

CPD Newsletter

Edition 1, May 2018

A bi-monthly newsletter for Punjab Prosecutors

FOREWORD

As Secretary Prosecution Punjab, I am delighted to introduce this first ever Newsletter of the Centre for Professional Development for Public Prosecutors. This is a significant development and my congratulations go to the Director and his staff for having the vision and dedication in putting it together. This development is symptomatic of the way in which the CPD is rapidly evolving as an institution since it started operations in 2012.

This newsletter will also help CPD achieve its mandate of knowledge creation and management. The Department is confident that this letter will, in due course of time, transform into a journal of criminal law which will carry articles on issues of contemporary interest and use. I must mention here that knowledge is key to delivery of high quality prosecutorial services, and CPS and CPD both have an important role to play in that. The Prosecutor General does this by his supervisory and managerial role and the CPD does it by providing high quality training to prosecutors. As a result of the hard work of the Prosecutor General and the CPD, we have seen an improvement of the quality and performance of prosecutors.

I am also pleased to note that CPD has produced its first ever training calendar. Furthermore, another training calendar is being prepared now for the continuation and delivery for the next phase. Other developments at the CPD include an e-library from which prosecutors will be able to borrow text books. An e-learning platform will shortly be installed to complement class room learning and which will allow prosecutors to undertake distant and e-learning remotely, and work is underway to produce a database of case law. These developments are essential so that CPD is brought up to modern and international standards.

The PPD and PCPS have been supporting the efforts of the CPD and will continue to provide support to it in every possible way. CPD is on a journey—we will be with them all the way.

As I said in the opening sentences, this is the first and introductory edition of the Newsletter. It is intended to disseminate legal learning to its audience. I am sure it will evolve and develop into a publication that meets the needs of all prosecutors.

Renewed congratulations to the Director and CPD staff.

Syed Ali Murtaza

Secretary Prosecution Punjab

NEWS BRIEF

Successful Completion of 15th Induction Training for Assistant District Public Prosecutors



The 15th batch of Mandatory Induction Training of ADPPs, completed its 4 weeks of training on 30th March 2018. The Director CPD, in his ceremonial speech, reiterated the commitment of CPD to achieve excellence. He said that the introduction of fresh topics in training like “Evidence in White Collar Crimes” and “Witness Protection” shall add to the quality of prosecution carried out in courts and will help in achieving justice.

A group of 27 senior ADPPs from various districts of the Punjab attended the training and were awarded certificates of participation. The participants commended the curriculum, training facility, quality of trainers and support of the CPD team.

New Horizons Being Opened for CPD: Visit from Arizona State University Team to CPD to Devise Areas of Cooperation

A delegation from the Arizona State University (ASU), headed by Miss Julia Fromholz, visited the CPD on 27th March 2018. The ASU is supporting the legal education sector. In particular it is mentoring law clinics established at various law schools and colleges in Pakistan and improving teaching skills of law faculties. As the premier institute for the training of prosecutors in the Punjab, CPD has been selected as one of the beneficiaries of this programme. The programme may develop areas of collaboration like, trainings of faculty and staff of CPD in Pakistan and at Phoenix, Arizona.



Successful Completion of CT Training for Deputy District Public Prosecutors

The CPD has kept to the training calendar 2017-18. It recently trained a batch of Deputy District Public Prosecutors on counter terrorism laws to prepare them for undertaking prosecutions in Anti-Terrorism Courts, if so required. It made use of the training materials developed by British High Commission's CAPRI programme.

Syed Ali Murtaza, Secretary Public Prosecution Department, graced the certificates distribution ceremony as chief guest and asked questions to the participants to test their knowledge relating to the training.





Glimpses of Training Delivered at Multan and Bahawalpur



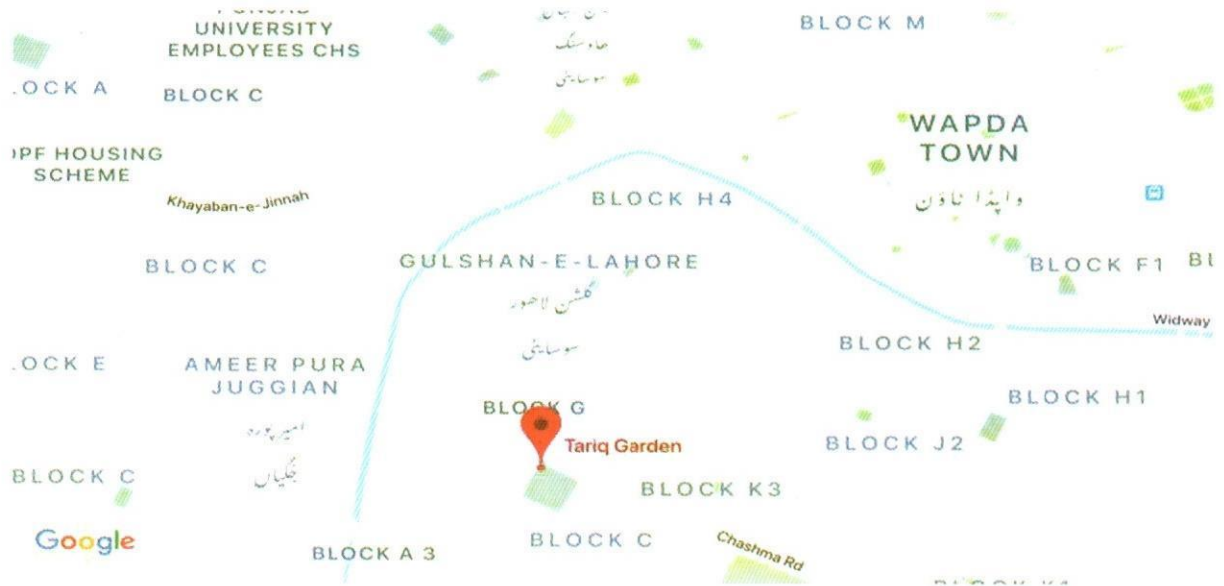
Training on Case Review and Identification Evidence, Multan



Training on Charging Standards and Identification Evidence, Bahawalpur

CPD to have a New Building

Because of the efforts of Syed Ali Murtaza, Secretary Public Prosecution Department, 8 kanals of land in Tariq Gardens Lahore, have been acquired to construct the new buildings for CPD and Directorate General of Monitoring. Construction is expected to start by July this year. The design of the project is being planned and will be submitted for approval soon.



LEGAL DEVELOPMENTS

Challenges of Using DNA Evidence in Criminal Cases

The recent legislative changes to the law of criminal evidence and procedure has reinforced the existing legal regime of forensic evidence. DNA is one of the most reliable types of forensic evidence. It helps police and prosecutors in identifying suspects and thereby bringing offenders to justice. It also helps in filtering out false cases. There is an increasing trend in the use of DNA by police and other investigation agencies in Pakistan. The recent decisions of the Superior Courts confirm the value and admissibility of DNA evidence. In *Salman Akram Raja v Government of Punjab*,¹ it was held that the investigators should ensure that DNA evidence is collected in offences of a sexual nature, particularly rape. A latest decision of the Supreme Court has raised some concerns on the misuse of the DNA evidence and has suggested some measures to counter it.²

In *Azeem Khan v. Mujahid Khan*, the honourable Supreme Court has held that the evidence of DNA can be excluded if the procedures for the collection and presentation of DNA are not fair or are violated. In this case, a boy aged 10-11 years was allegedly abducted and murdered. There was no direct evidence on either of these counts. The police discovered some bones from the scene of a crime which were suspected to belong to the boy. They were sent to the Punjab Forensic Science Agency (PFSA) for DNA analysis along with samples obtained from the parents of the boy for comparison. The report confirmed that the DNA from the bones and the samples from the parents matched.

The honourable court, however, rejected the DNA evidence on three main grounds. Firstly, the blood samples of the parents were not taken in the presence of a Magistrate or an independent authority. Secondly, the bones collected at the crime scene were not taken in the presence of a Magistrate or an independent authority. Thirdly, the DNA report was held inadmissible because the PFSA expert did not testify to the contents of the report. The testimony of an expert may be exempted if the report pertains to the types of evidence mentioned in Sec. 510 Cr.P.C. The court was of the view that since Sec. 510 Cr.P.C. does not specifically mention a DNA report, it, therefore did not qualify as Sec. 510 Cr.P.C. report. While the judgment points to the need for ensuring the integrity of collection procedures, it is not necessary that these procedures should be followed in every case—procedures may vary from situation to situation. For instance, in this case, the blood samples could have been obtained again if there was an element of doubt as to their origin. The judgment seems to have overlooked Section 9 of the PFSA Act 2007. It provides that a report from the PFSA will constitute a report under Sec. 510 Cr.P.C. It may be argued that Section 9 of PFSA, Act 2007, being a provincial statutory provision, is invalid to the extent that it may not add to the existing categories of reports admissible under Sec. 510 Cr.P.C.³ However, this line of argument seems tenuous since procedure is a concurrent subject and a provincial law could always add to a list in the code of criminal procedure.

However, the judgment has rightly emphasised on the principles of fair investigations and exhorted the investigation agencies to comply with the applicable procedures. It has also highlighted the need for streamlining the process of the collection and use of forensic evidence. There is a need for a joined-up approach of prosecution and judiciary to address the shortcomings in the existing legal regime of forensic evidence for reaching just outcomes in trials.

¹ 2013 SCMR 203

² 2016 SCMR 274

³ Article 142 & 143 The Constitution of Pakistan 1973