



The Sexual Offences Model Court In Antigua and Barbuda

FREQUENTLY ASKED QUESTIONS



JUDICIAL REFORM AND
INSTITUTIONAL STRENGTHENING
(JURIST) PROJECT



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What is the Sexual Offences Model Court?

The Sexual Offences Model Court is a set of specialised court procedures for the treatment of sexual offence cases. The Model Court is being established at the Antigua and Barbuda High Court. There will be a dedicated courtroom and presiding judge assigned to the hearing of sexual offences using these specialised procedures.

Why a Sexual Offences Model Court?

The Sexual Offences Model Court is intended to help remedy the deficiencies in the courts' current handling of sexual offence cases. These shortcomings were identified in a 2016 Baseline Study commissioned by the JURIST Project and undertaken by UN Women. The study identified the following deficiencies:

- Inordinate delays in completion of cases;
- Lack of data collection to form the basis of monitoring and accountability for the courts' performance and quality in responding to sexual offence cases;
- Insufficient coordination between the courts and other agencies that provide services to sexual assault complainants; and
- Sexual assault complainants refused to pursue cases due to fear of re-victimization and re-traumatization by the very process of seeking justice.

The deficiencies in the courts' handling of sexual assault cases contribute to high attrition rates in the justice chain for sexual offences as well as to sexual offences having very low conviction rates in comparison to all other crimes.

Why should we treat sexual offences different to other crimes?

Sexual offences are different to other offences in relation to (1) the trauma caused, (2) the gender stereotypes which inform the behaviour of perpetrators and people who interact with the survivors, and (3) the large number of sexual offence complainants who fall into the vulnerable category.

The unique nature of sexual offences therefore, requires the justice system to put in place specialized procedures for the handling of these cases and the survivors of sexual assaults.

What are the objectives of the Sexual Offences Model Court?

The Sexual Offences Model Court is intended to introduce specialised procedures to remedy the deficiencies in the court's handling of sexual offences. There are four main objectives:

- Provide timely, gender responsive and coordinated response to complainants of sexual assault cases;
- Ensure greater coordination between the courts and agencies that provide services to sexual assault complainants;
- Improve the monitoring and evaluation for sexual offences. It is critical for us to take an evidence-based approach to support improvements in the treatment of sexual offences. Not only rely simply on anecdotal evidence; and
- Reduce the secondary re-victimization that complainants experience.

What are the seven guiding principles for the Sexual Offences Model Court?

The following seven guiding principles will be the foundation for all sexual offence court proceedings and services provided by the court and other connected agencies:

- The rights of all complainants and defendants will be protected and all service delivery will respect their rights and dignity;
- All court services will be provided in a non-judgmental way that facilitates the empowerment of complainants;
- Specialized training is an essential part of ensuring the best evidence is collected from complainants;
- Service delivery must not re-victimize the complainant or traumatize witnesses;
- Vulnerable complainants or witnesses will receive specialized support services;
- 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; and
- Confidentiality and privacy of complainants will be respected and protected.

What are the special features of the Sexual Offences Model Court?

- Quicker resolution of cases through tighter pre-trial case management;
- Fast tracking process for sexual offence cases;
- Only judges, court administrators, police and prosecutors, with specialized training will be assigned to sexual offence cases;

What are the special features of the Sexual Offences Model Court? (cont'd)

- The use of video conferencing technology, which will allow vulnerable complainants to give evidence from a testimony room. This will ensure that vulnerable complainants, such as children, will no longer need to be in the physical presence of the accused when testifying;
- Special waiting room at the Antigua and Barbuda High Court and court orientation for complainants in sexual assault cases; and
- The High Court will partner with the Directorate of Gender Affairs (DoGA) and the Family and Social Services Division (FSSD) to provide survivor support services to both adult and children complainants. This will allow complainants to give their report, conduct their medical examination, get counselling and be assigned survivor advocates. All these services will be available at the Support and Referral Centre (SARC), which is operated by DoGA.

Will the new procedures prejudice the rights of the defendant?

The specialized procedures for sexual offences are not intended to ‘water down’ or chip away at the rights of the defendant.

The entire criminal justice is built to provide protection to the defendant against the power of the state. Those safeguards, such as the right to a fair trial within a reasonable time, the presumption of innocence and the right to present a defence and examine witnesses, are constitutionally protected and cannot be taken away.

How will the Sexual Offences Model Court benefit the defendant?

The new procedures, by reducing delays, will in fact work to promote the defendant's right to a fair trial without delay.

Will the Sexual Offences Model Court make the court process less traumatic for complainants?

The process will be less traumatic for complainants in three main ways. Firstly, quicker resolution of cases through tighter pre-trial management stands to improve the court experience by reducing delay and uncertainty for complainants. Secondly, vulnerable complainants, such as children, who give evidence via video conferencing technology, will be able to give better quality evidence since they will no longer be intimidated by being in the courtroom. Thirdly, increased coordination between the court and supporting agencies will ensure that complainants have ongoing access to psycho-social services.

What is the importance of the supporting agencies to the success of the SOMC?

What happens to a sexual offence case before it reaches the court, greatly impacts on the court's ability to reduce secondary victimization for complainants and deal with cases in a timely manner. This is because the court is the final link on the justice chain for sexual offences. It is therefore important that justice sector stakeholders involved in the reporting, investigation and prosecution of sexual offences also have in place measures to deal with complainants sensitively and provide timely services.

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:



What is the Multi-Sector Stakeholder Committee (MSSC) for the Sexual Offences Model Court?

The MSSC is responsible for overseeing the implementation of the activities associated with the establishment and operations of the sexual offences court. It is made up of justice sector stakeholders who work with complainants and defendants along the justice chain for sexual offences. These include judicial officers, prosecutors, police, Bar Association, health and psycho-social care providers from both government and non-governmental organisations (NGOs).

The MSSC comprises of representatives from the following organisations: Family and Social Services Division, Ministry of Social Transformation Directorate of Gender Affairs (DoGA), Ministry of Social Transformation Director of Public Prosecutions (DPP)

Eastern Caribbean Supreme Court (ECSC)

Antigua and Barbuda Bar Association

Royal Police Force of Antigua and Barbuda

Women Against Rape

Ministry of Health

Antigua and Barbuda High Court

What support will the JURIST Project provide to the Sexual Offences Model Court?

The JURIST Project will work with the Eastern Caribbean Supreme Court (ECSC) and the Antigua and Barbuda Government to support the establishment of the Model Court in Antigua and Barbuda High Court by:

- Developing case management processes to facilitate the expeditious handling of sexual offence cases as well as special protocols for the treatment of complainants and witnesses;

What support will the JURIST Project provide to the Sexual Offences Model Court? (cont'd)

- Introducing technology into the Model Court and providing equipment and material to operationalize special measures for complainants and witnesses in sexual assault cases (to enable complainants to give evidence remotely);
- Developing a Monitoring and Evaluation (M & E) framework to monitor and evaluate the Model Court's performance; and
- Training a cadre of professionals including judges, court personnel, police, lawyers, prosecutors and victim support personnel from the government and NGOs, to effectively manage sexual assault cases and provide care and support to complainants and witnesses.



What is the JURIST Project? And why is it providing support to the establishment of the Sexual Offences Model Court?

The JURIST Project is a five-year regional Caribbean judicial reform initiative funded under a CAN\$19 million arrangement with Global Affairs Canada. The Project is being executed by the Caribbean Court of Justice (CCJ) on behalf of the Conference of Heads of Judiciary of CARICOM. The CCJ and other regional partners are also contributing approximately CAN\$4 million to the Project.

The JURIST Project has been working with judiciaries in the Caribbean to support their own efforts to improve court administration and strengthen the ability of the courts and the judiciary to resolve cases efficiently and fairly. Its aim is to modernise and strengthen court systems, processes and services; and to equip judicial officers and court staff with the skills and competencies necessary to deliver justice in a fair, predictable, efficient and timely manner. The ultimate goal of the JURIST Project is to develop a regional judicial system that is more responsive to the needs of women, men, youth and the poor.

One of the Project's immediate outcomes is to improve the capacity of courts to deliver gender responsive and customer focused services. The establishment of the Sexual Offences Model Court is aligned to this outcome. It forms part of a comprehensive approach to the management of sexual assault cases and the provision of support for complainants and witnesses, including children. The Model Court will test the effectiveness of the prescriptions outlined in the *Model Guidelines for Sexual Offence Cases in the Caribbean Region* and is integral to the Project's commitment to implement the Model Guidelines in a selected CARICOM country.



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