STANDARD OPERATING PROCEDURE (SOP) FOR INVESTIGATION OF CASES RELATING TO MEDICAL TERMINATION OF PREGNANCY (MTP) AND PRE-CONCEPTION AND PRE-NATAL DIAGNOSTIC TECHNIQUES (PCPNDT)

In order to improve quality of investigation and curtail procedural lapses in investigation of cases relating to MTP and PCPNDT and for launching foolproof prosecution against the offenders, the following SOP is laid down after consultation with the officers of the Police Department, the Health Authorities and the Law Officers from the office of Advocate General Haryana.

1. All offences relating to MTP and PCPNDT, as prescribed under the Indian Penal Code 1861 (Sections 312 to 316), MTP Act 1971 (Section 5) and PCPNDT Act 1994 (Sections 22 to 27) are cognizable offences. Therefore, police is duty bound to register First Information Report (FIR) on receipt of credible information/complaint from general public, Health Authorities or otherwise in this regard, as per the provisions of Section 154 Criminal Procedure Code 1973.

2. As and when police take cognizance of offences, as mentioned in Para 1 above, it is desirable that the police should associate the Appropriate Authority appointed under Section 17 of the PCPNDT Act 1994 or some other officer/officers of Health Department in consultation with the Appropriate Authority in the process of conducting raid, search and seizure etc. during investigation. The investigating officer should record scientific opinion/technical opinion/statement of the Appropriate Authority during the investigation.

3. Whenever the Appropriate Authority or officers of the Health Department intend to conduct raid, search and seizure under the provisions of the PCPNDT Act 1994, it is desirable that they should also associate the local police in the process in order to ensure that the proper procedure of collecting evidence is followed. It is also desirable to associate the local police in the process of enquiry/investigation by the Appropriate Authority/Health Authorities for security reasons.

4. The police and the Appropriate Authority/Health Authorities are under legal and administrative obligation to help each other in the process as given in Paras 2 and 3 above, as and when required, and at all the times, without any delay.
5. For offences under the IPC (Sections 312 to 316) and offences under the MTP Act 1971 (Section 5), the police is legally bound to submit Police Report to the Illaga Magistrate under section 173 Cr. PC.

6. For offences under the PCPNDT Act 1994 (Sections 22 to 27), as per Section 28 of the Act, the Magistrate can take the cognizance only on the complaint of the Appropriate Authority or on complaint by a person/social organization who has given a notice of not less than 15 days, to the Appropriate Authority, of the alleged offence and of his intention to make a complaint to the Court. Therefore, filing of challan by the police under Section 173 of Cr.PC for offences under the PCPNDT Act is barred. In such cases, after registration of the FIR, the police shall complete investigation by associating the Appropriate Authority in the process. On completion of the investigation, the police shall submit the whole record of the investigation, along-with a draft complaint (popularly known as Kalandra in police parlance), to the Appropriate Authority for signature and submitting the same to the Court for trial. The Appropriate Authority shall sign the complaint (Kalandra) after the due scrutiny of the record of investigation produced by the investigating officer, as they had already participated in the investigation process. After filing the complaint signed by the Appropriate Authority to the Court, the police should send an information under Section 173 of Cr. PC to the Illaga Magistrate to the effect that, since a complaint as per Section 28 PCPNDT Act 1994 has been filed to the Court, no challan is filed by the police in the instant case.

7. If the allegations relating to the offences under the IPC (Sections 312 to 316), MTP Act 1971 (Section 5) and PCPNDT Act 1994 (Sections 22 to 27) are contained in one FIR, the police shall file challan under Section 173 Cr.PC for the offences under the IPC (Sections 312 to 316), MTP Act 1971 (Section 5) only. For offences under the PCPNDT Act 1994 (Sections 22 to 27), the police shall produce the record of investigation to the Appropriate Authority along-with the draft of the complaint (Kalandra) for their perusal, scrutiny and signature. The complaint (Kalandra) so signed by the Appropriate Authority shall be filed in the Court by the police.

8. It is clarified that the Appropriate Authority can also file complaint for offences under the PCPNDT Act of its own, after due investigation/enquiry, without getting the FIR registered. In such an event, if the Appropriate Authority has taken help from police during investigation/enquiry, they can make mention of that in the complaint and can cite the police officers as witness in the complaint case.
9. Help in the form of legal opinion of the law officers of the Prosecution Department should be taken as and when required. It is desirable that the law officer, whose opinion is being sought, should not be the same officer who is also a part of the Appropriate Authority.

10. It is emphasized that the investigating officer of the Police Department, Appropriate Authority, Health Authorities and Law Officer of the Prosecution Department should act in close coordination to ensure quality investigation and effective prosecution of the offenders under the above mentioned laws.

11. It shall be duty of the district heads of the Police Department, Health Department and the Prosecution Department to ensure that the SOP is implemented in letter and spirit.

12. This SOP is issued in consultation with and with the consent of the officers of the Police Department, Health Department and Law Officers of the Office of the Advocate General Haryana.

[Signature]

[Director General of Police, Haryana]