

CPD Newsletter

Edition 2, July 2018

A bi-monthly newsletter for Punjab Prosecutors

FOREWORD

As Director of Center for Professional Development of Public Prosecutors(CPD), I feel immense pleasure in the publication of this second edition of our newsletter. At CPD, several endeavours are being undertaken with a view to achieve our mandate of knowledge, creation and management, and this publication is one of them. It supports the vision of CPD to disseminate and share legal knowledge and developments with reference to various criminal and constitutional laws specifically with our prosecutors and also generally in legal fraternity. It shall be of far reaching effect.

I feel great honor in serving at CPD as I find it a great opportunity to contribute in uplifting and enhancing the capacity and knowledge of the prosecutors of not only the Punjab but also of other provinces. After taking charge as head of this institution, I was given certain targets and some very kind leads and support towards the achievement of these by Syed Ali Murtaza, Secretary Public Prosecution Department. It is of immense satisfaction that I have successfully accomplished the most challenging task of procuring land for our very own building of CPD in Tariq Gardens, Lahore.

Further among other notable recent accomplishments of CPD include: obtaining the membership of International Association of Prosecutors (IAP), formal initiation of research functioning of CPD, development of tradition of this newsletter with assistance from the British High Commission, the development of an online application of library management software to inform prosecutors about the library options of CPD and installation of e-learning server for remote and electronic learning. The aforementioned shall play a vital role in the betterment of prosecutors, enabling more effective prosecutions.

I am pretty sure that with divine help, this newsletter shall fulfill its purpose of disseminating legal knowledge more effectively and robustly throughout the Punjab. I welcome any contributions from prosecutors working in length and breadth of Punjab, of articles on recent developments in criminal law to be considered for inclusion in future newsletters.

Finally, I pledge my sincerest gratitude to the Secretary, Public Prosecution Department, and the Prosecutor General for extending their immense help in making things possible. I also find myself compelled to express my appreciation and acknowledgement of the team spirit and performance of Team CPD, and in particular Deputy Director and Assistant Directors.

Ch. Muhammad Jahangir

Director, CPD

NEWS BRIEF

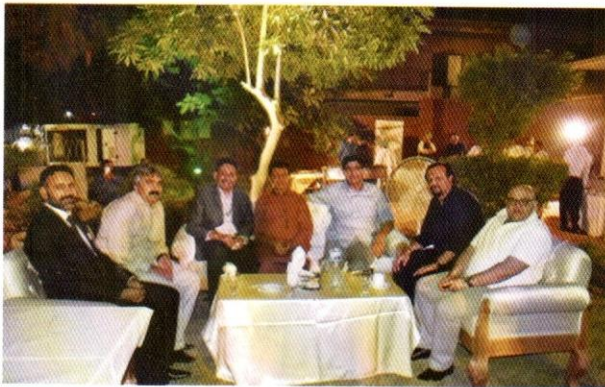
Delivery of Charging Standards Training Supported by the British High Commission

A series of specialized trainings on charging standards were designed and conducted, under the Counter Terrorism Associated Prosecutorial Reform Initiative (CAPRI) Programme of the British High Commission, for ATC Prosecutors. Two batches of 26 participants each, nominated from different districts throughout the Punjab, were selected to participate in two training modules on the topic of charging standards in CT cases: Phase 1 and Phase 2. The trainings focused on increasing the understanding of prosecutors in the selection of the right charges in anti-terrorism cases. Lead trainers from CAPRI and the Prosecutors of the Punjab Prosecution Department conducted the training. The participants benefited from the training materials including case studies developed for the course.



Honorable Judge Amjad Nawaz, who is a Circuit Judge in the UK, graced the final day of the training as chief guest.

Gala nights were also arranged for participants of all four trainings courses. The first event was hosted by CPD on its lush lawn. It was graced by the honorable presence of the Prosecutor General, Punjab. The remaining three dinners were arranged at the Pearl Continental Hotel, Lahore. Participants from the Prosecution Department and British High Commission attended and enjoyed the occasions



alongside participants. The participants valued these social occasions as energizers during such an intense training program.

Deputy Prosecutor General Training

Upon the direction of Secretary Public Prosecutions Department, Syed Ali Murtaza, training courses were designed and delivered to newly posted Deputy Prosecutor Generals at CPD. These were intended to acquaint them with their new roles and responsibilities and to enable them to perform their jobs with diligence and efficiency.





ادارہ برائے تربیت پبلک پراسیکیوٹرز

New Training Calendar for 2018-19

The training calendar of CPD for 2017 to 2018 has been successfully executed. Eleven (11) additional training courses beyond the primarily approved training calendar were conducted which increased the total number of training courses delivered to 122%. The new training calendar for 2018 to 2019, containing Induction Training, Counter Terrorism Awareness Training, Promotional Training, Expert Training and a number of specialized courses across the Punjab, has been documented and sent to the competent authority for approval.

Membership to the International Association of Prosecutors



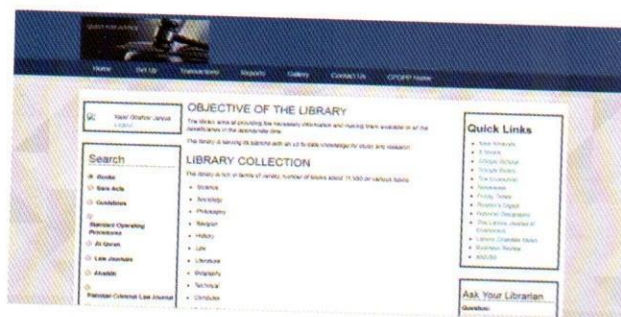
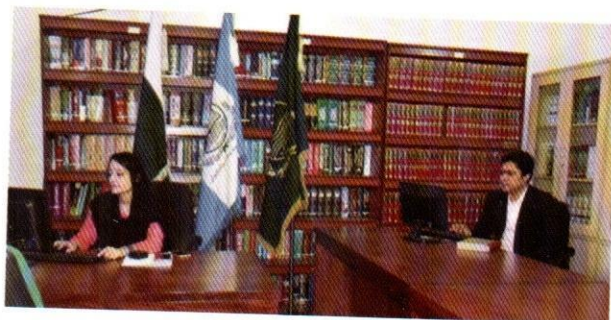
IAP

International Association of Prosecutors

A significant milestone recently achieved by CPD is successful membership of the International Association of Prosecutors (IAP) for the entire department and every prosecutor across the Punjab. It shall offer the opportunity to explore global horizons and take sharing of knowledge, skills and experiences and coordination with other jurisdictions to a whole new level.

Library Management Software at CPD

CPD has installed a web-based Library Management Software (LMS). Data of all the books available at CPD library is intended to be uploaded on the LMS. It will enable all the prosecutors across the Punjab to access to the available books at the CPD library. At present, it has not attained the status of an e-library, but CPD is hopeful to transform it into a full-scale e-library in near future.



Review of CPD

A comprehensive assessment and review of CPD was conducted between 19 and 23 February 2018 by the British High Commission, considered third party international governance evaluators and consultants. The findings were encouraging and confirmed that the CPD has evolved significantly from its inception. There has been a significant step-change in the pace of organizational development recently due to institutional and leadership reforms. Change is now being implemented on a variety of fronts, and not merely in one area at a time. The assessors offered some recommendations and a transition plan to move on to become a world class training institute and one of a kind for prosecutor training in South Asia.

LEGAL DEVELOPMENTS

A New Protective Regime for Intimidated Witnesses- The Punjab Witness Protection Act 2018

In every legal system, witnesses play a vital role in prosecuting a criminal. Witnesses may be subjected to threats, harm or death to deter them from giving statements to police or testifying in court. It impedes the prosecution of a case and undermines the confidence of public in the provision of justice. In the murder cases of Benazir Bhutto and human rights activist Sabeen Mahmood, the eyewitnesses of the occurrence were killed to prevent them from giving testimony.

To deal with this issue, legislation has been enacted in three provinces and the federal capital. The first of the series of the provincial legislation was the Sindh Witness Protection Act, 2013 followed by the Baluchistan Witness Protection Act, 2016 and the Witness Protection Security and Benefit Act 2017 for the federal capital. The Punjab Protection of Vulnerable Persons Rules 2015 was issued under section 21 of the Anti-Terrorism Act 1997 (ATA). The Punjab Witness Protection Act 2018 (PWPA) has been enacted recently. It has the effect of overriding legal regime introduced by the Punjab Protection of Vulnerable Persons Rules 2015.

PWPA provides that a witness, victim, persons connected with the criminal proceeding or any person related to these persons may apply for the specified protections under the Act¹. The criminal proceeding means investigation, inquiry or trial in respect of terrorism or serious offence². A serious offence is defined as an offence which carries a punishment of death or imprisonment exceeding seven years³, or a sexual offence⁴. The sexual offences listed in the definition are 366-A, 367-A, 376 and 377 PPC.

A unit established under the Act will assess whether there is a risk or continued risk to the applicant⁵. They will take into account the risk profile of the applicant, the nature and gravity of the danger to that individual and the protective measures required in the case⁶. A witness protection board will be set up which will be responsible to supervise the functions of the unit⁷.

A witness, excluding the accused, who is required to give testimony in court is eligible for assistance if they are unable to give evidence because of fear or stress arising from the circumstances of the case, or because they are intimidated or perceive a threat that if they give evidence, they will suffer harm to themselves, to their family or to their property and the quality of their testimony will suffer as a result of it. In addition, a witness also qualifies for assistance if they suffer from mental or physical disability or are under 16 years of age at the time of the scheduled hearing for recording of evidence, or they are a victim of the sexual offence in question⁸.

The protective measures can be broadly classified as special measures and non-court measures. The main difference between them is that the non-court measures are available for a protected person, which includes a witness, whereas court-affixed measures apply to the witnesses or court proceedings.

¹ Section 5(1) of the PWPA

² Section 2 (e) of the PWPA

³ Section 2(n) of the PWPA

⁴ Section 2(o) of the PWPA

⁵ Section 4 of the PWPA

⁶ Section 5(3) of the PWPA

⁷ Section 3 of the PWPA

⁸ Section 7 of the PWPA



Moreover, the discretion to make an order for taking court measures generally vests in the court. The non-court measures may be approved and taken by the unit.

The special measures envisaged include the screening of a witness, use of video link for recording evidence, trial in private, curtailment of cross examination, restricted reporting of the proceedings and anonymity of the witness⁹.

The non-court measures include close protection Services, lodging in a safe house temporarily or permanent relocation, change of identity, concealment of identity and financial assistance¹⁰. The government may order that a trial be held in jail¹¹. The measures can be discharged or altered by the court¹².

The prosecutors can apply for the grant, discharge or variation of the special measures by the court.

In directing a special measure, the court will consider a number of factors including the personal circumstances of the witnesses, the behavior of the accused, their family or associates towards them, the nature and circumstances of the offence and assessment of the unit¹³.

The success of the application of the legislation will depend on a number of factors. A set of robust and consistent policy guidelines should be developed and issued for effective implementation of the provisions and oversight of the agencies involved. A substantial budget should be allocated to support the measures. Proper training and guidance should be provided to assist the courts and the agencies in discharging their responsibilities. The performance of the courts and agencies should be assessed against well-defined criteria. To improve coordination mechanism between the agencies, protocols should be developed and implemented.

The legislation aims to fill a serious gap in the dispensation of criminal justice. It has generated hopes for witnesses who face serious risks to their life and property in providing assistance to the state. It is hoped that this initiative will meet its objectives and will increase the confidence of the witnesses to come forward to serve the ends of justice.

⁹ Sections 9-14 of the PWPA

¹⁰ Section 6 of the PWPA

¹¹ Section 15 of the PWPA

¹² Section 8(4) of the PWPA

¹³ Section 7(2) of the PWPA