DELHI POLICE

CIRCULAR ORDER No. 03 /2023

ROLES AND RESPONSIBILITIES OF LEGAL CONSULTANTS IN ASSISTING POLICE OFFICERS IN INVESTIGATION.

1 OBJECTIVE

Criminal Procedure Code empowers the Officer-in-charge or Station House Officer (SHO) and Investigating Officers (IO) with all legal powers as far as investigation of a case is concerned. The Circular Order related to Legal Consultants (LCs) in no way undermines and encroach upon the overall autonomy of the investigating officers in day-to-day policing. The basic objective of the Circular Order is to identify critical areas of investigation and other aspects of policing in which the field formations may seek advice and guidance from the legal consultants. In other words, the Legal Consultants are required only to advice the police officers in investigation till the drafting of final report of cases and the ultimate responsibility and accountability mandatorily rests with the police officers, as per the provisions laid down in the Criminal Procedure Code and other relevant statutes. They may also be asked to advice at the pre-registration stage i.e. during the enquiry of a complaint disclosing commission of an offence

Following broad roles & responsibilities will govern the overall functioning of legal consultants in day to day policing.

2. SCOPE OF WORK

Broadly, the scope of work of such Advocates/Legal Consultants on panel of Delhi Police would be as under:-

1. Render legal advice to the Investigating Officers (IOs) and the supervisory officers during all the stages of investigation as and when sought i.e. from the pre registration stage of the case i.e. First Information Report (FIR) to the filing of the charge sheet/Final Reports.
2. Assist in drafting legal documents such as status reports, reply to bail application, reply to interlocutory orders as well as to provide legal advice in the matters concerning lower courts, High Court(s) & Hon'ble Supreme Court.
3. Assist the IOs in drafting queries/docket for seeking opinion from experts i.e. Doctors, Autopsy Surgeon, Forensic Science Laboratories (CFSL & FSLs), Cyber Labs etc.
4. Discuss and share case laws, prominent judgments of the Hon'ble High Court and the Supreme Court.

5. Assist the IOs in interpreting the laws, statutory rules and regulations and amendments thereof.
6. Advise and assist the IOs in preparation of the Final Reports to take the investigation to its logical end and also to ensure convictions.
7. Render legal advice and preparation of replies in the matter of complaints and other references as well as in the matter of complaints or applications or petitions u/s 200 Cr.PC and orders u/s 156 (3) Cr.PC.
8. Provide legal advice and assist IOs in preparing draft replies in the matter of legal notices received u/s 80 CPC, 197 Cr.PC, 140 DP Act, etc.
9. Assist the IOs in preparation of replies to notices received from various Commissions and other statutory authorities.
10. Attend the meetings whenever called by the Police Headquarters and DCsP of the Districts or Units.
11. Assist IOs in the following category of cases which require interpretation of law:-

    (a) Offences against the State;
    (b) Offences affecting the human body;
    (c) Offences against property;
    (d) Offences relating to documents and properties;
    (e) POCSO cases & Offences against women & children;
    (f) Cyber Crime Cases;
    (g) Cheating & Forgery Cases;
    (h) NSA cases;
    (i) NDPS Act cases;
    (j) MCOCA cases;
    (k) JJ Act;
    (l) UAP Act cases;
    (m) PITNDPS Act cases;
    (n) Passport Act cases; and
    (o) Any other case(s) referred by concerned DCP/Districts & Units.
12. Any other reference as per the requirements of Delhi Police.

3. PROCEDURE FOR SEEKING LEGAL OPINION

The Legal Opinion or advice sought shall not be binding on the investigating officers or his supervisory officers. In ordinary course, the legal opinion may not be considered for taking a decision regarding registration of an FIR or for reaching to a decision whether an arrest of a person in a case is made out or not.

i. All requests seeking legal opinion shall be processed through 'Single File' system.
ii. Before forwarding the request of I.O., the SHO shall ensure that the matter involves substantial question of law.
iii. The request seeking approval of the competent authority shall be routed through the ACP of the Sub-Division or the Unit (DIU, CAW Cell, MACT, Ops. etc.) **DCP of the District or Unit shall be the competent authority to approve the matter seeking legal advice.**
iv. DCsP/Districts & Units shall be the Nodal officer for their respective District and Unit and will ensure that approval is accorded expeditiously

so that precious time is not lost in the administrative approvals. Legal Cell functioning in Districts and Units shall ensure the proper monitoring of allocation of cases and issues concerning Legal Consultants.

v. The matter shall be forwarded to the concerned Legal Consultant attached with the police station or Investigating Unit only after obtaining approval.

vi. In case the concerned Legal Consultant is not available for any reason or is out of station, the matter shall be referred to another Legal Consultant, assigned by the DCP of the District or Unit.

vii. The opinion or advice rendered by the Legal Consultants must be brought to the notice of supervisory officers, who shall decide on further course of action in the matter.

viii. A record of all files, in which legal opinions are being sought, shall be maintained by the Legal Cells of concerned District or Unit as per following proforma.

Sl. No.	FIR (u/s, PS) Complaint No., CC No., CWP No. etc.	Issues for which legal opinion or advice sought	Name of the Legal Consultant	Gist of the advice provided	Remarks
1.					

Further, DCsP/District & Units shall also ensure that a report shall be sent to Legal Division/PHQ on the following format on a monthly basis for perusal of Sr. Officers: -

District/Unit	Sub-Division	Total No. of Cases assigned to LCs		Total amount Disbursed to LCs	No. of meetings with LCs	
		No. of FIRs	Misc. matters		DCsP	ACsP

4. PREPRATION OF FINAL REPORTS.

(i) IO may seek advice and assistance from Legal Consultants in preparation of charge-sheets/final reports in respect of following offences:-

(a) Murder,
(b) Attempt to Murder,
(c) Culpable Homicide,
(d) Theft by dangerous weapon,
(e) Dacoity,
(f) Robbery,
(g) Rape & POCSO.

Further, in all other cases/offences carrying punishment of 7 years or more, IOs may seek advice and assistance of legal consultants in preparation of chargesheets or final reports with the prior approval of concerned DCP.

(ii) However, the present practice of getting Charge-sheets scrutinized/vetted by Ld. Public Prosecutors shall continue as usual.

(iii) The basic objective of seeking advice and assistance from legal consultants while preparing charge-sheets/final reports is to improve the quality of investigation & reduce short comings or objections raised by Ld. Public Prosecutors during scrutiny of Charge-sheets resulting in un-necessary delay in filing of charge-sheets in concerned courts.

5. REVIEW OF PERFORMANCE

The Legal Consultants shall be empanelled through Screening by a Board or Committee as constituted by the Commissioner of Police, Delhi for which separate guidelines are in place. The initial empanelment of LCs shall be for one year, further extendable by one year or as decided by the competent authority. If the services rendered by the empanelled Advocates are found to be un-satisfactory then a request should be moved by the concerned DCP citing specific reasons, duly recommended by the concerned Joint Commissioner of Police and Special Commissioner of Police to Legal Division, PHQ. The decision to continue or discontinue the services of such empanelled Advocates or LCs shall be taken by the competent authority.

6. GENERAL DIRECTIVES

i. DCsP are directed to apprise the field functionaries regarding optimum utilization of the empanelled Legal Consultants.

ii. Regular interaction of the Legal Consultants with the DCsP and ACsP be ensured, so as to derive their optimum utilization and thereby to raise the standard of investigation, which was the foremost ideology behind their empanelment. Such meetings will be held atleast once a fortnight with the ACsP. The DCP/Addl. DCsP-II shall hold monthly meetings with the Legal Consultants in first week of every month.

iii. DCsP shall ensure that empanelled Legal Consultants shall not professionally take a position where their interest conflicts with the interest of Delhi Police.

iv. In addition to the normal working days, if any legal consultant is required to attend the office on Saturday or Sunday and other holidays due to emergent situation, he/she shall not be paid any additional remuneration.

v. In the Sub Division of the Districts and Units DCsP will make adequate sitting arrangements for the Legal Consultants, where the IOs, SHOs and other officers could meet them and discuss the matters on mutually decided time and days.

7. FEE STRUCTURE.

The Fee structure for rendering the legal opinion has already been prescribed and the concerned District/Unit shall process the payment and make payments from their budget head "PSS". The prescribed Fee Structure is annexed at **'Annexure-A'.**

The Legal Consultant will raise and submit bills in the Legal Cell of concerned DCsP office. Legal Cell will get the bills verified from the SHOs/ACsP in a time bound manner and will process the bills and reimbursement shall be ensured in a time bound manner, without any delay.

The above directions should be brought to the notice of all ACsP/SHOs/Inspectors and IOs to ensure meticulous compliance.

SUPRESSION CLAUSE.

This Circular supersedes previous Circular No. 16/2022, issued vide No. 2101-2250/ Record Branch/PHQ, dated 23.06.2022.

This issues with the approval of Commissioner of Police, Delhi.

(Sanjay Singh)
Special Commissioner of Police,
Lic. & Legal Division, Delhi

No. 301 – 450 /Record Branch/PHQ, dated Delhi, 11/01/2023.

Copy for information and necessary action to:-

1. All Special Commissioners of Police, Delhi.
2. All Joint Commissioners of Police, Delhi including Director, Delhi Police Academy, Delhi.
3. All Addl. Commissioners of Police, including Principal Staff Officer to CP Delhi.
4. All Districts/Units DCsP including OSD to CP, DCsP/CP Secretariat, FRRO Delhi.
5. DCP/HQ(IV)/PHQ with the direction to upload the Standing Orders in Intra DP Net.
6. LA to CP & FA to CP, Delhi.
7. All SHOs and ACsP/Sub-Divisions, DIUs, Ops., and Inspectors and ACsP in Crime Branch, Railway Police, Metro Rail Police, IGI Airport, Special Cell, Caw Cell, vigilance, Delhi.
8. Reader to PS to CP, Delhi.
9. Record Branch, PHQ, Delhi.
10. Librarian, PHQ, Delhi.

Annexure – A

S. No.	Payment to Empanelled Advocates by Delhi Police	
	Description of work	**Fees**
1.	i. Vetting of chargesheet in Sessions cases involving sentence of life imprisonment or death including cases under NDPS, MCOCA, UAP Act, POCSO & Sexual Offences.	Rs. 12000/- per chargesheet to be paid in two stages. (i) Rs. 6,000/- on assignment of draft chargesheet . (ii) Rs. 6000/- on filing of final report.
	ii. Vetting of chargesheet in all other cases with punishment upto 7 years or more.	Rs. 10,000 per case payable in two stages, as under. (i) Rs. 5,000/- on assignment of draft chargesheet case. (ii) Rs. 5,000/- on filing of final report.
	Note:- (a) Payment of stage (ii) shall be made, if investigation is complete and no report u/s 173(8) Cr.PC is required to be filed. (b) If supplementary charge sheet required to be filed then payment will be divided into two equal parts. (c) Stage (ii) payment shall be made if Court does not order for further investigation, otherwise 50% at this stage and remaining 50% after acceptance of final report u/s 173(8) Cr.PC. In case the empanelled advocate is removed or returns the brief and fresh consultant is handed over the case, he/she shall be paid as per the stage of investigation/ in proportionate manner.	
2.	Bail Applications:- For assistance in drafting reply to each bail application including anticipatory bail application in any court including Hon'ble High Court and Supreme Court.	Rs. 1,000/-subject to maximum of three bail application per accused in an FIR.
3.	Legal Opinion in matter prior to registration of FIR, Legal opinion in an old existing FIR/freshly registered FIR, Legal advice in the matter of Legal notice received u/s 156(3) Cr.PC	Rs. 2,000/- per matter.
4.	Preparation of Status Reports to be filed in High Courts and Supreme Court.	Rs. 5,000/- per matter.
5.	Drafting replies in matters pertaining to u/s 80 CPC, 197 CrPC, Notices of various Commissions etc.	Rs. 2,000/- per matter.
6.	Any other Miscellaneous matter not falling in any of the above category i.e. Acquittal reports etc.	Rs. 2,000/- per matter.

OFFICE OF THE COMMISSIONER OF POLICE: DELHI

CORRIGENDUM

In partial modification to this office Circular No. 03/2023 titled **"Roles and Responsibilities of Legal Consultants in Assisting Police in Investigation"** issued vide No. 301-450/Record Branch/PHQ dated 11.01.23, the amendment to Point No. 7 i.e. Fee Structure – Annexure 'A' has been done with immediate effect.

The other contents of the said communication shall remain unchanged.

Encls :- As above.

11/10

(HAREESH H.P.)
DY. COMMISIONER OF POLICE
LEGAL DIVISION: PHQ: DELHI

No. 3401-3550 /Record Branch/PHQ, dated Delhi, 11/10 /2023.

Copy for information and necessary action to:-

1. All Special Commissioners of Police, Delhi.
2. All Joint Commissioners of Police, Delhi including Director, Delhi Police Academy, Delhi.
3. All Addl. Commissioners of Police, including Principal Staff Officer to CP Delhi.
4. All Districts/Units DCsP including OSD to CP, DCsP/CP Secretariat, FRRO Delhi.
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	ii. To advise and assist IOs in preparation of charge-sheet in all other cases with punishment upto 7 years or more. (with the prior approval of DCsP District/Unit concerned)	Rs. 10,000/- per charge-sheet
	Note:- (a) Payment shall be made if Court does not order for further investigation, otherwise 50% at initial stage and remaining 50% after acceptance of final report u/s 173(8) Cr.PC. (b) If supplementary charge sheet required to be filed then payment will be divided into equal parts. In case the empanelled advocate is removed or returns the brief and fresh consultant is handed over the case, he/she shall be paid in proportionate manner.	
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