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Human Rights Commission of Sri Lanka

HUMAN RIGHTS COMMISSION OF SRI LANKA

General Guidelines and Recommendations

[Draft] General Guidelines and Recommendations to Sri Lanka Police on Preventing Custodial and Encounter Deaths

11 December 2023

Introduction

Every person in Sri Lanka has the inherent right to life, which is implicitly guaranteed by Article 13(4) of the Sri Lankan Constitution. Such right has been repeatedly recognised in the jurisprudence of the Supreme Court of Sri Lanka – notably, in *Sriyani Silva v Iddamaligoda, Officer-in-Charge, Police Station Payagala* [2003] 1 Sri.L.R 14 and more recently in *Fathima Sharmila v Officer in Charge, Police Station, Slave Island & Others*, SC. FR Application No. 398/2008.

The Supreme Court in *Fathima Sharmila's* case observed: ‘The prevention of extra-judicial killings or custodial deaths invites raising the domestic standards to meet international obligations in upholding the inviolability of life, supplementing the fundamental rights protections of the domestic law. Article 13(4) of the Constitution...should be interpreted broadly, especially in view of the State’s responsibility of upholding fundamental rights, as enshrined in Article 4(d) of the Constitution, which requires all organs of government, including the Police, to “respect, secure and advance” the fundamental rights declared and recognized by the Constitution and to not “abridge, restrict or deny” such rights.’

Article 6 of the International Covenant on Civil and Political Rights provides: ‘Every human being has the inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his life.’

Accordingly, all persons arrested and detained by Sri Lanka Police are entitled to the respect and protection of their inherent right to life.

‘Police Custody’ refers to the state of being kept in custody by the police, usually prior to being produced before a court of law. A person is said to be in the custody of the police from the time of arrest until the time of lawful release from police detention according to the procedure set out in the law.

‘Custodial death’ refers to the death of a person in police custody by the direct or indirect, act or omission of a police officer(s). Such death can take place during:

- a) transit from the place of arrest to a police detention centre or police station;
- b) detention at a police detention centre or police station; or
- c) transit from a detention centre or police station to any other authorised place (i.e., hospital) or during a search operation.

An ‘encounter death’ refers to the extra-judicial, deliberate killing of a person, outside of any legal framework, by a police officer(s).

Based on the complaints received and inquiries held by it, the Human Rights Commission of Sri Lanka (HRCSL) observed a total of twenty-four cases of custodial deaths and thirteen cases of encounter deaths involving Sri Lanka Police during the period between January 2020 and August 2023. Six custodial deaths and two encounter deaths took place during the first six months of 2023.

During this period, the recorded incidents of custodial death were associated with police stations or divisions within three main districts: Colombo, Gampaha and Kalutara. All victims, except

three, succumbed to their injuries within less than 24 hours from the time of arrest by Sri Lanka Police. It is also observed that all reported deaths were caused during the process of locating weapons or narcotics, due to cruel, inhuman, degrading treatment, or due to the negligence or omission of the officers on duty.

A majority of the cases of encounter deaths reported to the Commission were associated with police stations or divisions from the districts of Colombo, Gampaha and Galle. Three of the cases from Colombo were associated with the Special Task Force (STF). All reported encounter deaths took place either during an arrest or when the police claimed to be exercising the right of self-defence when dealing with persons demonstrating violent behaviour.

In this context, the HRCSL was of the view that general guidelines and recommendations need to be issued to Sri Lanka Police to prevent custodial and encounter deaths and to safeguard the inherent right to life of all persons.

1. Safeguards before, during and after Arrest

Preparing to arrest a suspect

- 1.1. Police officers should respect the right of every person to be free from arbitrary arrest in terms of Article 13(1) of the Sri Lankan Constitution.
- 1.2. Arrests should not be carried out in an arbitrary manner. Every police officer who makes an arrest of a person must be able to justify its necessity on the basis of reasonable suspicion that the person has committed an offence following a preliminary police investigation.
- 1.3. The preliminary investigation must be carried out prior to the arrest. It can either take place at the point of observing a person committing an offence or attempting to commit an offence, or at the police station to which any information or intelligence regarding an offence or attempt to commit an offence is received.
- 1.4. Police officers should respect the right of every person to be presumed innocent until proven guilty as guaranteed by Article 13(5) of the Constitution. During preliminary investigations, all suspects should be afforded the right not to self-incriminate. Police officers should respect the right of any suspect to remain silent and not be forced under any circumstance to make any self-incriminating statements.
- 1.5. Arrest should not be carried out where a person is coerced into making a self-incriminating statement following being summoned to provide a statement to the police in terms of section 109 of the Code of Criminal Procedure Act, No. 15 of 1979 during a preliminary investigation. When summoning a person to make a statement, the police should at all times respect the rights of such person under section 110(2) of the Code of Criminal Procedure: ‘Such person shall be bound to answer truly all questions relating to such case put to him by such officer or inquirer *other than questions which would have a tendency to expose him to a criminal charge or to a penalty of forfeiture*’ (emphasis added).

- 1.6. In the event that the police receive information or intelligence regarding criminal movements or attempts to commit a grave criminal offence, such information or intelligence should be reduced into writing in the Personal Note Book. If such information or intelligence was provided by a higher authority, details of such person must also be recorded. Such a record remains crucial for the purpose of establishing the basis for a subsequent arrest.
- 1.7. The senior police officer in charge of deploying police officers to arrest a suspect must assess the risks and challenges the police may encounter in the process of apprehending the suspect.
- 1.8. Based on the risk assessment, the senior police officer may determine:
 - a) The composition and number of police officers that should be deployed in the arrest operation;
 - b) The type and number of vehicles that should be deployed for the operation;
 - c) Authorised means of restraint and weapons the police officers may be equipped with during the arrest operation;
 - d) The chain of command the team should follow during the operation; and
 - e) The time at which the operation will be launched.
- 1.6 In the event of a planned arrest of a female suspect, the composition of the team of police officers involved in the arrest operation should include at least one female officer.
- 1.7 All police officers deployed for the arrest operation must be comprehensively briefed regarding the scope and objective of the operation, their specific roles, and the risks and challenges associated with the operation.
- 1.8 All police officers with the knowledge of an arrest operation must ensure strict confidentiality regarding the operation and any other information or intelligence received by the police regarding the details and locations of the suspect.

Arresting a suspect

- 1.9 All police officers making an arrest must bear accurate, visible and clear identification on their uniforms at all times.
- 1.10 In the event that a special arrest operation requires the officers to be in civilian clothes, the officers should have their official identity cards in their possession to prove their identity at any given time. When making the arrest, the officers in civilian clothes must display their official identity cards and inform the person being arrested of their official identity.
- 1.11 In general, force should not be used when making an arrest. In the event that a person being arrested offers resistance, any use of force to make the arrest must only be to the extent that it is necessary and proportionate, and in a manner that causes minimum harm to the person concerned.

- 1.12 At the time of arresting a person, the arresting officers should clearly inform such person of the offence for which they are being arrested. Such communication must be in the language the person being arrested understands.
- 1.13 In the event a person is arrested for a bailable offence, such person must also be informed of their right to be released on bail.
- 1.14 Police officers making an arrest should respect the dignity of the arrested person during the entire process. Police officers should refrain from publicly displaying or parading the arrested person or engaging in any degrading treatment of the arrested person under any circumstances.
- 1.15 In the event an arrest is made by any police division in a police area other than the prescribed area of duty, police officers making such arrest must immediately inform the police station designated for the police area in which the arrest was made. Upon informing the relevant police station, the police officers making the arrest should ensure information regarding the arrest is recorded in writing in the relevant police station.

Detaining an arrested suspect

- 1.16 Immediately after arrest, the arrested suspect should be safely transferred in an authorised police vehicle to the relevant police station or any other gazetted place.
- 1.17 Prior to detaining an arrested person, the details of the arrest must be duly recorded, and the arrest charges, and any statements taken from the suspect within that duration, must be read and communicated to the arrested person in a language such person understands.
- 1.18 Police officers who search an arrested person should conduct such search in a manner that respects such person's dignity and privacy. A search of a female person who is arrested must be conducted only by a female police officer and in a manner that respects such person's dignity and privacy.

Communicating with family

- 1.19 An arrested person should be immediately afforded the opportunity to communicate with their family or a friend of their choice regarding the arrest. Such right is guaranteed by section 15(2) of the International Convention for the Protection of All Persons from Enforced Disappearance Act, No. 5 of 2018. Such arrested person should be afforded the opportunity to communicate the reason for their arrest, the place of arrest, the police station from which the arrest was made, and the place of detention.
- 1.20 An arrested person should be provided the opportunity to be visited by their family or a friend of their choice without delay. Such right is also guaranteed by section 15(2) of the International Convention for the Protection of All Persons from Enforced Disappearance Act.

- 1.21 In the event that the arrested person is moved to another location from the initial place of detention, the relevant family member or friend must be informed of the change of place of detention, including the reason for the change of location. The change of location may include another police station, hospital or place of investigation, provided that it is a lawful and duly authorised place of detention.
- 1.22 Police officers in charge of the custody of an arrested person should provide complete and accurate information regarding the arrested person to the relevant family member or friend of such person. Such information should be provided promptly, courteously, and without unreasonable delay. Such officers should maintain a written record of providing such information, including the time at which the information was provided, the name of the person receiving such information, and the nature of information provided to such person.

Access to legal representation

- 1.23 The police officer making an arrest should inform the arrested person of their right to legal representation.
- 1.24 The arrested person should be given the opportunity to communicate with an attorney-at-law of their choice without any delay or interference. Such right is guaranteed by section 15(2) of the International Convention for the Protection of All Persons from Enforced Disappearance Act.
- 1.25 The attorney-at-law representing an arrested person should be permitted access to such person at the place of detention without delay or interference. Such attorney-at-law should be given adequate time and privacy to communicate with their client. Police officers should not be present during such consultations.

2. Safeguards during detention

Providing adequate medical attention

- 2.1 The police officer in charge of the custody of a detainee should diligently ascertain whether the detainee has any need for medical treatment or specific medication at the time of detention. Such medical treatment or medication may be for a physical or mental illness or condition.
- 2.2 In the event that a police officer becomes aware of any need for a detainee to receive medical treatment or specific medication, the police officer should direct the detainee to a medical officer to conduct a comprehensive medical screening. The purpose of such medical screening is to provide any medical assistance required, and to ascertain whether the arrested person has undergone any ill-treatment during detention.
- 2.3 In the event that the medical officer, upon examining the detainee, observes any injuries or illnesses, or other medical conditions, such officer should direct the suspect immediately to a Judicial Medical Officer (JMO).

- 2.4 Where appropriate, the initial medical screening should include an assessment of the risk of suicide. In the event that a risk of suicide is observed, the police officer in charge of the custody of the detainee should contact the family of the detainee and a suitable health professional. Where possible, the detention conditions of detainees who are at high risk of suicide should be altered to facilitate close monitoring of the detainee and the provision of necessary psychological support.
- 2.5 The detainee should be afforded the opportunity to seek medical attention if the detainee makes a request at any stage during detention. Police officers in charge of the custody of the detainee should not deny such requests without first ascertaining the needs of the detainee.
- 2.6 At least one police officer adequately trained and equipped with a basic knowledge of first aid and the capacity to promptly attend to the medical needs of detainees must be present at the relevant place of detention at all times.
- 2.7 Special medical attention and care must be afforded to detainees with specific needs in line with their medical requirements or conditions. Such persons may include, persons with disabilities, pregnant mothers, mothers nursing infants, and persons with physical or mental health conditions.
- 2.8 Any medication held at a place of detention for a specific detainee should be clearly labelled with the detainee's name, and the amount and frequency of the prescribed dosage.
- 2.9 All medication, including first aid supplies, should be locked and stored separately and out of reach of detainees. Medication should be administered to a detainee only under the supervision of an authorised police officer.

Providing basic needs

- 2.10 Detainees should be provided with clean drinking water as and when it is required. Detainees should be provided with adequate meals where the duration of their detention requires so.
- 2.11 Detainees should be given access to sanitary facilities without undue delay and should be accompanied by a police officer when using such facilities. Female detainees should be accompanied by a female police officer. All facilities must be clean, hygienic, fit for use, and gender appropriate.
- 2.12 Prior to the detainee entering a sanitary facility, the accompanying police officer should ensure that the facility is free from any substance, material, equipment, or tools by which the detainee may cause any self-harm.

Monitoring and communication

- 2.13 Police officers on duty and in charge of the custody of detainees should at all times monitor the behaviour and conduct of all detainees. Such officers must identify any probability of

inter-detainee violence and take swift measures to prevent any violence or incitement to violence that may occur during detention. Inter-detainee violence may include causing hurt, or grievous hurt, and sexual violence.

- 2.14 In the event that a situation of violence erupts between detainees, the relevant police officers should take swift measures to end the violence and, as required, assign different cells to each detainee who participated in the violence.

3. Safeguards during investigations

Conducting preliminary investigations

- 3.1 Police officers should respect the right of all arrested persons and detainees to be free from torture, or other cruel, inhuman, or degrading treatment, as guaranteed by Article 11 of the Constitution. Such prohibited acts include the use of threats and language that may impair the detainee's capacity to think and act voluntarily and make voluntary statements.
- 3.2 Police officers should ensure that all police interrogations are conducted in a lawful and duly authorised, clearly identifiable, and accessible place.
- 3.3 Interrogations should not be conducted outside of the police station, except in extraordinary circumstances where the nature of an investigation requires the detainee to be taken outside the police station. Where such extraordinary circumstances arise, written approval must be obtained from a senior police officer (e.g. a Deputy Inspector General of Police), and the nature of the extraordinary circumstances should be recorded in writing alongside the written approval of the senior police officer.
- 3.4 In the event that a detainee is taken out of the police station for the purpose of an investigation, the relevant senior police officer who authorised the measure should take full responsibility with regard to the safety and security of the detainee.
- 3.5 Interrogations should be conducted in a language in which the detainee is comfortable communicating. In the event that the police officers do not speak the language of the detainee, steps should be taken to obtain the services of a translator prior to commencing interrogations.
- 3.6 The police officers conducting interrogations should bear accurate, visible, and clear identification on their uniforms. The detainee must also be made aware of any other officials or officers present during an interrogation.
- 3.7 The purpose of an interrogation should only be to obtain reliable information and to discover facts. Interrogations should not be used to coerce the detainee to confess, self-incriminate, or testify against another person.
- 3.8 In the event that prolonged interrogations are required, the detainee must be given breaks for adequate rest.

- 3.9 Police officers conducting interrogations should permit the detainee to consult their attorney-at-law if such detainee requests so. A detainee's access to legal counsel during interrogations is required to ensure that the detainee does not involuntarily make any self-incriminating statements and is afforded a fair trial in terms of Article 13(3) of the Constitution.

Transferring the suspect

- 3.10 'Transfers' include moving an arrested person or detainee from the place of arrest to the police station, the police station to any other lawful and duly authorised location, and back to the police station from such authorised location. Such authorised location may include a hospital, place of discovery, a court, or a pre-trial detention facility.
- 3.11 The police officers in charge of the transfer should ensure that the arrested person or detainee is least exposed to public view and safeguarded from insult, hurt or injury from the public.
- 3.12 An arrested person or detainee should only be transferred in a safe and suitable mode of transport that aligns with the purpose of the transfer. The vehicles authorised for the transfer of such persons must be adequately equipped to minimise any potential injury that can be caused to such persons and the accompanying police officers in the event of an accident or emergency.
- 3.13 In the event that a detainee is being transferred to a place of discovery of an evidentiary item, the relevant senior police officer should take the following measures prior to the transfer:
- a) Verify the information revealed by the detainee with regard to the location of the discovery (where possible, a team of police officers should be deployed to the location to check for the safety of the environment and presence of any suspicious persons in the area); and
 - b) Calculate the risk associated in taking the detainee to the stated location(s).
- 3.14 Based on the level of credibility of the information provided by a detainee and level of risk in taking such person to the stated location, the relevant senior police officer should determine:
- a) The composition and number of police officers that should be deployed in the discovery operation;
 - b) The type and number of vehicles that should be deployed for the operation;
 - c) The authorised means of restraint and weapons the police officers may be equipped with during the operation;
 - d) The chain of command the team should follow during the operation; and
 - e) The date and time at which the operation will be launched.
- 3.15 When transferring a detainee who is reasonably assessed to be dangerous, the composition of the team of officers assigned for the discovery operation should include well experienced and trained officers who are capable of taking decisions in the field in a manner that minimises harm to the detainee and others.

- 3.16 The relevant senior police officer in charge should, in general, schedule discovery operations during daytime. A night-time discovery operation should be launched only in exceptional circumstances, where the operation is time-sensitive or where it is practically impossible to execute the operation during daytime.
- 3.17 In the event that a discovery operation is scheduled at night, the relevant senior police officer in charge should take extra precautions to ensure full security of the detainee and the police officers. Such precautions should include being equipped with adequate lighting to ensure clear visibility of the location and its surroundings. The relevant senior police officer in charge should take full responsibility for the safety of the detainee and should maintain a written record of the time, location, participating officers, and reasons for the operation.
- 3.18 All police officers assigned for all discovery operations should be comprehensively briefed regarding the scope and objective of the operation, their specific roles, and the risks and challenges associated with such operation.

4. Use of force and handling of weapons

General principles on use of force

- 4.1 Police officers, in discharging their duties, should exhaust all non-violent means before resorting to the use of force. Non-violent means may be considered exhausted only where such means become ineffective in legitimately discharging such duties.
- 4.2 A police officer should resort to the use of force, including the use of firearms, only to achieve a legitimate objective associated with discharging their duties, and in a manner that is prescribed by law.
- 4.3 In the event that a police officer is required to use force, such force must strictly adhere to principles of necessity, reasonableness and proportionality.
- 4.4 Any order by a senior police officer authorising the use of force should set out clear parameters for the use of force in compliance with the law. Such senior police officer should take full responsibility for any unnecessary, unreasonable or disproportionate use of force taken in terms of such orders.
- 4.5 Where the use of force is lawfully required, all deployed police officers must make every effort within their capacity to avoid the loss of life and to minimise damage and injury to any person, including a person being arrested or an arrested person or detainee who is being transferred. Such efforts include providing medical aid to any injured or affected persons as a consequence of the use of force by the police.

Means of restraint

- 4.6 Police officers should refrain from using restraint techniques or devices as a means of punishment. Such techniques or devices should be used only as far as they are required to

lawfully constrain an arrested person or detainee and prevent such person from escaping or causing harm to any other person.

- 4.7 The means of restraining an arrested person or detainee should be lawful and duly authorised, should respect the dignity of such person, and should not be cruel, inhuman or degrading.

Use of authorised weapons

- 4.8 Firearms should not be used under any circumstances except where a person being arrested or a detainee offers armed resistance or otherwise jeopardises the lives of others, and where there are no alternative means of constraining such person.
- 4.9 Where it is lawful and necessary to discharge a firearm, the police officer intending to discharge the firearm should give prior warning to the person concerned that the firearm will be discharged unless such person discontinues offering armed resistance or jeopardising the lives of others, and duly surrenders.
- 4.10 In the event that a weapon that is not used on a daily basis by a police officer is assigned to such officer for a special operation, the relevant senior police officer authorising such use should ascertain the knowledge and capability of the police officer to use such weapon prior to assigning such weapon to the officer.

5. Record keeping

On arrests

- 5.1 Any information or intelligence received regarding a criminal offence or attempt to commit an offence should be recorded in writing. In the event such information is received from a higher authority, details of such higher authority should be recorded in writing.
- 5.2 Any officer arresting a person should make an accurate record of the arrest, including:
- a) The name, age, gender, and address of the arrested person;
 - b) The date and time of arrest;
 - c) The place of arrest;
 - d) The reason for the arrest;
 - e) The circumstances in which the suspect was arrested;
 - f) The identities of the police officers involved in the arrest (including the senior officer who ordered or authorised the arrest);
 - g) An attestation that the reason of arrest was communicated to the arrested person;
 - h) The name of the family member or friend of the arrested person who was informed of the arrest; and
 - i) Any injuries or medical conditions of the arrested person observed by the police officer or communicated by such person at the time of arrest.
- 5.3 The above record should be counter-signed by the arrested person after being read and communicated to such person in a language they understand.

- 5.4 A copy of the record should be handed over to a member of the arrested person's family or to a friend of such person's choosing, or to an attorney-at-law representing such person.

On detention

- 5.5 An entry and exit register of all persons arrested and detained at a police station should be maintained at such police station. The register should accurately include:
- a) The identity of the arrested person or detainee;
 - b) The time of entry;
 - c) The officer handing over the arrested person;
 - d) Any injuries or medical conditions of the arrested person or detainee observed by the police officer or communicated by the arrested person or detainee;
 - e) A list of any personal belongings taken into the custody of the police to ensure the safety of the arrested person or detainee;
 - f) The time of exit;
 - g) The reason for exit;
 - h) The location to which the detainee is transferred upon exit; and
 - i) Where applicable, the officers accompanying the detainee to such other lawful and duly authorised place of detention.
- 5.6 The police officers in charge of the custody of a detainee should be clearly designated and duly recorded. This record should include the 'duty-in' and 'duty-out' time of the relevant police officers.
- 5.7 The police officers in charge of the custody of a detainee should record the following information regarding persons in their custody:
- a) Any medical requests made by the detainee along with the time of such request;
 - b) Any first aid or routine medication administered to the detainee (such record should include the name and dosage of the medication administered, along with the time of administering it);
 - c) Where required, any meals provided to the detainee;
 - d) The identity of any person who visits the detainee, and the date and time of such visit; and
 - e) Any other relevant observations.

On investigations and inquiries

- 5.8 The police officer in charge of an investigation or inquiry concerning an arrested person or detainee should maintain an accurate record, in writing, of all details pertaining to such investigation or inquiry.
- 5.9 Such officer should have full knowledge on all details pertaining to such an investigation or inquiry, including details of the police officers and other officials present during such investigation or inquiry. Such officer should be accountable and answerable with regard to all details pertaining to investigations or inquiries conducted under their purview.

- 5.10 Where possible, an audio and/or video recording of an inquiry should be maintained. In the case of audio recordings, the inquiring officer should begin by stating the date and time of the inquiry and the identities of the persons present at the inquiry. In the case of video recordings, the recording should capture all persons present in the room.
- 5.11 All records of inquiries should be kept in a safe and accessible location and made available to any judicial or other competent authority or institution authorised to obtain such records by law.

6. Reporting and accountability

Preserving the scene of death

- 6.1 In the event that a custodial or encounter death occurs, the place of death should be considered as a scene of crime regardless of the cause and manner of death until a complete investigation of the scene is concluded.
- 6.2 As soon as such a death is discovered, the scene of the death should be restricted. No person other than authorised personnel such as medical officers and Scene of Crime Officers (SOCO) who conduct investigations into the cause and manner of death should be afforded access to the body of the deceased.
- 6.3 The identities of all persons given access to and who enters the scene of death should be duly recorded along with the reason for such persons to enter the scene.
- 6.4 All police officers given access to the scene of death for the purpose of investigations should ensure that evidence is preserved according to proper procedure and not in any manner that may lead to contamination.
- 6.5 In the event that any person with access to the scene of death interferes with the scene, such interference must be promptly and thoroughly investigated.

Investigating the scene of death

- 6.6 The SOCO team should ensure that all material evidence with respect to a custodial or encounter death is collected and preserved in a manner that prevents its loss or contamination. A clear 'chain of custody' should be maintained for all such evidence, and a written record of such chain of custody should be signed by the investigating officer, along with the date and time of handling each item of evidence.
- 6.7 Where applicable, all material evidence, including medical, forensic, and ballistic evidence, that require examination and analysis should be promptly sent to the relevant authorities for examination and analysis.

- 6.8 Detailed and comprehensive statements should be obtained from persons who were present at the scene of death and in the vicinity of the scene of death. Detailed reports should also be obtained from any medical officer that examines the body at the scene of death.

Transferring the body

- 6.9 In the event of a custodial or encounter death, the body of the deceased should be treated with respect and dignity at all times.
- 6.10 The SOCO team should ensure that the body is not tampered with or contaminated in preparation for its transfer and should closely supervise the removal and transfer of the body to the place at which the post-mortem examination will be conducted. Such supervision should be duly recorded and incorporated into the SOCO investigation report.

Reports on medical, forensic, and ballistic evidence

- 6.11 All relevant reports relating to medical, forensic and ballistic evidence, including autopsy reports, fingerprint and chemical analysis reports, and ballistic reports, should be prepared by the relevant authorities as soon as possible.
- 6.12 Such reports should be preserved in a manner that ensures that they cannot be tampered with. They should be made available to the relevant officers conducting investigations and to relevant prosecutorial and judicial authorities in the case of a prosecution.

Communicating with the next of kin

- 6.13 A family member or friend of the deceased should be immediately notified of the death. Information with respect to the place of death and place to which the body of the deceased will be transferred should also be conveyed to the family member or friend.
- 6.14 A family member or friend of the deceased should be kept informed of the progress of the investigations.
- 6.15 In the event that the organs of the deceased need to be retained for further examination after the autopsy, the family of the deceased should be informed. Such organs should be released to the family of the deceased once examination is completed.
- 6.16 The personal belongings of the deceased that were in the custody of the police prior to the death and any belonging that were in possession of the deceased at the time of death should be returned to the family of the deceased as soon as possible.
- 6.17 The body of the deceased should be returned to the family of the deceased in a respectful and dignified manner upon completion of the post-mortem and other relevant examinations.

6.18 The police officers communicating and coordinating with the family or friends of the deceased should do so in a manner that respects the dignity of the deceased and such family members and friends of the deceased.

Releasing media statements regarding the death

6.19 When making any statements regarding a custodial or encounter death, the Police Media Spokesman should at all times uphold the privacy and dignity of the deceased person.

6.20 The details with respect to the reason for arrest, the past criminal record of the deceased person, and other personal information, such as ethnicity, religion or place of residence, of the deceased or the deceased person's family should not be released to the media immediately after the death.

6.21 When releasing information to the media, the relevant police officers should respect the right of the deceased person to be presumed innocent until proven guilty. Where the deceased was only a suspect or accused person with respect to a crime, such person should not be portrayed as a 'criminal' or an 'offender'.

Conducting an independent investigation on the death

6.22 In the event of a custodial or encounter death, an investigation should be conducted by an Independent Committee of Investigators (COI). The Committee should include the following officers (in-service or retired):

- a) A senior police officer of or above the rank of a Deputy Inspector General of Police;
- b) A JMO;
- c) The Government Analyst;
- d) A ballistic expert (in the event of a death caused by firearms); and
- e) A legal professional who is either a judge or an attorney-at-law.

6.23 Such investigation should be prompt, effective, comprehensive, impartial and transparent.

6.24 Such COI should be tasked with *inter alia*:

- a) Collecting and confirming all statements, and documentary, digital, and physical evidence;
- b) Accurately determining if the death was a natural death, accidental death, suicide or homicide;
- c) Accurately determining whether any police officers were responsible for the death;
- d) Identifying measures that may have prevented the death; and
- e) Identifying systemic failures that may have contributed to the death.

6.25 Sri Lanka Police and the COI should ensure that the investigative process and outcomes are transparent and is open to the scrutiny of the deceased person's family and the public. Any restriction on transparency must only be to the extent that it is strictly necessary for a legitimate purpose, such as protecting the privacy and safety of affected persons, ensuring

the integrity of ongoing investigations, or protecting confidential information regarding intelligence sources or police operations.

- 6.26 Upon completion of the investigation, if a police officer is found to be responsible without any lawful defence (e.g. the right of self-defence) for a custodial or encounter death, prompt prosecution and disciplinary action should be initiated against such officer.

Cooperating with and reporting to the HRCSL

- 6.27 In the event that the HRCSL is informed of a threat to the life of an arrested person, detainee or any other person, the HRCSL shall immediately communicate with the relevant police station.
- 6.28 The police officers in charge of the custody of an arrested person or detainee should at all times diligently and responsibly respond and report to the HRCSL with respect to the safety, security and wellbeing of such person.
- 6.29 The relevant senior police officer should also provide the HRCSL with the contact details of an officer who functions as an emergency focal point at the relevant police station to enable the HRCSL to promptly communicate and coordinate with such police station.
- 6.30 In the event that the HRCSL requests the relevant police station to direct an arrested person or detainee to a JMO, the police officers in charge of the custody of such person should direct such person to a JMO immediately. The relevant police officers should then make available the Medico-legal Examination Form to the HRCSL within 24 hours of receiving such form.
- 6.31 In the event of a custodial or encounter death, the Officer-in-Charge of the relevant police station should inform the HRCSL within 24 hours of such incident. The HRCSL may then, invoke its *suo motu* jurisdiction to investigate and ascertain whether any fundamental rights violations have taken place in relation to such incident.
- 6.32 The HRCSL shall request the Officer-in-Charge of the relevant police station to submit a preliminary report along with the relevant supporting documents. Such preliminary report should be forwarded to the HRCSL within 72 hours of receiving such request.
- 6.33 Sri Lanka Police should also submit to the HRCSL a detailed investigation report prepared by the COI within six months of submitting the preliminary report.

Recommendations

In view of fully implementing the above guidelines, Sri Lanka Police is encouraged to implement the following recommendations:

- 1. Conduct training for all police officers on implementing these guidelines. Such training should be conducted in a routine manner with the support of either internal resource**

persons or external resource persons, and should be integrated into the standard training curriculum of Sri Lanka Police.

2. **Provide all police officers with basic knowledge and training on first aid.**
3. **Equip all police officers with knowledge and skills on the swift removal of ligatures of a person who may attempt to commit suicide.**
4. **Provide all police officers with adequate psycho-social support, including, where required, counselling to enable them to discharge their duties diligently.**
5. **Take measures to install CCTV surveillance systems to record everything that takes place in the reception area, cells, corridors and other locations of police stations and other authorised places of detention. When installing such CCTV cameras, an arrested person's or detainee's rights to privacy and dignity, and confidential communication with their attorney-at-law or medical professional should be respected.**