

**Independent Review Team  
Public Report**

**Post Incident Review of Allegations of Sexual Assault of Four Victims  
Under the Protection of the International Criminal Court in the  
Democratic Republic of Congo by a Staff Member of the Court**

**Review Team:**

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The Registrar of the International Criminal Court established an independent and external post-incident review of the allegations of sexual assault of four victims who were witnesses under the protection of the International Criminal Court by a staff member of the Court. The purpose of the Review was fourfold: to establish all facts and circumstances surrounding the allegations of sexual crimes against witnesses; to identify all responsible individuals, including those responsible for exercising managerial oversight to the suspected person(s) and the relevant units/offices/sections responsible for the Court's victim and witness protection systems; to establish all facts and provide a documented analysis of the nature and sufficiency of the Court's Response to the allegations; and to provide an analysis of any institutional short-comings in the Court's existing victim and witness protection systems.

The Registrar established a four member Review team which has now concluded its work and submitted a written and oral report to the Registrar. The Review team hereby submits a public version of its Report to the President, Assembly of States Parties.

The Review team carried out its duties consistent with above-stated purpose. The Report is based on the Review team's assessment of what the Review team determined to be relevant and credible information gleaned from interviews with various individuals inside and outside the International Criminal Court and from its analysis of the documents the team determined to be relevant and credible.

The Review team's analysis, findings and recommendations in respect of purpose 1 through 4 are summarized below.

In relation to the facts and circumstances surrounding the alleged sexual crimes against four victim witnesses by a staff member of the Court, with one exception, relating to the potential criminal liability of IRS police officers, the Review team agrees with the findings and conclusions of the Preliminary Investigation Officer. The Review team commends the Investigating Officer for his excellent report.

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In relation to individual responsibility for the alleged crimes, we note that there can be no doubt that one person, and one person alone, would bear criminal responsibility for the alleged crimes if proven – the alleged perpetrator. Other VWU staff have likely engaged in inappropriate conduct that could provide a basis for disciplinary action if they remained members of the ICC VWU. Still others have, in the view of the Review team, failed the VWU and the Registry in the manner in which they have carried out, or failed to carry out, their supervisory, oversight and senior management duties.

It must be clearly understood that neither VWU staff nor senior managers within the Registry caused the alleged perpetrator to engage in the alleged criminal conduct. That was his choice alone. However, relevant and credible information suggests that the chronic and pervasive structural and functional shortcomings of the VWU contributed significantly to the alleged perpetrator's ability to carry out the alleged criminal conduct over a prolonged period of time. These shortcomings contributed to the ease with which the perpetrator was able to engage in the alleged crimes.

The shortcomings were evidenced at the level of the Field Witness Officer of the DRC VWU Field Office and at supervisory levels within HQ VWU. In addition, senior Registry management failed in their responsibility to ensure the effective and efficient functioning of the VWU, including providing sufficient resources and budget and ensuring high level VWU managers had the appropriate experience, skill sets and senior management support.

The Review team has concluded that, with one exception – the Field Witness Officer, DRC VWU Field Office –there is no information to indicate the failures on the part of supervisors and managers were ill motivated or ill intended. The Review team also wishes to note that the Review has made clear there are a significant number of dedicated VWU staff and supervisors who have worked valiantly to advance the mandate of the VWU despite the pervasive structural and functional short-comings evident in the Unit. The Review team commends them for jobs well done.

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The adequacy of the VWU response to the allegations of sexual assault was mixed. The DRC field staff took timely and appropriate action once they became aware of the first and subsequent allegations, including immediately notifying HQ. The HQ response, however, did not seem to comport with the seriousness of these allegations of sexual assault committed by a VWU staff member - the most serious type of allegation such an organization could face. There seemed to be confusion at the HQ level as to who was responsible for dealing with the matter and a reluctance to take ownership of it. As a result an informed, considered, coordinated and timely HQ response was lacking. Other unfortunate results were, first, the field staff dealing with the matter received little or no guidance, their requests for guidance went unanswered or the answers were delayed, and they did not know to whom to turn for answers, and, second, no preliminary investigation into these potentially criminal allegations was conducted until April 2013.

The HQ response was also *ad hoc* and delayed in relation to the needs of the alleged victims. Responses to their needs were not coordinated within the VWU.

The allegations triggered one important procedural change in the field, however. The directive was given/reinforced that at least two VWU staff members must be present at all visits with victims, witnesses, protected persons. And, if the visit was with a female victim, witness or protected person, at least one female staff member was to be present. However, this safeguard which protects both the persons visited and the VWU staff members, was implemented only sporadically because of staff shortages.

In relation to institutional short-comings of the existing VWU systems, they encompass the whole of the structure and functioning of the VWU, and require prompt attention to ensure the well being of both the persons whom the VWU is mandated to protect, support and assist, and also of the VWU staff, who feel alienated, isolated and unappreciated in the current dysfunctional VWU environment.

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The short-comings include, but are not limited to:

- a dysfunctional, “stovepipe” structure that does not conform to the intertwined nature of the mandate of the Unit to protect, support and assist;
- a recruitment process which many believe is based on friendship, not on the requisite experience and skill sets, and which does not appear to give adequate consideration to
  - the dynamics of the situations in the countries from which the applicants come who will have direct contact with VWU “clients”, or in the countries to which they will be assigned, or
  - the significance of applicants and VWU “clients” coming from the same locale, or
  - the negative reputation of certain groups such as police among civilian populations, or
  - the added significance of proper vetting given these dynamics;
- training which is *ad hoc* and which does not emphasize the consequences of victimization and trauma for the structure and functioning of the VWU;
- the absence of clear, concise, comprehensive SOPs or other guidance for the day to day functioning of the Unit, in a form that is easily understood, accompanied by training focused on the implementation of the guidance;
- the lack of an effective supervisory and monitoring regimen based on “intrusive supervision”<sup>1</sup> as opposed to passive supervision which allows personnel to build up their own ‘fiefdoms” and exercise unwarranted and sometimes unprincipled control over their staff;
- the lack of clear reporting lines and mandatory reporting which is subject to monitoring and audit;

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<sup>1</sup> By this term the Review team means supervision whereby the supervisor gets close to the work of the subordinates, interrogates systems, meets with witnesses and challenges subordinates. Intrusive supervision is contrasted to superficial supervision, i.e., making phone calls to subordinates to check on situations or wellbeing, completing appraisals, being reactive to issues.

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- the cultivation of an environment where there is little or no information sharing, and what is shared is based on the personalities involved, not the system, resulting in an ability to hide or “hoard” information;
- the lack of a safe and effective complaints system which is understood and accessible by staff and “clients” alike;
- a protection program which is not well planned, implemented or organized, and which lacks consistency.

The short-comings are institutional and chronic and require considered and timely corrective action.