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Case Resolution and Management

This section describes how OSAEC cases are managed and resolved using the legal framework. Case resolution involves the conviction of the offenders, which is generally believed to be a deterrent to online sexual abuse and exploitation. On the other hand, case management starts from the identification and reporting of the cases and ends with the aftercare services, which go beyond shelter life. For OSAEC victims, re-integration of the child survivors with their family is the ultimate goal.

Identification and reporting. OSAEC-related incidents are brought to the attention of the law enforcement agencies through reports from the victims themselves or their families, reports from concerned citizens and the community, and referrals from international agencies.

Incidence reports from the community. Numerous avenues are available to the public to report possible cases of sexual abuse and exploitation of children, and for victims to seek assistance. Within local government units, barangays have established the BCPC (Barangay Council for the Protection of Children) and/or VAWC (Violence against Women and Children) specifically to handle reported incidents involving children. Law enforcement agencies have designated the Women and Children Protection Center and the Anti-Cybercrime Group to handle reports of violence involving children, undertake surveillance and monitoring of suspected offenders, initiate rescue operations of victims, provide child-friendly space for conducting interviews, and conduct investigations against offenders. Technology-based solutions have also been put in place through social media platforms (#StopChildPorn), support hotlines (1343), and email reporting. For instance, citizens can send emails to organizations such as ECPAT when they come across child exploitation materials online. Social media platforms such as Facebook have also taken steps to build a safer online community by providing a facility where users can report inappropriate content that can be reviewed and subsequently removed by their team.

However, law enforcement agencies currently face a reality where not all police stations have a dedicated WCPC or women's desk, particularly those in rural areas. Where one is present, the assigned law enforcers may not have ample training nor sufficient technology resources to enable them to conduct proper investigations. A key informant cited the inability to investigate the presence of online materials due to poor Internet connectivity at the police station, and the inherent difficulty in detecting online crimes. While IJM does provide training in detection and case build-up by sourcing materials from social media, one key informant opined that only the law enforcement agencies from the National Capital Region and other highly urbanized regions have benefitted from such trainings.

Proper dissemination and awareness campaigns are needed to inform the public that such channels for reporting OSAEC incidence are readily accessible. Visits to some barangays and local police stations indicate the presence of process flow diagrams for public information, although in certain situations OSAEC cases are classified together with other types of violence-related reports. Some localities have also implemented awareness programs that empower communities to become more vigilant in reporting OSAEC incidents. The involvement of NGOs has also increased so that when they recognize a



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potential case, they can refer it directly to WCPC or IJM, and even work with them to address the incident in the locality. Thus, NGOs devoted to children's protection and welfare complement police efforts and provide the help and care needed by child victims.

However, empowering the community comes with a challenge: to establish a quick response child protection system, the community needs to be capacitated to allow them to identify and immediately act on to a potential victim. Some neighbors shared that:

"Hindi naman pwede isumbong. Siyempre, parang nakikisama ka na lang. Ang katuwiran na lang siguro dahil "hindi naman ako nakakaperwisyo sa iyo, di kita pineperwisyo, wala akong ibang taong pinepurwisyo, sarili ko lang. Kaya siguro ganun na walang nakakapagsumbong din." (We could not report incidents because we're supposed to cooperate. The family of the victims would think 'I do not bother you, I do not bother other people, only myself.' Hence, people do not make reports.)

Incident reports from the victims. When victims approach barangay officials, the latter accompany them to the local police stations to file the report that will initiate investigation procedures. It should be noted, however, that the jurisdiction to handle such reports lies with the local authority where the incident took place; thus, it is unavoidable that the case may be forwarded to another precinct to abide by this administrative requirement.

Schools are another channel by which child victims can seek help, where children can report the presence of inappropriate content that they may have inadvertently come across while online. School teachers should thus have ample training to respond to such cases, i.e., being aware of the incident reporting process while at the same time offering appropriate guidance to children who may have been traumatized by the experience, or advising children on how to respond when they encounter abusive materials online or are involved in possible grooming from strangers through their online social media accounts.

It was noted that despite having these referral and reporting systems, the process is mostly reactive. The community must take on the responsibility of informing the proper authorities should there be indications of possible exploitation and violence. The nature of OSAEC – where victims are mostly minors and the mode of operation is through online platforms – warrants a reactive approach. Unlike traditional crimes like theft and physical violence, crimes committed online cannot be detected unless there is an explicit monitoring of suspected offenders and their online activities. Moreover, the ability of perpetrators and offenders to use technology to exploit victims and to disperse sexual exploitation materials efficiently and even anonymously through online channels further increases the challenges faced by law enforcement agencies in identifying OSAEC-related activities. As expressed by a key informant:

"Ito yung mga kaso na bihira ka lang makakita ng complainants, because maybe the victims are minors... and online, hindi mo makikita na ang isang suspect ay nag-cocommit ng crime." (These are the cases with very few complainants, maybe because the victims are minors ... and online, you will not see the suspect committing the crime.)



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In addition, many incidents of online sexual abuse and exploitation are not reported and subsequently, family members do not file cases as most of them feel indebted to the perpetrators. One participant narrated that:

“Parang di na nagfile ng kaso ‘yung tatay kasi parang may utang na loob daw po ‘yung father sa foreigner.” (Maybe they did not file a case anymore since the father felt indebted to the foreigner.)

Case referrals from international agencies. Cybercrime is trans-border, trans-national crime. Majority of the referrals come from international law enforcement agencies, including the US FBI, US Homeland Security Investigation, UK police, UK National Crime Agency, Australian Federal Police, Royal Canadian Police, and National Coordination Bureau of the Netherlands. The private sector, including Internet service providers and technology companies, refer suspected child pornographic and exploitation materials that go through their system to the National Center for Missing and Exploited Children (NCMEC). It is a US-based NGO that is authorized by law to receive such referrals and forward the information to various jurisdictions around the world where there is reference to subjects of a particular country. Cases involving Filipino children are thus referred by these international agencies to IJM, DOJ-OOC, NBI or PNP-WCPC, which then continue the investigation.

The Cybercrime Prevention Act of 2012 has designated DOJ-OOC as the point of contact of NCMEC and receives a cyber tip line report when either the offender or the offended party is located in the Philippines. DOJ-OOC receives a monthly average of 2,500 to 3,000 cyber tip line reports from NCMEC. The reports are graded using a four-level scale depending on the gravity and the urgency, or the need to rescue and the need to act upon the specific report. Currently, DOJ caters to tips graded with level 1 or 2, which are categorized as eminent or the ones that need attention. Tips graded with level 3 or 4 are only for information purposes and may even not contain child pornographic material.

Once DOJ-OOC receives a cyber tip line report with grade 1 or 2 level, the operation then proceeds as follows: the officer-in-charge at DOJ-OOC evaluates the report and assigns a specific investigation agent to assess the validity of the NCMEC report. Assessment is done through technical surveillance of the social media account and physical surveillance if geographic data is known, which is used to determine if the report is an actionable case. During this assessment, OOC works with other government agencies as follows: (1) the Bureau of Immigration is notified if it involves a travelling sex offender; (2) coordination is done with NBI or PNP based on the reported location, because PNP has more regional offices; (3) coordination is done with the local DSWD which supervises the care given to rescued child victims; and (4) a search warrant and/or a warrant of arrest is sought from the courts.

The quality of the referral is a factor in considering the next step to be done, i.e., conduct investigation and entrapment, or proceed with the use of search warrant and rescue. Because of the lack of human resources to process all the reports, OOC has to prioritize the cyber tip line reports that need urgent attention. Those reports that it cannot handle due to volume are transmitted to NBI or PNP, who will assume the responsibility of assessing if the reports are actionable cases. These are usually reports that will entail more information gathering.



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Proactive measures in reporting cases. For example, law enforcers in Cagayan de Oro conducted rescue operations to remove children from streets during the prescribed protected hour (10pm–6am) and bring them to shelter. Here, the rescued street children are given therapy, counseling, and assessment to surface the deeper problem of why they stay on the streets during curfew.

Apart from these referrals and reports, law enforcement agencies also conduct their own online investigations to discover the presence and the possible exchange or transmission of child pornographic materials, and to identify potential child victims of sexual exploitation. Technology companies such as Facebook can complement these measures by utilizing advances in artificial intelligence research in order to analyze photos and videos uploaded through their platforms to assess whether they contain inappropriate, sexual content. Technology companies can also analyze chat logs to determine if there are any OSAEC-related transactions that take place on their social media platforms.

While members of the community have observed changes in the lifestyle of the family of OSAEC victims and are aware that the children are being exploited, they could not report these directly because the abuse happened inside the family's house. One informant noted these lifestyle changes:

“Bago siya naggaganun wala naman talaga, hirap na hirap sila. Ngayon ang bahay niya dalawang palapag na, nakabayad na ng bahay, nag-aaral ang mga anak.” (They used to be poor. But now they have a two-storey house, they can pay their rent, and the children are going to school.)

Responding to reports and referrals. Responding to reports of possible OSAEC activities pose certain risks to law enforcement agencies. Thus, when an incident is reported, precautionary measures are taken to gauge the risks prior to responding to the report. These include assessing if the location has been reported as a drug operation site for possible connection between OSAEC and drug-related activities.

Case buildup prior to launching a rescue operation is also an important consideration, especially for those reports that can lead to prosecution in court. The manner by which the law enforcer acted on the case and the actions taken in response to the call will matter during prosecution.

Philippine law enforcement agencies also work closely with international agencies such as the INTERPOL to carry out investigations involving offenders that are foreign nationals. Again, such approach is reactive; our system only responds upon receiving such reports. In one of the cases, the offender has already been convicted and imprisoned in the Netherlands for child abuse-related cases. After his release, foreign law enforcement agencies tracked his whereabouts for nine years until they located him in Manila. Then the NBI was informed to implement necessary actions to rescue the victims. According to the Netherlands police liaison officer, they have different warning systems for suspected offenders, e.g., red notice for someone who is wanted for arrest, green notice for someone with no case yet but poses a threat to society, especially children, due to prior convictions and reports. These notices are issued to NBI so that the suspected offenders can be stopped at the border.



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Arrest and rescue. Procedures for arresting perpetrators commence after OSAEC-related information has been reported. In handling a case, the agent makes properly documents every step, including making affidavits of surveillance and arrest when warranted. Gathering of evidence is crucial in the arrest and filing of charges against perpetrators.

Great care is taken in gathering and securing evidence so that it will be preserved and remain uncontaminated, as these are scrutinized in courts. An agent describes the procedures in securing evidence:

Trial of the case. The trial period varies from six months to a year before conviction, but some can even last for as long as five years. During the trial, the prosecution offers testimonial evidence (i.e., from different people involved in the case, including the victim, rescuing officer, rescuing social worker, and others), object evidence, and documentary evidence. Then the prosecution offers its formal offer of evidence to the court, for the court to consider whether the evidence is admissible. Once this is done, the prosecution rests its case. The defense is then given time to present their evidence and file their formal offer of evidence to the court. IACAT would also be consulted at times whether or not the prosecution would settle for plea bargaining to resolve a specific case.

Use of plea bargaining. Plea bargaining is used in resolving some OSAEC cases. Perpetrators plead guilty but are given a short sentence instead, which is anywhere from 15 to 20 years. The following is an example from a lawyer informant:

There was a plea bargaining after two child victims testified but, in those cases, there were also three sisters, victims, also a daughter. The accused here, husband and wife, mother and relatives, so all the five of them pleaded guilty to the charges. I filed about 20 charges but there was a plea bargaining. We just dropped some of the charges, but we did not agree to the reduction of penalty, so there was life [sentence].

Challenges in trial. Withdrawal, desistence, and out of court settlement happens when a child victim is not in government custody and is offered money by the perpetrator.

Another challenge is the dismissal of a case against a perpetrator because of lack of evidence and technicality. One example is the failure to read or issue the Miranda rights to the perpetrator. Details such as these affect OSAEC cases, and law enforcement agencies must continuously be reminded of the proper procedures when handling cases.

Jurisdiction, anonymity of transactions, and consent of the minor are some considerations used for critical arguments in the process of filing OSAEC cases. As a lawyer informant shared, he had one test case on the area of jurisdiction, where the arrest, exploitation, or OSAEC activities happened in Jurisdiction A and the undercover agent posing as customer in an entrapment operation was in Jurisdiction B. He tried to file the case in Jurisdiction B where the undercover agent was. It was successful because a conviction was made, the argument being that because of the advent of computer technology, the mere viewing of activities in one area will already cause its acquisition in Jurisdiction B.



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The existing rules concerning libel cases apply: jurisdiction is vested in the place where you can view the publication.

Another consideration for critical argument is the anonymous nature of the transactions in OSAEC cases such as manipulating the suspects' account and hiding usernames or even email addresses. Technology-based examinations or eyewitness accounts can readily solve this as there may be witnesses who can identify whether or not those persons really used those accounts in question, while digital forensic examination results can verify OSAEC-related transactions.

A final argument in OSAEC cases is when the defense will usually say that the victims agreed or gave their consent. However, consent is immaterial according to the law especially as it involves children.

Conviction. During the promulgation, the judge reads the verdict and sentence, in the event of a guilty verdict. Once convicted, the accused can appeal. The case is also automatically reviewed by the Supreme Court, because it carries a penalty from reclusion perpetua to death.