

Standard Operating Procedure (SOP) **for Investigation and Prosecution of** **Rape against Women**

An aid to Investigation

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Standard Operating Procedure (SOP) for Investigation and Prosecution of Rape against Women

Introduction

The need to issue Standard Operating Procedure (SOP) to investigate sex crimes has been felt in order to improve the quality of investigation and to secure conviction. The instructions herein are to be followed by the supervisory as well as the investigating officers during the investigation.

Purpose

This SOP seeks to provide a complete set of rules and guidelines related to the response of police while dealing with rape cases and to ensure a coordinated and multi-disciplinary approach to sexual offences, in general.

Scope

The scope of the SOP is to familiarize all police officers to know as to what is their mandate in rape cases. It sets out the role and responsibilities of the police.

Incidents of crime against women are a matter of great concern for the government and the society at large. In the wake of gruesome incidents of rape in the country, Crime against Women has attracted a new focus and attention. Free and prompt registration of cases, quality investigation with proper and expeditious prosecution ending in conviction of the offenders shall be a deterrent in combating the menace.

Crime against women, in general, and rape, in particular, need our closest attention. It is necessary to reiterate and re-emphasize the need for prompt and effective investigation and prosecution of rape cases to secure a better conviction rate. Hence this **Standard Operating Procedure (SOP)**.

Application of SOP

Range of cases to be covered under the SOP

1. Rape, as in sections 64, 66, 65, 67, 68, 70, 71 of BNS earlier sections 376, 376A, 376AB, 376B, 376C, 376D, 376DA, 376DB, 376E of IPC
2. Penetrative sexual assault and/or aggravated sexual assault on a child, as defined u/s 2(1) (d) under the Protection of Children against Sexual Offences Act (**POCSO**), 2012.

Sl. No.	Proceedings	Suggested time limit
01	<p><u>FIR</u></p> <ul style="list-style-type: none">● FIR must be recorded in accordance with the provisions of Sec 173 of BNSS earlier Sec. 154 of Cr.P.C.● FIR shall be recorded by a woman police officer or any woman officer.● FIR, being an important document, should be drawn up with greatest care and caution, incorporating all material information/facts which are directly or indirectly connected with the crime or are likely to form important evidence.● The victim can lodge the FIR in any police station in any State or District. Subsequently, it can be transferred to the concerned State or police station having jurisdiction for investigation. Audio-Visual and electronic means, including scanning, can be used to transmit the information at the earliest.● A copy of such Information as recorded under sub-section (1) of section 173 of BNSS earlier section 154 of Cr.P.C. shall be given forthwith, free of cost, to the victim or informant.● If there is any delay in recording of such FIR, the reasons for such delay should be explained in the FIR.● FIR should be recorded in the regional language, if required, to make it easier for the survivor.● As rape cases are Grave/Special Report Cases, investigation shall be monitored by the DCP of the District concerned. Initial	Immediately

	<p>Special Reports, etc., shall be issued by a gazetted officer within 72 hours of occurrence. Similarly, in continuation, Special Reports/Progress Reports are required to be issued about the progress of the investigation fortnightly.</p> <ul style="list-style-type: none"> • The DCP/In-charge of the Zone/District SP shall give the investigating officer proper instructions/guidance from time to time in carrying out investigation and collection of evidence. • One copy of FIR should be sent to District Legal Services Authority as per direction in case of Khem Chand & Ors. Vs. State High Court of Delhi. 	
02	<p><u>Treatment of victim</u></p> <ul style="list-style-type: none"> • The victim of such crime should be treated with honor and sensitivity. • Officer interacting with her (victim) should be extremely courteous. No indecent questions should be put to the victim. Care should be taken to protect dignity and prevent embarrassing situation to the victim. • In case, the victim is not accompanied by any member of her family, the information about such crime should be given immediately to her family. • The identity of the victim should not be made public and due care should be taken not to reveal her identity in print and electronic media. Similar care has to be taken for juveniles and children in conflict with law. However, name and photo of such victim may be used in the case diary for the purpose of re-investigation. 	With care and honor
03	<p><u>Where the victim is temporarily or permanently, mentally or physically disabled</u></p> <ul style="list-style-type: none"> • If the person against whom an offence is alleged to have been committed or attempted, is temporarily or permanently, mentally or physically, disabled, such information shall be recorded, at the residence of the person seeking to report such offence or at a convenient place of such person's choice, in the presence of an interpreter or a special educator, as the case may be. 	

	<ul style="list-style-type: none"> • The recording of such information shall be video graphed. 	
04	<p><u>If victim is of different linguistic background</u></p> <ul style="list-style-type: none"> • In case, the victim is of a different linguistic background, statement/FIR must be recorded. An interpreter for the victim with different linguistic background may be provided, during investigation, for recording of statement / FIR. 	
05	<p><u>If victim is a minor</u></p> <ul style="list-style-type: none"> • In case, where the victim is a minor, consent and presence of parents may be taken at the time of recording of her statement or FIR. If the guardian is not available, consent and presence of a representative of an NGO or a member of the Child Welfare Committee may be taken during recording of the statement or FIR. • I.O. shall wear plain clothes during interview/investigation (as per Section-24(2), POCSO Act) • The Police Officer, while examining the child, shall ensure that at no point of time, the child comes in contact with the accused, in any manner, whatsoever (as per the mandate of Section- 24(3) & 36, POCSO Act r/w Section- 308 of BNSS earlier 273 of Cr.P.C.) • Where, the Special Juvenile Police Unit or the local police is notified and circumstances warrant, that the child against whom an offence has been committed, is in need of care and protection, it shall, after recording the reasons in writing, make immediate arrangement, to give him/her such care and protection, including admitting the child into a shelter home or to the nearest hospital, within twenty-four hours of the report, as may be prescribed, as well as carry on investigation to find the legal guardian of the victim, in appropriate cases, as per the facts of the case • The Police Officer shall not detain any child at night in the police station for any reason (as per the requirement of Section-24(4), POCSO Act). • If the victim is a minor and happens to be a victim of incest, s/he 	

	<p>should be removed from the custody of the alleged/suspected accused and taken to a child protection shelter and a report notifying the Child Welfare Officer should be sent within 24 hours.</p> <ul style="list-style-type: none"> • In case, the victim does not have a place of abode, she should be shifted to a shelter home. 	
06	<p><u>Compliance of Section 176 of BNSS earlier 157 of Cr.P.C.</u></p> <ul style="list-style-type: none"> • A copy of the FIR shall be sent immediately to the Magistrate under section 176 of BNSS earlier 157 of Cr.P.C. 	Within 24 hours
07	<p><u>Investigation</u></p> <p><u>Investigating Officer</u></p> <ul style="list-style-type: none"> • As far as possible, investigation of crime against women shall be conducted by a woman officer. Whenever necessary, investigation team should be formed, consisting of three to four experienced police personnel of whom one should be designated as the Chief I.O. • There should be, at least, one lady officer in the team. Rape case should usually be investigated by a senior and experienced police officer as far as possible, it being a grave offence. 	Promptly
08	<p><u>Recording of statement of victim under section 180 of BNSS earlier 161,Cr.P.C.</u></p> <ul style="list-style-type: none"> • While talking to the victim, her mental and emotional state should be observed carefully. Proper account of the incident should be recorded in the language of the victim as early as possible. • The victim should not be called to the police station. • The IO should visit her home in plain clothes and take care to elicit information from the victim in such a manner that she remains calm and composed. • The statement of the victim should be recorded at the residence of the victim or in the place of her choice by a woman police officer in the presence of parents or guardians or a near relative or a social worker of the locality. • In cases under POCSO Act, the presence of parents/guardians of 	Promptly

	<p>the victim must be allowed at the time of recording of such statements.</p> <ul style="list-style-type: none"> • In appropriate cases where the victim is from outside the country / abroad or whenever, in the course of any investigation, it appears to the investigating officer that the examination of the witness is necessary to meet the ends of justice and such witness cannot be examined without an amount of delay, expense or inconvenience which, under the circumstances of case, would be unreasonable - the I.O., with previous permission of his/her immediate superior officer, can examine such witness through video conferencing and other electronic means. <p><u>Videography of statement</u></p> <ul style="list-style-type: none"> • If the person making the statement is temporarily or permanently, mentally or physically disabled, or the victim is of different linguistic background, the statement made by a person with the assistance of an interpreter or a special educator, may be video-graphed. 	
09	<p><u>Statement of victim under section</u> 183 of BNSS earlier 164,Cr.P.C.</p> <ul style="list-style-type: none"> • It shall be the duty of investigating officer/SHO to inform the Judicial Magistrate for recording of statement of the person against whom such an offence has been committed, as soon as the commission of offence is brought to the notice of the police (as mandated under sub-section (5-A) of Section 183 of BNSS earlier 164,Cr.P.C. • The investigating officer shall take immediate steps to take the victim to any metropolitan / preferably Judicial Magistrate for the purpose of recording her statement under section 183 of BNSS earlier 164, Cr.P.C. • A copy of the statement under section 183 of BNSS earlier 164,Cr.P.C. should be handed over to the investigating officer immediately with specific direction that the content of such statement under section 183 of BNSS earlier 164,Cr.P.C. should not be disclosed to any person till the charge sheet / report under 	Promptly

	<p>section 193 of BNSS earlier 173,Cr.P.C. is filed.</p> <ul style="list-style-type: none"> • The Investigating officer shall record specifically the date and the time at which he learned about the commission of the offence of rape and the date and time at which he took the victim to the Metropolitan/ Judicial Magistrate, as aforesaid. • A copy of the report of medical examination of the victim, if any, should be immediately handed over to the Magistrate who records the statement of the victim under section 183 of BNSS earlier 164,Cr.P.C. • In cases of delay exceeding 24 hours in taking the victim to the Magistrate, the Investigating officer should record the reasons for the same in the case diary and hand over a copy of the same to the Magistrate. • In cases under the POCSO Act, 2012, the presence of parents/guardians of the victim must be allowed at the time of recording of such statements according to Section- 26(1), POCSO Act. <p><u>Videography of statement</u></p> <ul style="list-style-type: none"> • If the person making the statement is temporarily or permanently, mentally or physically disabled, or has a different linguistic background, the statement by the person with the assistance of an interpreter or a special educator, shall be videographed. 	
10	<p><u>Dying declaration</u></p> <ul style="list-style-type: none"> • Dying declaration may be recorded before a Magistrate or Doctor and, if not possible, it should be videographed under section-180 of BNSS earlier 161,Cr.P.C. 	Promptly
11	<p><u>Statement of relevant and material witness under section 180 of BNSS earlier 161,Cr.P.C</u></p> <ul style="list-style-type: none"> • All relevant and material witnesses shall be examined promptly. Especially the witness, who reached the spot of the incident on hearing shouts of the victim, if any, must be examined. • In case, the victim is indisposed/unable to narrate the incident/or a minor who cannot comprehend or is in shock and the state of the 	Promptly

	<p>victim/survivor leads to their next of kin or any other person registering an FIR on their behalf and/or assisting the victim/survivor in registering the FIR, then the said person must be examined as an independent witness.</p> <ul style="list-style-type: none"> Police must investigate the next of kin and suitably make them prosecution witnesses, if they have observed something of evidentiary value. <p><u>Statement of witness under section 183 of BNSS earlier 164,Cr.P.C.</u></p> <ul style="list-style-type: none"> In appropriate cases, statements of material witnesses shall be recorded under section 183 of BNSS earlier 164, Cr.P.C. Especially in cases under the POCSO Act, statements of parents/guardians of victims and informant must be recorded. <p><u>Videography of statement</u></p> <ul style="list-style-type: none"> If the person making the statement is temporarily or permanently, mentally or physically disabled, or is from a different linguistic background, the statement made by the person with the assistance of an interpreter or a special educator, shall be videographed. 	
12	<p><u>Bond for presence before the court and giving evidence</u></p> <ul style="list-style-type: none"> The I.O. shall require the complainant, if any, and so many of the persons who appear to such officer, to be acquainted with the facts and circumstances of the case, as he may think necessary to execute a bond to appear before the magistrate as thereby directed and prosecute or give evidence, as the case may be, in the matter of charge against the accused (as per the mandate vide section 190 of BNSS earlier 170 of the Cr.P.C.). 	As soon as possible after recording statements
13	<p><u>Medical examination of victim</u></p> <ul style="list-style-type: none"> Section 184 of BNSS earlier 164(A), Cr.P.C. imposes an obligation on the part of investigating officer to get the victim of rape medically examined within 24 hours from the time of receiving the information relating to the commission of such offence. The report of such medical examination should be immediately 	Within 24 hours

	<p>forwarded to the Magistrate by the I.O., who records the statement of the victim under section 183 of BNSS earlier 164, Cr.P.C.</p> <ul style="list-style-type: none"> • The victim as well as the accused person should be sent for medical examination by the I.O. under properly filled in, medical examination sheet. The female victim shall be examined medically, only by a lady doctor or under her supervision. • A Rape victim above 18 years of age can be examined only after obtaining her written consent and, if victim is below 18 years of age (as per the mandate of Section-27, POCSO Act) or temporarily / permanently mentally disabled, she can be examined only after a written consent from her parents / Guardians. In appropriate case such consent may be obtained through electronic medium. • A copy of the report of such examination shall be furnished by the medical officer, or registered medical practitioner, as the case may be, to the victim or her parents / guardian. 	
14	<p><u>Proof of age</u></p> <p>In all cases under POCSO Act, where the age of the victim, and cases where the age of the child in conflict with law are material, the following documents/procedure shall be relied upon (Section-34, POCSO Act read along with Juvenile Justice (Care and Protection of Children) Act, 2000.)</p> <ul style="list-style-type: none"> • (i) A date of birth certificate from the school, or matriculation or equivalent certificate from the concerned examination Board, if available; and in the absence thereof, • (ii) Birth certificate given by a corporation or a municipal authority or a Panchayat, • (iii) And only in the absence of (i) and (ii) above, age shall be determined by an ossification test or any other medically proven and improved age determination test. 	During investigation promptly
15	<p><u>Collection of evidence</u></p> <p>Scene of crime</p> <ul style="list-style-type: none"> • Inspection and collection of valuable clues from the scene of 	At once

	<p>crime plays a vital role in the successful investigation and prosecution of a case and it shall be the foremost duty of the I.O. to safeguard the scene of crime, so that the available clues are not disturbed.</p> <ul style="list-style-type: none"> • The scene of crime should be thoroughly inspected clockwise and every effort made to collect as much evidence from the spot as possible. • Scientific Teams must be summoned to lift finger/foot prints and other relevant items, including hair, blood, semen, body fluids, ornaments, etc. found at the spot. • The scene of crime should be photographed from all angles. • As the 'Spot Map' of the place of occurrence is an important document, it must be drawn properly, indicating distance between the items found at the spot. The position of witnesses, if any, must be shown. • Chain of exhibits and its integrity should be given paramount importance. • If teeth and bite marks have been detected, then the accused should be taken to a dental expert for relevant examination. 	
16	<p><u>Electronic evidence</u></p> <ul style="list-style-type: none"> • Electronic evidence is available in many forms such as CCTV footage, phone call details, etc., and it would be useful to collect all available electronic evidence. CCTV footage is especially useful and I.O. must collect all CCTV footages, whenever available. • Focus should be on collecting primary evidence. Instead of the footage alone, the hard disk and relevant memory disks should also be collected. For reference on primary and secondary evidence, Section 58 of BSA earlier 63 of the Indian Evidence Act should be referred. <p><u>Proof of electronic evidence</u></p> <ul style="list-style-type: none"> • Electronic evidence would need to be proven in the manner prescribed under section 63 of BSA earlier 65-B of the Indian Evidence Act. 	Promptly

17	<p><u>Scientific and chemical examination of exhibits</u></p> <ul style="list-style-type: none"> Exhibits collected/lifted should be properly packed/preserved, sealed and sent to the FSL for chemical analysis as quickly as possible. In sensitive cases, supervisory officers must issue plan of action on the same day of reporting, in the form of advisories. In appropriate cases, DNA analysis should be done. Chain of custody of exhibits should be kept safe and intact. 	Promptly
18	<p><u>Arrest of the suspect</u></p> <ul style="list-style-type: none"> All efforts should be made to arrest the suspect of the crime promptly. If the suspect has concealed himself or is absconding/evading arrest the I.O. shall make a request to the court for issue of a warrant of arrest of the suspect. If the arrest warrant could not be executed because the person against whom the warrant has been issued has absconded, or is concealing himself, the I.O. shall apply to the relevant court to declare the person a proclaimed offender and move for the attachment of the property of such person, according to section 84 and 85 of BNSS earlier 82 and 83 of the Cr.P.C. <p><u>Complaint for offence under section 209 of BNS earlier 174(A) IPC against absconder</u></p> <p>If any person, against whom a proclamation under section 84 of BNSS earlier 82 of Cr.P.C. has been issued, fails to appear at the specified place and the specified time as required by such proclamation, the I.O. should move the concerned court, for offence under section 209 of BNS earlier 174(A) IPC.</p> <p><u>When suspect is not known to the victim</u></p> <ul style="list-style-type: none"> Description of accused should be ascertained from the victim and a portrait of the suspect should be prepared immediately and circulated. A 'look-out' message of the accused should be flashed on the wireless. Local secret/open enquiries should be conducted for the suspect. 	Promptly

19	<p><u>Procedure after arrest of suspect</u></p> <ul style="list-style-type: none"> • After the suspect is arrested, procedures prescribed under sections 35, 36, 38, 43, 46, 47 & 49 of BNSS earlier 41, 41-A, 41-B, 41-C, 41-D, 46, 49, 50 & 51 of the Cr.P.C. should be followed. • No police officer shall detain in-custody, a person arrested without warrant, for a period longer than the circumstances of the case warrant and, such period shall not, in the absence of a special order of a magistrate under section 187 of BNSS earlier 167 of Cr.P.C. exceed 24 hours. • Experienced police officers may be taken in the team while interrogating the suspect. • Rebuttal or corroboration of facts, as alleged by victims, is to be done after carefully examining the whole circumstances and by bearing in mind the possibility of the trauma suffered by the victim. • Suspect should be sent for medical examination along with injury sheet detailing injury, scratches, bruises or nail marks etc. found on his body, as per section 52 of BNSS earlier 53-A, Cr.P.C. • Personal clothes of the accused, worn at the time of the crime, should be seized and sent to FSL for examination. • The accused should be medically examined to prove his physical capacity for committing the alleged crime. 	Promptly
20	<p><u>Test identification</u></p> <ul style="list-style-type: none"> • When an accused not known to the victim is arrested, he should be sent to judicial custody after due interrogation and medical examination, for Test Identification. The court should be requested to fix an early date for the identification proceedings. • It should be ensured that the face of the accused is covered while he is being taken to the court for production. • If the person identifying the person arrested is mentally or physically disabled, such process of identification shall take place under the supervision of a judicial magistrate, who would take appropriate steps to ensure that the identifier, identifies the accused, using methods, the identifier is comfortable with. 	Promptly

	<u>Videography of Identification</u> <ul style="list-style-type: none"> • Videography of identification process may be done. If, however, the person identifying the person arrested is mentally or physically disabled, the identification process shall be video-graphed. 	
21	<u>Bail application</u> <ul style="list-style-type: none"> • Bail application shall be opposed with relevant grounds by the prosecution. • If any bail application has been presented by the accused, or on behalf of the accused, before the court, it shall be the duty of the concerned Prosecutor/Investigating officer to inform the victim about such application within appropriate time, in order to give her an opportunity to oppose such application, if she, so desires. 	Promptly
22	<u>Witness Protection</u> <p>In all cases, care shall be taken that the victim and her family or any person whom she is interested in, is not threatened or tempted in any manner by the accused or any other person.</p>	
23	<u>Submission of Charge sheet</u> <ul style="list-style-type: none"> • All offences against women shall be promptly investigated and charge sheets should be filed in the court of law within sixty days as per section 193 of BNSS earlier 173 Cr.P.C. • At no point of time, the quality of investigation should be compromised. All such cases, should be automatically supervised by an officer of the rank of Dy.SP, who should associate himself with day to day investigation, including, arrest of the accused. Orders for charge sheet should be issued after due scrutiny to ensure that the investigation and subsequent prosecution does not suffer from any lacuna or omission. • The I.O./SHO shall ensure that all material documents such as medical examination reports, FSL reports, Test Identification, relevant daily diary/ Roznamchasanhas etc, are included with the charge sheet 	Within 60 days

	<ul style="list-style-type: none"> • Views and opinions of the prosecuting officer should be taken before filing of the charge sheet. • An advance copy of the charge sheet should be supplied to the prosecutor. • A copy of the charge sheet should be supplied to the victim or informant, without any cost. • E-Challan should be resorted to. 	
24	<p><u>Duty of IO/SHO during trial</u></p> <ul style="list-style-type: none"> • An officer, not below the rank of sub-Inspector, ideally the I.O. of the case, should be appointed as Holding I.O., to monitor the progress of the trial of the case. He/She should submit a progress report on each date of the trial which should be put up to supervisory officers, including the SP. • It is the responsibility of the IO to ensure timely production of prosecution witnesses for briefing by the PP/APP. He shall also ensure physical availability of all relevant records and material objects, at the time of the trial. • Service of summons should be monitored to ensure presence of witnesses. Whenever possible, summons should also be issued in the e-format. 	
25	<p><u>Rehabilitation of the Victim</u></p> <ul style="list-style-type: none"> • Rape victims need help in rehabilitation. Rehabilitation has to take care of each of the four aspects of the victim's state, including physical, mental, psychological and social. In case the victim does not have place of abode, she should be shifted to a shelter home. • The victim is likely to suffer social stigma and possible alienation from the family. Necessary counseling to the victim and family members should be provided. • The victim is entitled to compensation under 'Victim compensation Schemes' run by the State Governments. The victim should be appraised of the provision of the relevant scheme for getting compensation. 	Promptly

26	<p><u>Handling of Media</u></p> <ul style="list-style-type: none"> • Sex offences attract wide media and public attention. While briefing media about sex crimes, identity of the victim should not be disclosed. Under no circumstances, should the victim be produced before the media. Authorized officers alone, should brief the media. • Any supervisory officer dealing directly or indirectly with the investigation of the case should not divulge any information relating to the investigation of the case/victim (including medical report of the victim etc.) to anyone, including the media. 	
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