning of shooting and recording in court
 - No shooting and recording is allowed in court to prevent disclosure of the identity of victims.
- (b) Provision of screen during trial
 - When a victim gives evidence in a courtroom, the court, upon the application of the prosecution, may arrange for a screen to be placed around the victim so that the public and the press will not be able to view or identify the victim during the proceedings.
- (c) Provision of special passage
 - Where circumstances warrant, the court may order special arrangement be made for victims to enter/leave the court building through special passages. Such order is generally made upon application of the prosecution.
- (d) Special arrangement in court's daily case list
 - Court's daily case list placed at the reception counter or Judiciary website for dissemination to the public will only display the initials of a defendant's name if full disclosure may lead to identification of the victims.

3. Sexual Conviction Record Check Scheme (SCRC)

Sexual Conviction Record Check Scheme (SCRC) is established to enable employers of persons undertaking child-related work and work relating to mentally incapacitated persons (MIPs) to check whether their prospective employees have a criminal conviction record for certain types of sexual offences. The purposes of the SCRC are:

- (a) To prevent previous sexual offenders from obtaining the trust of employers by deliberately

withholding their past sexual conviction records and molesting children or MIPs again through contact with them in the course of their work; and

(b) To reduce the risk of sexual abuse to children or MIPs and give them better protection.

D. Victim Protection and Support — Multi-Agency Approach

1. Working Groups

The Hong Kong Government adopts a multi-agency and cross-sectoral approach in combating crimes and providing protection and support to victims. In line with this strategy, the Force has been working closely with different government departments and non-governmental organizations (NGOs) to protect the best interests and rights of victims. Representatives from the Force attend various working groups that were formed to address specific areas of concern including examining respective problems and mapping out strategies to address them. Some of the working groups attended by Force representatives are:

- (a) Committee on Child Abuse
 - Focuses on issues relating to child abuse
- (b) Working Group on Combating Violence
 - Emphasizes spouse battering and sexual violence
- (c) Working Group on Elder Abuse
 - Aims at tackling elder abuse problems

2. Multi-Agency Referral Mechanisms

In addition to performing the core duties of case investigation and prosecution, the Force also provides protection and support to victims by utilizing its own resources and/or through close collaboration with other government departments and non-governmental organizations (NGOs). Timely referral mechanisms have been established between the Force and relevant stakeholders including 24-hour Police Designated Hotline to facilitate police referrals and arranging emergency services.

3. Child Protection Special Investigation Team (CPSIT)

The Child Protection Special Investigation Team (CPSIT) is formed by specially trained police officers and social workers to conduct joint investigation into cases of suspected child abuse with a view to collecting evidence, which will be admissible in criminal proceedings, and to prevent further trauma to the child by having to repeat details of the allegation to different persons.

4. Multi-disciplinary Case Conference (MDCC)

Multi-disciplinary Case Conference (MDCC) is an effective multi-disciplinary cooperation model for child abuse, domestic violence and elder abuse cases. MDCC is most commonly used for child abuse cases. It is a forum by which professionals having a major role in handling and investigation of the case for instances social welfare officers, the police (officer-in-charge of the case), parents, guardians, carers, clinical psychologist, and representatives from Education Department/school, can share their professional knowledge, information and concern on the victim's health, development, functioning, and his/her parents/guardians/carers' ability to ensure safety of the victim.

E. Victim Protection and Support — Provided by the Hong Kong Police Force

The Force has initiated various victim protection and support measures with a view to enhancing the service quality and gaining trust and cooperation from victims so that the investigation and prosecution could be conducted more effectively and efficiently. Highlights of these initiatives are:

1. Performance Pledge

Performance pledges on 'Criminal Investigation' and 'Witness Reassurance' designed by the Force provide information on certain standards of service that victims or witnesses can expect, including their rights to be informed of progress of the investigation, reassurance for vulnerable witnesses and those in fear. A copy of the performance pledges is at Appendix B.

156TH INTERNATIONAL SENIOR SEMINAR
VISITING EXPERTS' PAPERS

2. Rights of Victims and Witnesses of Crime

The Force publishes a notice to victims and witnesses of crime informing them of their rights during investigation and prosecution. The notice contains information/advice on treatment and services they are entitled to receive, including their rights of access to information and obtaining legal representatives during interview with the police, and specific provisions for child victims or witnesses. A copy of the notice is at Appendix C.

3. Witness in Court

The leaflet 'Witness in Court' is published by the Force to better prepare victims/witnesses before attending court by informing them what to expect in court. The leaflet provides information on the type and function of criminal courts in Hong Kong, the appropriate dress code, use of language, court procedures, the sitting of different persons inside courts, witness expenses for attending court and prevention on interference with witnesses. A copy of the leaflet is at Appendix D.

4. Witness Protection Unit (WPU)

The Witness Protection Unit (WPU) was formed in April 1995. The unit consists of permanent staff supported by a pool of cadre officers. Its primary function is to run the Witness Protection Programme (WPP), which aims at encouraging members of the public to come forward to give evidence as witness in criminal cases by offering effective protection to them. The unit also advises case officers on matters regarding various means and degree of witness protection.

5. Non-Disclosure of Victims' Identities

In respect of child abuse, rape and other sexual offences (including homosexual offences), triad related offences, blackmail, debt-collection cases, or where the officer-in-charge of the case considers that a victim or witness might be interfered, only limited information that would not disclose the victim's or witness's identity, e.g. the sex, age and occupation, are provided in documents that required circulation.

6. Enhanced Central Domestic Violence Database (ECDVD)

The Enhanced Central Domestic Violence Database (ECDVD) was set up in 2005 by the Force for frontline officers to swiftly check, upon receiving a report of a case involving domestic violence, whether persons involved in the case were also involved in similar or other related cases, such as repeated domestic violence, child abuse, elder abuse and missing person cases anywhere in Hong Kong. Such data enables frontline officers to obtain more background information on the case, so that they can assess the risk of continuation and recurrence of similar incidents in order that swift and appropriate actions can be taken in respect of the investigation and provision of protection and support to victims.

The ECDVD also has an automatic alert function that notifies case officers and supervisors when a person who was involved in a domestic violence case handled by them previously becomes involved in a fresh domestic violence case. This ensures the ongoing nature of the problem is brought to the police's attention so that additional preventative measures can be considered.

7. Child Abuse Investigation Units (CAIU)

Police investigate all child abuse reports with the aim of collecting sufficient evidence to prosecute abusers whilst protecting victims. The Child Abuse Investigation Units (CAIU), which comprise of specially trained detectives, investigate serious child abuse cases; and where necessary, will collaborate with the Family and Child Protective Services Unit and Clinical Psychologists of the Social Welfare Department (SWD).

8. Vulnerable Witness Interview Suite (VWIS)

The Force maintains a number of Vulnerable Witness Interview Suites (VWIS) at discreet locations throughout Hong Kong where vulnerable witnesses can be interviewed and medically examined in a safe and comfortable environment. Each VWIS contains facilities and equipment for recording video interviews and forensic examination so that 'one stop service' can be provided to minimize the stress experienced by victims.

9. Specific Protocols for Handling Domestic Violence Cases

Experience indicates that domestic conflicts might escalate into violence and have a significant impact on victims and society as a whole. In order to apprehend offenders and provide the best protection and support to victims, the Force provides specific training for officers responsible for handling these cases. Specific protocols are also in place to enhance the quality of investigation and maximize the support and protection provided to victims and their family. These protocols include:

- (a) A supervisor of at least Sergeant rank will attend the scene of crime to ensure correct assessment of the case;
- (b) Use of checklist to ensure that frontline officers complete all actions required;
- (c) Deploy the same team to handle reports from the same family for better investigation and services (one family, one team);
- (d) Each Police district has a designated team to investigate serious domestic violence cases;
- (e) Victims are given leaflets (with 10 different languages) which include information on available services provided by the government and non-governmental organizations;
- (f) Victims are given advice on how to reduce the risk of recurrence and are referred to the Social Welfare Department for various welfare services; and
- (g) Implementation of the Victim Management Scheme and Victim Support Programme for Victims in Domestic Violence to ensure that the victim is well taken care of during the investigation, before, during and after court hearing.

10. Senior Police Call

In order to enhance protection and support to the elderly population, the Police have developed a Senior Police Call scheme, which is an effective platform for regular engagement between the elderly population and the Police. The programme promotes 'productive aging' and encourages elderly to support other elderly and the community, promotes crime prevention by developing fight crime partnership with the Police, and promotes personal safety through reducing victimization and enhancing road safety awareness.

F. Victim Protection and Support — Provided by Other Government Departments

There are different victim protection and support services provided by other government departments, such as the Department of Justice and the Social Welfare Department. The following are some examples:

1. Criminal and Law Enforcement Injuries Compensation Scheme (CLEIC)

The aim of the Criminal and Law Enforcement Injuries Compensation Scheme (CLEIC) is to provide financial assistance to persons (or their dependants in cases of death) who are injured as a result of a crime of violence, or by a law enforcement officer using a weapon in the execution of his duty. Payments under the scheme come from public funds. The Social Welfare Department is responsible for staffing applications including assessment and arranging payment.

2. The Victims of Crime Charter (Department of Justice)

Members of the community who come into contact with the criminal justice system, particularly victims of crime, are entitled to know what their obligations are in helping the law enforcement agencies and, in return, what standard of service they can expect to receive from those involved in the criminal justice system. The Victims of Crime Charter developed by the Department of Justice sets out the rights and duties of victims of crime. A copy is at Appendix E.

In addition to the Victims of Crime Charter, the Department of Justice also publicizes programmes to enhance awareness of members of the public on their services such as, provision of legal aid services.

3. One-stop Service Model (Social Welfare Department)

The Social Welfare Department provides specific support services to victims of sexual violence, which includes the One-stop Service Model. The principle of the model is to minimize the need for victims to undergo different procedures and repeat the incident. It provides professional services that are easily accessible to victims on a 24-hour basis. An important feature of the model is the designation of the same social worker as a case manager for better coordination of services among different departments and units, and to provide victims with customer-oriented service. Victims can receive services and go through all relevant procedures in a convenient, safe, confidential and supportive environment, which minimizes the need to repeat their unpleasant experience.

G. Victim Protection and Support — Provided by Non-Governmental Organizations

Non-governmental organizations (NGOs) in Hong Kong, either working independently or in collaboration with different government departments, provide various types of support to victims of crime, for instance, temporary shelters for child victims or victims of domestic conflicts incidents, financial assistance, and counselling services.

One of the facilities is a crisis intervention and support centre called 'CEASE Crisis Centre' of the Tung Wah Group of Hospitals (an NGO). Operating round-the-clock throughout the year, the centre provides immediate intervention and support services to victims of sexual violence. Social workers of the centre will provide the following 24-hour outreaching services:

- (a) Arrangement of suitable venue, e.g. hospital, for taking statements and conducting forensic examination;
- (b) Aftercare medical services at family/gynaecology clinic, e.g. prevention of pregnancy or transmission of disease;
- (c) Emotional support or counselling service, psychological treatment and temporary accommodation; and
- (d) Victim will be accompanied throughout the process of investigation and court proceedings.

IV. CONCLUSION

Hong Kong accords high importance in providing protection and support to victims of crime through legislation, administrative measures, multi-agency approach, and various measures and mechanisms adopted by the Hong Kong Police Force, other government departments and non-governmental organizations; with a view to achieving the dual purposes of preventing further crimes and prosecuting offenders. The Force will continue to work with its stakeholders to safeguard victims' best interests, rights and welfare.

Important Notice

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APPENDIX A

Geographical Location of Hong Kong

Southern Asia



APPENDIX B

Performance Pledge — Crime Wing



Performance Pledge

Hong Kong Police
Crime Wing



We Serve with Pride and Care

This leaflet tells you about certain standards of service which you can expect from the Crime Wing of the Hong Kong Police. It also tells you the steps you can take if you want to seek explanations or make comments on the service you receive.

Service Delivered

This performance pledge covers the following police activities :

- criminal investigation;
- witness reassurance; and
- time required to obtain a certificate of no criminal conviction (CNCC).

Performance Standards

Criminal Investigation

- Police will respond to all reports of crime, and for crimes that are listed as **SERIOUS** according to internal guidelines, police will inform the complainant of the progress of the investigation every six months.
- Police will inform a complainant :
 - of the name, rank, and office telephone number of the officer-in-charge of the case;
 - when a person has been arrested and charged in connection with the report;
 - not later than four weeks after the investigation is concluded or whenever enquiries are curtailed; and
 - not later than four weeks after the determination of any trial concerning the case.
- When a court orders the return of a person's property which has been used as an exhibit, this will be returned as soon as possible following the expiration of the appeal period.
- Property not required as an exhibit will be returned to the owner as soon as possible.

Witness Reassurance

- When you make a report of crime, you will be provided with the name, rank, service number and contact telephone number of the officer-in-charge of the case. A Report Reference Card containing these details will be given to you.
- If you are the victim of a sexual offence, you will normally be interviewed in private by an officer of the same sex.
- Juveniles (persons aged under 16) will be interviewed only in the presence of a parent, guardian or some other suitable adults of the same sex as the child, except if a delay would cause undue hindrance to the furtherance of justice or might cause harm to others.
- If you are required to attend court as a witness, you will be informed of the date, time and location of the hearing once this is known.
- Witnesses will be provided with suitable protective measures in all cases where a genuine threat is assessed to exist.
- Mentally incapacitated persons as well as child witnesses of cases of sexual abuse, cruelty, assault or a threat of injury to others, may have their interviews video recorded for the purpose of tendering as evidence in court or may give evidence through live television link during the court trial.

Obtaining a CNCC

These certificates will be provided within four calendar weeks after applications from the CNCC Office, 14/F, Arsenal House, Police Headquarters, No.1 Arsenal Street, Wan Chai, Hong Kong.



Effective Monitoring

The Police Force will monitor these standards through analysis of investigation of every report of crime.

Service Environment

The Police Force aims to provide a fair, proficient and professional investigation of every report of crime.

Suggestions for Improvement

There may be occasions when, despite our best efforts, you feel that the standard of service provided could have been better. If you require an explanation, or have any suggestions that may help improve our service, you may contact the Police Community Relations Officer of your local police station or write to your local police station.



In the case of CNCC, you may contact the officer-in-charge of the CNCC Office at 2860 6555.

Channels for Complaints

If you wish to complain that your case has not been dealt with adequately, you may contact the Complaints Against Police Reporting Centre, Ground Floor, Annex Block, Caine House, No.3 Arsenal Street, Wan Chai, Hong Kong or telephone the 24-hour complaint hotline (2866 7700). We will attempt to establish a personal contact with you within two working days of the complaint being known to the Complaints Against Police Office. We will notify you of the result as soon as the investigation into the complaint is completed.

Where to Go for Further Information

For further information on matters stated in this leaflet, you may contact the Police Community Relations Officer at your local police station. The following leaflets may also be useful to you and are available from any police station, and/or accessible from the Police Homepage:

- Victim's Charter;
- Rights of Victims and Witnesses of Crime; and
- Witness in Court.

Hong Kong Police August 2013

Printed by the Government Logistics Department

APPENDIX C

Rights of Victims and Witnesses of Crime

Rights of Victims and Witnesses of Crime

Thank you for discharging your civic duties. In addition to the information provided in this notice, please ask for a copy of the "Victim of Crime Charter" which provides further useful information to you. As a victim or witness of crime you have the right to:-

1. be treated with courtesy, compassion, sensitivity and respect for your personal dignity and privacy;
2. so far as practicable, be interviewed by police at a place and time convenient to you;
3. be accompanied by your legal representative during an interview with the police;
4. receive prompt medical attention in respect of injuries sustained in the commission of a crime, or should you feel unwell;
5. obtain refreshments at your own expense;
6. keep certain particulars unconnected to the investigation confidential, and have data provided to police handled in accordance with the Personal Data (Privacy) Ordinance;
7. automatically be interviewed by an officer of the same sex in all cases of a sexual nature;
8. request consideration of the use of a one-way viewing facility at an identification parade;
9. request a copy of any written statement you have made to police (or video tape recording of your interview where applicable);
10. be given a report reference card detailing the case reference number, name, rank, service number and telephone number of the officer-in-charge-of-the-case and of an investigating officer of the case;
11. have property belonging to you returned to you at the earliest opportunity once not required in connection with the investigation;
12. be informed of police and court procedures should you request such information, and be informed of the progress and result of the investigation expeditiously;

13. be informed of your role in, and the procedures of, the prosecution process;
14. be informed of the date and location of any subsequent court hearing;
15. be provided with protective measures by the police in accordance with their evaluation of any threat, and be considered for inclusion in the Witness Protection Programme, should you so wish;
16. be advised of appropriate agencies which may be able to assist you, such as the Social Welfare Department, the Legal Aid Department and the Consumer Council and
17. a child victim or witness may:
 - be accompanied by his/her parent or guardian when being interviewed or assisting a police enquiry, providing the adult is not involved in the case and his/her presence will not hinder the investigation;
 - request consideration be given for an interview to be recorded on video;
 - request consideration be given for evidence to be given by use of a closed circuit television link in court (the final decision being with the magistrate or judge); and
 - be accompanied by a support person when giving evidence in court, providing that person is not involved in the case.

Furthermore, you are advised that:

- the taking of prosecution proceedings, or a decision not to prosecute an offender, does not usually constitute a bar to subsequent civil action against the offender;
- any criminal conviction you have must, by law, be divulged to the defence;
- information concerning the Criminal Injuries Compensation Scheme and legal advice is available from the Duty Officer of any police station;
- if you are required to attend court to give evidence a Witness Allowance may be payable to you. You may make enquiries of this with the officer-in-charge-of-the-case; and
- if you change your address or contact telephone number prior to being informed by police the case is concluded, you should inform the officer-in-charge-of-the-case as soon as possible.

Oct 2006



APPENDIX D

Witness in Court

WITNESS IN COURT

**You have been asked to go to a criminal court
to give evidence as a witness.
This leaflet tells you what to expect.**



The Criminal Courts in Hong Kong

The criminal courts in Hong Kong comprise Magistrates' Courts, Juvenile Courts, District Courts and Court of First Instance of High Courts. The jurisdiction of criminal courts varies with regard to the age of offenders appearing before them, to the gravity of the offences that they are permitted to try, and to the severity of the sentence they may impose.

What happens in Courts

Most criminal trials take place in a Magistrate's Court. The Magistrate listens to all the evidence and decides whether the person accused of the crime (the defendant) is guilty or not. Defendants under the age of 16 will be tried in Juvenile Courts by a Magistrate. If the defendant is found guilty, the Magistrate decides on the sentence. The more complicated or serious cases are dealt with in the District Courts and the Court of First Instance of High Courts. A District Court is presided over by a Judge and a Court of First Instance of High Courts is presided over by a Judge sitting with a jury of at least seven persons (who are ordinary members of the public). There will be a prosecutor who is appointed by the Secretary for Justice to argue for the prosecution, and there may be one or more lawyers who argue for the defendant unless he is representing himself.

How to dress

To show respect to the court, you should be neatly attired. For male witness, shirt preferably with tie or "polo" shirt and long trousers are expected while plain or conservative-patterned shirt or blouse with skirt or long trouser are expected for female witness.

What language to use

Chinese and English are the predominant languages used in the criminal courts. However, you may use other languages which you feel comfortable to give evidence. Interpreters will be provided if you are not familiar with either Chinese or English.

Where does everyone sit

The picture shows a typical Magistrate's Court. The Magistrate sits behind a raised bench and the witness box is usually to one side (left or right), near the front of the court. The defendant will also be present in court and you may be called upon to identify him. In the District Courts and Court of First Instance of High Courts, lawyers and Judges wear gown and wigs. There is an area for the jury to sit in the Court of First Instance of High Courts.

When you arrive at court

When you arrive at court, report to the prosecutor or his assistant, give them your name and show them your witness summons. They will tell you where to wait. If you are not sure in which court your

case is to be heard, you should go to the enquiry counter in the court building for assistance. In a Magistracy building the staff in the Police General Office should be able to assist you.

Before you are called

While you are waiting to be called to testify, you should not talk to anyone about the evidence you will be giving. Do not leave the court building until you are told that you are no longer needed. If you have an important reason to leave early, tell the prosecutor or his assistant before the case starts. It may be possible for you to give evidence out of turn.

Some cases are delayed or even put off until another date. This may be because an earlier case has gone on longer than expected or an important witness in the case has not arrived. Sometimes a defendant pleads guilty on the day of the trial so witnesses are told at the last minute that their evidence is not needed.

When you give evidence

As you are called into the court you will be shown to the witness box by the court clerk. He will ask you whether you wish to take the oath or to affirm. To take the oath is to swear to tell the truth on the Bible. To affirm is to solemnly promise to tell the truth. You should remain standing when giving evidence unless you are told otherwise by the Magistrate or Judge.

As a witness for the prosecution, you will be asked questions by the prosecutor first. Then the defence will ask some questions, this is called cross-examination. If the defence is represented by more than one lawyer, all of them can ask questions in turn. When the cross-examination has finished, the prosecutor may ask you a few more questions. A Magistrate or Judge may also ask you questions at any stage.

REMEMBER

- The defendant will have pleaded not guilty. Your evidence will help the court to decide whether he or she is guilty or not.
- Speak the truth.
- Say so if you are not sure of the answer.
- Take your time to speak slowly and clearly.
- Ask for questions to be repeated if you do not understand or cannot hear clearly.

After you have finished giving evidence you may be told that you are released. This means that you are free to leave but you can stay and listen to the rest of the case if you want to. You should not discuss your evidence with another witness who has not given his evidence.

Sometimes you might have to stay after you have given evidence. This usually only happens when something new has come up while you are giving evidence.

Vulnerable witnesses including children, the mentally incapacitated and witnesses in fear may give evidence via a video link television system.

Interference with Witness

It is an offence to threaten or persuade a witness to omit, change or falsely give evidence. If at any stage you are so approached you should report the matter immediately to the police.

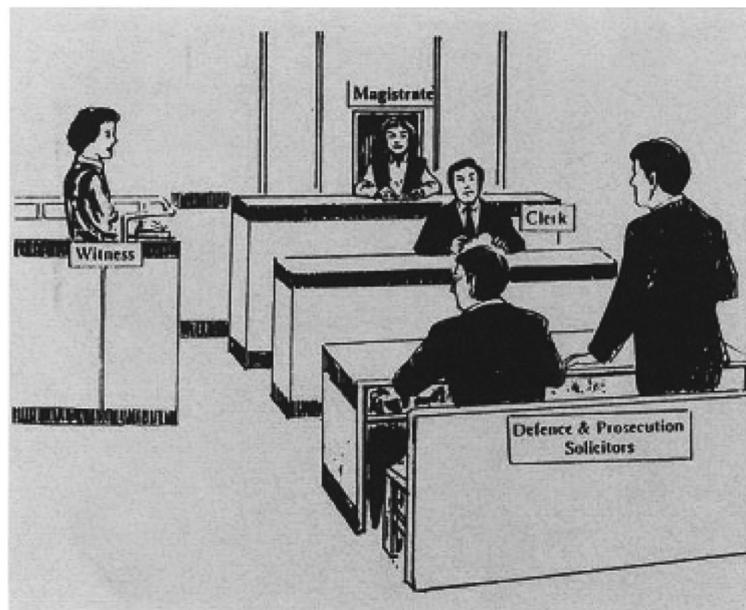
Expenses

You are entitled to claim a witness allowance for expenses incurred related to your appearance in court. The allowance is set at a fixed rate and is approved by the presiding Magistrate or Judge. You should request the prosecutor to apply on your behalf.

Thank you

For your time and trouble.

This leaflet is for general reference only. It should not be taken as a legal directive. If you have queries, you should consult professional advice.

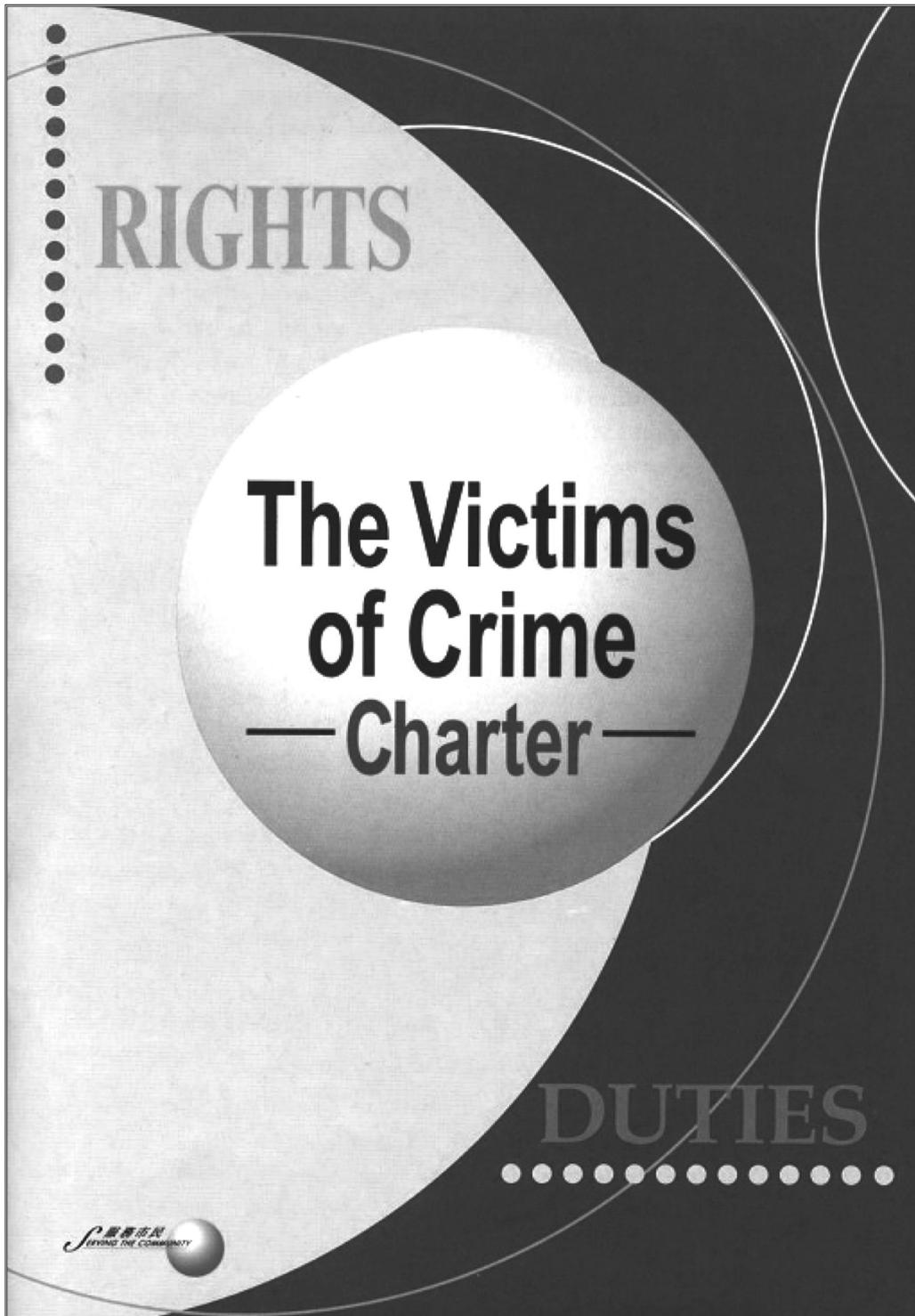


Published by the Hong Kong Police Force
Designed by the Information Services Department
Printed by the Government Logos and Department
Hong Kong Special Administrative Region Government

2004 Version

APPENDIX E

The Victims of Crime Charter



The Victims of Crime Charter

All members of the community who come into contact with the criminal justice system, but particularly victims of crime, are entitled to know what their obligations are in helping the law enforcement agencies and, in return, what standard of service they can expect to receive from those involved in the criminal justice system. This Charter sets out these rights and duties of victims of crime. The Charter is not meant to be the final word: standards need to be kept under review and the aim should be to improve standards of service for victims of crime wherever possible.

Who is a victim?

A victim is a person who suffers physical or emotional harm, or loss or damage to property, as a direct result of a criminal offence. This covers not only the person against whom the offence was committed but also anyone who has suffered directly from the commission of the offence. The definition of victim may include, for example, the parent of a child who has been sexually abused or the immediate family of a murder victim.



Rights and duties of a victim

1. The duty to help maintain law and order

Every member of the community should help all law enforcement agencies, such as the Police and ICAC, to maintain law and order and to discover and apprehend offenders. This does not mean that members of the public

should put themselves at risk when faced with a violent criminal, but it does mean that they should:

- abide by the law
- take proper precautions to prevent crime - for instance, by making sure that their home and personal property are kept secure
- report crime, corruption and any suspicious circumstances - such as persons loitering in the vicinity of a building
- be co-operative when asked to help the police or other law enforcement agencies
- give any assistance they reasonably can at an incident when asked to do so by the police or other law enforcement agencies
- come forward as a witness

2. The victim's right to be treated with courtesy and respect

Members of the law enforcement agencies, prosecutors, court staff, counsel, and other persons dealing with victims of crime shall at all times treat them with courtesy, compassion, sensitivity and respect for their personal dignity and privacy.

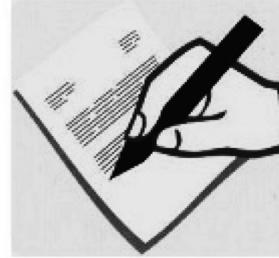


3. The victim's right to have a proper response to complaints of crime

Complaints of crime shall be responded to promptly by the law enforcement agencies, which shall provide fair, proficient and professional investigation of every report of crime.

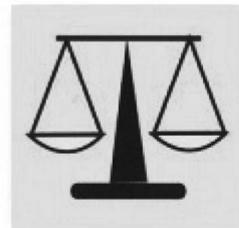
4. The victim's right to information - reporting the crime

Victims shall be provided with the name, rank, service number and contact telephone number of the officer in charge of the case. Upon request, victims shall be provided with a copy of any statement they make. Members of the law enforcement agencies and health and social services personnel shall inform victims as soon as is practicable of the services and remedies available to them. This will include, where appropriate, information regarding criminal injuries compensation, legal aid, social welfare and health services.



5. The victim's right to information - investigation and prosecution

So far as can be done without prejudicing the progress or outcome, victims of crime shall be kept fully informed of the progress of the case. If a decision is made not to prosecute, victims shall be told of that decision. Where prosecution is proceeding, victims shall be told about the steps which follow in the prosecution process, the progress of the investigation, the role of victims as witnesses in the prosecution of the offence, the date and place of the hearing of the proceedings, and the final disposal of the case, including the outcome of any appeal. Victims shall have the right to ask to be notified of the offender's pending release, or escape, from penal custody, provided that the victims have given the Commissioner of Correctional Services their current address and telephone



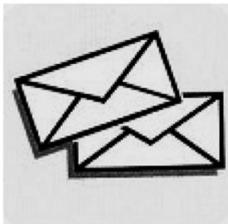
number. Subject to the provisions of the Personal Data (Privacy) Ordinance (Cap 486), the Commissioner shall notify the victims accordingly.

6. The victim's right to proper facilities at court

Victims who have to give evidence in court shall not be made to feel intimidated by the experience. There shall be clear signposting in every court premises, and a clearly marked reception or information point. There shall be adequate accommodation and facilities for victims and other witnesses while they are waiting at the court premises.

7. The victim's right to be heard

Members of the law enforcement agencies and prosecuting counsel involved in advising on, and prosecution of, the case shall inform themselves of the victims' circumstances and their views on prosecution. Prosecuting counsel shall bring to the attention of the court the victims' circumstances and views whenever appropriate.



8. The victim's right to seek protection

Victims shall be informed of their right to ask for protection. The Witness Protection Programme shall be widely publicised to ensure that victims are aware of the Programme's provisions.

9. The victim's right to privacy and confidentiality

All those involved in the criminal justice system, from police officers to judiciary staff, shall respect the victim's right to privacy and confidentiality. Victims are no longer required to provide their addresses when giving evidence in court. In cases involving certain sexual offences, there is a statutory

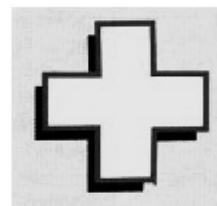
prohibition on publishing or broadcasting anything likely to identify the victim. In cases where victims are justifiably apprehensive as to what may happen to them or their family or friends if they give evidence in open court, or in respect of offences of sexual abuse, an application can be made to the judge hearing the case for the victim to testify from outside the court by way of a video link.

10. The victim's right to prompt return of property

Law enforcement agencies and the courts shall return as promptly as possible any property belonging to victims which has been held for evidentiary purposes.

11. The victim's right to support and after-care

Victims shall be provided with medical care after the offence, and where it helps (such as in cases of sexual assault or abuse), law enforcement agencies shall put the victims in touch with the appropriate agency (whether medical, social or any other kind of assistance) and stay in touch with the victims as long as is reasonably required.



12. The victim's right to seek compensation

Victims shall have the right to seek redress by way of civil proceedings under appropriate circumstances. Victims shall have the right to seek compensation under the Criminal and Law Enforcement Injuries Compensation Scheme, and the court has the power to order a convicted offender to compensate the victim.

