



PROCURA DELLA REPUBBLICA
PRESSO IL TRIBUNALE DI MILANO



ORDINE DEGLI
AVVOCATI DI MILANO

Milano



Comune
di Milano

GUIDELINES

TO FIGHT CYBERCRIMES

AND PROTECT VICTIMS



Cybercrime has dramatically increased over the last few years.

Although this increasing trend should be evaluated over more years, the latest report of Milan Public Prosecutor's Office [July 2013 – June 2014] estimates a 97% rise of cybercrimes (excluding child related offenses) compared to the same period of the previous year.

This document describes the birth of a partnership protocol to help the victims of cybercrime.

This partnership protocol is meant to provide criminal justice practitioners with an overview of the procedures involved in delivering pre-sentence practices in relation to online offences.

Milan, April 2015

The High Tech Crime Unit at the Public Prosecutor's Office in Milan has established a partnership in conjunction with the Municipality of Milan and the local Bar Association. This partnership came into operation in 2010 and was set up to provide a cross-force initiatives to tackle cybercrimes and protect the public and vulnerable victims.

As a result, this initiative is a response to the growing threat from e-crime and is in accordance to the ethos of the EU Directive 2012/29/UE of the European Parliament and Council.

This programme was designed in 2010 by a multi-disciplinary team in order to improve decision-making in criminal justice practice. This means that Public Prosecutors are now provided with information in relation to what is required to reduce reoffending in criminal cases prior to sentencing. This has the advantage of making rehabilitation available at all stages of the criminal justice system (pre and post conviction). This approach enables the Court to consider the offender's conduct, including the extent to which the offender will comply with any requirements imposed by the Court. Thus, the Court becomes more mindful of the criminogenic needs of the offender before conviction takes place. These are aspects that the Court can consider when it has to make decision about sentencing.

The Criminologist plays an important role in helping the Court to understand criminal behavior and in identifying the offender's treatment needs.

Clearly, this approach requires institutional agencies and organizations working together to establish processes such as the initial referral mechanism, effective communication channels and information sharing protocols.

This approach also indicates that rehabilitative practices are implemented across the different stages of the criminal justice system and it has the capacity to impact on decision-making in criminal proceeding prior to sentencing, saving taxpayers' money.

Target

The objective is to continue developing an effective partnership between institutions and the community in order to:

- fight the evolving threats and increased risks of cybercrimes;
- enhance cyber security;
- repair the harm suffered by the victims and promote offender accountability.

Aims

At the heart of this initiative there is a commitment to reform the criminal justice system to safeguard the rights of victims and to implement offender rehabilitation in a more effectively way. In this point of view, the aims are:

- to provide victims with the opportunity to take an active part in an early stage of the criminal justice system, offering them greater direct involvement in the criminal justice process and giving them a voice in order to increase victim satisfaction; to make it easier for victims to exercise their right to be defended rather than to be marginalized and not to be taken into appropriate consideration. This is based on the principle that victims have become a significant element in policies relating to crime, its reduction and prevention;
- to reduce re-offending by strengthening risk management practices and social control;
- to promote law-abiding practices, implementing change by demonstrating the advantages of lawful behavior and moving away from an over-emphasis on repression. Thus increases motivation to change and live a law abiding life;
- to implement rehabilitation and resettlement strategies at the early stage of the criminal proceedings.

Outcome

We have established a multi-agency team that has worked together to develop the following inter-agency responses to tackle cybercrimes:

- since 2011
 - o we have been able to provide a community safety strategy by delivering two training courses to the criminal justice practitioners such as the Police, Public Prosecutors, Judges and Barristers;
 - o we have been established new investigative procedures and techniques for the law enforcement regarding cybercrimes;
- since 2014
 - o we have established a fund for cybercrime victims, which is by now of 5.485,00 Euro;
 - o we have established a free-of-charge cybercrime victim support advise bureau. This includes the provision of a list of Barristers, specialized in cybercrimes, who are available to the public. In this way we have given victims the possibility to be defended with a low cost tariff by a counsel of their choice.

Partnership development

Phase 1: a “partnership decision support system” and the role of the Criminologist

The initial phase of the project was characterised by a partnership between the Public Prosecutor's Office and the Municipality of Milan in order to establish common procedures. This phase has focused in particular on establishing a ‘partnership decision support system’ to remove the barriers of information sharing.

This multi-agency team work focuses in particular on the understanding of the cybercrime phenomenon, including making inferences on the characteristics of online offenders by the way they commit e-crimes. The nature of the interaction between victims and online-offenders and how this impact on the offender’s decision making are also under scrutiny.

This collaboration has led the Municipality of Milan to appoint a Criminologist, deployed on behalf of the Public Prosecutor's Office. The role of the Criminologist is to undertake crime scene analysis and criminal profiling using inductive or deductive profiling methods. The Criminologist also provides specialist assessment of the offender’s treatment needs and risk management plans. He also utilizes investigative interviewing along with the use of threat assessment tools to identify the risk of online offenders. These tools incorporate the evaluations of multiple sources of information to corroborate findings.

The role of the Criminologist is to train the multi-agency professionals in some aspects of psychology, criminology, victimology and the law. Through this training, the Criminologist helps practitioners to develop the skills to identify offender’s characteristics. He will also help to understand the technological aspects associated with the ‘scene of crime’.

The first stage of the analysis involves victims. Both individuals and organizations are victimized by cybercrimes for various purposes. Understanding which aspect of the individual or of the organization attracted the criminals to them is a crucial piece of information as it allows an understanding of the motive of the cybercrime attack. This may include the following purposes:

- crimes committed for monetary purposes (e.g. hacking a company data base to steal information that can be sold to third parties);
- crimes committed for emotional reasons (e.g. cyber-stalking);
- crimes driven by sexual impulses (e.g. paedophiles);
- politically motivated crimes (e.g. cyber-terrorists);
- crimes that are less dangerous in nature such as sharing copyrighted movies or software by individuals.

It is evident that an interdisciplinary approach should be taken when dealing with such issues.

Phase 2: Guidelines for the Police Investigation Units (Judicial Police) and a specific training course for investigators

The High Tech Crime Unit at the Public Prosecutor's Office in Milan was created in 2004 in order to fight cybercrimes in a more effective way and by collecting data of all online fraud cases on eBay and other e-commerce websites.

Cybercriminals have recently improved their methods of committing crimes and therefore the number of cybercrimes have increased and their methods have also developed. As a result, to fight cybercrimes effectively there is a necessity for multiagency working, increased public awareness, mutual investigative procedures and shared information processes.

For these reason, the implementations of effective investigation techniques have become a crucial need for today's society: this indicates that the law enforcement criminal investigation units need to be equipped with new skills and tools and with highly qualified training courses to fight this complex phenomenon.

Thanks to this partnerships, on one side we have worked to implement the High Tech Crime Unit's skills and tool; on the other side, since May 2011 the Public Prosecutor's Office at the Court of Law in Milan has established new investigative procedures and techniques for law enforcement regarding cybercrime.

We have also worked to implement a specific training course for investigators.

Nowadays, there is a high demand for training courses. The method of teaching developed by law enforcement investigators combines lectures, labs and workshops. The course is based on the MOOC system and is supplemented with technical and didactic tutoring service, created specifically for all the investigators of the Milan Court of Appeal District.

The training involves modules such as psychology, social sciences, criminology, professional ethics and economy of cybercrime. The aim is to give the recipients a 360 degree, victim-oriented scope.

The Municipality of Milan has highly contributed at this stage.

Seasoned e-learning teachers have developed, tailored and tutored the education contents to the investigator's needs, observing the e-learning specific requirement.

We have had 750 candidates apply for our training courses and achieved 115 completers.

Phase 3: Restorative Justice

Victims can be victimized twice, by the harm of the crimes and by institutional neglect.

Our programme focuses on victim support which also include the provision of legal representation for victims so that they do not get revictimized by the system neglect of them.

Victims should be considered interested parties with legal standing. However, after reporting the crime, they often have no voice as the system does not always provide victim support in the investigation process or in the trial.

Our philosophy is based on allowing victims to have access to information at all stages of the proceedings; we also believe that they should be able to receive reparation from the offender for their injuries and should be permitted to make contributions at sentencing, once the offender is convicted. Otherwise, there is the potential that a victim would feel useless and meaningless within the legal proceedings. We do not have to forget that victims need justice to overcome trauma.

Those victims, who are part of a larger organization or association, are in a better position because they stand to gain sufficient recognition during the trial.

The experience of our project shows that pre-sentence multi-agency framework operates well.

The work carried out by the Judge in conjunction with the Criminologist and other agencies help to operate in a rehabilitative fashion prior to incarceration and helps to move away from punishment as the only option. The offender becomes an active participant within this process, fostering responsibility and accountability for his criminal actions, rather than using a solely punitive approach.

As an expert in crime analysis, the Criminologist is appointed by the Public Prosecutor's Office in order to effectively analyse cybercrime behaviour. This collaboration with the Criminologist will strengthen the investigative ability of the team, making detecting cybercrime easier.

The criminological analysis includes an overview of the offender history, his relationships and social network.

The collaborative working between the offender and the Barrister brings about improvements in the areas of Offender rehabilitation. The goal of this collaboration is to motivate the offender to undertake treatment to reduce the risk of future recidivism. Within this framework, which includes restorative justice principles, it is also envisaged that the offender has to repair the harm caused to the victim via an appropriate compensatory channel.

It is the task of the Criminologist to analyse all the relevant elements, such as interviews and other collateral information, in order to make inferences on the motives of the crime. An analysis of how victim/offender interaction impacts on the decision making of the offender at the scene of crime will also be explored by the Criminologist to improve crime detection. Forensic Psychologists will also assess offenders' personality risk factors that may impact on their offending behaviour.

The Criminologist will also be involved in establishing the offender treatment plan including identifying relevant treatment targets. It is the responsibility of the offender to achieve the treatment targets outlined by the Criminologist and provides adequate evidence of risk reduction.

At the end of this procedure the Court makes decision on sentencing on the basis of whether or not the offender's rehabilitation plan is realistic and achievable.

Phase 4: The Municipality of Milan fund for cybercrime victims

The Economic Department for Development, University and Research of the Municipality of Milan has established a financial fund to fight cybercrimes. This comes from the money of the compensation that should have been given to those victims that failed to attend trial. With this fund, the City of Milan will launch a series of initiatives in order to protect citizens and organizations from cybercrime activities.

The creation of this fund indicates that the public sector is concerned with public protection and that the values and beliefs on which our community is based influence criminal justice practice.

Clearly, punishment only does not reduce reoffending. A more evidence based approach, which prioritizes offender's treatment, encourages offenders to take responsibility for their actions and create better communities. A victim-oriented approach also helps victims to deal with their traumatic experiences in a more effective way. Prevention programs could be introduced by each city council and could promote social awareness of the risk of cyber crime.

Phase 5: the role of Bar Association of Milan and the cybercrime victim support advise bureau

The Milan Public Prosecutor's Office in conjunction with the local Bar Association were the first in Italy to sign a memorandum of understanding, on December 2013, that outlined the activities programmed by these institutions in order to protect cybercrime victims.

It is normal practice that cybercrime victims do not attend trials, neither as plaintiffs. This indicates that their representation in the judicial system is somehow considered unnecessary or unimportant. However, legal representation for the offender is always available. This is particularly true for the Italian penal system.

Thus, we have established specific trainings highly skilled courses for Barristers. In this way, these professionals can gain more knowledge with regards to cybercrimes & victims.

The faculty board includes Public Prosecutors, Barristers, Police officers, Criminologists and university Professors.

There has also been an agreement that has led to the establishment of a free-of-charge cybercrime victim support advise bureau. This provides victims with a list of Barristers that are specialized in cybercrime. In case victims express willingness to participate in the trial, the cybercrime victim support advise bureau helps them to keep legal costs to a minimum.

Future perspectives

Taking into consideration that this programme is set up to establish and maintain effective multi-agency partnerships, further procedures with regards to safeguarding victims of cybercrimes will be implemented. The up to now created guidance will be kept under review and may be updated to provide further details and reflect alternative processes and delivery models if appropriate.

In the future, we also aim at involving Internet providers and international organizations.

We also aim to set up a website for victims of cybercrimes managed by public institutions and updated and upgraded by the Internet users.

The Catholic University of the Sacred Heart in Milan - Department of Linguistics and Literary Studies, involved in this project, have set up a research project to analyze the communication style of cybercriminals, in order to prevent e-frauds.

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