



## **Madrid Memorandum on Good Practices for Assistance to Victims of Terrorism Immediately after the Attack and in Criminal Proceedings**

The Cairo Declaration on Counterterrorism and the Rule of Law (September 22, 2011) calls for members of the Global Counterterrorism Forum (GCTF) to “develop good practices for an effective and rule of law-based criminal justice sector response to terrorism.” In July 2012, Spain hosted a high-level conference on victims of terrorism under the auspices of the GCTF Countering Violent Extremism (CVE) Working Group. At this meeting, member states recognized the need to collaborate on developing a document outlining good practices for assisting terrorism victims. In addition, the Government of Spain circulated a draft document, “Madrid Memorandum on Good Practices for Assistance to Victims of Terrorism Immediately after the Attack and in Criminal Proceedings.” On November 7, 2012, experts from GCTF members met to discuss and refine this document. Consistent with the Cairo Declaration, all States are encouraged to consider using these non-binding good practices, while recognizing that implementation of these practices must be consistent with applicable international law, as well as national law and regulations, taking into account the varied histories, cultures, and legal systems among States. States may also wish to take note of relevant international and regional instruments, UN General Assembly resolutions, and UN reports.<sup>1</sup> States are also encouraged, but not obligated, to share their experiences with the following practices with the CVE Working Group.

A terrorist attack is traumatic for a wide range of individuals and institutions, but it most directly affects the victims and their families. How well the victims’ physical and emotional needs are met can have a significant impact on how well the victims are able to cope with the trauma. Prompt and efficient assistance and support to terrorism victims from the moment of the attack through normalization and beyond can have a positive effect on victims’ mental health and ability to cope. Providing for practical needs in a compassionate way is a tangible expression of the care and concern for citizens who are victims of terrorism. Particular attention should be paid to the needs of children.

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<sup>1</sup> A non-exhaustive listing includes: UN General Assembly Resolutions 60/288 of 2006 (The United Nations Global Counter-Terrorism Strategy) and 66/282 of 2012 (The United Nations Global Counter-Terrorism Strategy Review); the UNODC report *The Criminal Justice Response to Support Victims of Acts of Terrorism, Revised edition*, 2012; Report of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, Ben Emmerson: Framework principles for securing the human rights of victims of terrorism, 2012; and the Council of Europe’s Convention on the Prevention of Terrorism (opened for signature in 2005 and entered into force in 2007), which contains a provision specifically dealing with the protection and compensation of and assistance to victims of terrorism.

## A. General Approach

*Good Practice 1: Ensure effective and appropriate coordination among concerned bodies responsible for the provision of direct assistance to victims and their families.* Specific, established coordination is vital to provide specialized, prompt, and efficient support for victims from the outset of the attack through the long-term attack impact. Official coordination can ensure the victim response meets professional and ethical standards and fosters the recovery process, and could include, for example, personnel with special training in the following areas: psycho-social (social workers), medical, legal, forensic, and financial process experts, among others.

Such official coordination can operate with a goal of providing a comprehensive, integrated response to victim needs resulting from the terrorist attack. Governmental coordination should involve first responders, law enforcement, prosecution agencies, courts, corrections, victim assistance units, health professionals, and relevant organizations from civil society, including victims' organizations and other relevant non-governmental organizations (NGOs), and the private sector.

In addition to providing coordination, governmental authorities could also provide policy guidance on victim issues in general, which can include drafting, implementing and monitoring compliance with protocols addressing issues ranging from immediate action at the moment of the attack to achieving normalized social integration or a new normal life for victims.<sup>2</sup>

*Good Practice 2: Encourage State actions that are focused on victim needs and consistent with a set of guidelines.* States could identify guidelines to inform their actions. Some general guidelines could include: (1) *immediacy*—intervening as soon as possible; (2) *accessibility*—making assistance convenient and available to victims (which in some cases may mean acting as closely as possible to the attack location as is safe, or using technology to communicate with victims unable to travel or who are in other countries); (3) *simplicity*—using quick and simple methods adapted to the situation, recognizing that traumatized individuals may be feeling emotionally overwhelmed; (4) *unity*—identifying an official point of contact for the victims, according to the internal legal system, in case they would like to benefit from assistance; and (5) *resiliency*—highlighting the positive aspects of the victims' previous environment or role, thus helping their self-esteem and their coping strategies; and (6) *comprehensive assistance*—

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<sup>2</sup> The United Nations Global Counter-Terrorism Strategy calls on states to consider putting in place, on a voluntary basis, “national systems of assistance that would promote the needs of victims of terrorism and their families and facilitate the normalization of their lives.” UN General Assembly Resolution 60/288 (Sept 2006), Plan of Action, Sec. 1, Para 8.

taking into consideration all the particular needs of the victims in each stage, according to the different types of injuries or damages suffered.

*Good Practice 3: Enact a legal framework for provision of victim services and rights.* As appropriate and consistent with its domestic legal system, States are encouraged to enact legislation establishing minimum standards for providing services to victims of terrorism within the national legal system. States are encouraged to also enact legislation establishing rights and roles for victims during the criminal justice process. States are encouraged to ensure basic training, and where appropriate, in-service training for the benefit of stakeholders in the response to a terrorist attack, to better meet the needs of victims of terrorism.

*Good Practice 3b: States may also consider providing financial assistance and other forms of reparation, including financial compensation, for victims of terrorism.* Compensation measures could be established through the appropriate national schemes and subject to domestic legislation, including, *inter alia*, financial assistance and compensation for victims of terrorism and their close family members. Depending on the provisions of the national legal system, States may wish to consider the establishment of a special state fund or an insurance model dedicated to the compensation of victims of terrorism independent of the course of the judicial process. Victims should be informed about and assisted with applications for any available financial assistance, including compensation.

*Good Practice 3c: States may consider, on request, technical as well as financial support to states dealing with the challenges of providing multi-disciplinary assistance to victims of terrorism.*

## **B. Actions Immediately after the Terrorist Attack**

*Good Practice 4: Develop a multidisciplinary crisis response team that includes victim assistance professionals.* If the State has an existing terrorism victim assistance unit, its members can work directly with first responders, law enforcement, victims' associations and other elements of civil society in the immediate aftermath of an attack as part of a crisis response team. The crisis response team should be established in advance and should train together regularly. The crisis response team should try to access the scene of the attack as soon as possible. Victim assistance professionals should contact victims as soon as security and medical condition allow. The crisis response team can designate a member to provide information to victims and the families of those who are injured, killed, missing, or kidnapped. Information should be conveyed to victims and their families clearly and accurately. Victims' first interaction with State officials sets the tone

for all of their subsequent encounters, and can enhance public perception of State responsiveness.

*Good Practice 5: Develop a victim list containing identity and contact information.* The victim assistance professionals should work with the crisis response team and law enforcement to compile a victim list containing identity and contact information. The list should include victims and family members. The list should be updated and confirmed throughout the intervention process. It is helpful to have pre-existing arrangements with other institutions such as non-governmental emergency response entities (such as Red Cross/Crescent) and medical providers (such as hospitals) to encourage the timely sharing of victim contact information. In cases of multiple coordinated attack sites, maintaining a master list of all victims is helpful. Adequate statistical data collection is an essential component in this context to develop strategies aimed at assisting victims.

*Good Practice 6: Protect victims' privacy and confidentiality.* States should protect victim information consistent with national law.<sup>3</sup> When victims provide information to the State, they should be informed of the potential uses of that information, who will have access to it, and whether it is likely to become public, and that they might be called to testify in court. To ensure victim safety, States should make every effort to protect contact information. More sensitive information such as medical, emotional, or mental health status should also be safeguarded from public disclosure to the extent possible.

*Good Practice 7: Establish accessible crisis services.* In the immediate aftermath of an attack, it may be helpful for State victim assistance professionals to proactively identify victims and assess their needs. A hotline can be established to communicate with victims, and information about it should be provided to them. Victim professionals may want to explore and implement other forms of communication, such as websites, social media, and text messaging.

It is a good practice to set up a receiving area close to the scene of the attack to receive friends and family members who are searching for victims. It is also helpful to establish information areas at local hospitals for injured victims and their families. These initial efforts may be transitioned into a centralized location to gather and obtain information, identify victims, provide emotional support, distribute basic necessities, deliver accurate information to families through organized briefings, and collect ante-mortem data. The location may be in a hotel, school, government building, trauma center, or other suitable facility.

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<sup>3</sup> In other contexts, states have recognized the importance of State efforts to protect crime victims' privacy. See, e.g., *United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children*, art.6.1, Dec. 15, 2000, 2237 U.N.T.S. 319, Annex II [hereinafter *Trafficking in Persons Protocol*] ("In appropriate cases and to the extent possible under its domestic law, each State Party shall protect the privacy and identity of victims of trafficking in persons . . .").

Victim assistance professionals, in collaboration with relevant civil society organizations, including victims' associations, as appropriate, can provide emotional support to victims at a central location and through any other communication system, such as a hotline. It is helpful for the professionals to be trained with a consistent model that establishes a coordinated approach to victims from the same incident. Victim assistance professionals should listen to and address the emotions and feelings of victims, expressing assurance and emotional support and seeking to alleviate the victims' confusion and disorientation. Some recommended techniques for emotional support include appropriate physical location, active listening, clear and direct information, and, where possible, physical proximity.

To the extent possible and depending on available resources, victims can be provided with basic survival benefits including temporary accommodation, food, and transport. These services foster the normalization process, can reduce victims' insecurity, and facilitate victim interaction with law enforcement investigators. Provision of such benefits to victims should not depend on cooperation with law enforcement investigators. Victims should in any case be encouraged to be cooperative with law enforcement and informed of the importance of preserving anything of evidentiary value including documentation of the medical, social, psychological, and other consequences of the attack.

Support services to victims should take into consideration any unique victim characteristics that may limit accessibility. For example, services provided to child victims should be tailored to meet children's emotional and cognitive developmental capacity.

In the acute crisis stage, the State should focus attention on immediate victim needs and requests, addressing them in an orderly and prompt manner, and avoid burdening victims with elaborate administrative information that goes beyond what is strictly necessary during the emergency. The information provided should not in any case hinder the course of the investigations carried out by the law enforcement authorities.

*Good Practice 8: Provide information about and support in dealing with the media.*

Victims should have the choice whether to speak with the media. Some victims may not want any contact with the media, while other victims may want to speak with the media directly or provide information through a family member, friend, or other spokesperson. It is recommended that States provide victims with information to help them make an informed choice about whether to speak to the media directly, through a spokesperson, or at all. It is further recommended that victims receive information about options to lessen any possible additional trauma by setting limits on interviews or by releasing written

statements.<sup>4</sup> As the investigation continues and during any criminal justice proceedings, victims should be shielded from unwanted intrusions while also being assisted with media contact for those interested. States could provide or facilitate the training of media through stakeholders or representatives of victims' associations to help avoid re-victimization of victims of terrorism.

It is recommended that the State develop a mechanism to get significant case information to victims and families before they hear it through the media. To the extent possible, victims should be informed in advance of press conferences and briefings so they can be prepared for media outreach or avoid reading or watching the media.

### **C. Actions during the criminal justice process**

*Good Practice 9: Protect victims in counterterrorism investigations and criminal proceedings.* Victims are essential in the investigation and prosecution of acts of terrorism. Victims often serve as important witnesses in investigations and trials. Their ability to participate without fear of intimidation or reprisal is essential to maintaining the rule of law. Legal procedures and practical measures should be in place to protect them. For further guidance, please see *The Rabat Memorandum on Good Practices for Effective Counterterrorism Practice in the Criminal Justice Sector*; Criminal Justice Sector/Rule of Law Working Group, GCTF, Good Practice 1 at pp. 3–5.

Victims of terrorism should be protected from threat, intimidation, and retaliation, and should receive appropriate support to facilitate their recovery through the whole criminal proceeding. In addition to protecting victims' physical security, victim professionals should strive to prevent emotional harm to victims during criminal justice proceedings, particularly when victims testify. In such situations a good practice is for victim professionals to be present in court during victims' testimony, a moment of particular vulnerability.

*Good Practice 10: Coordinate assistance to victims.* All of the principal government institutions that interact with terrorism victims, as well as victims' associations and other relevant NGOs and victims' lawyers, should coordinate to provide victims with seamless services and accurate, timely information. Thus law enforcement, courts, prosecutors, forensic physicians and investigators, corrections officials, victim assistance professionals, and others should communicate with each other and define each institution's function in connection with victim assistance. During judicial proceedings, coordination and collaboration among those assisting victims is especially important and can include NGOs as well. Those with information about hearings and other significant

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<sup>4</sup> In another context, states have recognized the importance of protecting crime victims from experiencing additional victimization. See *Trafficking in Persons Protocol*, art. 9.1(b) ("State Parties shall establish comprehensive policies, programmes and other measures ... [t]o protect victims of trafficking in persons, especially women and children, from revictimization.")

case events should provide that information to the victim assistance professionals with as much notice as possible so the latter can make sure victims are kept informed through an official point of contact (preferably a single one).

*Good Practice 11: Provide victims with access to justice, including legal aid at no cost, as well as information, as appropriate, about the criminal justice process and the case.* Victim assistance professionals, including victims' lawyers, can provide an important service to victims by giving them general information about the criminal justice process and specific information about the particular case. This could include the status of the investigation (to the extent it is appropriate and does not interfere in the investigation) and notice of the public court proceedings in the case. The victim assistance professionals should provide information in plain language and try to make legal language more comprehensible for people unfamiliar with criminal justice proceedings. Interpretation services and legal counsel also should be provided. Legal aid should be provided free of cost where the interests of justice requires it. Provision may be made for representation of victims by one legal counsel or team of counsel. General information about the criminal justice system can include an overview of the process, phases of the proceedings, and time frames for significant decisions. Information about the status of the investigation can include the arrest of alleged perpetrators and the filing of charges. When court hearings are scheduled the court should provide as much advance notice as possible so that the victims are informed about the hearings, allowing them to prepare them and take relevant contacts with the victim assistance professionals.

*Good Practice 12: Provide victims, when appropriate and in accordance with the relevant national law, with the opportunity to meet directly with the lawyers prosecuting the case.* Meetings between victims, investigators, and prosecutors can help alleviate victims' feelings of helplessness and encourage trust in the system through transparency. Victims can ask questions so that they can have realistic expectations of the judicial process. Lawyers should strive to provide information in layman's terms wherever possible.

*Good Practice 13: Provide victims with the opportunity to attend court proceedings and, as appropriate, to be accompanied by a victim services professional.* Victim assistance professionals should keep victims informed about the scheduling of public court proceedings that the victims are permitted to attend. This information should make clear that attending proceedings is voluntary (unless there is a legal obligation), and assure victims that regardless of whether they attend, they will continue to receive information about case proceedings in accordance with national legislation.

As part of comprehensive services for victims of terrorism, victim assistance professionals can draft a procedure for court preparation and accompaniment, and should offer victims this service. The goal of court preparation and accompaniment is to

minimize the victims' feelings of being overwhelmed by the situation and to encourage trust in the proceedings and in judicial institutions.

Victim assistance professionals should contact victims in advance of proceedings and provide detailed information, including when and where the proceedings will be held, descriptions of the type of proceeding, the composition of the court, presence of the accused, and other logistical facts. This information should be provided in clear, simple language. It is a good practice to tell victims they can invite support persons such as family members and friends to accompany them to court.

Appropriately trained victim assistance professionals can accompany victims to court or be present in the courtroom or outside to provide any needed emotional support and to answer questions. Recognized aspects of emotional support include empathy, assertiveness, active listening, and respect for silence. Victims should be provided with waiting areas and court seating separate from the accused and the family and friends of the accused to prevent possible harassment. If potentially disturbing evidence such as violent photographs will be introduced in court, victims should be warned so they can choose to view the evidence or leave the courtroom prior to the evidence being shown. Appropriate court accompaniment can promote healing and help victims find a sense of justice in the aftermath of the crime.

*Good Practice 14: Enable participation by victims at appropriate stages of criminal proceedings.* Consistent with national law, States should provide victims with opportunities to have their views heard and considered by the court.<sup>5</sup> Victim participation in proceedings is beneficial at other points in the process as well. Including victim views in the process can lead to more confidence in the judicial system on the part of victims and the public.

*Good Practice 15: Prevent secondary and repeat victimization within the criminal justice process by providing sensitivity training to judges and other participants in the criminal justice system.* Sensitivity training should be promoted for members of different professional categories when they are likely to come into contact with victims, for example: police officers, immigration officials, NGOs members, public prosecutors, lawyers, members of the judiciary, and court officials. Such training about victim issues can enable victims to establish trust in authorities. Victim assistance professionals may provide such training. It is a good practice for peers to train peers. Thus judges and other participants in the criminal justice system trained in dealing with victims can be effective

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<sup>5</sup> In other contexts, states have recognized the importance of supporting victim participation in criminal proceedings. *United Nations Convention against Transnational Organized Crime*, art. 25.3 (“Each State Party shall, subject to its domestic law, enable views and concerns of victims to be presented and considered in appropriate stages of criminal proceedings against offenders in a manner not prejudicial to the rights of the defence.”); *accord Trafficking in Persons Protocol*, art. 6.2(b).



trainers to their peers. Judges in particular should receive training on questioning traumatized and frightened victims so that the questioning does not further traumatize the witness.

*Good Practice 16: Provide victims timely, accurate, and complete information about rulings, verdicts, appeals, and the availability of compensation programs.* The courts and victim assistance professionals should communicate and coordinate to ensure that victims receive timely, accurate, and complete information about any rulings, verdicts, and appeals. Victim assistance professionals including victims' lawyers should be prepared to inform victims of any entitlements resulting from the final sentence and, to the extent possible, facilitate the processing of any claims for possible compensation.

*Good Practice 17: Provide victims with appropriate information when no court hearings are held.* In some cases there may be no public hearing concerning a crime because no perpetrators are identified or apprehended, or because of a plea bargain or other judicial procedure that negates the need for a public trial. In such situations, States are encouraged to provide victims and victims' families with appropriate information about the crime, the perpetrators, and the victim's fate if the victim has not been found. Appropriate information can include the results of the State's investigation and the reason why no public court proceedings will be held.