

Section of BNSS

2(1)(a)



ODISHA POLICE
CRIME BRANCH
CRIMINAL INVESTIGATION DEPARTMENT

CRIME BRANCH CIRCULAR No.10/2024

**Sub: Standard Operating Procedure on
Audio-Visual Recording**

The concept of "audio-video electronic means" has been defined under section 2(a) of Bharatiya Nagarika Suraksha Sanhita, 2023 which reads as follows:

"audio-video electronic means" shall include use of any communication device for the purposes of video conferencing, recording of processes of identification, search and seizure or evidence, transmission of electronic communication and for such other purposes and by such other means as the State Government may, by rules provide";

Objective

- To bring fairness in investigation process and improve its credibility
- Scientific evidence collection and use of technology in the criminal justice system
- To ensure evidencebased justice
- Speedy and fair trial
- To increase conviction rate for prevention of crime
- To aid ease of justice through consistent, transparent, and accountable criminal justice procedures

Applicability

The Bharatiya Nagarika Suraksha Sanhita (BNSS), 2023 mandates and provides for audio-video recording of processes of search u/s 105 BNSS, recording of statement u/s 180, search and seizure u/s 185, procedure of investigation u/s 176. The relevant sections are reproduced hereunder.

Section 105-Recording of search and seizure through audio-video electronic means.

Under this section

- The process of conducting search of a place.
- Taking possession of any property, article or thing
- Preparation of the list of all things seized in the course of such search and seizure and
- Signing of such list by witnesses

shall be recorded through audio-video electronic means preferably a mobile phone and the police officer shall without delay forward such recording to the District Magistrate, Sub-divisional Magistrate or Judicial Magistrate of the first class.

Section 176- Procedure for investigation.

(b) in relation to an offence of rape, the recording of statement of the victim shall be conducted at the residence of the victim or at the place of her choice and as far as practicable by a woman police officer.....and such statement may also be recorded through any *audio-video electronic means including mobile phone*.

Section 180-Examination of witnesses by police

(3) The police officer may reduce into writing any statement made to him in the course of an examination under this section; and if he does so, he shall make a separate and true record of the statement of each such person whose statement he records.

Provided that statement made under this sub-section may also be recorded by *audio-video electronic means*.

Section 185- Search by police officer

(1) Whenever an officer in charge of a police station or a police officer making an investigation has reasonable grounds for believing that anything necessary for the purpose of an investigation into any offence which he is authorised to investigate may be found in any place within the limits of the police station of

which he is in charge, or to which he is attached, and that such thing cannot in his opinion be otherwise obtained without undue delay, such officer may, after recording in writing the grounds of his belief in the case-diary and specifying in such writing, so far as possible, the thing for which search is to be made, search, or cause search to be made, for such thing in any place within the limits of such station.

Provided that the search conducted under this section shall be recorded through *audio-video electronic means preferably by mobile phone*.

It may be noted that an App named E-Sakhsya has been developed by the Ministry of Home Affairs, Govt. of India for implementation of above sections of newly enacted criminal laws. The proposed App will provide a holistic solution for recording and preservation of data as well as its production in the court of law. However, as the App is yet to be made fully functional, it is essential that mobile phones are used for necessary legal compliance. Once E-Sakhsya App is available another SOP will be issued about its functionality. Meanwhile, the following protocol may be followed for audio-visual recording of the statements by witnesses and search and seizures by electronic devices, preferably smartphones.

Procedure to be adopted

During audio-video recording the following procedure is to be followed.

- 1 There should be dedicated Mobile phone(s) with sufficient memory capacity and extra memory slot.
- 2 Such dedicated mobile phone should be authenticated by making a station diary entry containing make, model, IMEI nos etc of the mobile phone.
- 3 The mobile phone should be kept in the custody of Officer-in-charge of the concerned Police station.
- 4 However, till the time provision is made for such dedicated mobile phones at police station level, for the time being, Officer In-Charge/ Investigating Officer/ Police Officer can use their personal mobile phone for the purpose of audio-video recording.

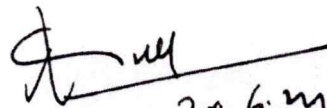
- 5 Investigating Officers should be issued with the dedicated mobile phone as and when required for investigation process with proper acknowledgment, signature, date & time and corresponding entry in the station diary as well as case dairy.
- 6 Whenever IO is proceeding for audio visual recording means he/she should keep in mind the following points
 - a. Phone should be functional and fully charged.
 - b. No SIM card is inserted in the phone.
 - c. Apart from the phone memory there should be another memory card.
 - d. IO should carry one power bank to avoid low battery situation.
 - e. IO should be careful in handling the phone in different weather conditions.
 - f. IO should ensure that proper lighting arrangements are there for proper recording.
7. Before starting the audio-visual recording, IO should introduce himself/herself with case reference in presence of two witnesses whose name, address and purpose of their presence will be mentioned by the IO while looking towards the camera.
(E.g:- I Sri/Smt....., designation, Investigating office of the case No.starting search/recording of statement in presence of witnesses. Sri/Smt....., (complete address) is/are present as witnesses for search/recording of statement.
8. IO should examine at least two witnesses relating to search and seizure/ recording of statement of accused/victim.
9. IO should request the witnesses to look into the camera and make a declaration that the search/recording of statement was done in their presence.
(e.g. I Sri/Smt.....(complete address) is present as witnesses in connection..... for search/recording of statement in case no.....
10. After completion of search and audio-video recording IO should finish it with the closure statement in presence of witnesses.

(E.g:- I Sri/Smt....., designation, Investigating Officer of the case no.ending search/recording of statement in presence of witnesses.

11. The recording should be done uninterruptedly from the beginning to end.
12. During the process of search/seizure/recording of statement (victim/accused) other available phones should be in silent mode so that the audio recording is done without disturbance.
13. After completion of search and seizure operation, the IO will bring the audio-video electronic device which was used for recording, to the police station.
14. At the police station, the audio-video recording will be transferred to the local designated desktop either directly through device insertion or via cable or Bluetooth. This will be clearly mentioned in the case diary.
15. The officer In-charge of the concerned police station should purchase blank/new pendrives DVDs, CDs, Hard disk from PS fund.
16. After completion of the data transfer process IO should keep the recording in his/her safe custody with at least three copies in external storage device (Pen drive/DVD/CD/Memory card/Hard disk).
17. IO should keep the external storage media where the recordings are available in a sealed cover taking signature of both witnesses, concerned person (accused/victim) and IO himself/herself.
18. After completion of the search proceedings, the IO shall deposit the sealed items/documents/properties/material objects into the Malkhana by making proper entry in Malkhana Register to maintain the chain of custody.
19. IO should immediately send the electronic means of recorded copies to the concerned court with record chalan within 48 hours.
20. IO should mention the mobile phone details and hash value in the case diary through which the recording was prepared.
21. IO should ensure to keep certificate under section 63 BSA to substantiate the electronic means of recording.
22. IO should maintain records of the handling, packaging, and transportation of seized items meticulously. He should diligently document the chain of custody, including the identity of individuals handling evidence, dates and times of transfers, and any changes in custody.

23. All the above guidelines regarding transfer and preservation of data will also be followed in cases where a device other than mobile phone, such as video camera is used for the audio visual recording.

Note: This Standard Operating Procedure (SOP) is subject to modification based on feedback from field units, post implementation of the new criminal laws.

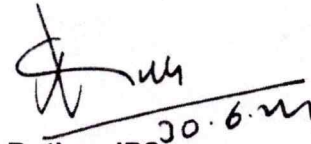

Arun Bothra, IPS, 30.6.24
Addl. Director General of Police,
CID-Crime Branch, Odisha.

Memo No. 7383 /CID-Law

Date: 30 .06.2024

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 - SsRP Cuttack/Rourkela, SsP HRPC/CAW & CW/ EOW/STF
 - Spl DG of Police, HRPC/ Commissioner of Police, Bhubaneswar- Cuttack/ ADGP Railways & Coastal Security
 - IGP Training/ IGP CAW & CW/ IGP EOW/ IGP STF
 - All Range IsGP/DIsGP
- For Information and necessary action.


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