

AJAY BHALLA, IAS



गृह सचिव
Home Secretary
भारत सरकार
Government of India
North Block,
New Delhi

D.O. No. 1(8)/2018-WS-IV (CCTNS)

05th December, 2019

Dear *Chief Secretary,*

I am writing in connection with the unfortunate incidents of heinous sexual offences against women and girls reported recently. Safety of women and girls is a high priority for the Government. While Government has taken steps to strengthen legislative provisions to deal with such offences in a stringent manner, for effective deterrence, it is imperative that the police is easily accessible and is able to deal with any complaint on crime against women in a timely and pro-active manner.

2. Ministry of Home Affairs, vide its advisory No. 15011/75/2019-SC/ST-W dated 16th May 2019 (copy enclosed), had requested all States/UTs to ensure strict compliance with the provision in law to file "Zero" FIR in event of a cognizable offence, including sexual assault on women. It had also been re-iterated that failure in this regard by any police official is a punishable offence. States/UTs were also requested to undertake refresher courses for police personnel on this essential aspect. As you may appreciate, it is necessary to ensure that police personnel are much more responsive and sensitive in handling complaints on crimes against women and girls.

3. I would also like to draw your attention to the facility of Investigation Tracking System for Sexual Offences (ITSSO) portal available to the Police in your State/UT. ITSSO enables every State/UT to monitor the completion of investigation in serious sexual offences in the prescribed two-month time period. ITSSO is based on Crime and Criminal Tracking and Networks System (CCTNS) and the utility of this tool has been adequately highlighted to the States/UTs by the Ministry. (Copy of MHA's latest letter of even number dated 22nd October, 2019 is enclosed). Needless to state ITSSO has to be used regularly in monitoring the pendency upto police station. Further, data should be updated regularly on CCTNS.

..contd..p/2..

4. Forensic evidence is critical to the delivery of justice. Vide my D.O. No. 25017/14/2018-WS-III dated 10th September, 2019 (copy enclosed), all States/UTs were requested to review their capacities, identify gaps, and take action for modernization of their Forensic Science Laboratories through provision of latest forensic equipment and trained manpower, deployment of e-Forensics, and other capacity building activities, ensuring that these laboratories retain operational independence. Bureau of Police Research and Development (BPR&D) and Lok Nayak Jayaprakash Narayan National Institute of Criminology and Forensic Sciences (LNJN NICFS) are regularly conducting training courses for police officials, prosecutors and medical officers on handling of forensic evidence in sexual assault cases. BPR&D is also undertaking courses on sensitivity in investigation of crime against women. States/UTs needs to ensure, at the earliest, that all officials concerned mandatorily undergo training in these courses.


5. The Ministry has also facilitated another tool, i.e. National Database on Sexual Offenders (NDSO) for police in all States/UTs to facilitate better investigation. This tool has database on more than 7 lakh sex offenders and should be used regularly.

6. Ministry is actively following up the implementation of the Emergency Response Support System (ERSS) in all States/UTs. ERSS, as you would all be aware, is an emergency response support system based on a pan-India, single, internationally recognized number i.e. 112, for various emergencies. It has seamless facility for computer aided dispatch of field resources to the person in distress using location services. ERSS is accessible through call, SMS, email and 112 India mobile app. It is operational in 27 States/UTs in the country. I would request the States/UTs, where this service is yet to commence, to ensure that it commences immediately. In other States/UTs where it has commenced, I would request you to expand the services further, as also to undertake an aggressive awareness campaign on 112 immediately, especially amongst women and girls. Ministry has circulated creatives for undertaking such campaign in all States/UTs vide letter number 15011/03/2019-WS dated 26th April, 2019 (copy enclosed). These creatives are also available on MHA website.

7. As you may appreciate, these measures are the key to a responsive system and for ensuring effectiveness of criminal justice system. I request your personal intervention in this matter and await an action taken report.

With regards,

Yours sincerely,



(Ajay Bhalla)

Encl: as above

To,
Shri Chetan B. Sanghi, IAS
Chief Secretary
Andaman & Nicobar Administration Secretariat
Port Blair

No. 15011/75/2019-SC/ST-W
Government of India
Ministry of Home Affairs
(WS Division)

114-B, North Block,
New Delhi – 110 001.

16th May, 2019

To

The Addl. Chief Secretary / Principal Secretary / Secretary, Home Department
(All States/UTs)

Sub: Failure to record information under sub-section (1) of Section 154 of Cr.PC
punishable under Section 166A of IPC -reg

Reference: (i) Insertion of section 166A in IPC as part of Criminal Law (Amendment)
Act, 2013 dated 2nd April 2013
(ii) MHA advisory No. 15011/35/2013-SC/ST-W dated 10th May 2013
(iii) MHA advisory No. 15011/91/2013-SC/ST-W dated 5th February 2014
(iv) MHA advisory No. 15011/22/2015-SC/ST-W dated 12th May 2015
(v) Amendment in section 173 Code of Criminal Procedure vide the
Criminal Law (Amendment) Act 2018

Sir / Madam,

I am directed to refer to the above-mentioned references and state that the Government has been taking steps to strengthen legislative provisions for timely and effective action in cases of cognizable offences committed against women as a measure to increase safety for women in the country.

2. The law enables the police to register FIR or a "Zero" FIR (in case the crime is committed outside the jurisdiction of police station) in the event of receipt of information on commission of a cognizable offence, which includes sexual assault cases on women. Compulsory registration of FIR under sub-section (1) of section 154 of the Code of Criminal Procedure, 1973 is obligatory. Section 166A(c) of IPC provides for punishment to a public servant for failure to record FIR in relation to cognizable offences punishable under section 326A, Section 326B, Section 354, Section 354B, Section 370, Section 370A, Section 376A, Section 376AB, Section 376B, Section 376C, Section 376D, Section 376DA, Section 376DB, Section 376E or Section 509. Section 173 in Code of

Criminal Procedure has been amended in Criminal Law (Amendment) Act 2018 to provide for completion of police investigation in two months in case of rape.

3. However, even with the provisions in law being in place, certain instances reported recently point to the failure of police in some States / UTs to adhere to these legal provisions. This may not auger well for the delivery of criminal justice in the country, especially in context of women safety. In this context, it is requested that States / UTs may suitably reiterate instructions to the police to ensure strict compliance with the provisions in the law with respect to registration of FIR.

4. States / UTs may also consider conducting refresher courses for the police personnel on this issue to increase awareness and compliance.

5. The receipt of this letter may be acknowledged. It is requested that an Action Taken Report in this regard may also be furnished to the Ministry.

Sd/-

(Punya Salila Srivastava)

Joint Secretary to the Government of India

Tel.No.: 011-23092785

e-mail: jsws-mha@nic.in

Copy to:

Director General of Police / Commissioner of Police
(All States / UTs)


Sd/-

(Punya Salila Srivastava)

Joint Secretary to the Government of India

Copy for information to:

1. PPS to JS (WS), MHA, New Delhi
2. Guard file


14-5/19

(Sudhir Kumar Gupta)

Deputy Secretary to the Govt. of India

Phone: 23075293

15011/22/2015 – SC/ST – W

GOVERNMENT OF INDIA
Ministry of Home Affairs
(CENTRE-STATES DIVISION)

New Delhi, the 12th May, 2015

To

- 1) Chief Secretaries of all State Governments including GNCTD
- 2) Administrators of DD, DNH, A&N, Lakshadweep

Sub.: Advisory on comprehensive approach towards crimes against women

Sir/Madam,

The Ministry of Home Affairs has been issuing advisories from time to time with a view to help the States/UTs to evolve a comprehensive criminal justice system, especially with regard to crimes against women. These advisories primarily enumerate the action points arising out of different directives issued by various constitutional authorities. However, with the passage of time, it has been felt that a holistic approach is needed to deal with situations prevailing on the ground more effectively. With this in view, it has been considered appropriate to suggest the following affirmative measures that the States/UTs may take immediately to reinforce their criminal justice system:

(A) REGISTRATION OF CRIMES AGAINST WOMEN

- (i) All out measures need to be taken to encourage registration of crimes by the citizens.
- (ii) It must be ensured that the complainant / good Samaritan / Citizen must not face any harassment from any State / Public / Private agency on account of helping the women in distress
- (iii) The Police shall register an FIR upon receipt of information of the commission of a cognizable offence. If at the time of registration of FIR, it becomes apparent that the crime was committed outside the jurisdiction of the Police

station, the Police should be appropriately instructed to register 'Zero FIR' and ensure that the FIR is transferred to the concerned Police station u/s 170 of the Cr. P.C.

- (iv) Through the Criminal Law Amendment Act 2013, Section 166A of the IPC has been inserted, which states that if the Public Servant fails to record any information given to him under sub-section (1) of the Section 154 of the Code of Criminal Procedure 1973 (2 of 1974), in relation to cognizable offence punishable under Section 326A, Section 326B, Section 354, Section 354B, Section 370, Section 370A, Section 376A, Section 376B, Section 376C, Section 376D, Section 376E or Section 509 shall be punished with rigorous imprisonment for a term which shall not be less than six months but which may extend to two years, and shall also be liable to fine. Extensive training programme especially to law enforcement personnel needs to be undertaken to raise awareness and sensitivity to this punitive legal provision.

(B) INCREASING REPRESENTATION OF WOMEN IN POLICE

The Ministry of Home Affairs had issued an advisory on 22nd April 2013 and another on 26th August, 2014 whereby the States / UTs were requested to raise the women representation in Police to 33%. However, it is a matter of concern that not much has been done in this regard, except for a few States. The Government of India has now approved reservation of 33% for women horizontally and in each category (SC, ST, OBC and others) in direct recruitment in non-Gazetted posts from Constable to Sub-Inspector in the Police forces of all the Union Territories including Delhi police and directed all the Union Territory Administrations to make enabling provisions in the relevant Recruitment Rules. The States are requested to take similar steps to increase women's representation in the Police Force.

(C) SOME WOMEN SPECIFIC MEASURES THAT NEED TO BE ADOPTED

- (i) Increase the no. of beat constables, especially on crime-sensitive roads;
- (ii) Increase the number of police help booths/kiosks, especially in remote and lonely stretches;
- (iii) Increase police patrolling, especially during the night;

- (iv) Increase the number of women police officers in the mobile police vans;
- (v) Increase public telephone booths for easy access to police;
- (vi) Proper lighting of roads, streets and other lonely stretches;
- (vii) Intensive patrolling in the affected areas, especially in the locality of the weaker sections. Periodic visits by senior officers including the DM & SP will create a sense of safety and security among the people;
- (viii) The sensitive routes taken by women employees during night shifts may be identified and patrolled;
- (ix) Proper verification of drivers / conductors of public vehicles to filter out criminal elements;
- (x) General Public / NGOs may be encouraged to participate in matters of women security;
- (xi) Self defence Training for women may be encouraged by Police.

(D) INCREASING GENDER SENSITIVITY IN POLICE

- (i) Training programmes on gender sensitization for all levels of police personnel must be organized at regular intervals.
- (ii) Mention of gender sensitivity in the Annual Performance Appraisal Report (APAR) should be included to ascertain the conduct of police personnel.
- (iii) Attitude of police personnel towards women should be considered for their posting or promotions.
- (iv) A gender-sensitivity index may be developed and applied appropriately while taking decisions on posting of police officers in the field
- (v) Specific observations about gender-related measures should be included in the inspection notes of Police Stations.
- (vi) Strict action should be taken against police personnel, who exhibit discourtesy or bias against women or neglect their supervisory responsibilities in this regard.

(E) **STRENGTHENING OF INVESTIGATIVE APPARATUS ON CRIMES AGAINST WOMEN**

There is an urgent need for specialized investigative apparatus on crimes against women. The Criminal Law (Amendment) Act 2013 has several provisions which are to be exclusively handled by women police personnel in case of crimes against women. This has necessitated setting up of specialized investigative units on crimes against women.

(F) **MAINTAINING DATABASE OF CRIMINALS HAVING HISTORY OF SEXUAL CRIMES**

The Delhi Police is maintaining the record of criminals involved in rape, molestations and eve-teasing in Delhi. The States are requested to maintain similar databases on criminals having history of sexual crimes to aid the investigation and verification. The States should immediately implement the Crime and Criminal Tracking Network System (CCTNS) project, which has a module on database of offenders.

(G) **ADHERENCE TO NEWLY ENACTED LEGISLATIONS AND HON'BLE SUPREME COURT'S GUIDELINES**

It is alleged that even after enactment of crimes against women specific legislation i.e. Criminal Law (Amendment) Act 2013; cases are not being registered under appropriate sections of IPC leading to suppression of heinous crimes and misrepresentation in crime data. Proper sensitization of lower level functionaries is needed to make optimum use of existing legislations.

It has also been observed that even after the order of the Hon'ble Supreme Court, in some cases the compensation paid to the victims of acid attacks is less than Rs. 3.00 lakh. Similarly, the direction for mandatory registration of FIR in case of missing children is also reported to be violated in some cases. These deficiencies need to be rectified immediately to avoid contempt of court proceedings.

(H)

SPEEDY TRIAL OF CASES

The success of criminal justice system rests on swift trial and conviction. However, unfortunately the data of National Crime Records Bureau (NCRB) from 2011-13; reveal that even after investigation was completed in 60% (approx) of the cases, only in 16% (approx) cases, trials are completed and out of which only about 4% are convicted in cases of rape. A similar pattern is noticed in other types of crimes also. This is a matter of serious concern as it is severely eroding the deterrent value of punishment and emboldening the potential offenders. Hence the States are requested to expedite setting up of Fast Track Courts and strengthen the prosecution wing to conclude the trial speedily in cases of crimes against women.

This issue was also incorporated in the Criminal Law (Amendment) Act 2013 through amendments in Section 309 of Cr. P.C., wherein it was suggested that *when the inquiry or trial relates to an offence under Section 376, 376A-D of the Indian Penal Code (IPC), the inquiry or trial shall, as far as possible be completed within a period of two months from the date of filing of the charge sheet.*

(I)

LACK OF FORENSIC LABORATORIES

The lack of quality forensic facilities for aiding the investigation is also a matter of serious concern. As per inputs received from Police and other investigating agencies, the inadequacy of Forensic Laboratories is a major detriment in making a watertight case. Most of the time, the pendency of cases in Forensic Laboratories and availability of expert forensic help are major bottlenecks. The States are requested to expedite setting up of new Forensic Laboratories in adequate numbers to aid speedy investigation

(J)

SOCIAL CONNOTATION OF CRIMES AGAINST WOMEN

From the National Crime Records Bureau (NCRB), Annual Report 2013, it is revealed that around **94.3% of rape cases are committed by people known to them**. Evidently, this has some serious social connotations as it points out a deep rooted social malady. The Universities should be encouraged to

undertake research on the causes of such criminal psyche and possible solutions besides deterrent punishment through legal trial.

(K) CREATION OF CYBER-CELL TO TACKLE CYBER CRIMES

It has also been observed that cases of various forms of cyber-crimes involving women and children are on the rise. In a recent case, Prajwala vs. Uoi, it has been observed that illegal pornographic videos were being freely circulated on internet and social media sites without being noticed by any authority. These types of incidents need serious consideration and internet contents must be checked periodically; and any complaint received in this regard must be acted upon expeditiously. In this endeavor, specialized cyber-crime cells need to be set up.

As per the Constitution of India, the primary responsibility of providing safety, security to the citizens of India lies with the States. A comprehensive and holistic approach needs to be developed to tackle crimes against women in all its forms. The 'Police' is a State subject and hence it is the duty of State Government to modernize the police with respect to societal aspirations, sensitivity, gender and operational needs. The Government of India has already greatly enhanced the State's share of central taxes from 32% to 42%. In view of the same, the States are requested to take immediate and effective measures as enumerated above to contain the rising incidents of crimes against women.

Yours faithfully,


(Kumar Atok)

Joint Secretary (Centre-State)

Telefax: 011-23438100

E mail: jscs@nic.in

Copy also for information and necessary action to:

- 1) ACS/Principal Secretary/Secretary (Home) of all States and UTs
- 2) The Director Generals of Police of all States and IGs of all UTs

Ministry of Home Affairs
(Women Safety Division)

New Delhi, dated 22nd Oct 2019

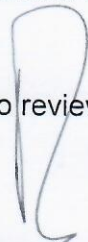
To,
DGPs /Commissioner of Police
(All States/Union Territories)

Subject: Investigation Tracking System for Sexual Offences (ITSSO) reg.

Sir/Madam,

I am directed to refer to D.O. letter of even number dated 05th Sep 2018, 05th Dec 2018 and 26th April 2019 from Joint Secretary (Women Safety) and forward status on cases registered under section 376 of IPC and section 4 & 6 of POCSO Act from 21.04.2018 till 22.10.2019 (Annexure-I. This information is also available online to the States/UTs.

2. It is requested to issue suitable instructions to officers concerned to review the cases for your State/UT accordingly.


(Anil Subramaniam)
Director (WS)
Phone: 011-23094483

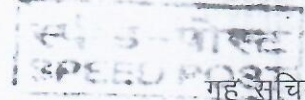
Copy to:

1. CCTNS Nodal Officers of all States/UTs

Copy for information to:

1. PS to JS (WS)

AJAY BHALLA, IAS



गृह सचिव
Home Secretary
भारत सरकार
Government of India
North Block,
New Delhi

D.O. No.25017/14/2018-WS-III

10thSeptember, 2019

Dear Chief Secretary,

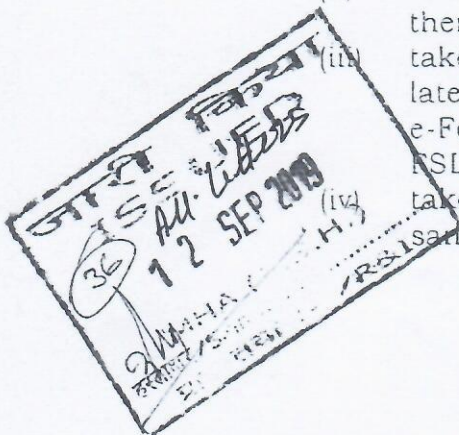
As you are aware, safety of women is a priority for the Government. The Central Government had enacted the Criminal Law (Amendment) Act 2018, which, inter-alia mandates death penalty for offence of rape of women below 12 years of age; and completion of investigation and trials within two months in all rape cases. You would agree that State Forensic Science Laboratories (FSLs) play important role and assist the investigating officer to complete investigation in the specified time frame. Therefore, strengthening of FSLs is critical to the delivery of justice in rape cases as well as in other crimes. Strengthening of FSLs has also been emphasized by the Supreme Court in its various judgments, especially in the context of timely investigation and speedy trials in criminal cases.

2. For augmenting FSLs capacities, the Ministry of Home Affairs (MHA) has provided following assistance:

- (i) Rs.105.90 crore has been provided under the scheme for Modernization of Police Forces in 2019-20 for modernization of FSLs.
- (ii) Rs.131.09 crore has been sanctioned for special projects for strengthening the DNA Analysis Unit, Cyber Forensic Unit and other related activities in FSLs under the Nirbhaya Fund in 13 States/UT for 2018-21.
- (iii) Rs.93.76 crore has already been released to States/UTs for developing Cyber Forensic Laboratories for training and capacity augmentation.

3. Considering the important role being played by FSLs in crime investigation, you are requested to:

- (i) review the capacities of existing FSL facilities in your State/UT;
- (ii) identify gaps in the FSL facilities in your State/UT and address them so as to reduce pendency;
- (iii) take action for modernization of FSLs, including provision of latest forensic equipment and trained manpower, deployment of e-Forensics, and other measures for enhancing capacities of FSLs.
- (iv) take requisite steps to ensure timely utilization of funds sanctioned in this regard by the Central Government.



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4. Further, it is equally imperative to ensure that the opinion of forensic experts is seen as unbiased scientific opinion and independent of the controls of investigation agencies. You may be aware that the National Human Rights Commission (Malimath Committee) in its Report "*State-of-the-Art Forensic Science: For better Criminal Justice*", recommended that every State should establish 'Forensic Science Organization' as an autonomous body under the Home Department of the State. In view of the above, you are requested to consider reporting of State FSLs directly to the Home Department in your State/UT. Some States/UTs are already doing it. This will ensure FSLs to maintain their operational independence.

5. May I request you for early and effective action in this regard. Your response would be deeply appreciated.

Yours sincerely,

To
Shri Chetan B. Sanghi, IAS
Chief Secretary
Andaman & Nicobar Administration Secretariat,
Port Blair

(Ajay Bhalla)

F. No. 15011/03/2019-WS
Government of India
Ministry of Home Affairs
Women Safety Division

2nd Floor, Jaisalmer House
26, Man Singh Rd, UPSC, New Delhi
Dated: 26th April 2019

To,

Addl Chief Secretary / Principal Secretary / Secretary, Home Department (19 States/UTs as per list)

Sub: Promotion of use of ERSS

I am directed to state that Emergency Response Support System (ERSS), a Pan-India single number-112 based emergency response system for citizens in distress has been operationalized. In order to ensure wide awareness on the ERSS 112 services in the States/UTs among users, MHA has developed 10 creatives which can be used as social media posts, print ads, digital cinema campaign etc for promotion. These may be used by the States/UTs, or may also be translated into local language for greater dissemination. These could be utilized for information dissemination as posters in educational/government institutions, Digital ads in cinema halls, television and Print ads in newspaper/hoardings etc. Open files of the creatives have been sent through e-mail or may be downloaded from: <https://drive.google.com/drive/folders/1hM7dRuhs0YwafprFuAz3r60-SM3MBu-?usp=sharing>. For any further assistance in the issue, Nodal Officers for ERSS may contact Ms. Priya Pal at email priya.pal@gov.in.

2. It is requested to take all necessary steps to promote the usage of 112 emergency services among citizens.

Encl: As above

Yours faithfully,



(Anil Subramniam)
Director (Women Safety)
Email: anil.sub@nic.in
Tel: 011-23094483

Copy To,

1. DGPs in the States/UTs (20 States/UTs as per list)
2. Nodal Officers for ERSS in the States/UTs (20 States/UTs as per list)