

Guidelines on the Complaints Process for SGBV

The Police



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Introduction

These guidelines are meant for a) victim-survivors of sexual and gender based violence, b) the police who record the complaint, c) the Judicial Medical Officers who conduct the medical examination and d) the Befriender/Human Rights lawyer or organization who will provide support to the survivor. The guidelines are in 4 sections for the benefit of these 4 different groups. They provide a quick reference to the complaint, medical and legal process.

There is a high incidence of sexual and gender based violence (SGBV) in Sri Lanka. In 2022, 1391 incidents of statutory rape (rape of girls under the age of 16 years), and 257 incidents of rape (rape of women above the age of 16 years) were reported to the Police.

(See: <https://www.police.lk/wp-content/uploads/2023/07/GRAVE-CRIME-ABSTRACT-FOR-WHOLE-ISLAND-FROM-01.01.2022-TO-31.12.2022.pdf>)

There have also been several reports of conflict-related sexual violence. (Woodworth, A., & Fonseka, B. 2016. “Accountability and Reparations for Victims of Conflict Related Sexual Violence in Sri Lanka.” Centre for Policy Alternatives.

<https://www.cpalanka.org/wp-content/uploads/2016/07/CSV-paper-June-2016.pdf>)

Research on sexual violence in Sri Lanka indicates that the actual incidence of SGBV is higher than reported to the Police. While there are many reasons for non-reporting, research on SGBV and discussions with survivors highlight gaps in the practical procedures a survivor has to follow, and a lack of awareness regarding these procedures.

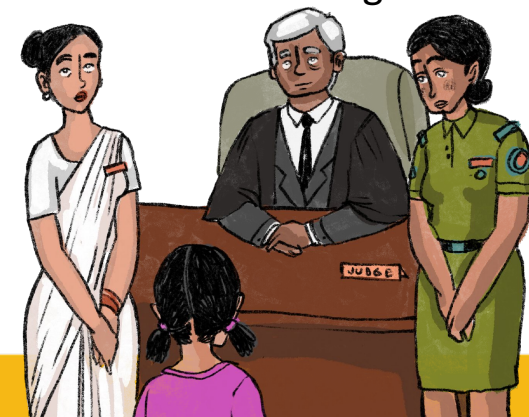
This adds a layer of difficulty for survivors who are already suffering from physical and mental distress due to the assault. Therefore, a befriender (a family member, an adult friend, a lawyer, a human rights defender, a responsible officer working in a NGO, CSO or women's organisation) is an important person who accompanies the survivor, and who the survivor can rely on during the complaints, court and coping process.


In assisting the survivors, police officers play a very important role in making them feel comfortable about reporting a traumatic experience and bringing the perpetrators to justice.

According to Sri Lankan law, there are mandatory procedures the Police must follow in recording complaints and following procedures in cases of SGBV. These guidelines provide user-friendly, step-by-step suggestions on these procedures and the obligations of the Police.

From January to March 2024 the special unit established in the Bureau for the Prevention of Abuse of Children and Women of Sri Lanka Police received a total of 1,077 complaints related to incidents of abuse, violence and harassment against women and children, through the hotline number '109.'

(<https://www.adaderana.lk/news.php?nid=98185>)





Incident & Procedures

A complaint can be made to the Police by the survivor of a SGBV attack or any member of the public with the survivor's consent. Information may be received from:

- Survivor
- Grama Niladhari (GN)
- Women Development Officer
- Women Rural Development Society
- Rural Development Society
- Probation Officer
- Social Service Officer
- Family Members
- A friend Community/religious leaders
- Neighbours
- Case manager (a case manager is a person appointed to manage the case from a range of services that include counselling)
- Doctor



Police Complaint Procedure

By law, the police is required to record the complaint in writing in the language in which the survivor prefers (Section 109(2), Code of Criminal Procedure Act).

When making the complaint, the survivor can request a Police Officer who speaks the survivor's primary language to record the complaint. The Police is advised to make all reasonable efforts to do so. Article 18(1) and (2), of the Sri Lanka Constitution recognizes Sinhala and Tamil as official languages; Article 19 of the Sri Lanka Constitution recognizes Sinhala and Tamil as national languages.

Under Section 109 (2) of the Code of Criminal Procedure Act, the complaint should be

1. taken down in the language it is given, but if this is not possible
2. the police officer should ask the survivor to provide the information in writing. If this is also not possible it is required to
3. record the complaint in a national language, and read the recorded complaint to the survivor, or interpret it in the language she/he understands.

If there is no police officer who knows the language at the police station, at the discretion of the OIC, another police officer from the nearest police station with the required language fluency can be asked to come over to interpret/translate the complaint.



- The police should make all reasonable efforts to facilitate the complaint being recorded in the survivor's language of choice. Article 12(2) of the Sri Lanka Constitution recognizes the fundamental right to not be discriminated against on the ground of language.
- Once the complaint has been recorded, the police must ask the survivor to confirm that the complaint has been accurately taken down, make any corrections as required by the survivor, and get the survivor to initial the corrections. Once confirmed, the survivor should be asked to sign the complaint. (Section 109(2) and Section 110, Code of Criminal Procedure Act).
- Thereafter, paste the complaint in the Complaint Information Book (CIB) and issue the complaint acknowledgment receipt to the survivor. (Section 109(3) and Section 110, Code of Criminal Procedure Act).
- The survivor has the right to request the gender of the officer who is to carry out the investigation where the offence is of a sexual nature. The State has a duty to make all endeavours to comply. (Section 3(1)(g) and Section 3(2), Assistance to and Protection for Victims of Crimes and Witnesses Act, No. 10 of 2023).



- First Information on the complaint must be reported immediately to the Officer In Charge of the police station (or, if the police station routinely reports to the District Police Headquarters, then the Head of the District Police HQ (HQI)), and/or Registry at the Police Headquarters Inspector (HQI). (See Criminal Court Procedure Section 109 (4). The HQI will evaluate the complaint/information and give orders to the relevant branch in the relevant police station (e.g., crimes division, or Women and Children division for further investigation).
- The police team of the relevant branch of the relevant station should then commence investigations and conduct the site/scene visit; record their observations; record statements from the witnesses; record the complaint from the survivor (if complaint is received through other person/officer/institution).
- The Police has the authority to take a survivor to the scene of the crime to collect evidence.



The Medical Examination

- The Police should escort both the survivor and the alleged perpetrator of the crime **separately** to the hospital and admit them for a medical examination for evidence gathering.
- The Medico-Legal Examination Form (MLEF) is the form used by the Police to obtain the medico-legal examination of a survivor by the Judicial Medical Officer (JMO). The MLEF is usually a two-page document which will confirm the type of crime/gravity of crime.
- The police should fill the MLEF from cages 1 to 8 and hand it over to the JMO before the medical examination. The JMO must fill out cages 9-22.
- The JMO hands the completed form over to the Police immediately after the examination.



- If the survivor has suffered sexual violence (for definitions of sexual violence see http://www.commonlii.org/lk/legis/num_act/pca22o1995213 Δ), and/or is murdered, or a cognizable crime has been committed where the police can arrest without a warrant (See Schedule 1 to the Criminal Procedure Code Act), then the Police is duty bound to inform the Magistrate as soon as they receive First Information (FI).
- The information is also sent to the HQI. The survivor (if alive) is referred to the Judicial Medical Officer (JMO) for a medical examination or, if deceased, the Magistrate sends the body for a post-mortem.



A Magistrate Court Order is not required before producing a survivor of sexual violence before a JMO, except in the case of child survivors who do not have the parents or guardians to give valid consent for the medical examination. In such cases a Magistrate's order should be obtained.



The Legal Process

- The Police will collect the MLEF from the JMO, prepare all necessary documents, and hand them over to the Court Branch of the Police Station concerned.
- The Court Branch should submit the MLEF (along with the B report and other evidence collected) to the Magistrate.
- The Court Branch of the police station handles all the crime related documentation of cases. The police officers of the Court Branch are the ones who go to Court.
- They file the (first) 'B Report', and the subsequent 'Further Reports' to keep the Magistrate abreast of developments in investigations. They also go to court and ask for relevant orders/directions.
- These Guidelines have been developed only to the point of going to court. After this, the Police has a duty to Court, and must assist as required.



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