



**THE UNITED REPUBLIC OF TANZANIA
THE NATIONAL PROSECUTIONS SERVICE
(NPS)**

WITNESS CARE AND PROTECTION GUIDELINES

MAY, 2023

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FOREWORD

Witnesses play a very important role in the administration of justice. Their statements are important in the detection and investigation of crimes and their testimonies are needed by the court in order to arrive at a just decision. They are equated with the eyes and ears of justice". However, the important role they play sometimes place them at risks when they become the targets of the offenders or their associates who want to obstruct administration of justice and evade the legal consequences by threatening, intimidating, harassing or inducing them. Therefore, it is very important to protect and assist the witnesses during their interaction with criminal justice system to ensure they effectively cooperate with law enforcement agencies and provide the best evidence in court.

In Tanzania witness protection is provided in various laws which mandates criminal justice actors to take administrative and procedural measures in order to protect victims and witnesses. However, there are no guidelines that streamline the procedures and processes for witness protection and provide guidance to investigators and prosecutors in implementing these laws.

It is against this backdrop, these guidelines have been developed to streamline witness protection

procedures and provide guidance to investigators and prosecutors in implementing witness protection measures. They outline witness care and protection measures and provide guidance on the determination and application of appropriate measures to support and protect witnesses.

It is my expectation that these guidelines will improve the treatment and protection of victims and witnesses and thereby promote their cooperation in the administration of criminal justice. I therefore urge all investigators and prosecutors to use these guidelines effectively.



Sylvester Anthony Mwakitalu
DIRECTOR OF PUBLIC PROSECUTIONS

ACKNOWLEDGEMENTS

These Guidelines for witness care and protection have been issued by the DPP pursuant to Sections 18(1) and 24(2) of the National Prosecutions Service Act, Cap 430 for purposes of guiding investigators and prosecutors in the implementation of witness care and protection measures.

On behalf of the National Prosecutions Services, may I convey our sincere gratitude to the United Kingdom's Foreign, Common Wealth and Development Office (FCDO) and the EU Delegation in Tanzania for the partnership and support in developing these important tools under the BSAAT Programme.

I would like to extend special thanks to our key stakeholders including, but not limited to, the Prevention and Combating of Corruption Bureau, Tanzania Police Force, Drugs Control Enforcement Authority and Tanzania Wildlife Management Authority for their invaluable inputs in developing these guidelines.

I wish also to recognize and convey my sincere gratitude to the NPS management, under the able stewardship of the DPP, Mr Sylvester Anthony Mwakitalu, for their direction and personal commitment in steering the development of this document.

Last but not least, I wish to recognize the contribution of the technical team led by Mr Oswald Tibabyekomya (Director), Ms. Rosemary Shiyo (Assistant Director), Mr. Pascal Marungu (SSA), Ms. Subira Mwalumuli (SSA), Mr. Ofmedy Mtenga (SSA), Ignas Mwinuka (SSA) and Mr. Tulumanywa Majigo (SA) for their tireless efforts, dedication and devotion in developing the guidelines.

To all who contributed, provided inputs and advice, but because of space, their names have not been mentioned, I say thank you.



Joseph Sebastian Pande
**DEPUTY DIRECTOR OF PUBLIC
PROSECUTIONS**

ABBREVIATIONS

AMLA	-	Anti-Money Laundering Act, CAP 423
BSAAT	-	Building Sustainable Anti-Corruption Action in Tanzania
CAP	-	Chapter
CPA	-	Criminal Procedure Act, CAP 20
DPP	-	Director of Public Prosecutions
DPO	-	District Prosecutions Officer
EOCCA	-	Economic and Organised Crime Control Act, CAP 200
EU	-	European Union
GN	-	Government Notice
NPS	-	National Prosecutions Service
NPSA	-	National Prosecutions Service Act
PCC	-	The Prevention and Combating of Corruption Act, CAP 329
PCCB	-	Prevention and Combating of Corruption Bureau
PGO	-	Police General Orders
POCA	-	Proceeds of Crimes Act
POTA	-	Prevention of Terrorism Act
RPO	-	Regional Prosecutions Officer
NGO	-	Non Governmental Organization

DEFINITIONS

“Procedural measures”: action taken by the court during testimony to ensure that witnesses may testify free of intimidation or fear for their lives; such measures include, but are not limited to, videoconferencing, voice and face distortion techniques and the withholding of details of a witness’s identity;

“Special Care” Entails treatment of witnesses on account of vulnerability.

“Witness” has the meaning ascribed to it by the Whistleblower and Witness Protection Act Cap.446.

“Witness protection” Witness protection comprises of measures or methods of protecting a witness or potential witness who may be in danger as a result of

agreeing to cooperate with the law enforcement agencies in their investigations or testify in court about what they know concerning the alleged crime.

“Vulnerable Witness” A person who may provide evidence in a criminal case but whose quality of evidence is likely to be diminished because he cannot protect himself from harm or exploitation due to his personal or situational circumstances. This category of witnesses includes children, elderly people or persons with disability and other special characteristics that may require provision of special services and support to enable them to testify in court.

PART I

INTRODUCTION

1.1 Overview

Witness care and protection comprises of support and protection measures provided to witnesses or other persons whose safety or wellbeing may be at risk as a result of agreeing to cooperate with law enforcement agencies and the judiciary in order to ensure they effectively cooperate with law enforcement agencies during investigation and provide the best evidence in court.

The legal framework for witness care and protection in our jurisdiction is based on International and Regional Instruments.¹ These Instruments require state parties to put in place mechanisms that will ensure the witness's safety and protection.

In compliance with International and Regional instruments, Tanzania enacted and amended several legislations to strengthen witness care and protection. These legislations include the Whistleblower and Witness Protection Act, No. 20

¹ The United Nations Convention against Transnational Organized Crimes, 2000 (article 24), the United Nations Convention Against Corruption, 2003 under article 32 and 33; and the African Union Convention on Preventing and Combating Corruption, 2003 (article 5(5)).

of 2015;² the Whistleblower and Witness Protection Regulations, 2023, the Anti-Trafficking in Persons, Act No.6 of 2008³, EOCCA, PCCA⁴, CPA⁵, AMLA⁶ and POT A.⁷

Generally, these legislations provide mandate to take administrative and procedural measures in order to protect victims and witnesses. For example, section 53 (1) of the EOCCA empowers the Inspector General of Police, when he is satisfied that there is a danger or real possibility of danger to any witness or potential witness, to take administrative measures to ensure provision of security to the witness, and if necessary, the family of that witness.

More extensive provisions for administrative measures are provided in the Whistleblower and Witness Protection Regulations, 2023⁸ which provides protection measures such as physical protection of a witness, his residence and property; concealment of identity of a person and ownership of any property; provision of weapon for self-defence, relocation; and prohibition of an accused

² Section 53(1),

³ Section 9

⁴ Section 51(1) and 52

⁵ Section 188

⁶ Section 22

⁷ Section 34

⁸ Regulation 12

from reaching the witness's residence, workplace or school before or after a final judgment is delivered on the wrongdoing for which information or evidence is rendered.

Procedural measures for witness protection are provided in section 188 of the CPA which authorise the DPP to make application in court to obtain witness protection orders which include video conferencing, non disclosure of identity of witnesses, non disclosure of statement or other protection measures which the court may think appropriate to grant⁹.

Although the laws make provisions on how to protect witnesses, there are no guidelines which provide guidance to investigators and prosecutors in implementing these laws. To address this gap, the DPP in terms of section 18(1) and 24(2) of the NPSA, has issued these guidelines to guide investigators and prosecutors in implementing witness protection measures.

⁹ Other legislations which provides procedural measures are AMLA (section 22), POTA (section 34(3) and the Economic and Organised Crime Control (The Corruption and Economic Crimes Division) (Procedure) Rules, 2016

1.2 Scope of Application

These Guidelines are directives intended to guide Prosecutors and Investigators in the course of implementation of witness care and protection measures. Nothing in these guidelines is intended to alter any legal procedure established by law in relation to witness care and protection.

1.3 Essence of the Guidelines

The essence of these Guidelines is;

- (a) To provide uniform standards in caring and protecting witnesses;
- (b) To ensure that investigation and prosecution of criminal offences is not prejudiced because victims and witnesses are intimidated or threatened to provide cooperation to law enforcement agencies or give evidence in court;
- (c) To safeguard physical, psychological and economic well-being, dignity and privacy of victims and witnesses;
- (d) To prevent re-victimization and re-traumatization of victims and witnesses by limiting their exposure to the public, the media and the accused during trial; and

- (e) To provide suitable witness care and protection measures depending on the circumstances of each particular case.

1.4 The Purpose of Guidelines.

These guidelines are intended to ensure witness care and protection during pre-trial, trial and post-trial proceedings by providing comprehensive measures for witness care and protection and setting out roles and responsibilities of prosecutors and investigators in implementing witness care and protection measures. Therefore, these Guidelines will act as:

1.4.1 A guide and reference material

Prosecutors and investigators will use these Guidelines as a working tool and reference material to identify threatened victims and witnesses and apply appropriate protection measures during pre-trial, trial and post-trial proceedings.

1.4.2 A basis for administrative measures

The guideline will equip law enforcement agencies and the NPS with tools for taking administrative measures, budgeting and allocation of resources required for witness care and protection.

PART II

GUIDING PRINCIPLES FOR WITNESS CARE AND PROTECTION

2.0 Introduction

Witness care and protection will be guided by the following principles:

2.1 Confidentiality

Investigators and Prosecutors must perform the following duties for the purpose of ensuring confidentiality:

- (a) Keep personal information about the victims and witnesses confidential;
- (b) Obscure or redact personal information such as name and address of the witness from any document that will be made public when necessary;
- (c) Protect the source of victims and witnesses' information, identity of the cooperating person and the information provided;
- (d) Protect information on the protective measures taken;
- (e) Monitor the interaction between prosecution, victims, witnesses and other people;
- (f) Protect victims and witnesses' data;
- (g) Take preventive measures to minimize victims and witnesses' exposure;

- (h) Take adequate confidential measures to protect witnesses within their own community;
- (i) Recognize the right to privacy of special categories of victims and witnesses like children, the disabled; Gender based Violence (GBV) survivors and the elderly, among others; and
- (j) Take appropriate action for redress in case of breach of confidentiality.

2.2 Fair treatment.

Investigators and Prosecutors shall ensure witnesses are fairly treated during their interaction with criminal justice system. In this regard, the Investigator or Prosecutor must perform the following duties:

- (a) Introduce himself or herself to the victims and witnesses, give them an opportunity to ask questions and provide for them clear answers;
- (b) Create and establish strong rapport with the victims and witnesses;
- (c) Treat victims and witnesses with respect, courtesy and dignity;
- (d) Minimise any inconveniences and communicate anticipated delays; and
- (e) Explain to the victims and witnesses the role of the court, its officials and their roles in the trial process.

2.3 Best Interest of the Victim and Witness

The prosecutor or investigator shall take into account the best interest of the victims and witnesses in mind before implementing any protective measures in order to ensure that no further harm is caused to them as a result of their interaction with the criminal justice system.

2.4 Adherence to No-harm Principle

The protection measures taken must not cause harm to the victim or witness. In ensuring this is observed, the prosecutors and investigators have a duty to:

- (a) Apply precautionary measures in order to prevent any harm on victims and witnesses. This means the victims and witnesses' lives; physical, psychological, safety and well-being should not be jeopardized and;
- (b) Inform the victims and witnesses about any potential risks linked with their collaboration with the criminal justice system.

2.5 Case Context-based Protection

There is no hard and fast rule approach in dealing with witnesses' care and protection. The appropriate strategy will be determined on case-to-case basis depending on capacity, resources and circumstances of the case among other contextual factors.

PART III WITNESS CARE

3.0 Introduction

Witness care is crucial in order to achieve efficient investigation and prosecution of criminal cases. It involves applying cautionary measures and prudence when dealing with victims and witnesses and paying special attention to the witnesses' needs, provision of support and services to witnesses at various stages of criminal justice system to enable them to cooperate and provide their best evidence in court.

3.1 Witness Care and Support

Depending on the circumstances of the case, witness care, support and services that can be provided includes:

- (a) Assisting witnesses who have been physically or mentally traumatized by events connected to the commission of crimes in obtaining medical treatment, psychological treatment and any other appropriate assistance;
- (b) Making arrangement for and, or providing logistical support for witnesses to testify in courts;
- (c) Familiarize witnesses with court premises, procedures, and other necessary information to enable them testify in court; and

- (d) Providing the victims and witnesses with feedback and updates of the cases as they progress throughout the criminal justice process.

3.2 Duties of the Investigator

In order to provide witness care and support, the investigator shall:

- (a) Ensure witnesses are treated fairly and in a dignified manner, with courtesy, respect and empathy;
- (b) Not use rude, abusive or discourteous words to witnesses;
- (c) Attend witnesses timely and avoid unnecessary delay that may cause inconveniences to the witness. If delay is unavoidable the witness shall be informed in a polite manner about the delay;
- (d) Inform the witness about the progress made with regards to the issue that brought him to the office of respective investigative organ;
- (e) Interview the witness in the environment that will guarantee his privacy. Where the interview is required to be reduced into a witness statement, he shall inform him of the intention to record that statement and thereafter proceed to record the statement as soon as practicable;
- (f) Engage the services of an interpreter to facilitate effective communication between

- him and the witness, if circumstances so demands;
- (g) Provide suitable environment for the witness to give any information in case he is receiving any threat or intimidation which may require protection;
 - (h) Explain to the witness the possibilities of being recalled for further actions, where circumstances require; and
 - (i) Inform the witness about the possibilities of threats, intimidation or compromise from the accused or his associates and actions that may be taken in response to such threats.

3.2 Duties of the Prosecutor

In order to provide witness care and support, the prosecutor shall:

- (a) Treat witnesses fairly and with respect, courtesy, empathy and in a dignified manner;
- (b) Arrange and conduct early pre-trial meeting with the witness to review his testimony and ascertain if the witness is vulnerable or threatened;
- (c) Inquire from the witness if he is receiving any threat from the accused or any other person;
- (d) Use special designated rooms for interview to guarantee witness's privacy.
- (e) Facilitate the presence of support persons, where the witness is in need of that support, in giving testimony in court;

- (f) Facilitate presence of an interpreter, where necessary;
- (g) Assist the witness to obtain services like counselling, psychosocial support or intervention of other professionals needed;
- (h) Carry out an acquaintance exercise on court procedures, processes and formalities;
- (i) Brief witnesses on different actors and their roles in court;
- (j) Refresh the witness's memory regarding their testimony;
- (k) Explain to the witness the possibility of adjournments and delays in the course of the court proceedings;
- (l) Explain to the witness the requirement to tell the truth and the consequences of not telling the truth;
- (m) Explain to the witness what the court expects from him in order to dispense justice; and
- (n) Communicate to the witness the outcome of the trial.

3.3 Special Care

Special care should be provided to vulnerable witnesses. In that regard the Investigator and Prosecutor shall pay special attention and provide special care to the following vulnerable witnesses, depending on the circumstances of the case:

- (a) All child witnesses (under 18 years);
- (b) Any witness whose quality of evidence is likely to be diminished because they-
 - (i) Are suffering from a mental disorder;
 - (ii) Have a significant impairment of intelligence and social functioning; and
 - (iii) Are physically challenged.
- (c) Victims of crimes such as sexual offences, gender based violence and other violent offences.

PART IV

WITNESS PROTECTION

4.0 Introduction

Protection of witnesses and their close families or associates is critical in order to ensure cooperation of witnesses at all stages of investigation and trial. Protection may begin during criminal investigation, continues during the trial and may extend after the trial.

4.1 Persons who May be Protected

For the purpose of these guidelines, the following persons may be subject to witness protection:

- (a) Victims;
- (b) Witnesses who are not victims;
- (c) Witnesses who are incarcerated or under restraint;
- (d) Other Persons including:
 - (i) Family members of victims or witnesses who are in danger because of the relationship with the victim or witness;
 - (ii) Friends of victims or witnesses who are in danger because of the relationship with victims or witnesses;
 - (iii) Business associates of the witness or victim who are in danger because of the relationship with the victim or witness; and

- (iv) A person close to a witness, who is incarcerated or under restraint for any reasons.

4.2 Initiation of Witness Protection Arrangements

The initiative to include the witness in the protection arrangement may come at any time from various sources including:

- (a) The victim;
- (b) The witness;
- (c) The investigator;
- (d) The prosecutor, or
- (e) Other persons.

4.3 Assessment of Witness Threat

Before admitting the witness into the protection arrangement, a threat assessment shall be conducted to obtain more information that will assist in making an informed and appropriate decision. In order to conduct threat assessment, the prosecutor or investigator shall:

- (a) Speak to victims and witnesses to ascertain if they are receiving threats;
- (b) Peruse the evidence and relevant documents to ascertain if they expose the witness to threats;
- (c) Take into account intelligence information from the community or other sources.

- (d) Consider the nature, seriousness and punishment of the case to ascertain possibility of threats;
- (e) Consider the vulnerability of victims and witnesses;
- (f) Consider employment status of the witness; and
- (g) Consider other financial interests of the witness and other persons who may need protection.

4.3.1 In determining the level of threat, the prosecutor and investigator shall adhere to the criteria provided for under the *Witness Threat Assessment Form* annexed as **NPS ANNEX 1**.

4.4 Criteria for Admission into Witness Care and Protection Arrangement

The severity of threat to witness is the main criterion to be considered in determining and admitting of the witness to witness care and protection arrangement. Other criteria depend mostly on the witness's case- to-case circumstances including:

- (a) The nature and relevance of the evidence to be provided by the witness;
- (b) The willingness of the witnesses to cooperate;
- (c) The suitability of the witness to be included in the arrangement in terms of psychological, mental and medical conditions;

- (d) The cost to be incurred in the anticipated witness protection arrangement; and
- (e) Availability of alternative witness protection measures.

4.4.1 After the abovementioned criteria have been met, the prosecutor and investigator shall assess the threat in accordance with **NPS ANNEX 1** and prepare threat assessment report which shall contain the following:

- (a) The detail of the case;
- (b) The name of the witness;
- (c) The nature of threat;
- (d) Proposed measures, either administrative or procedural or both; and
- (e) Estimated budget.

4.4.2 Depending on the nature of the proposed administrative protection measures, the investigator shall proceed to admit the witness into protection arrangement and report to the Officer In-Charge of Investigation or DPO/RPO.

4.4.3 If the proposed witness protection measures are procedural in nature, the investigator shall liaise with the DPO or RPO for further action to be taken.

PART V

WITNESS PROTECTION MEASURES

5.0 Introduction

Investigators and Prosecutors have a primary duty to protect the witnesses and other persons who are at risk i.e., exposed to threat and danger envisaged in **NPS ANNEX 1**. The protection measures entail administrative and procedural measures.

5.1 Administrative Measures

These are measures that essentially do not involve court process but can work through the use of administrative and operational means. These measures include:

- (a) Physical protection of a person, his residence or property;
- (b) Concealment of identity of a person and ownership of any of his property;
- (c) Provision of weapon for self-defence;
- (d) Relocation;
- (e) Provision of immunity from prosecution for an offence for which a person renders information or testifies;
- (f) For a victim or witness who is an employee, use of administrative measures such as transfer, alternative employment, leave and suspension or revocation of any retaliatory administrative measures;

- (g) prohibition of an accused person from reaching the protected person's residence, work place or school before or after a final judgment is delivered on the wrongdoing for which information or evidence is rendered;
- (h) Arrangement with the telephone company to change a witness's telephone number or to assign him with unlisted telephone number;
- (i) Monitoring of e-mails and telephone calls;
- (j) Installation of security devices in the witnesses' home such as security doors, CCTV cameras and security alarms;
- (k) Arranging secret venue for meetings or alternative means of contacting the witness;
- (l) Use of discreet premises to brief and interview witnesses;
- (m) Limiting witness exposure to the public;
- (n) Use of community leaders for surveillance and security arrangements;
- (o) Arrangement of temporary accommodation in safe houses;
- (p) Engaging Non- Government Organisation and other stakeholders where necessary, for effective implementation of preferred protection measures; and
- (q) Any other form of protection measures that may be necessary depending on the circumstances of the case.

5.1.1 The investigator or prosecutor shall apply appropriate administrative measures at the earliest

stage of investigation, taking into account various considerations including:

- (a) The level of threat to the witness or potential witness;
- (b) Health and living condition of a witness or potential witness;
- (c) Cost to be incurred for protection; and
- (d) In the case of the child or other vulnerable witnesses, the best interest of the child and welfare of a vulnerable witness who require protection.

5.1.2 In making decision of the appropriate administrative measures, the investigators and prosecutors must adhere to the laws, guidelines and circulars.

5.2 Procedural Measures

Procedural measures are accommodated by the provisions of section 188 of the CPA. They are essentially aimed at preventing disclosure of the identity and whereabouts of witnesses who are testifying to the public or limiting disclosure to the other party in the proceedings. Such measures are ordered by the court upon an ex-parte application by the **DPP**.

5.2.1 The Prosecutor shall make formal application to the court to seek witness protection orders which may include:

- (a) Witness testimony to be given through video-conferencing (for example the use of

specifically designed court room with special arrangement like video links, one-way mirror, screens image, face modifications and voice distortion for concealment of identification during testimony);

- (b) Non-disclosure or limitation as to the identity and whereabouts or limitation as to the identity and whereabouts of a witness (for example assigning and using of pseudonyms to conceal identity of a witness); and
- (c) Non-disclosure of statements or documents likely to lead to the identification of a witness.

5.2.2 The provisions of section 188 of the CPA allows the court to grant other protection measures which the court may consider appropriate to grant. In this regard, in addition to the protection orders in paragraph 5.2.1, depending on the nature of the case, the prosecutor may also make application to the court to seek other witness protection orders such as:

- (a) Hearings in camera or closed hearings;
- (b) Relocation of trial venue;
- (c) Prohibition of publication of court proceeding on mainstream media, social and online media during court proceedings;
- (d) Redaction or deleting all personal information or any fact in court documents which on the face of it will likely lead to disclosure of identity of a witness; and
- (e) Excluding public from live testimony;

5.3 Enforcement of Witness Protection Measures;

The investigators and prosecutors shall take necessary actions to enforce witness protection measures at all stages of criminal justice process.

5.3.1 Roles of the Investigator

In ensuring enforcement of administrative and procedural measures, the Investigator shall:

- (a) Identify witnesses who need protection at the earliest stage of investigation of the case;
- (b) Conduct assessment on threat or danger likely to face the victim or witnesses and recommend effective protection measures to be applied;
- (c) Prepare risk assessment report with suggested effective protection measures;
- (d) Consult his superior on effective protection measures to be applied, where necessary;
- (e) Apply protection measures available at his disposal after approval from his superior;
- (f) Take preventive measures by initiating criminal investigation and legal action in response to the reported threat or danger;
- (g) Conduct investigation expeditiously;
- (h) Consult the prosecutor for further necessary witness protection measures and guidance;
- (i) Ensure confidentiality of information by:
 - (i) Limiting the access of information from unauthorised person;

- (ii) Recording statements of protected witness at a secured place;
- (iii) Keeping risk assessment reports and statements of the witness who needs protection in closed and sealed envelope; and
- (iv) Submitting witness statement and risk assessment report to the responsible Officer In-charge of Investigation for safe custody during investigation and, depending on the circumstances of the case, transmission of the said witness statement and risk assessment report to DPO or RPO before or after the completion of the investigation.

5.3.2 Roles of the Prosecutor

Upon receipt of witness statement and risk assessment report, the assigned prosecutor in ensuring the implementation of Administrative and Procedural measures shall:

- (a) Advise investigators on the viable protection measures;
- (b) Make application to court to obtain necessary court orders for witness protection;
- (c) Facilitate or enforce the orders of the court in respect of protection measures;
- (d) Report to the DPO or RPO the actions taken or needed for witness protection and other circumstances which require his attention;

- (e) Cause timely commencement and expeditiously hearing of the case;
- (f) Ensure confidentiality of information by:
 - (i) Prohibiting access of information to an unauthorised person; and
 - (ii) Keeping Risk Assessment Reports and Statements of the witness who needs protection in safe custody.

5.4 Application for Witness Protection Orders on Cases Triable by Subordinate Courts.

In order to obtain witness protection orders for cases triable by subordinate court, the prosecutor shall ensure the following:

- (a) *Ex parte* application for necessary witness protection orders is prepared;
- (b) The *ex parte* application for witness protection is made under a certificate of urgency;
- (c) The application for witness protection order is sought and granted before institution of the charge or at any stage of the proceedings; and
- (d) Where the witness to be protected is a victim and his name is likely to appear in the charge, the application for witness protection is made before institution of the charge.
- (e) The application in terms of paragraph (d) above is made to obtain the following orders:

- (i) Non-disclosure of victim's name and their whereabouts or location on the charge;
- (ii) Non-disclosure of statements and documents likely lead to identification of witness;
- (iii) Concealment of all names, particulars and facts from witness statements and other documents which on the face of it will likely lead to disclosure of identity of a witness;
- (iv) Witness statement are not supplied or availed to accused persons or defence counsels;
- (v) Use of a comprehensive summary of detailed facts that do not disclose identities and locations of victims or witnesses, in lieu of witness statements; and
- (vi) Any other necessary witness protection measure, depending on the circumstances of the case.

5.4.1 Application for Protection Orders on Cases Triable by the High Court

Where the offence charged is triable by the High Court, the Prosecutor shall ensure the following:

- (a) *Ex-parte* application for necessary witness protection orders is prepared and filed in court;

- (b) The *ex parte* application for witness protection is made under a certificate of urgency;
- (c) The application for witness protection measure is sought and granted before filing of Information or at any stage of the proceedings;
- (d) Where the person to be protected is a victim or witness whose name is likely to appear in the holding charge to be filed in the subordinate court, the application for protection orders is initially sought before filing of the charge;
- (e) the application in terms of paragraph (d) contains a prayer for non-disclosure of victim's/witness's names and their particulars on the charge;
- (f) An application is made before the High Court, where the witness to be protected is the victim or witness and his name is likely to appear on the Information to obtain the following orders:
 - (i) Non-disclosure of victim's or witness's name on the Information;
 - (ii) Non-disclosure of statements and documents likely lead to the identification of the victim or witness;
 - (iii) Concealment of all names, particulars and facts from the victim or witness statements and other documents, which on the face of it will likely lead to

- disclosure of identify of a victim or witness;
 - (iv) Witness statement not to be supplied or availed to accused persons or defence counsel;
 - (v) Use of a comprehensive summary of detailed facts that do not disclose identities and locations of victims or witnesses, in lieu of witness statements; and
 - (vi) Any other necessary witness protection measure, depending on the circumstances of the case.
- (g) Depending on court orders given, during committal proceedings the prosecutor shall:
- (i) Read a copy of Information with concealed witness identification information;
 - (ii) Not supply copies of witness statements and other documents from which identities of the witness or victim have not been omitted or redacted;
 - (iii) Read witness statements and other documents with redacted or concealed information; and
 - (iv) Read comprehensive summary of facts without disclosing identities and locations of victims or witnesses, in lieu of their witness statements.

5.5 Removal, Variation and Termination of Protection Arrangement

Protection arrangement may be varied, removed or terminated for various reasons including the following: -

- (a) Expiry of the validity of the protection arrangement;
- (b) where the conduct of the protected person renders ineffective the protection measures for himself or others;
- (c) Where there was material misrepresentation;
- (d) Security is compromised by the actions of the witness or his or her inability to honour obligations;
- (e) where the circumstances that necessitated the protection ceases to exist prior to the expiry date of the agreement;
- (f) The witness refrains from giving evidence in court;
- (g) where the protected person voluntarily renounces the agreement or requests for withdrawal from protection; or
- (h) Upon death of the protected person

5.5.1 Before the prosecutor or investigator has formed the decision for removing, variation and termination of witness protection arrangement, he shall conduct assessment and evaluation to ascertain the status and existence of threat, and prepare report to that effect.

PART VI

REPORTING AND ACCOUNTABILITY MECHANISM

6.0 Introduction

Reporting and accountability shall be undertaken at District and Regional levels to enhance the relevance, accountability and effectiveness of the witness care and protection measures implemented.

6.1 Maintenance of Register and Records

The DPO and RPO shall maintain a Witness Care and Protection Register and other records in relation to witness care and protection.

6.2 Monthly Reports

The RPO shall submit monthly reports to the DPP detailing the progress of cases handled that involved witness care and protection measures.

6.3 Contents of the Report

The witness protection report shall contain the following details:

- (a) Number of cases and case details;
- (b) Types of the cases;
- (c) Number of witnesses benefited;
- (d) Amount of money involved;
- (e) Measures of protection involved;
- (f) Institutions or stakeholders involved;
- (g) Challenges; and
- (h) Recommendations.

PART VII

7.0 LEGAL STATUS OF THE GUIDELINES

These Guidelines have been issued under section 18(1) and 24(2) of the NPSA. They are internal administrative directives therefore mandatory to all investigators and prosecutors while dealing with witness care and protection matters.

7.1 Non-Compliance with the Guidelines

- (a) Any violation or non-compliance with these guidelines shall be reported to the DPP and;
- (b) After receiving the report of non-compliance of the guidelines, the DPP may issue appropriate sanctions.

NPS ANNEX 1

WITNESS THREAT ASSESMENT FORM

ASSESSMENT LEVEL OF THREAT	DESCRIPTION	ACTION TO BE TAKEN	INSTITUTION TO ACT
Low level	<ul style="list-style-type: none"> • Is often perceived. • No real threats have been received or may be evident. • Witness is not known to the accused • Low profile crime. • Accused person has no history of violence. • Accused person does not have access to weapons. • Accused person is not associated with violent people. 	Neighbourhood intervention: <ul style="list-style-type: none"> • Witness to be aware of his environment and movements • Relatives to watch over him/her • Report to his/her immediate local/ investigative agency • Report to the accused's employer or superior person 	<ul style="list-style-type: none"> • Local Government Authority • Police and other investigative agencies • NPS • Ministry responsible for Community Development. • NGO or any other Institution • The accused's Employer or superior person
Medium level	<ul style="list-style-type: none"> • Witness has been threatened. • Witness is known to the accused. 	Depending on the stage of the case, the Prosecutor may apply to Court for protective	<ul style="list-style-type: none"> • NPS • Judiciary • Police and other investigative agencies • NGOs or any

ASSESSMENT LEVEL OF THREAT	DESCRIPTION	ACTION TO BE TAKEN	INSTITUTION TO ACT
	<ul style="list-style-type: none"> • High profile crime. • Accused person is not associated with groups that are capable of carrying out the threat. • Accused person has capacity to carry out the threat. • Financial threats • Employment threats (such as termination, transfer, lack of promotion, demotion) • Relationship between the witness/victim and the accused • Accused person has a history of violence 	<p>measures such as:</p> <ul style="list-style-type: none"> • Assignment and use of a pseudonym. • Request for order to testify from behind a screen with witness's identity kept secret from the accused and their lawyers. • Distort witness's voice. • During trial avoid question which can lead his/her identity be disclosed. • Temporary relocation; • Formal police protection 	<p>other organization.</p> <ul style="list-style-type: none"> • Ministry responsible for Community Development • Prisons Service
High Level	<ul style="list-style-type: none"> • Witness has actually been threatened. • Witness is 	<ul style="list-style-type: none"> • Needs exceptional protective measures such 	<ul style="list-style-type: none"> • NPS • Judiciary • Police and other investigative

ASSESSMENT LEVEL OF THREAT	DESCRIPTION	ACTION TO BE TAKEN	INSTITUTION TO ACT
	<p>known to the accused.</p> <ul style="list-style-type: none"> • Witness or his/her associates have been previously attacked. • There has been an attempted attack. • Witness or his /her associates property has been damaged. • Accused person is probably armed or is a member of an armed group. • Accused person has a history of violence. • High profile case. 	<p>as change of identity, relocation.</p> <ul style="list-style-type: none"> • Admit into Witness protection arrangement. • Relocate witness internally before, or externally after, testimony. 	<p>agency</p> <ul style="list-style-type: none"> • Ministry responsible for Community Development, • Ministry of Constitutional and Legal Affairs • NGO or any other organization.

