

## STANDARD OPERATING PROCEDURES

### EFFECTIVE POLICE –PROSECUTOR CO-OPERATION IN THE PROVINCE OF PUNJAB



A joint project of Punjab Criminal Prosecution Service and Punjab Police in collaboration with Civilian Capacity Building for Law Enforcement in Pakistan. (CCBLE)

# **STANDARD OPERATING PROCEDURE FOR POLICE PROSECUTOR CO-OPERATION IN THE PROVINCE OF THE PUNJAB**

## **Introduction**

This Standard Operating Procedure (“the SOP”) is adopted by the Joint Committee (“the JC”) which is mandated to review Police-Prosecutor co-operation and identify areas for improvement. These include the development of procedures for the effective Prosecution of terrorism cases between police and prosecution.

This SOP sets out an effective mechanism of Police-Prosecutor relationship and identifies areas for improvement.

## **Background**

The JC was formally inaugurated on 6 June 2011 at a meeting held at the Royal Palm Golf & Country Club. Consent and authority to constitute the JC was given by way of Notification dated 26 May 2011 of the Home Department of the Government of the Punjab.

## **Principle**

The underlying theme adopted in this SOP is one of effectiveness through inter-dependence.

## **Co-operation**

The principle of full co-operation between police and prosecution is accepted and is strongly recommended. The “prosecution team” ethos which will emerge will lead to better quality criminal cases, fit for prosecution.

## **Language of Co-operation**

Senior police and prosecution officers must encourage a culture of co-operation amongst all ranks and all staff. Language of co-operation shall be used at all times. Confrontational language and behavior must be avoided.

## **Independence**

This SOP respects the current constitutional and statutory independence of each institution. The police are responsible for investigation whilst the prosecution service is responsible for prosecuting cases in court. This separation of the two functions vested in each institution should continue. The Prosecution has advisory role over the investigation process. The Prosecutor may issue guidelines for effective and efficient investigation in a specific case.

## **Inter-dependence**

The investigation and prosecution processes aim to achieve the same outcome – that of effective, efficient, fair and robust prosecutions to deliver justice for victims, witnesses and the public of Punjab. To this extent, the investigation and prosecution is seen as the same process.

To achieve this outcome it is essential that the respective functions are seen as inter-dependent. The principle of independent functions carried out to achieve inter-dependent outcomes is accepted by both police and prosecution service.

## **Legislative framework**

The principles and operating procedures adopted herein are consistent with current legislative framework existing in the Punjab.

## **Scope of Co-operation**

Police Prosecution Co-operation shall extend to all steps of administrative and judicial criminal process that includes pre-trial and trial stage of a criminal case.

Police Prosecution Co-operation shall be in all cases falling under Pakistan Penal Code 1860 and other Special Criminal laws, especially Anti-Terrorism Act, 1997 till the final decision of the case.

## **Areas of Co-operation**

Without prejudice to the scope of co-operation special focus shall be given to the following categories of offences:

Pakistan Penal Code, 1860

1. Offences of homicide
2. Offences of abduction/kidnapping
3. Offences of rape/unnatural offence
4. Offence of robbery/dacoity
5. Offences of narcotics
6. Offences relating to religion/blasphemy
7. Offences against state

## Anti-Terrorism Act, 1997

1. Offences relating to explosive substance
2. Offences of suicidal attacks
3. Offences of sectarian violence
4. Offences of multiple murder
5. Offences of kidnapping for ransom
6. Offences of violence against women/acid throwing

## Other Laws

1. Cyber crime offences
2. Environmental Laws

## Checklists

Joint Committee shall develop and suggest checklists for all categories of cases identified in areas of co-operation and place it before Inspector General Police and Prosecutor General Punjab for approval. These will be issued as Prosecutor General Guidelines under section 10(1) of Punjab Criminal Prosecution Service Act, 2006.

The checklists after approval and issuance shall be available with Police I.O.s (Investigating Officers) and concerned District Prosecutors (Assistant District Public Prosecutors and Deputy District Public Prosecutors) to review investigation process for strengthening the trial worthiness of the case. The checklists shall be on every police and prosecutor file.

The checklists shall be based on Police Rules and legal precepts on investigation matters

The checklists will be made in the language of convenience for both parties

## Co-operation Tiers

For the convenience of cooperation notion there will be three tiers of co-operation;

- i. Primary Level: Covers I.O.s and concerned District Prosecutors and includes Joint Investigation Team in Terrorism cases. This level shall co-operate on case to case basis.
- ii. Mid level: Covers Regional Police Officers/District Police Officers and District Public Prosecutors. This level shall streamline the co-operation mechanism by monitoring the process by interactive and intra-active strategy, settling the grievances and reporting to the higher level.
- iii. High Level: Covers the headquarter level i.e. Inspector General Police and Prosecutor General, Punjab. This shall be the approval and reporting level.

## **Respective duties**

Without prejudice to the requirements of respective statutes, rules, regulations, standing departmental instructions of the parties, their respective duties toward each other shall be as follows:

### **Primary level**

#### **(Pre-trial stage)**

##### **Police**

Police shall bring into notice of prosecution, incidence of a crime, immediately by providing a copy of the FIR to the DPP Office or informing through mutually shared I.T. networking system or by any available telecommunication facility, whatever is first available.

The I.O will share his observations of first visit to the scene of occurrence with the prosecutor.

Pre-trial advice of Prosecution shall be positively dealt with. Advice should include any further steps to be taken by the I.O, including lines to pursue and advice on how to strengthen the evidential basis of the case. All potential difficulties with the case shall be discussed with solutions suggested. Pre-trial advice, assistance and support will minimize the need for curing remedial and non-remedial defects in the Police reports and will minimize the number of cases deemed not fit for trial.

I.O shall frequently discuss checklist with prosecutor to ensure smooth progress of the cases and will follow the advise given by the Prosecutor.

Not limited to but particularly, Police shall seek pre-trial advice from Prosecutor on, identification parade, remand and pre-trial bail matters.

If an investigation is not completed, or cannot be completed within the time prescribed by law, the reasons for the delay shall be communicated to the Court through the prosecutor.

If I.O fails to trace the unknown accused, despite all efforts, he shall prepare initial/interim report while mentioning all the efforts taken for the arrest of the accused and produce it before the concerned prosecutor who will forward the same to the court for judicial order.

All the police reports under section 173 Cr.P.C. shall be submitted to the Prosecution within time.

Police shall also submit reports under section 173 of the Code in aborted, untraced and abated cases within the stipulated period.

In the event that there is insufficient evidence available during an investigation, the I.O shall prepare a cancellation report and forward a copy to the court through the relevant prosecutor for judicial verdict.

The I.O shall seek advice and assistance of prosecutor in drafting of the Report under Section 173 Cr.P.C.

A full trial file for prosecution shall be prepared by the police, in addition to the police and judicial files, and sent to the prosecutor – the prosecution file. This shall include all relevant papers, documents, statements etc. Where a document is required and is necessary the prosecutor shall request the same. Upon this request the relevant document shall be provided.

The I.O shall, during pre-trial stage prepare Police Brief, especially in high profile/terrorism cases, to assist prosecutor in the decision-making process.

## **Prosecutor**

The prosecutor shall provide pre-trial advice as to the preservation and collection of evidence in accordance with best crime scene preservation practices.

The prosecutor shall discuss early investigative support and the evidential requirements of that particular case with the I.O.

The prosecutor shall advise the I.O according to the checklist of the case.

The prosecutor shall with all due expedition assist in the preparation of the Report under section 173 CrP.C. paying particular attention to the procedural, legal, substantive and evidential requirements of the case. Engagement at this early stage must be undertaken with the trial process in mind. The “scrutiny” of Report under Section 173 Cr.P.C. should be at this early stage.

The prosecutor, upon certifying a case fit for trial, shall keep the I.O informed of all developments and progress.

The prosecutor will use all his skill, knowledge, experience, expertise and professionalism to ensure that the case is prosecuted fairly and robustly. He will undertake thorough preparation of the case prior to hearing.

## **Trial stage**

The I.O and prosecutor shall keep the victims and witnesses informed of the progress through process serving agency.

Due care and attention shall be paid to the needs and interests of victims and witnesses, including limiting the number of times they have to attend the Court.

## **Mid Level**

The Regional Police Officer (RPO) District Police Officers (DPO) should hold fortnightly meetings with District Public Prosecutors and Special Public Prosecutors of the respective Anti-Terrorism Courts to streamline procedures and issues that affect matters of co-operation between police and prosecution service. Briefings of such meetings should be sent to all quarters concerned.

Special cells shall be constituted under close supervision of DPO and DPP to monitor the progress of investigation and arrest of absconding suspect/accused especially in areas of concern mentioned above.

Dispute arising during interaction shall be dealt with at mid level by committee specially constituted for the purpose.

## **Mode of Co-operation**

The interaction between police and prosecution service at primary and mid level shall be through consultative meetings. These meetings shall be frequent. However, meeting agenda and proceeding notes showing decisions and targets achieved in continuity shall be recorded, to be shared by both the parties.

## **Communication**

In order to device better and effective means of communication inter faced wireless devices will be made available to the district Public Prosecutors, focal persons be identified at various benches of the High Court and the Supreme Court of Pakistan. Also directories will be developed for limited circulation. Both Prosecutors and the Police will be encouraged to communicate with each other via short message service (SMS) and e-mails and templates to this end will be developed in consultation.

## **Requests & Refusals**

All requests for pre-trial advice shall be positively dealt with by the prosecutor. Any refusal to provide advice and assistance shall be reported to District Public Prosecutor or a designated senior prosecutor.

A refusal to follow early investigative advice shall be reported to a designated senior police officer.

A senior prosecutor and a senior police officer shall be designated for the purposes of dealing with refusal. All refusals shall be considered by the designated senior officers jointly. Refusals shall be treated with due seriousness. Appropriate inquiry shall be made by the designated officers. Unjustified refusal shall be appropriately dealt with. These joint mechanisms shall operate at District level.

## **Monitoring & Data**

Mechanism for monitoring & data requirements shall be adopted at district levels.

A separate note of all liaisons, details of advice and assistance sought and given shall be kept on file for record and continuity purposes. These notes shall be made at the same time and reviewed jointly.

A joint formal record of outcomes shall be maintained by the police & prosecution of all requests for early investigative advice and assistance.

Senior officers, designated for dealing with refusal, shall maintain a joint record of all refusals.

Each case in which a request for pre-trial advice and assistance has been made shall be monitored for progress and its outcome. A formal joint record shall be made of outcomes in such cases.

## **Reporting Mechanisms**

A joint quarterly report shall be submitted to police and prosecutor headquarters.

## **Circulation & Review**

This SOP shall be made available to all relevant parties with a direction to comply with the contents therein. This SOP shall be reviewed periodically, as determined by the Joint Committee.

This document is hereby presented for signatures of the Hon,ble heads of the Police and Prosecution on this 14<sup>th</sup> Day of December,2011.

**SARMAD SAEED KHAN**  
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