

Recommendations on Rules

- 1. Due diligence to be observed by the investigation agency —**
 - a. Summons under Section 160 of the CrPC should contain details of the subject of enquiry and the relevance of the person being summoned to the subject of enquiry
 - b. A minimum of 48 hours prior notice must be given to the person being summoned in writing via courier and a receipt be maintained
 - c. The investigation should be conducted at an FIA office in the city of residence of the person being summoned. If there is no FIA office in the city/district, the designated officer should travel for purposes of investigation (especially when the person who is the subject of an inquiry is a minor, a woman or transgender) instead of requiring the person being summoned to incur costs and travel out of city for investigation

- 2. Qualifications and trainings of the officers, staff and prosecutors of the investigation agency—**
 - a. All staff should undergo technical and legal training
 - b. Instead of relying on ordinary/non-specialist state prosecutors, there should be specially trained prosecutors who have specialist training in laws relating to electronic evidence, assigned to the investigation agency. The agency should also have in-house lawyers who can diligently advise on legal matters.
 - c. A record of performance of all staff on a case-to-case basis should be maintained for accountability and oversight purposes.
 - d. Departmental proceedings should be initiated for poor attendance record
 - e. Departmental proceedings be initiated for negligence in maintaining police/judicial file records and records of evidence
 - f. Departmental proceedings be initiated against officers, prosecutors in cases where court notices are issued to officers for lack of professionalism, breach of conduct etc.

- 3. Standard operating procedures of the investigation agency—**
 - a. On receipt of a complaint, if the competent authority decides not to initiate an inquiry or register a case, it shall record reasons and provide those in writing to the complainant
 - b. The registration of a case and subsequent arrest shall be reported to the Head of the Department within twenty-four hours
 - c. Before submitting the investigation report to the court, a senior officer with requisite legal knowledge shall review and ensure the alleged crime fits the description of the offence/sections included in the FIR and challan

- 4. Standard operating procedures of forensic laboratory to interact with the investigation agency—**
 - a. Forensic lab should have standard operating procedures including the timeline to be adopted for analysis of digital evidence
 - b. Forensic lab to follow the standards of protection of case property as listed in clause 8
 - c. Forensic lab on receipt of case property for testing should give i) a receipt to the items received in a case ii) an undertaking to maintain integrity and confidentiality
 - d. The case property must be returned to the investigation agency within the time period of seven days starting from the day of receipt of the case property

- e. The forensic report must be released to the investigation agency within the period of seven days of the receipt of case property starting from the day of receipt

5. Mode and manner in which record of investigation under this Act may be maintained—

- a. All material submitted by complainants must be listed, confidentiality of it maintained and the officer dealing with the case or receiving such material shall give i) acknowledgement of receiving the complainant with an itemized list of materials submitted ii) an undertaking to maintain confidentiality
- b. All documentation for complaints, investigation and cases must be maintained electronically and as hard copies. They must contain name, signatures and designation of the authorised officer. Complaints may also be lodged electronically through the centralized system
- c. Case files: Electronic, duplicate copies of police/judicial files have to be maintained
- d. Case management system:
 - i. A case management system to be maintained and made available online on the FIA website that tracks the number of complaints entered into the system and tracks the progress of cases once complaints are converted into FIRs
 - ii. A public listing (per city) should be made available on the website that provides information for example on number of complaints converted into FIRs, cases pending, stage the cases are at (FIR, investigation, court), cases resolved as well as details of cases (while protecting the privacy of complainants.
 - iii. Complainants should have access to a portal through a receipt number issued to them for their case for detailed information on it (maintaining the standards of confidentiality clause)

6. Manner to deal with the seized data, information system, device or other articles in case property

- a. When an item is seized, to be entered into ‘case property’ it must be suitably protected to prevent from damage and a chain of custody be maintained
- b. All devices and materials seized as ‘case property’ must contain signatures of the authorised officer
- c. Every item of property, including forensic exhibits must have an exhibit label attached to it
- d. All items of the ‘case property’ must be listed; their integrity and confidentiality maintained and the officer dealing with the case or receiving such material should give i) an itemized list and copy of seizure memo to the complainant and the accused ii) an undertaking that confidentiality and integrity will be maintained

7. SOPs for Courts

- a. The court must only issue notices to witnesses when the case is at the stage where they are required in person for recording of statement, examination-in-chief and cross-examination. The practice of issuing notices for every hearing even when they are not required or there may not be any proceeding, must stop. Further, proper procedure must be followed in issuing the notices. Cancellation of proceeding must be conveyed to the complainants and witnesses in advance.
- b. **Trainings of the judges:** Technical and legal training of judges is required