

# Standing Order

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No.	Issue Date	Issued By	Issuing Unit	Issuing Branch
303/2009	17/07/2009	COMMISSIONER OF POLICE	Police Head Quarters	RECORD BRANCH

**Subject :** GUIDELINES TO BE FOLLOWED BY THE POLICE WHILE INVESTIGATING CASES OF RAPE

STANDING ORDER NO. 303/ 2009

GUIDELINES TO BE FOLLOWED BY THE POLICE WHILE INVESTIGATING CASES OF RAPE

## INTRUDUCTION

The need to issue comprehensive instructions regarding investigation of rape or sexual assault cases has been felt to improve the quality of investigation and to secure maximum conviction. Earlier, SO No. 303 issued on 17.12.02 titled 'Functioning of Rape Crisis Intervention Centres in Police Districts of Delhi' with its addendum and SO No. 313 of 2005 were in vogue. In the past few years the Hon'ble High Court of Delhi and the Hon'ble Supreme Court have passed guidelines for the investigation of sexual assault cases. In addition to the statutes and directions of the Hon'ble Courts, certain other important directions have been incorporated in this standing order which are equally important and are to be followed while investigating sexual assault cases.

## GUIDELINES OF THE HON'BLE HIGH COURT

The Hon'ble High Court of Delhi in the Writ Petition (Crl.) No. 696/2008 titled 'Delhi Commission for Women Versus Shri Lalit Pandey and another' passed comprehensive guidelines to be followed by the police, hospitals/doctors, child welfare committees, courts, prosecutors and other authorities. This includes setting up of 'Crisis Intervention Centres' by the Delhi Commission of Women. The guidelines which are relevant to the police are reproduced as under:-

"a. "Crises Intervention Centre" The Hon'ble High Court of Delhi defined a Crises Intervention Centre as an agency recognized by the Delhi Police and Delhi Commission for Women (DCW) for responding to calls of sexual assault at the police station to provide counseling and other support services to victims of rape. The Districts have been associating with various NGOs including Swanchetan for the purpose. However, it needs to be noted that NGOs which have not been recognized by the Delhi Commission for Women do not meet with the directions/requirements of the Hon'ble High Court of Delhi. It is imperative that one of the following agencies which are recognized as Crisis Intervention Centres by the DCW should be

associated with the investigation of cases. These agencies along with their addresses, telephone numbers of nodal persons is as follows:-

NAME, ADDRESSES AND TELEPHONE NUMBERS OF THE NODAL OFFICER AND MEMBERS OF CRISES INFORMATION CENTRE FUNCTIONING IN DISTRICTS/UNITS FOR PROVIDING HELP TO VICTIMS OF RAPE / SEXUAL ASSAULT.

Sl.

- | No.      | Name of CIC's              | Address  | Ph.No.               | District   | Contact Person     |
|----------|----------------------------|--|----------------------|------------|--------------------|
| 1.       | SAMPURNA                   | Basement 35, Vinoba Kunj, Sector-9, Rohini, Delhi – 85                                       | 27862242             | North West | Dr. Shobha Vijayan |
|          |                            |  | 9868104665           |            |                    |
| 2.       | CENTRE FOR SOCIAL RESEARCH | 2, Nelson Mandela Marg, Vasant Kunj, New Delhi – 70  |                      |            |                    |
|          |                            |  | maneesh@csrindia.org |            |                    |
|          |                            |  | 26899998             |            |                    |
|          |                            |  | 26125583             |            |                    |
|          |                            |  | FAX No. : 26137823   |            |                    |
|          |                            | South West   |                      |            | Mr. Maneesh Singh  |
|          |                            |  | 9873660315           |            |                    |
| 3.       | NARIRAKSHA SAMITI          | 2, Rajniwas Marg, Civil Lines, Delhi - 54  | 23973949             |            |                    |
|          |                            |  | 23945932             |            |                    |
|          |                            |  | 23867771             |            |                    |
|          |                            | North  |                      |            | Mr. J.P. Saini     |
| 4.       | PRAYATAN                   | E – 103, Kalkaji, New Delhi – 19   | 26415831/32          |            |                    |
|          |                            |  | 26448394             |            |                    |
|          |                            | South  |                      |            |                    |
|          |                            | East   |                      |            | Ms. Garima         |
|          |                            |  | 9911078039           |            |                    |
| 5.       | PRATIDHI                   | Shakarpur Police Station Complex, Room No.25, 1st Floor, Ramesh Park, Pusta Road, Delhi – 92 | 22527259             |            |                    |
|          |                            |  | 22450100             |            |                    |
|          |                            |  | FAX No.:             |            |                    |
|          |                            | East   |                      |            | Ms. Ranju Sethi    |
| 22058718 |                            |  |                      |            |                    |
| 6.       | ANGAJA FOUNDATION          | A-7, Amrit Nagar, Behind South Ext.-I  |                      |            |                    |
|          |                            | New Delhi – 03   | 24617414/612         |            |                    |
|          |                            |  | 24616717             |            | North              |

East

New Delhi Ms. Raka Sinha Bal  
24634978

25634978

7. Prayas 59, Tuglakabad Institutional Area, New Delhi – 62  
29955505 South Ms. Astha

9718205995

8. Nav Shrishti House No.447, Neb Sarai, Maidan Garhi Road, New Delhi – 68  
navshrishtidel@rediffmail.com

29565697 Outer Ms. Reena Banerjee

9810226459

Nazma (Nangloi)

9213766564

Kishor

9873852979

9. AIWC Sarojini House, 6 Bhagwan Das Road,  
New Delhi Mahila Helpline

10921

23070834

23070858

West Ms. Bulbul Das

9910816106

10. PRATIDHI Shakarpur Police Station Complex, Room No.25, 1st Floor, Ramesh Park,  
Pusta Road, Delhi – 92

22058728 North East Ms. Neeru

11. RAPE CRICIS CELL Delhi Commission for Women, C-Block, Vikas Bhawan, IP Estate,  
New Delhi 23370557 Central Ms. Madhulika

Ms. Raj Kumari Banju

However, as mentioned in'd', here-in-after, on receipt of information regarding commission of a rape, the IO/SHO has to inform the Rape Crisis Cell at their helpline No. 23370557 who in turn would depute a member from the Crisis Intervention Centre. However, in order to avoid delay, the IO/SHO may also directly contact the Crisis Intervention Centre approved by the Delhi Commission for Women as mentioned above.

b. "Expert" means a person who is qualified and has experience in dealing with cases of sexual violence;

c. "Guardian" includes besides the natural guardian, support person or any person appointed by the Child Welfare Committee for a specified period to take care of the victim during the pendency of the trial;

d. "Rape Crisis Cell" – On receipt of an information regarding commission of a rape, the IO/SHO shall immediately inform the Rape Crisis Cell established by the Delhi Commission for Women at 2nd Floor, C Block, Vikas Bhawan, New Delhi-110002. The DCW has a 24 hour helpline number 23370557. The High Court of Delhi has clearly stated that this cell is to provide legal assistance in the cases of sexual assault who could coordinate the Crises Intervention Centres and provide legal support to the victim and her family.

e. "Support Person" means a person working in the capacity of a counselor working with a recognized and registered Crises Intervention Centres, approved by the Delhi Commission for Women;

f. The expression "offence" for the purpose of these guidelines shall mean and include offences of rape, attempt to rape and unnatural offences.

#### POLICE

a) Every SHO shall ensure that at his Police Station a lady police official/officer not below the rank of a Head Constable available round the clock.

b) As soon as a complaint of the offence is received, the duty officer receiving the complaint/information shall call the lady police official/officer present at the police station and make the victim and her family comfortable.

c) The duty officer, immediately, upon receipt of the complaint/ information intimate the "Rape Crises Cell" on its notified helpline number.

d) After making preliminary enquiry/investigation, the Investigation Officer along with the lady police official/officer available, escort the victim for medical examination.

e) The Assistant Commissioner of Police shall personally supervise all investigation into the offence.

f) The statement of the victim shall be recorded in private, however, the presence of family members while recording statement may be permitted with a view to make the victim comfortable. In incest cases, where there is a suspicion of complicity of the family members in the crime, such family members should not be permitted.

g) The Investigation Officer shall bring the cases relating to "child in need of care and protection" and the child victim involved in incest cases to the notice of Child Welfare Committee.

- h) The accused should not be brought in the presence of victim except for identification and that too in the Court during TIP proceedings on the direction of MM.
- i) Except the offences which are reported during the night, no victim of sexual offence shall be called or made to stay in the police station during night hours. The Social Welfare Department of the Government of NCT of Delhi shall ensure that Superintendents of the Foster Home for Women will provide necessary shelter till formal orders are secured from the concerned authorities.
- j) The Investigating Officer shall endeavour to complete the investigation at the earliest and he shall ensure that in no case the accused gets the undue advantage of bail by default as per the provisions of Section 167 Cr.P.C. It is desirable that in cases of incest the report under Section 173 Cr.P.C. is filed within 30 days.
- k) Periodical Training to deal with rape cases should be provided to the Police Officers, Juvenile Police Officers, Welfare Officers, Probationary Officers and Support persons. A Training Module be prepared in consultation with the Delhi Judicial Academy.
- l) The Police should provide information to the Rape Crisis Cell regarding the case including the arrest and bail application of the accused, the date of filling of the investigation report before the Magistrate;
- m) The police should keep the permanent address of the victim in their file in addition to the present address and such other information which may help in finding the prosecutrix during trial if she leaves her reported addresses. They should advise the victim to inform them about the change of address in future;
- n) Subject to the outcome of the W.P. (C) 2596/2007 titled Rajeev Mohan Vs State, pending before the Hon'ble High Court in cases where the victim informs the police about any threats received by the accused family, the concerned DCP should consider the matter and fresh FIR must be registered under Section 506 of the Indian Penal Code.

#### DIRECTIONS BY HON'BLE HIGH COURT IN OTHER CASES

The Hon'ble High Court of Delhi in W.P. (Crl.) No. 930/2007 titled "Court on its own motion Vs State & Anr" has issued following directions to be followed by IOs while investigating the child sexual abuse cases.

"The children by reason of their physical and mental status need special safeguards and care. Child victims of sexual abuse are to be treated with compassion and dignity. All concerned associated with Criminal justice System need to be sensitized about their protective role to prevent further victimization of child victims." To secure this end it is rendered imperative to lay down certain guidelines, which we do and direct as follows:-

## POLICE

1. On a complaint of a cognizable offence involving a child victim being made, concerned police officer shall record the complaint promptly and accurately.
2. The investigation of the case shall be referred to an officer not below the rank of Sub-Inspector, preferably a lady officer, sensitized by imparting appropriate training to deal with child victims of sexual crime.
3. The statement of the victim shall be recorded verbatim.
4. The officer recording the statement of the child victim should not be in police uniform.
5. The statement of the child victim shall be recorded at the residence of the victim or at any other place where the victim can make a statement freely without fear.
6. The statement should be recorded promptly without any loss of time.
7. The parents of the child or any other person in whom the child reposes trust and confidence will be allowed to remain present.
8. The investigation officer to insure that at no point should the child victim come in contact with the accused.
9. The child victim shall not be kept in the police station overnight on any pretext, whatsoever, including medical examination.
10. The investigating officer recording the statement of the child victim shall ensure that the victim is made comfortable before proceeding to record the statement and that the statement carries accurate narration of the incident covering all relevant aspects of the case.
11. In the event the investigating officer should so feel the necessity, he may take the assistance of psychiatrist.
12. The investigating officer shall ensure that the child victim is medically examined at the earliest preferably within twenty four hours ( in accordance with Section 164-A Cr.P.C.) at the nearest government hospital or hospital recognized by the government.
13. The investigating officer shall ensure that the investigating team visits the site of the crime at the earliest to secure and collect all incriminating evidence available.
14. The investigating officer shall promptly refer for forensic examination clothing and articles necessary to be examined, to the forensic laboratory which shall deal with such cases on priority basis to make its report available at an early date.
15. The investigation of the cases involving sexually abused child may be investigated on a priority basis and completed preferably within ninety days of the registration of the case. The investigation shall be periodically supervised by senior officer(s).
16. The investigating officer shall ensure that the identity of the child victim is protected from publicity.

## MEDICAL EXAMINATION

- 1) In case of a girl child victim the medical examination shall be conducted preferable by a female doctor.

- 2) In so far as it may be practical, psychiatrist help be made available to the child victim before medical examination at the hospital itself.
- 3) The report should be prepared expeditiously and signed by the doctor conducting the examination and a copy of medical report be provided to the parents/guardian of the child victim.
- 4) In the event results of examination are likely to be delayed, the same should be clearly mentioned in the medical report.
- 5) The parents/guardian/person in whom child have trust should be allowed to be present during the medical examination.
- 6) Emergency medical treatment wherever necessary should be provided to the child victim.
- 7) The child victim shall be afforded prophylactic medical treatment against STDs.
- 8) In the event the child victim is brought to a private/nursing home, the child shall be afforded immediate medical attention and the matter be reported to the nearest police station.

#### RECORDING OF STATEMENT BEFORE MAGISTRATE

- 1) The statement of the child victim shall be recorded promptly and at the earliest by the concerned Magistrate and any adjournment shall be avoided and in case the same is unavoidable, reasons to be recorded in writing.
- 2) In the event of the child victim being in the hospital, the concerned Magistrate shall record the statement of the victim in the hospital.
- 3) To create a child friendly environment separate rooms be provided within the court precincts where the statement of the child victim can be recorded.  
The child victim shall not be separated from his/her parents/guardians nor taken out from his/her environment on the ground of "Ascertaining voluntary nature of statement" unless the parent/guardian is reported to be abusive or the Magistrate thinks it appropriate in the interest of justice.
- 4) Wherever possible, the IO shall ensure that the statement of the child victim is also video recorded.

No Court shall detain a child in an institution meant for adults."

#### DIRECTION ISSUED BY HON'BLE SUPREME COURT

The Hon'ble Supreme Court of India in "Delhi Domestic Working Women's Forum Vs Union of India (1995) 1 SCC 14" had laid down the following guidelines in relation to legal assistance for rape victims:-

1. The complainants, of sexual assault cases should be provided with legal representation. It is important to have someone who is well acquainted with the criminal justice system. The role of victim's advocate would not only be to explain to the victim the nature of the proceedings, to prepare her for the case and to assist her in the police station and in court but

to provide her with guidance as to how she might obtain help of a different nature from other agencies, for example, mind counseling or medical assistance. It is important to secure continuity of assistance by ensuring that the same person who looked after the complainant's interests in the police station represents her till the end of the case.

2. Legal assistance will have to be provided at the police station since the victim of sexual assault might very well be in a distressed state upon arrival at the police station, the guidance and support of a lawyer at that stage and while she was being questioned would be of great assistance to her.

3. The police should be under a duty to inform the victim of her right to representation before any questions were asked of her and that the police report should state that the victim was so informed.

4. A list of advocates willing to act in these cases should be kept at the police station for victims who does not have a particular lawyer in mind or whose own lawyer was unavailable.

5. The advocate shall be appointed by the court, upon application by the police at the earliest convenient moment, but in order to ensure that victim was questioned without undue delay, advocates would be authorized to act at the police station before leave of the court was sought or obtained.

6. In all rape trials anonymity of the victim must be maintained, as far as necessary.

7. It is necessary, having regard to the Directive Principles contained under Article-38(1) of the Constitution of India to set up Criminal Injuries Compensation Board. Rape victims frequently incur substantial financial loss. Some, for example, are too traumatized to continue in employment.

8. Compensation for victim shall be awarded by the court on conviction of the offender and by the Criminal Injuries Compensation Board whether or not a conviction has taken place. The Board will take into account pain, suffering and shock as well as loss of earning due to pregnancy and the expenses of child birth if this occurred as a result of the rape.

In CWP No.2738/06 titled as 'Ms X Vs State' had reiterated the above guidelines and directed the Govt. of NCT of Delhi to prepare a scheme/blueprint towards ensuring compensation for victims of violent crimes, in consultation with the National Human Right Commission.

Similarly, in CrI. Appeal No. 1365/08 – 'State of Punjab v. Rakesh Kumar', the Hon'ble Supreme Court of India vide judgment dated 29.8.08 has held that, "where the victim is less than 16 years of age at the time of occurrence, even though evidence show that the victim and accused were in love and the victim admitted that she had sexual intercourse with the accused out of love. Such consent has no relevance because of her age being less than 16 years, as per the legal provisions of Section 375 (6)." In nutshell, sexual intercourse by a man with a girl, who is under 16 years of age amount to rape. Hence consensual sex with a minor amounts to rape and there can be no leniency even if she is in love with her partner. All SHOs/IOS are directed to register the child rape cases according to Section 375 (6) IPC and such cases be investigated by Inspector (Investigation)/SHO.

TRAINING



The Joint Commissioner of Police/Training shall organize seminars/ workshops for police personnel for sensitization in cases of rape and sexual offence so that they are receptive to the difficulties, suffering, pain and trauma of the victim and her family. The seminars/workshops should also cover various aspects regarding investigation of such cases. The Hon'ble High Court of Delhi has directed that a module for training shall be prepared in consultation with the Delhi Judicial Academy. It must be done at the earliest for organizing the training. Faculty/guest lecturers could be invited from the Delhi Judicial Academy, Retired Judicial/ Prosecuting officers, Retired Police Officers, lawyers etc. may be taken. This course should include officers of the rank of SI to ACP. A series of such courses need to be organized at different places so that in each police station there is corpus of officers who have been duly sensitized and trained in this regard.

#### COORDINATION

Joint Commissioner of Police (CAW) will coordinate and review the functioning of Crisis Intervention Centers in all Districts of Delhi Police. He will also act as the Nodal Officer for the Delhi Police for the Delhi Commission for Women, the National Commission for Women, the Central Social Welfare Board, Ministry of Human Resource Development, the concerned Government Departments and other outside agencies. Joint C.P./CAW Cell, Crime Branch & all District DCsP including DCP IGI Airport, should send fortnightly figure to C&T Branch, as per proforma attached. Joint CP/CAW should prepare quarterly reports on the functioning of Crisis Intervention Centers for the Commissioner of police.

Inspector Investigation and SHO should ensure strict compliance of the afore-mentioned guidelines/directions of the Hon'ble Supreme Court of India and Hon'ble High Court of Delhi. This must be monitored by the ACsP during their visit to the police stations. The DCsP must also ensure strict compliance. Joint CsP/CAW Cell and Joint CsP/Ranges also need to periodically check up the quality of investigation in rape cases and whether the guidelines of the Hon'ble Courts as above mentioned are being followed.

This Standing Order supersedes Standing Orders Nos. 303 and 313 and all circulars, addendums etc. issued earlier by PHQ on the subject matter.

Sd/-  
(Yudhbir Singh Dadwal)  
Commissioner of Police,  
Delhi.

O.B. NO.85/RB/PHQ Dated 17.07.2009

No. 13554-13754Record Branch/PHQ, dated Delhi, the 17.07.2009  
Copy forwarded for information and necessary action to the:-

1. All Special Commissioners of Police, Delhi.

2. Managing Director, Delhi Police Housing Corporation, Delhi.
3. All Joint Commissioners of Police, Delhi.
4. All Additional Commissioners of Police, Delhi.
5. Principal/PTC, Jharoda Kalan, Delhi
6. All Deputy Commissioners of Police of Districts/ Units, including FRRO, Delhi/ New Delhi.
7. SO to Commissioners of Police, LA to Commissioners of Police, and F.A. to C.P., Delhi.
8. All ACsP in PHQ.
9. ACP/IT Centre with the direction to upload the Standing order in Intra DP net.
10. All ACsP Sub Division.
11. P.A. to C.P., Delhi.
12. All SHOs/Delhi Police through their respective DCsP with the direction to place the Standing Order in register No.3 Part-1 of the Police Stations.
13. All Inspectors/ PHQ, including Reader to CP, Delhi
  14. Librarian/ PHQ.
  15. Record Branch/PHQ with 10 spare copies.