

RAPID ASSESSMENT STUDY (SUMMARY)

ACCESS TO JUSTICE FOR RAPE SURVIVORS

Taking note of the pervasiveness of Violence against Women (VAW), coupled with insensitive and prolonged investigations & trials, which only furthers the trauma faced by a sexual violence survivor; the Lawyers Collective Women's Rights Initiative conducted a needs assessment study in a bid to highlight the need for a coordinated and holistic emergency response to the survivor's needs.

After the commission of sexual violence, the survivor is required to visit different agencies being the hospital, police station, Child Welfare Committee (in the case of a minor) and the court at different stages of the law enforcement/judicial process, Delhi Commission of Women and District Legal Services Authority for seeking redressal. Further, the survivor has to interact with various functionaries, being counselors at the Rape Crisis Intervention Centers and District Legal Services Authority, lawyers at Rape Crisis Cells, Police and Public Prosecutor. Due to lack of coordination among these agencies, the survivor often has to face unconscionable delays as well as repeat the facts of her case several times, which lead to re-victimization. This results in the survivor opting out of the system. The needs assessment study analyses the weaknesses in the process and proposes solutions. It also emphasizes the need to streamline the process and articulate roles and responsibilities for each stakeholder so as to simplify the process for female rape survivors and prevent duplication of effort.

BRIEF METHODOLOGY

A desk review of literature on the system existing in Delhi to facilitate access to justice for rape survivors was conducted. Based on the literature review, interviews were conducted with each of the identified stakeholders, being a) police, b) public prosecutors, c) Delhi Legal Services Authority, d) Delhi Commission for Women members.

FINDINGS & RECCOMENDATIONS

I. POLICE

Police are one of the most critical stakeholders as they have a crucial role to play at every stage, beginning from registration of FIR, investigation, till the conclusion of trial.

1. Need for additional Women Investigation Officers (IO's): At present, there is one lady IO allocated to 2/3 police stations, who conducts investigation in cases of crimes against women and children. There is a need to ensure that there are adequate number of women IO's so that, the same IO can be present with the survivor, through the entire process of investigation. This will also ensure that medical procedures are conducted as per law.
2. Need to reduce chain of narration by victim in police station: Repeated narration of facts of the incident leads to re-victimization of the survivor & increases the possibility of contradiction by the survivor, which weakens her case. Thus, it needs to be ensured that the survivor is not repeatedly asked to state the specifics of the case. It is recommended that the survivor be required to provide particulars of the crime only to the lady IO.
3. Police in plain clothes: To protect the privacy and identity of the victim as well as to reduce the stigma she feels, it is strongly recommended that police officers when dealing with rape survivors should always be clothed in plain attire.
4. Character probe by IO not allowed: Aspersions on the victim's character is one of the prime reasons for women not reporting the crime. The IO's queries must therefore be restricted to the facts of the case.
5. Media briefing: It is essential that only the officers who have been given the mandate of briefing the media talk to them, since facts which are not supposed to be in public domain, are often leaked, thus hampering the investigation.
6. Evidence Collection and Preservation: In cases of rape, collection of evidence is the most important part of the investigation. The chain of custody of evidence needs to be clearly established as any lacunae can lead to critical evidence becoming inadmissible in a court of law. Thus, the responsibility for

collection of evidence and recording chain of custody should be clearly designated and fulfilled.

7. Supervision of Investigation: As per the Standing Order 303/2010, it is essential that the Assistant Commissioner of Police personally supervise all investigation of the offence. There is a need to ensure accountability to both the superiors as well the survivor. For this, supervision of the victim is essential.
8. Assistance of a psychiatrist- As per Standing Order 303/2010, if the IO feels the necessity, she should take the assistance of the psychiatrist to help her in understanding the facts of the case.
9. Video Recording of statement : This becomes particularly relevant in cases of debilitating injuries received by the victim, preventing her from appearing for the examination-in-chief and cross examination. The video recorded statement can then be used in lieu of the examination-in-chief as per Section 164(5A)(b), CrPC. In addition, it becomes important evidence in these case.
10. Police Report should be filed within 90 days – As per Section 167(2)(a)(i) of Code of Criminal Procedure, 1973, police report needs to be filed in the court within the limitation period i.e 90 days after the arrest of the accused. This needs to be adhered to.
11. Police should have a list of referrals- Survivors need various services such as shelter, monetary relief, food, clothing among others. Thus, each functionary, being the police, the CIC counselors and the RCC lawyers, should have a list of referrals of hospitals, public and private, shelter homes, list of NGOs so that they can speedily direct the survivor to the relevant service delivery mechanism.

II. RAPE CRISIS INTERVENTION CENTERS

1. Qualifications of Counselors to be adhered to –As per the Delhi Commission of Women's Request for Proposal for Crisis Intervention Centers, floated in June,

2013¹, the qualifications for the counselors is specified as MSW/BSW (2-3 years experience) or Graduates with experience of 8-10 years in the relevant field. It is recommended that these qualification requirements be adhered to and that the CICs be supported by the DCW to ensure the same.

2. Counselors' role in coordination with police and medical agencies- It is essential that the Counselors reach the police station where the victim is lodging her complaint; and thereafter accompany the survivor to the hospital. This creates a support system for the survivor as well as ensures that every process is being conducted in a lawful manner.

3. Strong rehabilitation system- It is recommended that there should be a strong referral system created, where the CICs are able to coordinate with other NGOs/CICs to ensure that the survivor is able to access any support services she needs.

4. Witness in Court- As per the Standing Order 303/2000, counselors of Crisis Intervention Centres shall not ordinarily be cited as witnesses in the case unless they have agreed to become one for the purposes of special cases, as the counselor's report has all the details they want to convey and further, their evidence will be considered hearsay.

5. Awareness Generation about CICs Role- It is recommended that the role of CICs be advertised. This will increase reporting by survivors as it ensures them of support structures available on reporting the crime.

III. RAPE CRISIS CELL LAWYERS –

Of the panel of six lawyers operating as the Rape Crisis Cell Delhi, two lawyers and the head of the RCC were interviewed. Below the findings and recommendations are stated:-

1. Legal assistance to the survivor at the police station: The role of the RCC Lawyers at the police station, includes helping the victim lodge a complaint with the police, provide free legal assistance to victims of sexual assault from the time the complaint

¹ Hereinafter referred to as RFP, June 2013

is lodged in the police station, and help in registering FIR of the sexual assault. Thus, it is recommended that the Rape Crisis Cell Lawyers should visit the police station as soon as they are intimated about the case.

2. Appointment of additional lawyers with the Rape Crisis Cell- It is recommended that full time lawyers be appointed in Rape Crisis Cell as it will lessen the workload of the existing team of lawyers and will enable them to spend quality time on each case.

3. Need to prepare survivor to face court processes- It is recommended that mechanisms and processes need to be created whereby the RCC lawyers are able to access the case files as well as meet the victims before the case hearing to prepare the survivors to face court processes.

4. Allocation of a room in the court premises- A room should be allocated in the court premises where the RCC Lawyer can interact with the survivor and prepare her for her evidence on the date of the hearing or a day prior to it.

IV. **DELHI LEGAL SERVICES AUTHORITY-** The head of the Delhi Legal Services Authority was interviewed regarding the method of providing compensation among other services provided.

1. Counseling services provided by DLSA and RCIC- Directing both the DLSA and the RCIC Counselor, to provide counseling to the survivor has created multiplicity of forums. It is recommended that the process should be streamlined and every agency's role clarified to ensure that there is no duplication of effort.
2. Reducing Delays in Acquiring Compensation: It is recommended that the inquiry and the disbursement of compensation should be done expeditiously and a time period should be specified for the same, to ensure that the survivor is able to meet her needs.
3. Rehabilitation of the survivor require further attention: It is recommended that the maximum amount sanctioned for rehabilitation should be determined on a case-to-case basis depending on the needs of the survivor, instead of being fixed at a certain amount. Often the survivor needs to arrange another accommodation or job etc. as a

result of the offence. In such cases, the amount stated in the scheme may not be adequate.

V. **PUBLIC PROSECUTORS** – Lawyers Collective interviewed two public prosecutors located at the Saket District Court. Based on their interview as well as inputs from RCC lawyers, the following observations have been made:

1. Need for Appointment of Special Public Prosecutors- It is recommended that Special Public Prosecutors for Rape cases be appointed to ensure that these cases are handled with the sensitivity that is needed.
2. Monthly meetings of the Public Prosecutors with the Investigating Officers- There is disconnect between investigation and prosecution, which needs to be bridged. Therefore, it is recommended that monthly meetings be held to ensure periodic monitoring of cases as well as facilitate communication between the IO and the Public Prosecutor.
3. Refreshing the memory of the survivor before her evidence: There is a delay of months and even years before the case goes to trial. In the interim, the survivor has often forgotten the minor details of the case. To enable the survivor to refresh her memory, it is recommended that there should be a mechanism allowing her meet the public prosecutor/RCC Lawyer a day before the evidence.

VI. **DOCTORS** – The needs assessment regarding doctors has been based on the interviews with the CICs and the police.

1. Infrastructure- it is recommended that a separate room be provided where the survivors can be comfortable while waiting for the doctor.

2. Medical Examination- There is need to train the doctors to conduct medical examination as well as provide them with gender sensitivity training so that they are able to handle the case efficiently.
3. Medical Examination by Lady Doctors: Appointing lady doctors to examine the survivor will make the survivor comfortable in narrating the details of the incident which will enable her to disclose the facts in greater detail and accuracy which helps the case.
4. Medical treatment: As per section 357C of the Criminal Law (Amendment) Act, 2013², both public and private hospitals are mandated to provide first aid and medical treatment to a rape survivor free of cost. It is recommended that hospitals be informed about their responsibilities as per law and the law be enforced.
5. Medical Report: A copy of the medical report should be provided to the victim as the victim has the right to be aware of the findings of the medical examination.
6. Priority: There is need to ensure that these cases are given utmost priority and attended to without any delay. In case no doctor is available in the hospital to conduct the examination, the survivor should immediately be taken to another hospital with adequate facilities where doctors are available

RECOMMENDATIONS FOR ALL STAKEHOLDERS

1. Practice directions should be drafted for each stakeholder- While there are practice directions laid out for police, guidelines should be issued for the other stakeholders, being the RCIC Counselor, RCC Lawyers, Public Prosecutor and Doctors to assist them in carrying out their functions.

² Section 357C - Treatment of Victims : All hospitals, public or private, whether run by the Central Government, the State Government, local bodies or any other person, shall immediately, provide the first-aid or medical treatment, free of cost, to the victims of any offence covered under section 326A, 376, 376A, 376B, 376C, 376D or section 376E of the Indian Penal Code, and shall immediately inform the police of such incident.

2. Training- As per Standing Order 303/2010, periodic training needs to be given to the Police Officers, Juvenile Police Officers, Welfare Officers, Probationary Officers and support persons such as CIC Counselors.
3. Coordination between functionaries-It is recommended that coordination mechanisms be developed to enhance collaboration and communication among all the functionaries, being the Police, the CIC Counselor, RCC lawyers, Public Prosecutor and the Doctor.
4. Monitoring and Accountability-Quarterly meetings are required to be held by Delhi Commission for Women to review the functioning of Rape Crisis Intervention Centre wherein the district DCsP, ACsP/CAW Cell, CIC Counselors and Public Prosecutors are required to be present. These should be conducted to ensure monitoring and accountability.
5. Need for Collaboration with 181 Helpline-Collaborating with the Helpline will help police and every other agency such as shelter homes, DLSA, DCW lawyers, NGOs immediately attend to a victim who needs help. Thus such collaboration mechanisms should be set up.