

CHILD PROTECTION GUIDELINES

THE ESTABLISHMENT OF THE CHILD PROTECTION UNIT

1. A unit to be known as the “Child Protection Unit” shall be established within the Office of the Director of Public Prosecutions.
2. The Office of the Director of Public Prosecutions will provide designated work stations within the Office of the Director of Public Prosecutions in which the Child Protection Unit shall operate.
3. The designated work stations established by the Office of the Director of Public Prosecutions for the Child Protection Unit shall be environments in which a child is welcome, comfortable and cared for.
4. The Child Protection Unit will consist of Prosecutors who are duly trained and sensitized to:
 - (i) International Instruments relating to the Rights of the Child;
 - And
 - (ii) Prosecutorial conduct relating to the prosecution of criminal matters in which a child is a victim and/or witness.
5. The Director of Public Prosecution and the Director Criminal Investigations Division shall agree that all matters in which a child is a *victim* or a *major witness* shall be referred immediately to the Office of the Director of Public Prosecutions for prosecution.



6. That this referral will start at the investigation stage; and upon completion of the investigation process, the Police Dockets for matters for which the child is a victim or a major witness shall be brought forthwith to the Office of the Director of Public Prosecutions for the laying of charges.
7. Communication channels shall be opened between the Office of the Director of Public Prosecutions, through the Child Protection Unit and the Fiji Police Force through the establishment of a Police Liaison Post, to be situated within the Child Protection Unit.
8. Communication channels will also be opened between the Office of the Director of Public Prosecutions and the Social Welfare Department, through the establishment of a liaison person within the Social Welfare Department, who shall be situated at the Social Welfare Department.

APPEARANCE AT FIRST CALL

Preparation

9. The Prosecutor is to have liaised with the Investigating Officer and the Social Welfare Officer assigned to the case, upon receipt of the Police Docket at or before first call, and shall take cognizance of the following:
 - (i) The circumstance of the offending;
 - (ii) The relationship between the offender and child;
 - (iii) The home situation at the time of the offending or the home situation at the time of the reporting of the offending;
 - (iv) The current residential address of the victim;
 - (v) The means by which the report was lodged;
 - (vi) The involvement or intent to involve Social Welfare;



- (vii) The attitude of the child's immediate family or immediate caregiver/s toward the victim;
- (viii) The attitude of the child's immediate family or immediate caregiver/s toward the accused person;
and
- (ix) Whether the matter needs to be conducted in closed court at the trial state or at any stage of the proceedings prior to trial.

Depositions

10. The Prosecutor will blot out the name and/or physical address of the child witness and in a situation where the child victim has changed address or has been surrendered into the care of Social Welfare, the new residential address of the child victim.

Name Suppression Application

11. The Prosecutor shall apply for a name suppression order for the victim and/or the child witness depending on the nature and circumstances of the offending and/or the child's involvement in the offending itself at first call.

Bail

12. The Prosecutor shall assess the strength of the Prosecution case, the likelihood of the defendant appearing in Court, and the public interest in deciding whether to concede or object to bail.
13. In considering the public interest, the Prosecutor shall give due regard to:
 - (i) the need to protect the child witness;
 - (ii) the need to protect State evidence; and



- (iii) the potential for and protection of any other children placed at risk by the release of the accused person.

- 14. If bail is granted to the defendant, the Prosecutor shall ask for the necessary conditions to be present that best ensures the continued protection of the child victim or the child witness.

- 15. In the event that bail is granted, the Prosecutor shall advocate for:
 - (i) No contact, in whatever form, to be instituted by or on behalf of the accused person with any State witness;
 - (ii) The accused be restrained from coming into physical contact with the child victim; and
 - (iii) The accused be constrained from entering the area in which the child victim resides without first obtaining permission from the Court;
 - (iv) The Prosecutor, having established the reactions of family members to the accused and the child victim, shall apply to the Court for no, or, at the very least, limited supervised access to the child, by other members of the family who have shown an affinity to or for the accused person.



PREPARATION FOR TRIAL

Building Rapport

16. The Prosecutor shall introduce him/herself in person to the victim immediately following the conclusion of that first appearance in Court.
17. The Prosecutor will conduct a follow-up visit to the victim within 14 days from that first visit and shall have the child victim introduced to the Office of the Public Prosecutions, by means of an arranged physical visit to the Office of the Director of Public Prosecutions.
18. The Prosecutor will conduct a follow-up visit with the victim within 14 days from that second visit to introduce the victim to the Court room in which the victim shall likely give evidence.
19. The Prosecutor shall maintain regular contact with the investigating officer, the assigned social welfare officer and the child victim's guardian/s to monitor the emotional and psychological progress of the child victim.
20. The Prosecutor shall encourage counseling of the victim and/or child witness following the commission of a violent offending.
21. The Prosecutor shall arrange through the Director of Public Prosecutions, and with the consent of the victim and/or legal guardian, counseling in the event that emotional and psychological trauma is manifest.
22. The Prosecutor shall endeavor to ensure that the Department of Social Welfare is involved in the counseling and protection of the child victim and that the Social Welfare Department operates in a manner which facilitates the building of rapport with the child victim.



23. The Prosecutor shall commission the preparation of a Child Impact Assessment to commence and be conducted in regular intervals by a Social Worker from reporting to the conclusion of the trial. (See Form 1)

The Police Statement

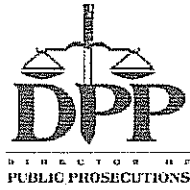
24. The Prosecutor shall go through the child victim/witness's Police Statement with the child victim/witness within 7 days of the first appearance for the matter before a court of law.
25. The Prosecutor will introduce the child witness to the relevant exhibits at this stage.

Agreed Facts

26. The Prosecutor shall work closely with Defence Counsel in the preparation for and submission of agreed facts, with a view to
 - (i) minimizing time spent in trial;
 - (ii) clarifying the issues under contention; and
 - (iii) minimizing any discomfort or embarrassment for the child victim in terms of the giving of his/her evidence in a court of law.

Close Circuit Television/Screen

27. The Prosecutor shall apply for provision for the taking of the child witness's evidence through CCTV or for the provision of a screen to separate the child witness from the defendant during the taking of the child's evidence, either at pre-trial stage or prior to the commencement of the taking of the child's testimony at trial.



Closed Court

28. The Prosecutor will foreshadow any application to have the evidence taken in a closed court at the pre-trial stage or at first call.

Child Support Person to be present

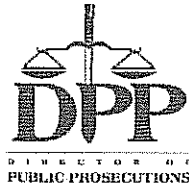
29. The Prosecutor shall apply to the Court for permission to have a child support officer or mother/relative/adult friend present in Court and seated close to the child witness during the taking of his/her evidence.

Court to be Child Friendly

30. The Prosecutor shall make applications to have the Magistrate or Judge seat in a manner and at a time that would bring about maximum comfortability to the child witness.

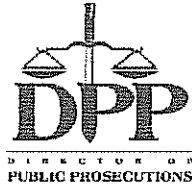
To that end, the Prosecutor shall apply for:

- (i) The Magistrate or Judge to be seated level to the child witness;
 - (ii) The Regalia of the Office of the Judge and the uniform of the Barrister not be worn during the taking of the child's evidence; and
 - (iii) That mature same sex interpreters be provided for the taking of the child's evidence.
31. The Prosecutor shall apply to the Magistrate or the Judge to aside all other matters save the taking of the child's evidence to minimize the waiting time for the child.



TRIAL PROCESS

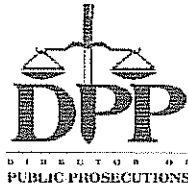
32. The Prosecutor shall apply to have the Court closed for the taking of the child's evidence.
33. The Prosecutor shall ensure that the child witness is comfortably situated whilst awaiting the call of the case for trial.
34. The Prosecutor shall ensure that the child witness is accompanied by an adult and/or legal guardian that the child witness is comfortable with.
35. The Prosecutor shall ensure that the screen is in place prior to the child witness entering the room to give evidence, or in the event of the use of CCTV, that the camera is focused on the Judge and the Prosecutor and not on the defendant.
36. The Prosecutor shall ensure that the witness stand or table in the case of CCTV has water and tissue paper for the child witness. In the event that the child victim's evidence is taken through CCTV, the prosecutor shall make application for and ensure that toys and snacks are at hand.
37. In the course of examination in chief the Prosecutor shall ensure that the following is child friendly;
 - (i) Tone
 - (ii) Posture
 - (iii) Eye contact
 - (iv) The content and phrasing of questions.
38. In the course of examination in chief, the Prosecutor shall let the child tell his/her story but shall control the witness in a gentle but firm manner. Under no circumstances is the prosecutor to denigrate the child or adopt a harsh tone toward the child.



39. The Prosecutor will apply patience and sensitivity during the taking of the child's evidence.

Protecting the Child Witness Through Cross-Examination

40. The Prosecutor shall object firmly to any unfair questions.
41. The Prosecutor shall object firmly to any hint of badgering/intimidation or aggression against the child witness.
42. The Prosecutor shall object on the grounds of:
 - (i) Relevance - eg. Previous Sexual History;
 - (ii) Admissibility – eg. Putting the testimony or statements of other persons/witnesses to the child witness; and
 - (iii) Complexity or comprehensibility of the question.



CONVICTION & SENTENCE

43. The Prosecutor shall ensure that the appropriate tariffs are prepared and submitted in Court.
44. The Prosecutor shall ensure that the victim impact statement is prepared, up-dated and submitted in Court.
45. The Prosecutor shall advise the Director of Public Prosecutions following Judgment and/or the delivery of Sentencing Remarks with a view to an appeal against an order of acquittal or leniency of sentence.
46. The Prosecutor will undertake a debriefing session with the child witness and explain to the child the outcome of the trial process.
47. The Prosecutor, in consultation with the Director of Public Prosecutions, will facilitate continuous counseling if necessary.
48. The Prosecutor, in consultation with the Director of Public Prosecutions and the Social Welfare Department, will facilitate the re-introduction of the child into the home if he/she had been removed therefrom at the commencement of or during the trial process.



STATISTICS

49. The Child Protection Unit shall keep accurate statistics of the actions undertaken and outcomes of trials in which a child is involved, either as victim or witness.

PRIORITY

50. At risk or vulnerable children shall be the priority of the Child Protection Unit and the Child Protection Unit shall function in a manner that best ensures the quickest processing of the matter through *Fiji's criminal justice system*.

Dated this 21st day of August, 2009

JOHN M. RABUKU
ACTING DIRECTOR OF PUBLIC PROSECUTIONS