

GROUP 3

MEASURES FOR SPEEDY AND EFFICIENT INVESTIGATION

Chairperson	Mr. Ayaz Ahmad Baloch	(Pakistan)
Co-Chairperson	Mr. Aung Naing Swe	(Myanmar)
Rapporteur	Mr. Abdulla Ahmed	(Maldives)
Co-Rapporteur	Mr. Taichiro Oka	(Japan)
Members	Mr. Faridoon Obidi	(Afghanistan)
	Mr. Sonam Tobgay	(Bhutan)
	Mr. Camara Souleymane	(Cote d'Ivoire)
	Mr. Erdenedalai Baigali	(Mongolia)
	Mr. Mikinori Asai	(Japan)
	Mr. Michael Sang	(Kenya)
Adviser	Prof. Yukako Mio	(UNAFEI)

I. INTRODUCTION

Group 3 commenced its discussion on 3 September 2014 at 1340 hrs. The Group elected, by consensus, Mr. Baloch as its Chairperson, Mr. Swe, as its Co-chairperson, Mr. Abdulla as its Rapporteur, and Mr. Oka as its Co-Rapporteur. The Group, which is assigned to discuss “Measures for speedy and efficient investigation”, agreed to conduct its discussion in accordance with the following agenda:

- 1) Measures for speedy and accurate crime scene investigation;
- 2) Measures for prompt analysis and appropriate preservation of evidence; and
- 3) Utilization of diversion programmes by investigators to bypass the traditional criminal justice system.

II. SUMMARY OF THE DISCUSSIONS

A. Measures for Speedy and Accurate Crime Scene Investigation

1. Current Procedures and Practices

All participants stated that when the crime is reported to police, the first officer attending (FOA) the crime scene has responsibility of crime-scene assessment to preserve the crime scene and potential evidence, identify the victim, suspect and witnesses considering the safety of both the officer and the crime scene. In many instances, in countries such as Pakistan and Bhutan, the FOA is the crime-scene examination officer, while in other countries, the crime scene is processed and examined by the investigation officer. Except for Cote d'Ivoire, other countries have specialized and crime-scene investigation officers or scene-of-crime officers who carry out the crime-scene examination in accordance with standard operating procedure (SOP) set by the police. Japan, Pakistan and Mongolia stated that the crime-scene officers require an independent eyewitness to be present when the crime scene is examined in order to make the physical evidence found at the crime scene more credible. However, the crime-scene examination principle, policies and procedures remain the same.

2. The Challenges to Overcome

Except Japan, the participants from the remaining countries stated that there are very few scene-of-crime officers when compared to crimes reported in their respective countries. There is no separate unit, selective personnel or proper ratio of distribution in order to improve and expedite crime scene examination.

Most of the participants from this Group stated that their countries lack coordination and collaboration between the scene-of-crime officers, investigation officers and prosecutors at an early stage of investigation to advise the police in anticipation of obtaining evidence that will be admissible at trial. In Japan, prosecutors have investigatory powers in all criminal cases, and they sometimes visit the

crime scene during their investigation to understand it accurately. Basically they do not visit the crime scene immediately after the crime is committed because it is the responsibility of the police to function as the initial investigative authority. However in headquarters-based investigations in the Tokyo District, prosecutors have clear roles in overseeing and giving directions to the crime-scene examiners during the crime-scene-investigation process. Even though the use of confession is very often considered the best and also most efficient way of obtaining a conviction, the prosecutors do discuss the material evidence with police at an early stage of investigation.

In Kenya, Mongolia, Afghanistan, and Cote d'Ivoire, prosecutors are given the investigation power, but it is seldom used for several reasons, like the workload of prosecutors, confidence in the police, and non-availability of prosecutors in time of need.

Participants from many countries in the Group stated that their countries are lacking adequate numbers of equipment for crime-scene recording, processing, packaging, labelling, storing, preserving, transferring and transporting the physical evidence. In addition to that, lack of decentralized facilities and skilled personal are among the key challenges in most of the countries. Except for Japan, most countries stated that lack of human resources, specialists, facilities and equipment are their main challenges affecting the speed of crime-scene investigation.

3. Measures That Can Be Implemented to Overcome the Challenges

All participants agreed that as crimes are becoming more sophisticated, criminals are more advanced and countries are borderless as a result of transnational crime, it is vital to establish strategic partnerships among the regional, international law enforcement agencies and countries to strengthen the policing agencies in terms of skills and equipment.

To overcome the problems that countries are facing, all participants agreed to review current training structures and formulate better structured and specialized courses to fit their countries and purposes.

All group members realized that the policy makers have to acknowledge the importance of providing and facilitating an appropriate budget that fulfils the current needs of police investigative functions and special operations.

The group agreed on the importance of implementation of standard operating procedures (SOPs) for first officers attending crime scenes, the investigation officers, scene-of-crime officers and team leaders in order to manage the crime scene in a clear manner; this will enhance the opportunity to recover potential forensic evidence left by the offender.

B. Measures for Prompt Analysis and Appropriate Preservation of Evidence

1. Current Procedures and Practices

Most participants have stated that they have their national central and small-scale regional forensic laboratories in their respective countries. For example, Afghanistan and Cote d'Ivoire have national forensic laboratories, whereas Myanmar, Pakistan, Japan and Mongolia have central and provincial or regional-level forensic laboratories. In addition to that, some participants stated that there are independent government laboratories that analyse DNA and chemicals on an as-needed basis.

As practiced in most countries, confessions are primarily admissible evidence when corroborated by physical evidence.

In order to submit the forensic evidence for analysis, evidence is packaged and labeled, specification of evidence is to be written down and then collected and preserved. The investigator will complete a questionnaire which will be approved by the Director General in some counties such as Afghanistan and will then send it to the forensic laboratory regarding the specific requirements of analysis.

Therefore, maintaining of chain of custody is an important requirement as all countries stated. Prosecutors can also ask for the counter analysis and also defendants get three chances to refuse the expert opinion, and they can obtain their own analysis as the Mongolian participant stated.

2. The Challenges to Overcome

The nature of geography and the distribution of islands and population and access to some areas of the country are some challenges that are facing many countries. The lack of regional capabilities of timely access to the criminal databases such as Automated Fingerprint Identification System (AFIS), not only to enter information, intelligence and evidence, but also to check for any detection of the suspect is also a major challenge in most countries in the group.

As many countries stated there is no specific facility to preserve physical evidence, property and lost and found items.

Many participants in this Group stated that there is no system for dealing with requests of analysis, how to assess the case, depending on the information for the critical success factors such as priority, success of obtaining evidence and probative evidential value of evidence.

But in Japan, when the headquarters-based investigation is conducted, the Public Prosecutor plays a vital role in applying the forensic science to matters of law as the burden of proof lays on the prosecutor. This is done in coordination and collaboration between police and public prosecutor not only at the evidence evaluation stage, but also at the very early stage of crime scene examination.

3. Measures that Can Be Implemented to Overcome the Challenges

All group members agreed to make optimum use of technologies and decentralized forensic capability to ensure regions or provinces have timely access to competent evidence and to formulate and introduce quality assurance operations and standard operating procedures in their respective countries.

The group agreed for the establishment of basic forensic units at the regional levels to overcome current bureaucratic procedures in analysing the material evidence in order to enhance the contribution of scientific evidence in the criminal justice system.

All members agreed to introduce minimum standards not only for forensic staff or personnel levels, but also in terms of facilities, infrastructure, tools and equipment and quality assurance measures.

C. Utilization of Diversion Programmes by Investigators to Bypass the Traditional Criminal Justice System.

All participants stated that there are some practices of diversion in their respective countries. Some countries have instituted the forms of diversion by law, such as Japan. Some forms of diversion at the investigation stage in Japan include those for minor offence disposition and road traffic violations using non-prosecution.

The summary procedure, speedy trial procedure and suspension of execution of sentence are forms of diversion used during the prosecution and court phases. Although in other countries, there is no formal police authority to divert, the police use diversion in minor cases.

Countries such as Kenya and Cote d'Ivoire stated that such practices will allow and open the opportunity for police corruption as police might use powers of discrimination from person to person. On the other hand, some participants pointed out that, the objective of diversion is for decriminalization of offenders and to solve the problems in alternative ways such as mediation, reconciliation and arbitration so that the workload of the criminal justice system is minimized.

According to Islamic Sharia law, when there is execution of "life for life" or so called *Qisaas*, the family of the victim can simply pardon or forgive the offender at any moment of time before the execution, offering the offender not only the opportunity to live but also for the correction, rehabilitation and reintegration into society. This is done by using mediation between the offender and the family members.

All participants finally agreed on the importance of diversion programmes by investigators to bypass the lengthy and traditional criminal justice system. As all agreed, this has to be defined, instituted, specified, principles have to be determined and observed and there has to be check and

balance system in terms of close supervision.

III. CONCLUSION

To make investigation, detection, and prosecution more speedy and efficient it is important to review current policies, structure, deployment and distribution of scene-of-crime officers and expand them not only at the city level but also at the regional level.

It is also important for investigators and prosecutors to bear in mind that casting doubt on the continuity, description, and handling of evidence are serious issues in terms of admissibility, evaluation and interpretation of evidence at court. Due to the above reasons, it is important to review policies of evidence handling, process management, analysis and storage facilities.

As the participants stated, most countries are lacking the centralized evidence and property custody management facilities and management systems, and therefore, it is vital to facilitate such mechanisms in the near future.

New policies, practices, standards and procedures on evidence packaging, handling, transporting or transferring, storing and submission for analysis have to be formulated, introduced and implemented not only at the capital or city level but also at the regional level. These practices give guidance for protecting the integrity of evidence and protecting the interests of investigators.

As there are different forms of alternative dispute resolution systems used as an efficient tool for diversions by investigators such as mediation, reconciliation, arbitration, non-prosecution, summary procedure, speedy trials and suspension of execution of sentence for not only mentally disordered offenders, juveniles and drug addicts but also for minor offences such as public disorder, anti-social behaviour, minor commercial offences, family matters and other offences instituted in the Islamic Sharia law and common law. It is vital to take advantage of such mechanisms by instituting, defining and, more importantly, establishing a system of checks and balances to avoid any potential influence of corruption.