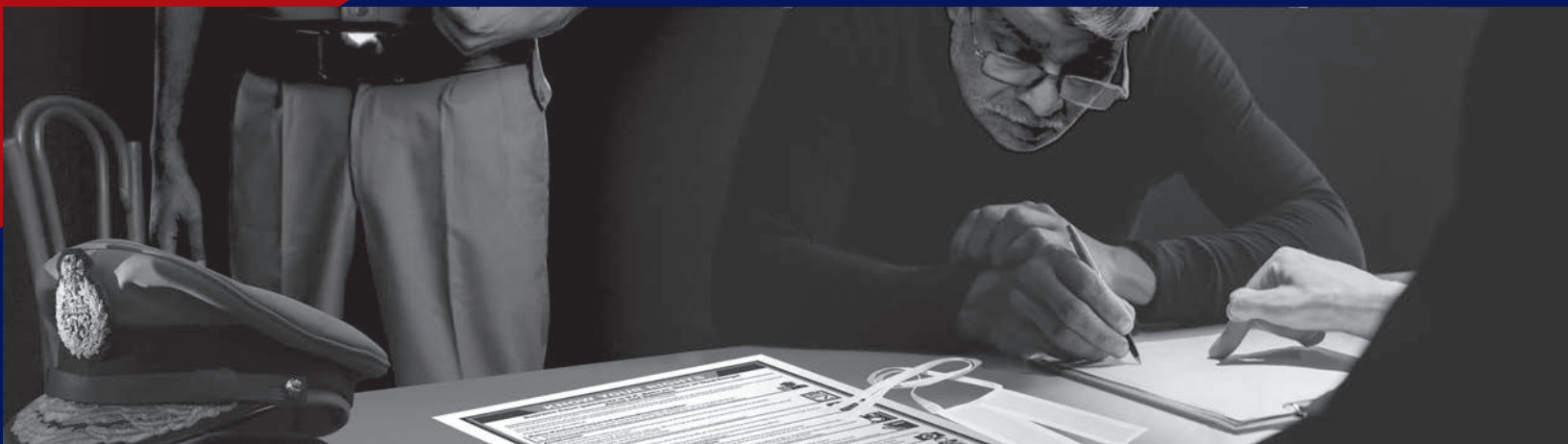


CHRI 2018

LEGAL AID CLINICS IN POLICE STATIONS



R E C O M M E N D A T I O N S



CHRI

Commonwealth Human Rights Initiative

working for the *practical* realisation of human rights
in the countries of the Commonwealth

Commonwealth Human Rights Initiative

The Commonwealth Human Rights Initiative (CHRI) is an independent, non-profit, non-partisan, international non-governmental organisation, mandated to ensure the practical realisation of human rights in the countries of the Commonwealth. In 1987, several Commonwealth professional associations founded CHRI, with the conviction that there was little focus on the issues of human rights within the Commonwealth although the organisation provided member countries a shared set of values and legal principles from which to work.

CHRI's objectives are to promote awareness of and adherence to the Commonwealth Harare Principles, the Universal Declaration of Human Rights and other internationally recognised human rights instruments, as well as domestic instruments supporting human rights in Commonwealth member states.

Through its reports and periodic investigations, CHRI continually draws attention to progress and setbacks to human rights in Commonwealth countries. In advocating for approaches and measures to prevent human rights abuses, CHRI addresses the Commonwealth Secretariat, member Governments and civil society associations. Through its public education programmes, policy dialogues, comparative research, advocacy and networking, CHRI's approach throughout is to act as a catalyst around its priority issues.

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PART I: RECOMMENDED MODEL FOR LEGAL AID AT POLICE STATION¹

CONTEXT

Prompt access to legal advice and assistance is the key to guaranteeing a fair trial and the rule of law.² The first few hours of contact with the criminal justice system are among the most crucial for those arrested and/or detained. As in any criminal justice system premised on inbuilt checks and balances, there must be oversight of the decisions taken (and not taken) and actions resorted to by criminal justice actors, primarily the police, in this early stage. Particularly as these decisions and actions go toward determining their arrest; the length of their detention; productions before magistrate within statutory time limits; affording protection against self-incrimination, timely decisions and subsequent intimation to the accused, and above all whether due process of law is being complied with.

Official statistics bear out that most of those arrested or detained are poor, ill-educated or disadvantaged for a confluence of reasons. Like most members of the public, they often lack the knowledge needed to understand and navigate the criminal justice system apart from having limited financial resources.³ Arrested persons are particularly at risk of being abused and tortured during the investigation stage of the criminal justice process.⁴ Being in the hands of the police, with no lawyer present, the abuse may range between forms of ill-treatment, demand for bribes, coercion and unlawful detention.

Prompt access to lawyer in the pre-trial stages viz. arrest and interrogation can also curtail the number of arbitrary arrests, thus reducing pre-trial population of prisons considerably. The recent Parliamentary Committee Report on Women in Detention⁵ reinforces that “the Ministry (of Home Affairs) must impress upon the police force to desist from unwarranted arrests.” In order to implement the recommendations of the report, the Ministry of Home Affairs has written to NALSA asking it to “*Frame schemes for setup of legal aid clinics at police station to ensure representation of lawyer during arrest and interrogation u/s 41D CrPC.*” As a consequence, NALSA has written to all SLSAs to “*Explore the feasibility of setting up legal services clinics in police station to facilitate legal services to arrested persons under section 41D of CrPC.*”

In this context, discussions around possible models of legal aid at police station are of prime importance. In this document, CHRI puts forth its recommendatory model for ensuring prompt and effective access to legal aid at the police station. This model is based on consultations held with various stakeholders including state legal services authorities, academicians and experts in this field. This exercise was conducted by CHRI in June 2016, excerpts of which are annexed with this report.

¹ Prepared by Madhurima Dhanuka and Raja Bagga with inputs from Devika Prasad, *Access to Justice, Commonwealth Human Rights Initiative.*

² Ed Cape, *Improving Pretrial Justice: The Roles of Lawyers and Paralegals* (New York: Open Society Foundations, 2012), sect. 4.1-4.7.

³ UNODC, *Early Access to Legal Aid in Criminal Justice Processes Handbook*, Criminal Justice Handbook Series.

⁴ Moritz Birk and others, *Pretrial Detention and Torture: Why Pretrial Detainees Face the Greatest Risk* (New York: Open Society Foundations, 2011).

⁵ ‘Women in Detention and Access to Justice’, Report by the Parliamentary Standing Committee on Empowerment of Women, 22 December 2017.

CHRI RECOMMENDED MODEL

Requirements:

1. *Legal Aid Providers*

Presence of atleast 1 Community Paralegal Volunteer (CoPLV) in every police station in the country – to be present on rotational basis at the police station 24x7. Thus atleast 3 CoPLVs must be assigned to each police station to ensure 24x7 presence.

Availability of atleast 1 legal aid lawyer (hereinafter termed as duty counsel) at each police station – to be available on rotational basis on call 24x7 (i.e. can be contacted via telephone) and to visit police station as required. Thus, atleast 2 duty counsels must be assigned to each police station to ensure availability on call 24x7. These duty counsels can also be drawn from among remand lawyers, which have been appointed under the ‘Legal Counsel at Magistrate Court Scheme’.

2. *Assignment of police station*

(i) The district legal services authority should determine the total number of CoPLVs and Duty counsels assigned to each police station in accordance with the case load for that particular police station. It is suggested that in police stations where the case load is less than 400 cases a year, assignment of 1 paralegal and 1 duty counsel would suffice; where case load is between 400 to 500 cases, assignment of 2 paralegals and 1 duty counsel; where case load is between 500 to 1000 cases a year, assignment of 2 paralegals and 2 duty counsels; and, where case load is more than 1000 a year, atleast 3 paralegals and 2 duty counsels should be assigned. However, where case load is less than 200 cases in a year at certain police stations, paralegals may not be required to be present throughout the day, but can visit twice a day.

(ii) There are total of 67,000 Paralegals, 60,000 duty counsels and 9000 remand lawyers in the country. The tables below provide information on number of police stations, case load, number of paralegals and duty counsels required in reference to case load at each police station.

CASES TAKEN UP BY POLICE STATIONS (SOURCE CRIME IN INDIA, 2013 NCRB)

Number of Cases taken up	0-60	61-100	101-200	201-300	301-400	401-500	501-1000	1001 and above	Total
Number of Police Stations (2013)	2396	2063	3727	2195	1270	846	1101	557	14155
Percentage of Police Stations	16.9	14.6	26.3	15.5	9.0	6.0	7.8	3.9	100.0
Distribution of Work Load with the Current Number of PS (2018)	3690	3178	5740	3381	1956	1303	1696	858	21802

NO. OF LEGAL AID PROVIDERS/CASE LOAD IN EACH POLICE STATION									
Work Load (Cases)	0-60	61-100	101-200	201-300	301-400	401-500	501-1000	1001 and above	
Paralegal Assigned per PS	1					2	2	3	
Duty counsel Assigned per PS	1					1	2	2	
Percentage of Police Stations	82% Police Stations					6% Police Stations	8 % Police Stations	4 % Police Stations	100 % PS
Number of Police Stations (2018)	17945					1303	1696	858	21802
Number of Paralegals Required	17945					2606	3392	2574	26517
Number of Duty counsels Required	17945					1303	3392	1716	24356

3. *Tenure of assignment:*

The duration of assignment of each legal aid provider should be for a set duration. It should be such so as to counter any risks for building of nexus between police and legal aid providers. The tenure of appointment should be clearly mentioned in the assignment letter.

4. *Representation in court:*

As far as practicable, the duty counsel providing assistance at the police station, should also continue to assist the accused at first and subsequent productions. However, where the case load is such that it may not be possible for the duty counsel to represent in court, duty counsels should document case details in standardised formats to ensure prompt transmission of case details and client instructions with the lawyer assigned to represent the accused in court. (Sample format annexed)

5. *Infrastructure:*

- (i) Consultations should be made between the Superintendent of Police of each district and district legal services authority for ensuring the availability of 1 desk at the entrance of the police station where the paralegal can sit and work.
- (ii) The district legal services authority should ensure the
 - a. availability of one telephone to make calls and one computer to facilitate documentation.
 - b. availability of registers, forms and formats for documenting cases.
 - c. availability of legal awareness posters & pamphlets providing basic information on interrogation, arrest and investigative procedures.

6. *Training of stakeholders*

- (i) Training of para-legals attached to police station on dos and don'ts – efforts should be made to provide duty notes in vernacular languages to each PLV at time of appointment
- (ii) Training of duty counsels attached to police stations – on roles and responsibilities – efforts should be made to provide duty notes in vernacular languages
- (iii) Training of police personnel on the needs and requirements for having legal aid cell at police station and their roles and responsibilities with particular emphasis on Section 41 D CrPC.

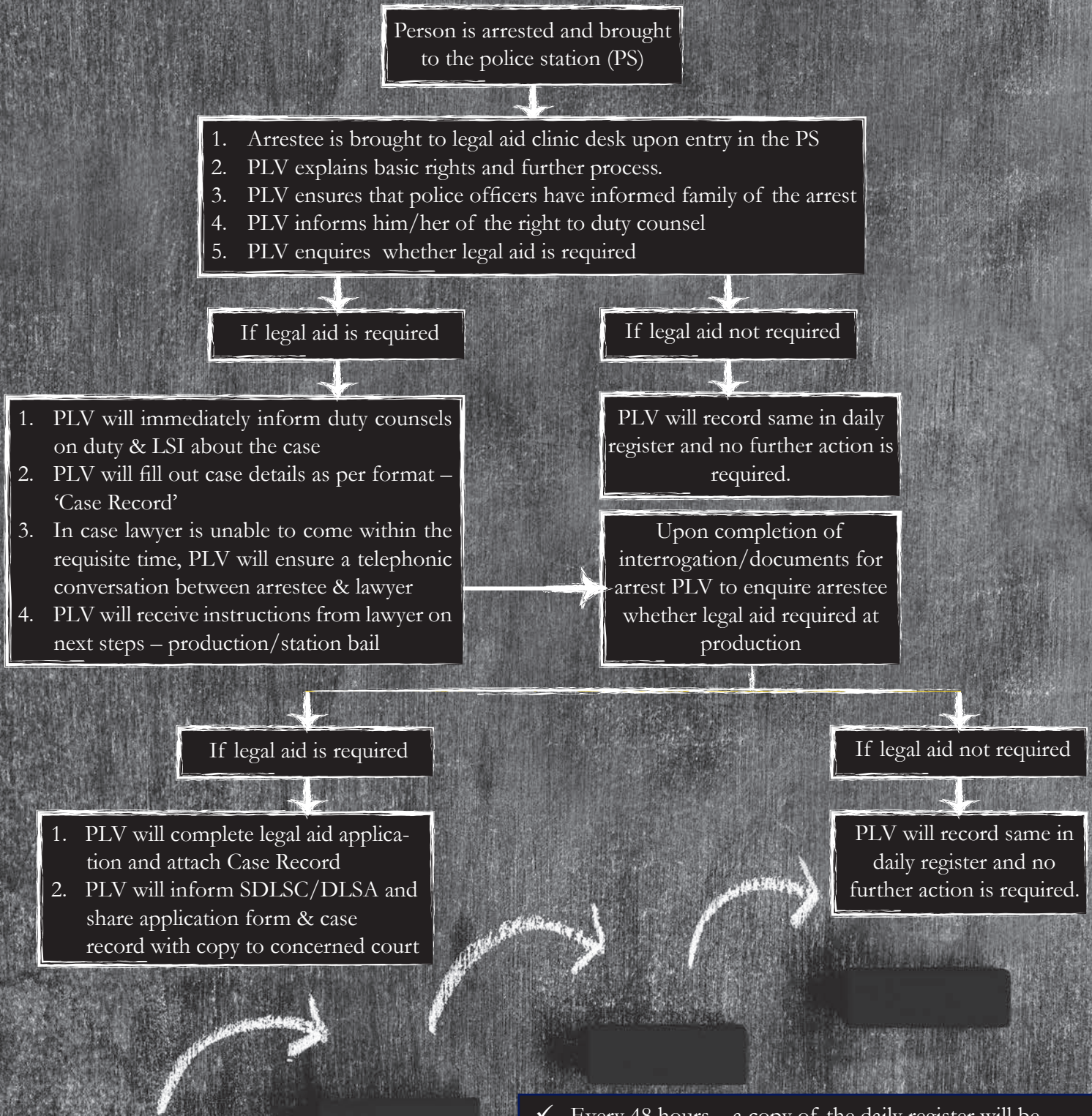
7. *Documentation & Reporting*

- (i) Formats must be made available for
 - a. Recording daily activities of legal aid clinic viz. number of people arrested, counselling provided, details of any other assistance provided including contacting family members etc. – Daily Register on Legal Aid
 - b. Recording case details for every case where duty counsel is assigned including details of case and client instructions – ‘Case Record’
 - c. Recording calls & visits by duty counsels.
 - d. Duty notes for stakeholders.
 - e. Legal aid applications for ensuring legal aid at production.
 - f. Checklist to ensure all rights were followed. To be signed by the accused and submitted to the LSI every week
- (ii) Using Technology (where internet facilities are functional)
 - a. A mobile application can be prepared whereby paralegals can feed in basic information as to detention/arrest of person and request for duty counsel whereupon a sms/email is immediately sent to LSI/lawyer so as to ensure promptness in sharing of information.
 - b. A mobile application can also be used to document information and share client instructions etc, where there is substantive distance between police station and magistrate courts.
 - c. A mobile application or computers can be used for maintaining and updating daily records and preparation of monthly reports.



Step by Step Process:

- ✓ 1 PLV available in police station in 12 hour shifts (or as per case load see pt. 1(ii) above)
- ✓ 1 Lawyer available on call in 12 hour shifts
- ✓ Placard with details of PLV, lawyer and SDLSC/DLSA displayed at entrance and inside police station



- ✓ Every 48 hours – a copy of the daily register will be shared with the concerned SDLSC/DLSA for review.

CHRI SUGGESTED FORMATS

A. DUTY NOTES FOR STAKEHOLDERS

1. *Para Legal Volunteer*

The duties of the Community Paralegal Volunteer (CoPLV) includes:

- (i) You are expected to be present at the legal aid desk/clinic throughout your shift.
- (ii) You shall reiterate to the arrestee their rights in a language and manner that is easily understood by him/her.
- (iii) You shall inform the arrestee of their right to legal aid and procedure for application of the same.
- (iv) You shall immediately contact the duty counsel where arrestee/ detainee makes request for legal aid assistance.
- (v) You shall document all case details in prescribed formats and maintain record of case in daily register as prescribed.
- (vi) You shall supplement but take caution not to interfere in the work of the police.
- (vii) You shall promptly report any illegalities or irregularities observed with regard to the detention or arrest of any person to the duty counsel and legal services institution.
- (viii) You must send monthly report of your work to the Secretary of the DLSA/TLSC by 5th of every month.
- (ix) You must submit the daily register for intimation and information to the Secretary of the DLSA/TLSC every 48 hours.
- (x) You must not seek any money/ benefits for the work done from the arrestee/detainee or their families.

2. *Duty Counsel At Police Station*

- (i) You shall ensure you are available 24x7 on call and able to visit the police station atleast once every day and as and when required.
- (ii) You shall ensure that your name and contact details are displayed in the police station assigned.
- (iii) You shall visit the concerned police station upon receiving intimation from the paralegal or legal services institution to provide prompt legal assistance. In case you are unable to visit, you shall speak to the client on call and provide legal counselling and explain to the paralegal action to be taken.
- (iv) At the police station, you shall provide legal counselling to your client and ensure presence during interrogation.
- (v) You shall sign the daily register maintained by the paralegal in the police station.
- (vi) As far as practicable, you shall continue to represent the person during first production and subsequent remands, in case you are unable to, and another lawyer is assigned to the case, you will ensure client instructions are conveyed, as per format to the lawyer so assigned.
- (vii) You shall co-ordinate with the police station to ascertain the arrests conducted on a daily basis. You shall visit the police station at least twice a week to ensure that inmates are produced to the magistrate within 24 hours.
- (viii) You must not seek any money/ benefits for the work done from the arrestee/ detainee or their families.

3. *Police Officer*

- (i) You shall ensure that you will facilitate the functioning of the legal aid clinic in the police station.
- (ii) You will ensure that the paralegal volunteer and duty counsel are provided access to the lock up area and are permitted to speak to all persons brought into police station as arrestee/detainees.
- (iii) Irrespective of the presence of the paralegal, you shall continue to carry forth duties enshrined to you under various constitutional and statutory provisions with respect to arrestee's rights.

B. SUGGESTED FORMATS FOR MONTHLY REPORTS

Monthly Work Report – Paralegal Volunteer at PS	
No. of days present in clinic	
Shift timings	
Total no. of arrests	
No. of persons approached desk	
No. of persons provided advice	
No. of persons referred to duty counsel	
No. of persons who required legal aid for first production	
No. of irregularities informed to LSI	
Comments:	

C. SUGGESTED FORMAT FOR DAILY REGISTER

Date	S. No.	Time	Name of the arrestee/detenuce	Sex	Age	Case Details			Informed of his/her rights (Y/N)	Request for Legal Aid (Y/N)	If yes, Intimation given to duty counsel (Time/Date). If no, Needed	Legal Services Provided to client (Time, Date, person)	Signature of duty counsel where legal aid provided	Whether requires legal aid at first production (Y/N)	If yes, then whether information to LSI given?
						FIR No.	Charges u/s	Court							

Signature of paralegal volunteer _____

D. SUGGESTED FORMAT FOR CASE RECORD

To be completed by paralegal/duty counsel assigned to the police station

Police Station:

Daily Register Case No.: _____

Date & Time of Call:

Date & Time of Visit:

Concerned TLSC/DLSA:

BASIC CASE DETAILS:

Name: _____

Father's Name: _____

Address & Family Contact Details: _____

Informed the Arrestee about his/her:

- ✓ Right to be informed of the reasons of arrest
- ✓ Right to remain silent
- ✓ Right to legal aid
- ✓ Right to be produced in front of the magistrate within 24 hours
- ✓ Right to bail in case of a bailable offence
- ✓ Right to have the presence of a lawyer during interrogation
- ✓ Right against torture, inhumane and degrading treatment
- ✓ Right to inform family/ relative/ close friend about the arrest

CASE DETAILS NARRATED BY THE ARRESTEE AND THE ASSISTANCE SOUGHT:

- ✓ Whether explained the nature of the alleged offence/s to the arrestee
- ✓ Whether explained the basic legal procedural during remand stage and the law on bail to the arrestee

OTHER PARTICULARS OF THE CASE:

Age as per warrant: _____
 Age claimed by accused: _____
 FIR No.: _____
 Concerned Court: _____
 Offences Accused of: _____
 Details of Co-Accused, if any: _____
 Date & Time of Arrest: _____
 Place of Arrest: _____
 How was arrest made: _____
 Whether family was informed about the arrest: _____
 Whether taken directly from the place of arrest to the police station: _____
 Details of the personal belongings at the time of arrest: _____
 Whether slapped/ beaten up by police: _____
 Name of Investigating Officer (IO): _____
 Date & Time of First Production: _____
 Any other case/s ongoing against accused or was previously convicted: _____

Any other relevant detail/ Comments:

Name & Signature of paralegal/duty counsel

This note has been handed over to advocate _____ on _____(date).



PART II: e-CONSULTATION ON ACCESS TO LEGAL AID FOR PERSONS IN CUSTODY IN INDIA 2016 - EXCERPTS ON LEGAL AID AT POLICE STATION⁶

I. The e-consultation

- a) **Context & Background:** Commonwealth Human Rights Initiative (CHRI) made a submission to the Parliamentary Standing Committee on Personnel, Public Grievances, Law & Justice on 28th January 2016,⁷ based on its work on legal aid delivery in West Bengal and Rajasthan. Subsequently, CHRI presented its findings and recommendations to the Committee in March.

The Parliamentary Committee intended to plug the following gaps in the legal aid system and NALSA schemes:

- Absence of policy or mechanisms for legal aid representation at police station despite amendments in the Cr.P.C. that improve scope for safeguards.
- Lack of adequate provisions and monitoring mechanisms in the existing model of legal aid delivery to ensure assured, continuous and quality legal aid at all stages, starting from first production.

To address the above, the parliamentary committee directed CHRI to assist NALSA to co-formulate a public defender model which addresses access to legal aid at police stations and also runs parallel to that of a prosecutor's office in court, and to work in the area of amendments to the NALSA schemes/regulations on persons in custody based on policy gaps pointed out by CHRI in its submission to Parliamentary Committee and its report on legal aid. In compliance, CHRI prepared a draft on '*Basic Minimum Principles for a Public Defender System*'⁸ integrating the features for ensuring early access to legal aid in police custody and submitted it to NALSA and the Parliamentary Committee. For including valuable voices from the civil society, academic institutions, legal aid authorities and legal fraternity, CHRI also prepared and circulated 'CHRI's Questionnaire on Improving Legal Aid'⁹ and initiated an e-consultation.

- b) **The process:** In June 2016, CHRI circulated this questionnaire among various stakeholders who are involved in ensuring effective access to legal aid for persons in custody. The questionnaire sought information on legal aid services available at,
- i. Police Stations,
 - ii. Judicial custody, and
 - iii. Principles and modalities of the Public Defender Model

⁶ Collated by Amrita Paul & Raja Bagga, edited by Madhurima Dhanuka, Commonwealth Human Rights Initiative.

⁷ <http://www.humanrightsinitiative.org/download/1457150476Submission%20to%20Parliamentary%20Committee%20on%20Legal%20Aid.pdf>.

⁸ <http://www.humanrightsinitiative.org/download/1466160460CHRI%20submission%20on%20Basic%20Minimum%20Principles%20&%20Features%20for%20a%20Public%20Defender%20System.pdf>.

⁹ <http://www.humanrightsinitiative.org/publication/chris-questionnaire-on-improving-legal-aid>.

The exercise intended to put forth a model which is practically and legally sound, which can be implemented in India. In addition, the e-consultation intended to provide recommendations based on responses on how to improve access and quality of legal aid services at the staged mentioned above.

- c) **Responses:** 21 individuals/organisations responded to the questionnaire from state legal services authorities, civil society organisations from both India and abroad, academic institutions, lawyers and prison officials. Members from CHRI's offices also gave their comments, which forms part of the CHRI suggested model. This document provides candid responses on '*Part I: Questions on Early Access to Legal Aid at the Police Station*' received from the following experts:-

S. No.	Responses Received From
A.	SLSAs
1	Delhi State Legal Services Authority
2	Gujarat State Legal Services Authority
3	Goa State Legal Services Authority
4	Maharashtra State Legal Services Authority
5	Sikkim State Legal Services Authority
6	Dadra & Nagar Haveli State Legal Services Authority
B.	NGOs
1	Dr. Vijay Raghavan, Prayas
2	Mr. P L Mimroth (Centre for Dalit Rights, Jaipur)
3	Ms. Sukanya Shantha, Amnesty International
4	Ms. Gitanjali Prasad, Centre for Equity Studies
	Responses from Abroad
5	Mr. Akmal Wasim, Director, Policy & Programs, Legal Rights Forum (Pakistan)
6	Mr. Rezaul Karim , Bangladesh legal Aid & Sevices Trust (BLAST)
7	Ms. Vidhu Vedalankar, Legal Aid South Africa
C.	Academic Institutions
1	Dr. Suman, Faculty of Law, University of Delhi
2	Dr. Mrinal Satish, NLU Delhi
3	Dr. Murali Karnam, TISS
4	Dr. Sudhir Krishnaswamy, Azim Premji University
D.	Lawyers
1	Ms. Jaishree Surya
2	Ms. Ranjana Singh Mertia
E.	Prison Officials
1	Mr. Ajit Singh (DG Prison)
2	Mr. R.K. Saxena (Ex-DG Prison)

II. Access to Legal Aid at Police Station

- a) **The need:** The early stages of the criminal justice process—the first hours or days of police custody or detention—are crucial for those who have been arrested or detained in respect of a criminal offence. Decisions made and actions taken, or not taken, will determine their ability to effectively defend themselves, the length of their detention, whether and when they are produced before a court, whether appropriate decisions are made about prosecution or diversion from the criminal justice system and, ultimately, whether they receive a fair trial. During this period, suspects and accused persons are at greatest risk of torture or other forms of ill-treatment, ranging from neglect and demands for bribes, to coerced confessions and unlawful detention.¹⁰

Thus, the threat to human dignity, bodily integrity and fair trial safeguards at police station is higher when there is no lawyer. Use of force for recovery or to extract information is extremely common. Cases of torture and death in police custody are thus an unfortunate reality.¹¹

- b) **Responsibilities of stakeholders:** It is true that the legal aid providers – lawyers and paralegals – play a decisive role in ensuring early access to legal aid, but it would not be truly effective without the cooperation of and appropriate procedures followed by the police and other investigative authorities, prosecutors and members of the judiciary.¹² Furthermore, the UN principles and guidelines on access to legal aid for persons in criminal justice systems clearly call member states to take measures ‘to facilitate access for legal aid providers assigned to provide assistance to detained persons in police stations...’¹³

- a. *Police:* The police and other investigative officers play a pivotal role in ensuring the effectiveness of the right to early access to legal aid. For the legal aid provider to provide effective assistance, he/she is dependent upon the cooperation of the police to provide timely and accurate information. The relevant information would be regarding the grounds for arrest, reasons for detention, facilitating timely and confidential access to legal representation to the accused. Information regarding the existence and manner in exercising the right to access legal aid must not be dependent upon only an individual, as many factors may hinder in its implementation. Police authorities and other investigative authorities must provide clear instructions their officers regarding giving effect to the right to early access, devise processes, procedures and recording mechanisms designed to give effect to that right.

¹⁰ ‘Early access to legal aid in criminal justice processes: A handbook for policymakers and practitioners’ United Nations Office on Drugs & Crime & United Nations Development Programme, 2014.

¹¹ Crime Statistics India, 2016 of the NCRB records 92 deaths of persons in police custody during 2016.

¹² UN General Assembly, *United Nations Principles and Guidelines on Access to Legal Aid in Criminal Justice Systems: resolution / adopted by the General Assembly*, 28 March 2013, A/RES/67/187.

¹³ 67/187. United Nations Principles and Guidelines on Access to Legal Aid in Criminal Justice Systems, Guideline 2 and 4.

The role of police officers in respect of early access to lawyer is to ensure that the right to early access to legal aid is respected in practice. In carrying out this role, police officers should take appropriate action to:

- Ensure that suspects and accused persons are notified of the right to early access in a form that they can understand, having regard in particular to the special needs of children and people from other vulnerable groups;
- Ensure that suspects and accused persons are able to take an informed and voluntary decision about whether they wish to exercise that right;
- Notify a legal aid provider without delay (when a suspect or accused person wishes to exercise their right to legal aid);
- Facilitate the provision of legal aid to a suspect or accused person who wishes to exercise that right.
- Facilitate access by the legal aid provider
- Provide reasonable time for the arrival of the legal aid provider, before questioning a suspect or accused, where s/he has exercised his/her right to legal aid.
- Identify whether a suspect or accused person is a child or otherwise vulnerable, and take appropriate action.
- Record (and, in the case of senior officers, monitoring) actions taken and decisions made in respect of early access to legal aid.

- b. *Legal Aid Providers:* The active involvement of legal aid providers at the early stages of the criminal justice process can help to ensure protection against intimidation, ill-treatment and torture. The Special Rapporteur on the independence of judges and lawyers has stated that the presence of a lawyer during interrogation is a key safeguard against ill-treatment,¹⁴ in addition to the Special Rapporteur on questions of torture and detention has recommended that “no statement of confession made by a person deprived of liberty, other than one made in presence of a judge or a lawyer, should have a probative value in court”.¹⁵

The role of legal aid providers is to ensure prompt and effective legal services are provided at the police station. In carrying out this mandate, legal aid providers, whether legal aid lawyer or paralegal volunteer should:-

- Ensure presence at each police station within jurisdiction 24x7
- Ensure their names and contact numbers are displayed in appropriate places within the police station and inside the police lock up area
- Ensure that they provide and explain basic information to the accused on his/her case and can explain the procedure thereafter.
- Ensure that a lawyer is made available at the time of first production
- Ensure that family members of accused persons are aware of his/her arrest.
- Document and record any interventions made by them on behalf of the accused person

¹⁴ E/CN.4/1998/39/Add.4, para. 47. (available at <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G98/107/16/PDF/G9810716.pdf?OpenElement>).

¹⁵ E/CN.4/2003/68, para. 26 (e) (available at <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G02/160/49/PDF/G0216049.pdf?OpenElement>).

III. Legal Aid Cell at Police Station: Models

The NALSA 2011 scheme recommends the constitution of the legal aid clinics (LACs) in places with barriers to access. NALSA has directed the State Legal Service Authorities to constitute legal aid clinics in prisons. Given the vulnerability for persons in police custody, the restriction on liberty and barrier to access legal aid, legal aid clinics at police stations would be beneficial. Also, according to Regulation 4 of the NALSA (Legal Aid Clinics) Regulations 2011, “Every person who fulfils the criteria specified in section 12 shall be eligible to get free legal services in the legal aid clinics.” Persons in police custody (fulfils the criteria specified in Section 12 (g)) can get free legal services in the legal aid clinics only when these clinics are constituted inside the police station.

a) Models

Questionnaire: The following models of legal aid clinics in police stations were provided:

- A. A legal aid cell at the police station with DLSA appointed and trained **lawyers who are stationed on rotational basis 24x7** for the purpose of providing basic legal advice and representation.
- B. A legal aid cell at the police station with DLSA appointed and trained paralegal volunteers who are stationed on rotational basis 24x7 **mandated to inform the legal services authority and/or call the lawyer/public defender upon request**
- C. There should not be a legal aid cell in the police station. However, **the police must inform the nearest legal aid authority and immediate assistance must reach the person in custody**
- D. There should not be a legal aid cell in the police station. However, a DLSA appointed and trained **lawyers/ public defenders, on rotational basis, must make daily visit/s to the police station. Their daily visits should be:**
 - i. Twice a day
 - ii. More frequently
- E. There should not be a legal aid cell in the police station. However, DLSA appointed and trained **paralegal volunteers, on rotational basis, must make daily visit/s to the police station and must inform the legal services authority and/or call the lawyer/public defender in all cases where person is unrepresented. Their daily visits should be:**
 - i. Twice a day
 - ii. More frequently

Responses:

Option A was selected by 4 respondents. (Goa SLSA, Dr. Suman Mr. Mimroth, Mr. Wasim) They all believed that prompt legal aid to the person in conflict with law could only be delivered if the legal aid clinic at the police station consisted of lawyers. There were some other respondents who leaned towards opting for option A, but then refrained from selecting it, as they felt it would not be a very feasible model. It would be both expensive and a strain on existing human resources for it to be implemented across all police stations in India.

Option B was selected by 5 respondents. (Dr. Raghavan, Sikkim SLSA, Mr. Saxena, Ms. Surya, Dr. Satish) They firmly believed that legal aid clinics at police stations that are manned 24x7 by paralegal volunteers (PLV) is a viable option. There is no shortage of existing numbers of PLVs trained and can always be recruited from the community as well. One of the respondents¹⁶ shared that this model would also provide increased employment opportunities for young enthusiastic volunteers. Some other respondents however expressed their concern regarding the lack of skill, poor training being imparted and now that would negate the purpose of the clinics.

Option C was chosen by 6 respondents and had maximum supporters. (Delhi SLSA, BLAST, Gujarat SLSA, Maharashtra SLSA, Ms. Vedalankar, Dr. Krishnaswamy) They agreed that police stations should not have a legal aid clinic within their premises, but once the need of extending legal aid services arises the same must be undertaken as a priority. One of the respondents suggested the police station or PCR should call upon the nearest legal aid clinic upon requirement.

Option D was chosen by 1 respondents (Mr Singh). Another respondent agreed that if this is the model than lawyers must visit the police stations on regular intervals.

Option E was selected by 3 respondents (Dadra and Nagar Haveli SLSA, Ms Shantha, Dr Karnam) of which 1 opted for more frequent visits to be conducted. The respondents reasoned that all cases do not require legal aid; further if the PLVs are trained properly and given access to the records they can properly channelize and segregate the cases at the very beginning.

Others models suggested: One of the respondents¹⁷ said a combination of model C & D is best suited and suggested that a lawyer could always visit the police station once on a daily basis at an agreed time as well as the police could reach out to the respective legal services authority when required.

Another respondent¹⁸ recommended developing three models to function simultaneously: *firstly*, an elected public defender model, which can administer a small legal aid cell at the local level; *secondly*, a court administered panel of lawyers to provide free legal aid at each police station; and *thirdly*, a panel of lawyers selected by an eminent group of lawyers and citizens.

b) Extent of representation by legal aid lawyer

Questionnaire: The legal aid lawyer assigned to provide legal aid at police station should:

- A. continue to represent the person/suspect till first production before the magistrate.
- B. assist the person/suspect only at the police station and another legal aid lawyer be at the court to represent the accused at first production and later.
- C. continue to represent the accused all through police remand.
- D. represent the accused during the entire remand period till the charge-sheet is filed.
- E. represent the accused till the conclusion of the trial.

¹⁶ Mr. Saxena.

¹⁷ Ms. Vedlankar.

¹⁸ Dr. Krishnaswamy.

Responses:

Option A was selected by maximum respondents i.e. 8. The respondents stated that young lawyers having interest though with less experience at the bar can handle most cases at this stage. They can assist in easily reducing the burden on the docket and deal with these cases. Another observation marked in the responses highlighted the need for presenting the relevant facts which is rarely done, which would be difficult if another lawyer is assigned at the time of first production.

Option B was selected by 4 respondents. While selecting this option, the respondents expressed confidence in the established procedure in place to provide legal aid at Courts. In light of this, they agreed that the lawyer should limit his role and provide legal aid at the police station.

Option C was selected by 3 respondents. The caution to represent the accused all through police remand was because the victims may belong to poor strata of society, *dalits*, marginalised communities and would not be able to defend themselves or hire a lawyer during this time. In such circumstances, the lawyer would be needed to guide them, extend legal advice and awareness and it would be best if the same lawyer represents them throughout this period.

Option D was chosen by 4 respondents. The lawyer would have become familiar with the case from the time of arrest, it would be ideal to be continued till the charge sheet is filed. If the lawyer changes in between, it may be difficult to gain trust and confidence of the accused and this might impact the outcome of the proceedings.

Option E was selected by 4 respondents. They reasoned that if the same lawyer represents till the trial will be well aware with all the facts of the case. This model will also set accountability of the lawyer and speed up the process. In case the lawyer is ineffective, then he may be changed and replaced. On the other hand, some respondents showed concern that as trials are more complicated and require a lot of experience, this model will not be feasible.

IV. Accountability and Effectiveness of Lawyers and Paralegals at Police Station

a) Where should legal aid providers – paralegal volunteers and lawyers be drawn from?

Paralegals: Respondents suggested number of possible avenues from where paralegal can be drawn from. This includes - members of non-governmental organisations, social workers and allied organisations working on these issues should be roped in (Goa and Sikkim SLSA, Dr. Karnam and Ms. Shantha); panel of the respective DLSA or any other concerned institute be established (Gujarat and Maharashtra SLSA, Dr. Suman, Mr. Mimroth, Ms Surya); recent 10 pass and 10+2 pass students (Dr. Raghavan and Dr Satish); internships offered to final year students (Mr. Wasim); and finally, an open call for application may be resorted. (Mr. Saxena)

Lawyers: 9 of the respondents were of the opinion that panel of DLSA, Legal Services Authority, Legal Services Committee, Bar or any other concerned authorities can be used to appoint lawyers (Delhi, Gujarat and Maharashtra SLSA, Ms. Shantha and Mr. Mimroth, Mr. Wasim, Ms Surya, Ms. Vedlankar, Mr. Saxena) While Mr. Saxena insisted that a call for applications be resorted to before finalising the appointment process,

to ascertain genuine interest from the lawyers. Some of the respondents, shared the need for additional qualifications and eligibility criteria's of the lawyers appointed. Dr. Satish was of the opinion that all lawyers are eligible but the young lawyers at bar should be preferred. Goa SLSA advised that a minimum experience of 5 years is a must, while Dr. Raghavan recommended 2 years in experience.

b) What should be the tenure for paralegals and lawyers to be appointed to legal aid clinics at police station?

Paralegals: The suggested tenure plans runs between an interim phase of 6 months to 3 years maximum. Some of the respondents suggested adding a quarterly performance review (Ms. Shantha), rotational appointment (Gujarat SLSA and Dr. Suman). Mr. Saxena suggested an interim period of 6 months first. Gujarat SLSA recommended a 1-year term on rotational basis while Maharashtra SLSA recommended a 1-year term that can be extended upon review. Mr. Saxena, Dr. Satish and Ms Surya recommended a minimum tenure of 2 years. Dr. Karnam also recommended a tenure of minimum 2 years and maximum 3 years. Goa and Sikkim SLSA, BLAST, Ms. Shantha, Dr. Raghavan and Mr. Mimroth suggested a tenure of 3 years.

Lawyers: The suggested tenure plans runs between an interim phase of 1 year to 5 years maximum. Some of the respondents suggested adding a quarterly performance review (Ms. Shantha), rotational appointment to avoid conflict (Delhi SLSA) and renewable term (Mr. Wasim and Maharashtra SLSA). Ms. Vedlankar suggested that full time empanelled lawyers or private practitioners be appointed and Dr. Suman recommended for a fixed term for the lawyers. BLAST and Mr. Wasim, Maharashtra SLSA, Dr. Raghavan suggested a 1-year term. Dr. Satish and Ms. Surya advised for a 2-year term. Goa SLSA, Ms. Shantha and Mr. Mimroth recommended a tenure of 3 years. Sikkim SLSA and Mr. Saxena recommended a 5-year term.

c) How should the lawyers and paralegals be trained?

Paralegals: Each of the respondents agreed upon the vital need for training of the paralegals. The suggestions can be broadly divided into self-learning and learning via practical experience. Firstly, for taking steps towards self-learning developing a training module in line with the NALSA module (Goa, Gujarat and Sikkim SLSA, Ms. Shantha) would be ideal and for organising practical trainings, a host of institutions may be approached. The institutions who could impart the trainings can be concerned DLSA/ LSA (Dr. Karnam and Dr. Suman, Mr. Saxena); Law Schools and NGOs (Dr. Satish, Ms. Surya, Dr. Raghavan and Ms. Shantha); Magistrates and senior lawyers (BLAST) and Judicial Academy (Maharashtra SLSA). Developing a 3 week rigorous course was also forwarded as a suggestion (Mr. Wasim).

Lawyers: Similarly, suggestions can be broadly divided into self-learning and learning via practical interactions. Firstly, for taking steps towards self-learning developing a training module in line with the NALSA module (Goa, Gujarat and Sikkim SLSA) and refresher courses (Delhi SLSA) would be ideal and for organising practical trainings, a host of institutions may be approached. The institutions who could impart the trainings can be concerned Judicial Academy (Maharashtra SLSA, Dr. Raghavan and Dr. Satish) and Magistrates, senior lawyers and concerned DLSA/ LSA (BLAST, Dr. Suman and Ms. Shantha). Ms. Vedlankar and Mr Saxena noted that no training is required if the lawyer selected is qualified.

d) What should be the remuneration/incentives for paralegals and lawyers?

Paralegals: Maharashtra and Gujarat SLSA suggested a remuneration of INR 250/day. Dr. Raghavan and Dr. Karnam recommended a remuneration of INR 5000/month. Ms. Surya suggested that remuneration should be on the lines of stipend received by a junior from a senior advocate. BLAST, Mr. Mimroth and Dr. Satish suggested that competent authorities should decide the remuneration.

Lawyers: Maharashtra SLSA suggested that remuneration must be decided as per the NALSA Module. Ms. Surya suggested that remuneration should be on the lines of stipend received by a junior from a senior advocate. BLAST, Mr. Mimroth, Mr. Saxena and Dr. Satish suggested that competent authorities (DLSA/SLSA) should decide the remuneration. Ms. Vedlankar suggested that an overtime and day allowance should also be provided to the lawyers.

e) What should be the consequences of non-appearance of paralegals or lawyers?

Paralegals: Each respondent stipulated strict consequences in cases of non-appearance. They recommended issuing an initial warning/ review/ show cause/ deduction of fees thereby incorporating the right to a fair hearing as to non-appearance and removal only if found unjustified (Dr. Raghavan and Ms. Shantha, Gujarat SLSA, Dr. Satish and Dr. Karnam, Mr. Wasim, Mr. Saxena); removal from the panel (Maharashtra, Sikkim and Goa SLSA, Dr. Suman, Ms. Surya) and initiating disciplinary action (BLAST).

Lawyers: Similarly, for lawyers the respondents recommended issuing an initial warning/ review/ show cause thereby incorporating the right to a fair hearing as to non-appearance and removal only if found unjustified (Dr. Raghavan and Ms. Shantha, Gujarat SLSA, Dr. Satish and Dr. Karnam, Mr. Wasim); deduction of fees and removal of the case from the lawyer (Mr. Saxena); removal from the panel (Maharashtra and Goa SLSA, Dr. Suman, Ms. Surya); initiating disciplinary action (BLAST, Ms. Vedalankar and Delhi SLSA). Sikkim SLSA recommended complaint to the Bar.

f) What registers and reports should be maintained by lawyers and paralegals?

Paralegals: Maximum of the respondents recommended maintenance of physical records, barring Mr. Wasim who recommending use of CRM software. Other suggestions included - maintenance of NALSA register/Diary (Maharashtra and Sikkim SLSA); register maintained at the police station containing daily activities, daily updates, records and facts of case (many respondents); attendance register maintained by DLSA (Dr. Raghavan and Gujarat SLSA); and detailed documentation (Ms. Shantha).

Lawyers: Unanimously, the respondents shared that it would not be feasible for lawyers to maintain a register logging each day's activities. But most of the respondents suggested maintaining records related to progress in case, actual time spent and services rendered. A similar record can also be shared with the concerned DLSA/ LSA to keep them abreast of the updates. Both DLSA, SLSA and Mr. Wasim suggested use of software for the maintenance of records.

g) What should be the reporting structure (to whom, mode, frequency)?

Paralegals: 11 respondents recommended that Secretary/ Chairperson/ Officer/ Supervisor of DLSA/Legal Services Authority should be reported on a monthly/weekly basis, while Gujarat SLSA suggested reporting to concerned officer of the police station. Another respondent suggested daily reporting (Ms. Surya).

Lawyers: 11 respondents recommended that Secretary/ Chairperson/ Officer/ Supervisor of DLSA/LSA should be reported on a monthly/weekly/fortnightly basis, while Gujarat SLSA suggested reporting to concerned officer of the police station. Another respondent recommended reporting to local agency (Ms. Vedalankar).

h) What role technology can play in strengthening reporting?

All the respondents welcomed the introduction of technology at both the ends and recommendations for both paralegals and lawyers were the same. They include - monitoring progress, documentation, data base, attendance, computerisation and reports. Responding to the use of technology, respondents suggested taking pictures/videos and audio recording to help the person in custody (Sikkim SLSA, Ms. Shantha and Dr. Karnam). They pointed out the benefit of connectivity due to introduction of technology (Mr. Mimroth and Mr. Saxena). One of the respondents raised a practical concern regarding the availability of funds and institutional will to complete the process of digitisation (Ms. Vedalankar).

Other observations:

Dr. Suman raised concern over difficulties faced by the PLVs and lawyers as they are often overburdened and underpaid. BLAST raised the need of a proper monitoring authority. Delhi SLSA maintained that it is not feasible to appoint PLVs and therefore abstained to respond to issues related to PLVs. Ms. Vedalankar shared that the work where liberty of a person is involved should not be handled by PLVs.

V. Safeguards Required to Ensure Access to Legal Aid at Police Station

a) ‘Arrangements’/Nexus between the police and lawyers/ paralegals: Accepting that such arrangements are in existence, 4 respondents suggested that legal aid lawyers should be appointed on rotational basis. (Delhi and Sikkim SLSA, Academician’s Dr. Satish and Dr. Krishnaswamy). 2 other respondents suggested random visits by lawyers/volunteers to the police station (Ms. Shantha and Dr. Karnam). Other suggestions include - monitoring by Secretary, DLSA and Chairman, TLSC (Gujarat SLSA), provision of a list of PLV’s and Panel lawyers so that they may be contacted (Maharashtra SLSA), regular interaction between legal aid lawyer and PLV at the police station (Goa SLSA).

Training the PLVs is vital for which interaction between the PLV and NGOs be encouraged (Dr. Raghavan), establishing a watchdog committee to monitor activities (Mr. Mimroth), sensitisation of the police through workshops for each stakeholder (Mr. Wasim), defining protocols of work for each stakeholder be identified (Ms. Vedalankar), frequent monitoring (BLAST) were also among some other suggestions received. One of the respondents recommended that PLVs should act as intermediaries and lawyers should not approach the police station directly (Mr. Saxena).

- b) **Resistance by police:** Most of the respondents relied on approaching a higher authority to utilise the complaint mechanism/ reporting mechanism rather than taking preventive steps in the form creating awareness regarding the rights of the accused. Two respondents suggested that steps be taken to sensitise the police about the rights of the accused and made to realise the benefits of the clinics (Delhi SLSA and Dr. Satish). Other suggestions that came were - reporting to higher authorities which included - Chairperson and Secretary, DLSA (Gujarat SLSA), District Superintendent should instruct the police to cooperate with the PLVs and lawyers (Maharashtra SLSA); forming an independent platform to hear such complaints (Goa SLSA); report to DLSA and Magistrate through the PLVs/Lawyers (Ms. Shantha); watchdog committee instituted to enforce S.C.'s recommendations in *D.K. Basu's* case (Mr. Mimroth); inter-departmental meeting/ complaint mechanism between DLSA and police chief to discuss relevant issues (Dr. Raghavan and Mr. Wasim), higher authorities (BLAST), police determining protocol on everyone's role (Ms. Vedalankar), notified to judiciary (Dr. Karnam), coordination at higher level (Dr. Krishnaswamy) and approaching Home and Law department (Mr. Saxena).
- c) **Difficulty in ensuring timely presence of a lawyer:** Respondents note that timely presence of a lawyer in the Court is vital and may at times not be possible. To counter such circumstances, they propose a string of suggestions. They include adopting technology - electronic monitoring of presence (Gujarat SLSA), maintaining electronic logs/ entries by lawyers (Dr. Satish), ensuring availability over phone (Goa SLSA); maintenance of rosters and additional lawyers for emergencies (Delhi SLSA), creating incentives for their timely presence (Sikkim SLSA, Dr. Krishnaswamy and Mr. Mimroth), making PLVs and lawyers available at police stations by regular visits (Maharashtra SLSA, BLAST, Ms. Vedalankar, Dr. Krishnaswamy), liaisoning with the DLSA (Dr. Raghavan), ensuring that the PCR reaches out to the concerned LSA upon need (Mr. Singh). Furthermore, in cases of failing to promptly reaching out to the accused, termination would be effectuated after a reasonable number of warnings issued. (Mr. Wasim and Mr. Saxena).
- d) **Intentional delay in bringing the person to the police station:** Intentional delay in bringing the person to the police station should not be tolerated and the respondents have suggested a range of resulting actions which should be resorted to. The actions may include - magistrate to be notified and prayed for to take requisite action (Goa SLSA, Dr. Raghavan, Ms. Vedalankar and BLAST), PLVs to be heard by the Magistrate at the time of production (Dr. Karnam), relatives to approach the concerned DLSA (Delhi SLSA), ascertaining specific time of production (Sikkim SLSA), panel lawyers to bring to the relevant authorities notice (Gujarat SLSA), sensitising police regarding the consequences (Maharashtra SLSA), reporting to the Superintendent of Police and approaching the grievance redressal committee, if in existence (Mr. Saxena), inquiry followed up with the relevant action (Mr. Singh), affixing individual responsibility of the officers (Dr. Krishnaswamy) and even approaching the Home and Law department for issuance of relevant orders (Mr. Wasim). Ms. Shantha emphasised on the importance and need of proper Documentation, while Dr. Satish advised on strengthening the monitoring system to counter such barriers.
- e) **Lack of publicly visible information in the police station on rights of person in police custody:** This was an issue accepted by all respondents. To redress they suggested creating a handout listing out the rights of the accused, that can be either placed in public spaces or distributed to suspects and accused persons (Goa SLSA, Maharashtra and Sikkim SLSA, BLAST, Dr. Raghavan, Mr. Mimroth). Towards creating awareness on the rights of the accused, campaigns and publicity be

undertaken with the help of PLVs. (Ms. Shantha and Dr. Karnam). Some of the respondents hinted at requesting higher authorities like Secretary, DLSA and Superintendent of Police to issue instructions (Mr. Saxena, Gujarat and Delhi SLSA, Mr. Wasim). While highlighting the need to publicise the rights of the accused, the real challenge of law that is enforcing these rights must not be forgotten was rightfully noted by one respondent. (Dr. Satish).

- f) **Lackadaisical attitude of the lawyers:** The respondents recommended taking both corrective as well as punitive steps. Some recommended action by bar and initiating disciplinary action (Sikkim SLSA and Maharashtra SLSA), termination and blacklisting (Mr. Wasim, Dr. Krishnaswamy and Mr. Saxena). Others suggested proper sensitising and training of lawyers (Dr. Satish, Dr. Raghavan, Delhi and Goa SLSA), some emphasised on the need for a strict procedure of selection to the panel (Ms. Shantha and Dr. Karnam). Two of the respondents stressed upon the need for regular review of the performance of the lawyers (Ms. Shantha and Mr. Singh). Further, there was a suggestion regarding hiking the remuneration of lawyers (Maharashtra SLSA and Dr. Satish). Lastly, a suggestion pointed towards collection of data so as to increase the competition amongst the lawyers in the fraternity.
- g) **Political interference:** The respondents were aware of factors like political interference in play and thereby obstructing the work of the stakeholders. To curb such forces, they suggest - reporting to Chairman DLSA and higher authorities (Gujarat and Maharashtra SLSA), seeking mandatory monthly inspection by DLSA and Magistrate (BLAST), forming an independent mechanism and/or watchdog committee utilised to report to relevant authorities (Goa SLSA and Ms. Shantha).

Delhi SLSA advised that a mechanism with check and balances can be developed but it would still not be foolproof and it would continue to be difficult to prevent it. Most of the respondents agreed that none of the measures can probably stop this interference without the moral courage of the PLVs, lawyers and police officers.

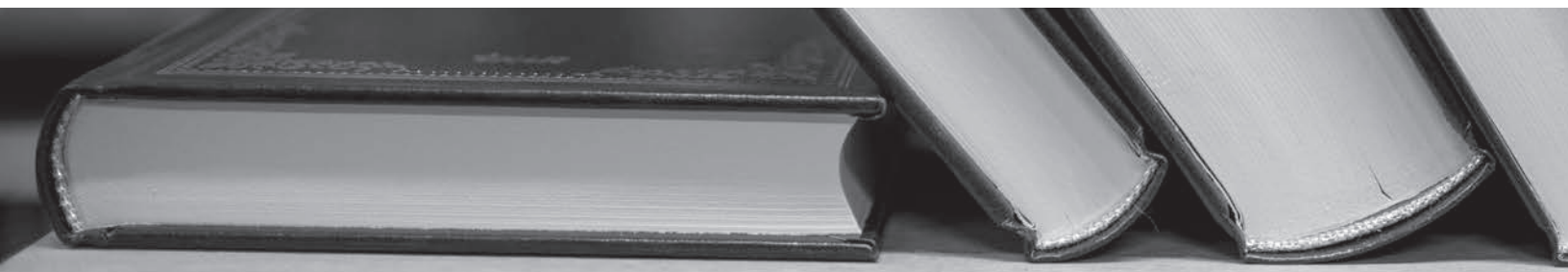
- h) **Other obstacles and the safeguards:** BLAST raised a concern that police officers are often reluctant to get legal aid for the accused. Gujarat SLSA hoped for more vigilant lawyers to come forward but not to interfere with investigation. Maharashtra SLSA stressed on the importance of sensitising all stakeholders engaged in the process.

i) **Monitoring Committees for Legal Aid at the Police Station**

It was suggested to establish a monitoring committee for the legal aid clinic at police station within every district consisting of Secretary, DLSA Senior Lawyer, Judge, Senior Police Officer, Social Activist, Local NGOs, Chief Public Defender and academician. They should monitor every case utilizing technological tools (software) and frequent field visit accompanied with regular reporting. With respect to the visits being made by the Monitoring Committee, recommendations ranged from regular (Dr. Satish), weekly (Goa SLSA and Mr. Ajit), fortnightly (Dr. Karnam and Dr. Krishnaswamy), monthly (Dadra & Nagar Haveli SLSA and Maharashtra SLSA) and even surprise visits (Delhi SLSA). Mr. Saxena was of the opinion that only one committee can perform all the above mentioned functions. The committee should contain Secretary DLSA, Chief Public Defender etc. which should make yearly visits to the police stations. It should have the power to terminate. Ms. Vedalankar was of the opinion that these are local issue which require local solutions and Dr. Krishnaswamy stressed upon internal accountability to be paramount.

VI. Other Suggestions and Recommendations

- a) **Grievance Redressal:** Regarding the set-up of the grievance redressal mechanism, most of the respondents agreed. Some recommended application to be tendered to the Monitoring Committee or only to the Secretary, concerned DLSA. Another suggested it should have representation from all three institutional models. It should have the powers to entertain complaints regarding the services rendered by the legal aid lawyers, and removal of inefficient lawyers from the panel available at the police station.
- b) **Sensitisation of Police:** Sensitising of police (Delhi SLSA and Dadra & Nagar Haveli SLSA, BLAST) was extremely necessary. Police officers should be made aware of all the provisions and laws related to the legal aid process. It was also recommended that accountability of the police department should be fixed and every last officer must be included in the sensitizing process.
- c) **Interference with Investigation:** Concern was raised vis-à-vis interference with investigation (Gujarat SLSA) and recommended that both the processes must be kept separate.
- d) **Helpline & Publicity:** The legal aid lawyers should be accessible over the phone and a helpline must be publicised (Delhi SLSA). Display boards in Police Stations must be utilised to display details like report on prisoners and availability of legal aid in the lockup (Maharashtra SLSA).
- e) **Role of Judges:** Dr. Suman recommended constructive role of Judges. She also suggested that the LSA should focus more on their programs rather than publicising them.
- f) **Preparation of defence:** Dr. Murali recommended that the accused/suspect should be given more time to prepare for legal defence before the arrest is made in cases where the person is not suspected of fleeing from law.
- g) **Importance of data:** Dr. Krishnaswamy recommended proper and timely collection of data from legal aid lawyers through data entry and remuneration to the legal aid lawyers to be given on the basis of the data via direct electronic fund transfer. He also recommended that a fixed chart with fee schedules and rates for providing remuneration to the legal aid lawyers based on their services should be prepared. For both the recommendations he cited the PLDA model by New Zealand.¹⁹
- h) **Further research:** Mr. Saxena recommended that an appropriate committee should be formed to study the proposed framework of public defenders and suggest outlines to develop rules to operate the system.
- i) **Caution on finances:** Ms. Vedalankar put forth the financial sustainability of any option before being selected for it to be implemented be studied.



¹⁹ Data collection and remuneration: <http://www.justice.govt.nz/services/service-providers/information-for-legal-professionals/information-for-police-detention-legal-assistance-providers#submitting-invoices>; Elaborate fee structure: <http://www.justice.govt.nz/services/service-providers/information-for-legal-professionals/information-for-legal-aid-providers/provider-rates-fixed-fees-and-special-rates-1/criminal-fee-rates>.

CHRI PROGRAMMES

CHRI believes that the Commonwealth and its member countries must be held to high standards and functional mechanisms for accountability and participation. This is essential if human rights, genuine democracy and development are to become a reality in people's lives. CHRI furthers this belief through strategic initiatives and advocacy on human rights, access to justice and access to information. It does so through research, publications, workshops, information dissemination and advocacy. It has three principal programmes:

1. Access to Justice

Police Reforms: In too many countries the police are seen as an oppressive instrument of state rather than as protectors of citizens' rights, leading to widespread rights violations and denial of justice. CHRI promotes systemic reform so that the police act as upholders of the rule of law rather than as instruments of the current regime. In India, CHRI's programme aims at mobilising public support for police reform. In South Asia, CHRI works to strengthen civil society engagement on police reforms. In East Africa and Ghana, CHRI is examining police accountability issues and political interference.

Prison Reforms: CHRI's work is focused on increasing transparency of a traditionally closed system and exposing malpractices. A major area is focused on highlighting failures of the legal system that result in terrible overcrowding and unconscionably long pre-trial detention and prison overstay, and engaging in interventions to ease this. Another area of concentration is aimed at reviving the prison oversight systems that have completely failed. We believe that attention to these areas will bring improvements to the administration of prisons as well as have a knock-on effect on the administration of justice overall.

2. Access to Information

CHRI is acknowledged as one of the main organisations working to promote Access to Information across the Commonwealth. It encourages countries to pass and implement effective Right to Information laws. It routinely assists in the development of legislation and has been particularly successful in promoting Right to Information laws and practices in India, Sri Lanka, Afghanistan, Bangladesh and Ghana. In the latter CHRI is the Secretariat for the RTI civil society coalition. CHRI regularly critiques new legislation and intervenes to bring best practices into governments and civil society knowledge both at a time when laws are being drafted and when they are first being implemented. Its experience of working in hostile environments as well as culturally varied jurisdictions allows CHRI to bring valuable insights into countries seeking to evolve and implement new laws on right to information. In Ghana, for instance it has been promoting knowledge about the value of Access to Information which is guaranteed by law while at the same time pushing for introduction of an effective and progressive law.

3. International Advocacy and Programming

CHRI monitors commonwealth member states' compliance with human rights obligations and advocates around human rights exigencies where such obligations are breached. CHRI strategically engages with regional and international bodies including the Commonwealth Ministerial Action Group, the UN and the African Commission for Human and People's Rights. Ongoing strategic initiatives include: advocating for and monitoring the Commonwealth's reform; reviewing Commonwealth countries' human rights promises at the UN Human Rights Council, the Universal Periodic Review; advocating for the protection of human rights defenders and civil society space; and monitoring the performance of National Human Rights Institutions in the Commonwealth while advocating for their strengthening.

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