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Model Guidelines for Sexual Offence Cases in the Caribbean Region

FREQUENTLY ASKED QUESTIONS

Judicial Reform and Institutional Strengthening (JURIST) Project

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JUDICIAL REFORM AND
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(JURIST) PROJECT

What are the Model Guidelines for Sexual Offence Cases in the Caribbean Region?

The Model Guidelines for Sexual Offence Cases in the Caribbean Region are intended to:

- a) provide internationally accepted best practices for the management of sexual offence cases; and
- b) offer a rights-based approach to the treatment of complainants and vulnerable witnesses, including children, involved in sexual assault cases.

It is hoped that improved management of sexual offence cases will assist the judiciary to effectively respond to the vulnerabilities of complainants and witnesses in sexual assault cases. A predictable response to the management of sexual offence cases by the judiciary and justice sector actors will encourage complainants and witnesses to (1) provide the best quality evidence to the court and (2) report cases and participate in the criminal justice process from case filing to disposition, while at the same time ensuring adequate safeguards for the rights of defendants.

The Guidelines cover the following subject matters:

1. Case management for sexual offences at both the pre-trial and trial stage.
2. On-going care and support for vulnerable witnesses and complainants during and post-trial.
3. Guidance on sentencing in sexual offence matters.
4. Offender rehabilitation and management with emphasis on juvenile rehabilitation.
5. Collection and management of court data on sexual assault cases.
6. Protocols for justice sector actors that support the court in the evidence gathering process (i.e. police, medical practitioners and prosecutors).

Why were they developed?

The Guidelines are aimed at remedying the deficiencies in the justice chain for sexual offences. These deficiencies were identified in a 2016 Baseline Study, commissioned by the JURIST Project and undertaken by UN Women, which examined the legislation, protocols and court processes for sexual offence cases in five CARICOM Member States. The study identified the following major gaps in the justice systems' handling of sexual offences:

- poor investigative and evidence gathering procedures by the police;
- inordinate delays in the completion of cases;
- undervaluing of sexual offence cases in relation to the public interest so that limited resources are instead reserved for other "serious crimes" such as murder;
- lack of data collection to form the basis of monitoring and accountability of the courts' performance and quality in responding to sexual offence cases;
- insufficient interconnectedness between the courts and the other key agencies required to facilitate proper investigation of the crimes and provide care for the complainants throughout the process; and
- the complainants' refusal to pursue cases for fear of re-victimisation by the very process of seeking justice.

What is the Justice Chain?

This is the series of steps a person must navigate in seeking justice in the formal justice system. This can be divided into 4 distinct but interconnected steps:

Reporting - complainant reports crime to police or other authority;

Investigation - alleged crime is investigated by the police;

Prosecution - Prosecutor brings the case to court; and

Adjudication - Judge makes a determination based on evidence presented in court

The gaps in the justice systems' handling of sexual assault cases contribute to high attrition rates in the justice chain for sexual offences as well as to sexual offences having the lowest conviction rates of all crimes.

How will the Guidelines help to remedy the deficiencies in the justice chain?

1 Contribute to timely adjudication and long term reduction in case backlog for sexual offences

2 Reduce secondary victimisation of complainants and witnesses

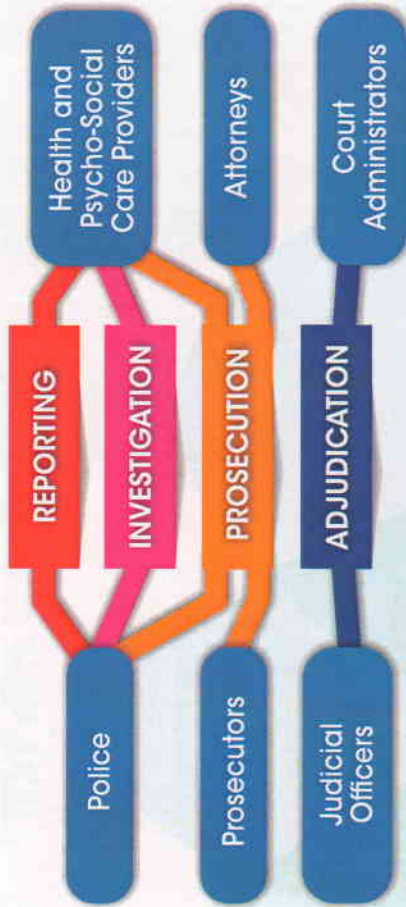
3 Assist with monitoring of sexual offence cases

4 Facilitate greater coordination among justice sector actors along the justice chain

Who should be using the Guidelines?

The Guidelines provide guidance to justice sector stakeholders involved in the reporting, investigation, prosecution and adjudication of sexual offences. These stakeholders are namely,

judicial officers, prosecutors, police, and health and psycho-social care providers from both government and NGOs.



What is the Legal and Conceptual Framework for the Guidelines?

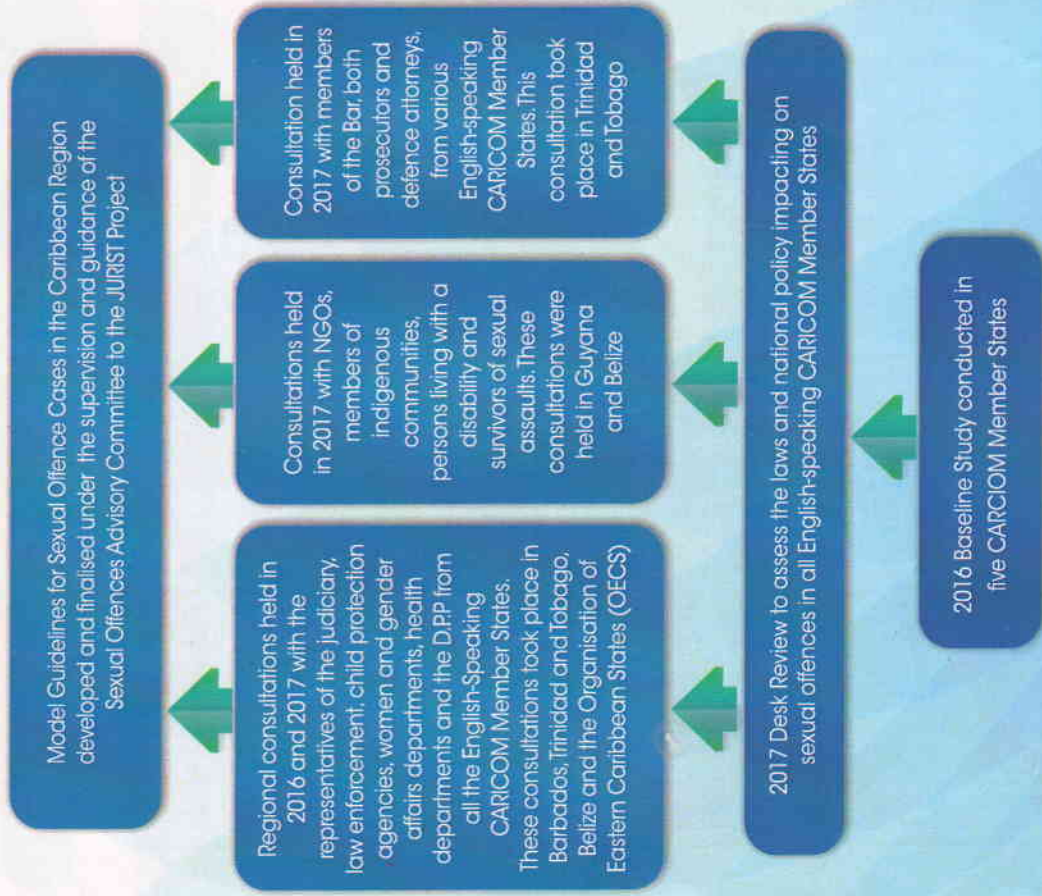
The Guidelines take a "rights-based" perspective and are underpinned by the general provisions of the sexual offence laws throughout the Caribbean as well as the international instruments that have influenced the content of policies and protocols protecting the rights of women and children. The most important of these international instruments are the CEDAW Convention, the Convention De Belem Do Para, the Convention on the Rights of the Child and the Convention on Transnational Organized Crime.

What are the seven guiding principles for the better treatment of complainants in sexual assault cases?

The Guidelines outline the following seven guiding principles as the foundation for all court proceedings and services provided by the court:

1. The rights of all complainants and defendants will be protected and all service delivery will respect their rights and dignity.
2. All court services will be provided in a non-judgmental way that facilitates the empowerment of complainants.
3. Specialized training is an essential part of ensuring the best evidence is collected from complainants.
4. Service delivery must not re-victimize the complainant or traumatize witnesses.
5. Vulnerable complainants or witnesses will receive specialized support services.
6. Service delivery will recognize that due to the traumatic and disruptive nature of sexual assaults, support services will be needed for complainants and this may require multi-disciplinary collaboration with other agencies.
7. Confidentiality and privacy of complainants will be respected and protected.

What was the process for developing the Guidelines?



How do the Guidelines fit in with the overall goal of the JURIST Project?

One of the key objectives of the JURIST Project is improving the capacity of courts to deliver gender responsive and customer focused court services. The development of a comprehensive approach to the management of sexual assault cases and support for complainants of sexual assaults (including children) is aimed at achieving this objective. The Guidelines constitute just one component of this comprehensive approach to the treatment of sexual offences.

The other three components are:

- Building a skilled cadre of professionals including judges, court personnel, police and attorneys, who are trained to effectively handle sexual offence cases, complainants and witnesses.
- Establishment of a model sexual offences court with well trained and experienced personnel and the necessary technology to operationalize special measures for complainants and witnesses.
- Development and implementation of a regional public education program that seeks to educate the public on, among other things, the content of the Guidelines, the rights of survivors, the meaning of consent and importance of rehabilitation and management of sexual offenders including child offender.

JURIST Project's Strategy for Improved Management of Sexual Offences



The Model Guidelines for Sexual Offence Cases in the Caribbean Region is available on the JURIST Project website at: <http://www.juristproject.org/publication/model-guidelines>