

Chapter 1

Functions, Roles and Duties of Police in General

Introduction

1. Police are one of the most ubiquitous organisations of the society. The policemen, therefore, happen to be the most visible representatives of the government. In an hour of need, danger, crisis and difficulty, when a citizen does not know, what to do and whom to approach, the police station and a policeman happen to be the most appropriate and approachable unit and person for him. The police are expected to be the most accessible, interactive and dynamic organisation of any society. Their roles, functions and duties in the society are natural to be varied, and multifarious on the one hand; and complicated, knotty and complex on the other. Broadly speaking the twin roles, which the police are expected to play in a society are maintenance of law and maintenance of order. However, the ramifications of these two duties are numerous, which result in making a large inventory of duties, functions, powers, roles and responsibilities of the police organisation.

Role, Functions and Duties of the Police in General

2. The role and functions of the police in general are:

- (a) to uphold and enforce the law impartially, and to protect life, liberty, property, human rights, and dignity of the members of the public;
- (b) to promote and preserve public order;
- (c) to protect internal security, to prevent and control terrorist activities, breaches of communal harmony, militant activities and other situations affecting Internal Security;
- (d) to protect public properties including roads, railways, bridges, vital installations and establishments etc. against acts of vandalism, violence or any kind of attack;
- (e) to prevent crimes, and reduce the opportunities for the commission of crimes through their own preventive action and measures as well as by aiding and cooperating with other relevant agencies in implementing due measures for

- prevention of crimes;
- (f) to accurately register all complaints brought to them by a complainant or his representative, in person or received by post, e-mail or other means, and take prompt follow-up action thereon, after duly acknowledging the receipt of the complaint;
 - (g) to register and investigate all cognizable offences coming to their notice through such complaints or otherwise, duly supplying a copy of the First Information Report to the complainant, and where appropriate, to apprehend offenders, and extend requisite assistance in the prosecution of offenders;
 - (h) to create and maintain a feeling of security in the community, and as far as possible prevent conflicts and promote amity;
 - (i) to provide, as first responders, all possible help to people in situations arising out of natural or man-made disasters, and to provide active assistance to other agencies in relief and rehabilitation measures;
 - (j) to aid individual, who are in danger of physical harm to their person or property, and to provide necessary help and afford relief to people in distress situations;
 - (k) to facilitate orderly movement of people and vehicles, and to control and regulate traffic on roads and highways;
 - (l) to collect intelligence relating to matters affecting public peace, and all kind of crimes including social offences, communalism, extremism, terrorism and other matters relating to national security, and disseminate the same to all concerned agencies, besides acting, as appropriate on it themselves.
 - (m) To take charge, as a police officer on duty, of all unclaimed property and take action for their safe custody and disposal in accordance with the procedure prescribed.
 - (n) To train, motivate and ensure welfare of police personnel

Sec (57), Model Police Act 2006

Social Responsibilities of the Police

3. Every police officer shall:

- (a) behave with the members of the public with due courtesy and decorum, particularly so in dealing with senior citizens, women, and children;

- (b) guide and assist members of the public, particularly senior citizen, women, children, the poor and indigent and the physically or mentally challenged individuals, who are found in helpless condition on the streets or other public places or otherwise need help and protection;
- (c) provide all requisite assistance to victims of crime and of road accidents, and in particular ensure that they are given prompt medical aid, irrespective of medico-legal formalities, and facilities their compensation and other legal claims;
- (d) ensure that in all situations, especially during conflict between communities, classes, castes and political groups, the conduct of the police is always governed by the principles of impartiality and human rights norms, with special attention to protection of weaker sections including minorities;
- (e) prevent harassment of women and children in public places and public transport, including stalking, making objectionable gestures, signs, remarks or harassment caused in any way;
- (f) render all requisite assistance to the members of the public, particularly women, children, and the poor and indigent persons, against criminal exploitation by any person or organised group; and
- (g) arrange for legally permissible sustenance and shelter to every person in custody and making known to all such persons provisions of legal aid schemes available from the Government and also inform the authorities concerned in this regard.
- (h) preserve, promote and protect human rights and interests of weaker sections, backward classes, poor, weak and the downtrodden.

Sec (58), Model Police Act 2006

Maintenance of Essential Services

4. When the State Government declares any specified service to be an essential service to the community, it shall be the duty of the police to maintain the essential services and every police officer must obey any order given by any officer superior to him in connection with the service specified in the declaration by the government.

Sec (58), Model Police Act 2006

Senior Police Officer Performing Duties of a Subordinate Officer

5. A senior police officer may perform any duty assigned by law or by a lawful order to any officer subordinate to him, and may aid, supplement, supersede or prevent any action of the subordinate by his own action or that of any person lawfully acting under his command or authority, whenever the same shall appear necessary or expedient for giving more complete or convenient effect to the law or for avoiding any infringement thereof.

Sec (60), Model Police Act 2006

The Inventory of Police Duties, Functions & Jobs

6. In the light of above mentioned description of police work and functioning, an inventory of police duties, functions and jobs can be prepared in the following manner:

1. Investigation related duties and jobs
2. Crime prevention and preservation of peace and security
3. Crime detection work
4. Order maintenance and security jobs
5. Enforcement of Social Legislation, Minor, Major and Special Acts
6. Collection of Intelligence
7. Democratic and election related duties
8. Natural calamities, disaster management and emergency duties
9. Maintenance of Police Records
10. PRO duties
11. Assistance to other departments
12. Miscellaneous duties and functions

1. Investigation related duties and jobs

This would include police functions like:

- (a) crime registration
- (b) guarding, protecting visit to the scene of crime
- (c) lifting, handling and packing of exhibits and sending them to various places like the PS, SP office, FSL and other places calling witnesses and serving notices to them

- (d) calling witnesses and serving notices to them
- (e) arresting criminals and suspects
- (f) search and seizure proceedings during an investigation
- (g) interrogation of suspects, witnesses and criminals
- (h) collection and recording of various types of evidences i.e. oral, documentary and expert opinion etc.
- (i) taking criminals to courts for police/judicial custody and trial
- (j) raids for various purposes.

2. Crime prevention and preservation of peace and security

This would include:

- a) ghat and patrolling, including nakabandi, performing picket and ambush jobs, checking vehicles and frisking passengers
- b) surveillance and checking of bad characters
- c) preventive arrests
- d) collection and transmission of criminal intelligence

3. Crime detection work

The crime detection job profile would include:

- (a) collection of information/intelligence about criminals of various types and taking notes from the CIG.
- (b) Creation of mukhbirs/informers and creating contacts with the members of criminal tribes and other segments of society so as to obtain useful information with regard to the detection of various property and other offences like murder, dacoity, robbery etc.

4. Order maintenance and security jobs

This profile would include among other things the following tasks:

- a) surveillance, watch and action to be taken during peaceful processions, demonstrations and strikes of various types

- b) action to be taken on agitating and unruly mobs. This would include pushing off agitators, stopping them with improvised barricades and effective intervention to contain mobs under the instructions of senior officers and the use of force whenever needed
- c) protection of vital installations during the spate of crimes and emergencies of various types
- d) VIP security and performance of various duties during VIP visits in different capacities.

5. Enforcement of Social Legislation, Minor, Major and Special Acts

Performance of this role would require the police:

- a) to know the significance and importance of various social legislations like Child Marriage Restraint Act, Protection of Civil Rights Act, anti-dowry, guest-control and other social legislations which provide a positive and adequate push to social change in a development-oriented society like India. The role of a constable in the implementation of these acts has to be an integral part of the job profile of the constabulary.
- b) to know the significance and importance of various local, special and minor acts along with the role of constabulary in the effective execution of the various provisions thereof.

6. Collection of Intelligence

Police are required to collect intelligence about:

- a) any incident of law and order
- b) political activities
- c) labour activities
- d) student activities and agitations thereof
- e) communal tensions and events
- f) employees' associations and strikes by them
- g) criminal activities
- h) miscellaneous activities and events tending to destroy peace and tranquility.

7. Democratic and election related duties

In order to perform their role adequately the police must know:

- a) importance of elections
- b) types of elections
- c) the role of police in ensuring the conduct of free, fair and impartial elections
- d) various duties of a constable during different types of elections.

8. Natural calamities, Disaster and emergency duties

Various jobs like saving life and property, providing shelter, rehabilitation, evacuation of people from crisis situations and their transportation during:

- a) fires
- b) floods
- c) famines
- d) the spread of an epidemic
- e) the breakout of war or external aggression
- f) internal disorders like communal riots, struggle between various classes, castes and sects and other clashes

9. Maintenance of Police Records

This would include:

- (a) proper handling of the record
- (b) upkeep and maintenance of the record
- (c) preparation, destruction, revision and modification of the record of various police units

10. PRO duties

Police are the most visible and effective PROs of the police department. They should thereof understand

- a) the importance of PCR and its present state in the area of their operations and functions and
- b) the role of constables in improving PCR and police image

11. Assistance to other departments

This would include assistance to

- (a) the education department during examinations, students, and employees' strikes and other situations of disorder,
- (b) the revenue department and loaning organizations for recovery of loans revenue collection etc.,
- (c) the departments like banks and municipalities for guards etc for the removal of encroachments etc, and
- (d) the other departments as and when the need arises.

12. Miscellaneous duties and functions

This would include:

- a) ceremonial duties
- b) discharging regulatory duties and regulation of traffic and traffic management duties.
- c) comprehension of the norms of loyalty, commitment, neutrality and impartiality in the discharge of one's functions
- d) obligation and commitment to the Govt. and to the police organization
- e) contribution of constables during anti-dacoity operations, raids, emergencies, rounding up of and controlling of goonda and anti-social elements

Conflict Resolution Contexts of Police Role

7. Confronting, facing and handling of conflicting situations of various sorts happen to be an integral part of police role performance and police working. Police have to face numerous situations, where the contending parties on various issues, put up conditions before them, which in some way or the other, obtain the shape of conflicts. In most cases which the police handle, whether during investigations or maintenance of order, there are often two or more contending individuals, parties and issues which are expected to be resolved by police. Conflict resolution, thus, becomes an essential part of overall police functioning. Needless to say that policemen will be able to

discharge their various duties and functions better, if they obtain good understanding of the philosophy, principles and tenets of conflict resolution and conflict management.

Conflict Resolution Scenario of Police

8. Police, particularly at the field level, face following situations, in addition to others, pertaining to conflict resolution :

- a) Citizens come to police with various complaints against one others which are in the form of conflicts.
- b) There are issues, which themselves are in the nature of conflicts and the citizens expect the police to resolve them.
- c) In almost all cases which the police handle there are two or more contending parties, and there are adversarial situations which generate conflicts.
- d) The contending parties can create inter-group or intra-group conflicts like the complainant(s) or accused person(s) could be separate and well marked groups contending on separate and specific issues, and at times, there might be conflicting situations among these groups themselves which may give rise to intra-group conflicts.
- e) The conflicts, which the police face and handle, could be issue, individual and law based.
- f) In most conflict cases before police, they are often not themselves part of the conflicting situations, but at times, they while handling these cases come in clash with the issues, parties and situations, and, thus, they become part of the conflict and their status and position in the context of conflict resolution become topsy-turvy.
- g) In order to avoid such situations and for empowering police to handle and resolve the conflicts in a better way, they should be well-equipped in academic, administrative, psychological and legal contexts.

Conflict : Conceptualization

9. The realism of the term conflict is quite fluid, dynamic and ambiguous in nature. It may mean different things to different people. The gamut of conflict is also quite vast.

It may range from a simple situation like a debate or an argument on an issue to varied situations like disagreement, contest, dispute, quarrel, struggle, unrest, confrontation, turmoil and chaos. The situation of conflict, thus, is opposite to cooperation, harmony, accord and peace. A conflict arises when parties disagree about the distribution of material or symbolic resources, or an issue and act on the basis of their perceived incompatibilities may also become subject matter of a conflicting situation. A conflict, therefore, is a perceptual and behavioural reality which is a result of an individual's or a group's perception of incompatibility about an issue or a situation. These perceptions of the incompatibility may be subjective in nature. A conflict is a generic phenomenon and happens to be interactive and dynamic process rather than a static condition or an event. A policeman should view the conflict in its totality for its appropriate resolution.

Causes of Conflict

10. There can be an end number of reasons for emergence and birth of various conflicts. Women, wealth, property, rights, claims, interests, ego, resource allocation, religion, ideologies, governance, partisan attitudes, etc, etc. can be some of the reasons which may give rise to conflicts. These causes could be classified in two categories i.e. underlying causes and immediate causes. The basis of various conflicts could be personal, social, cultural, political, religious, psychological, anthropological, administrative and legal. The police officer handling a conflict should go into its roots and should see the various facets of the conflict and should also look into the various legal aspects while bringing about its resolution.

Stages of Conflict

11. A conflict is a dynamic situation and it passes through various stages. These stages move through in a life cycle situation, from its emergence to its resolution. These stages could be : Formation, Escalation, Endurance, Improvement, Settlement or Resolution, Reconstruction and Reconciliation.

11.1 At the formation stage, a situation of conflict moves from its latent state to manifest state. At the latent state, a conflict remains in the nature of social tensions, differences and disagreements which are hidden and under developed. At the manifest

state a conflict becomes more prominent and more central in its overall dynamics. At this stage a conflict reaches threshold of confrontation, clash and even violence. A police officer should keep a close watch on the latent state of conflicts, particularly the ones which have Law and Order, communal and terrorism overtones. If these situations are handled effectively at the stage of formation, great damage can be avoided, if the dormant situations of criminality and Law and Order are not tackled efficiently and timely, they might not only get manifested in graver forms and may even degenerate into worse forms and may obtain its next stage called escalation. The police officers should make best of their efforts when the situations of conflict are in a state of escalation, because if they are not properly handled at this stage, they will obtain a state of resistance and endurance. Handling of conflict, at this stage, indeed, is a tough and difficult task. Use of force might be required. With appropriate use of force, the deteriorating situations may be put to a state of improvement, which would reduce the persisting endurance and resistance to a de-escalating state. When a conflict reaches this stage, its settlement and resolution will become smoother and easier. A conflict resolution would require the following seven dimensional mechanism.

- Completeness - the issues in the conflict have disappeared or cease to be important
- Acceptability - the outcome is acceptable to all parties, not just to one or to their elites
- Self supporting - there is no necessity for third party sanctions to maintain the agreement
- Satisfactory - all parties perceive the outcome as just according to their value system
- Uncompromising - no goals have been sacrificed in the form of compromise solutions
- Innovative - the solution establishes new, positive and legitimate relations between the parties
- Unforced - the agreement was arrived at without imposition by an outside force.

11.2 These criteria are extremely demanding and few conflicts can be said to have ended so completely. A satisfactory settlement of a conflict is often the best result

that can be attained. However, keeping the various desirable aspects of conflict resolution in mind, may help in producing settlements that are more satisfactory and likely to lead, in the long run to a genuine resolution.

Intervention Levels

12. For an effective resolution of conflicts timely intervention at the following levels is required :

- Personal
- Local
- National
- Regional
- International or Global

12.1 Intervention for conflict resolution should adopt the following strategies :

- Step-by-step
- Procedural framework
- End picture

12.2 The step-by-step, procedural framework and the end picture strategies of intervention focus on different aspects of conflict resolution on different time scales. These aspects need to be integrated in a comprehensive process of conflict resolution and transformation. These strategies are, thus, complementary to one another.

Methods, Modalities and Strategies of Conflict Resolution

13. Conflict resolution is a comprehensive outcome in which underlying causes of the conflict are removed so that no latent and residual elements are left unattended to avoid triggering off and recurrence of the conflict. The various methods, modalities and strategies of conflict resolution could take recourse to the following points, in addition to others, which are deemed fit and proper, with regard to the conflict in question.

- a) Early warning and prevention
- b) Reconstruction and reconciliation
- c) Conflict transformation
- d) Negative and positive peace

- e) Consultation
- f) Conciliation
- g) Mediation
- h) Negotiation
- i) Arbitration
- j) Problem solving
- k) People-participation in conflict resolution
- l) Multi-track interventions

Alternative Dispute Resolution (ADR) Approach

14. The concept of Alternative Dispute Resolution (ADR) encompasses a variety of methods or techniques that are used as alternatives to full-scale court processes. This involves participation and role of a neutral third person to resolve conflict that persists between the two parties. The third person assists and helps the contending parties in developing a workable solution to their problems outside the court room. ADR, thus, is a procedure that is used to resolve issues in any controversy including, but not limited to, conciliation, facilitation, mediation, fact-finding, quasi or mini trial, arbitration and use of ombudsman or any combination of the above. Most common of the ADR techniques are arbitration and mediation.

Various Facets and Features of ADR

15. Some of the important facets and features of ADR are following:

- ADR provides a private, non-adversarial approach to resolving conflicts and disputes. This is a useful option and alternative to the traditional litigation forms in the public courts.
- It does not subject contending parties to the rigor of the adversarial court system.
- Over a period of time, ADR as a mechanism of justice has found a niche in democratic, social and justice contexts.
- ADR integrates a myriad of cooperative measures which enrich the quality of information exchange between the contending parties and fosters cooperation, promotes efficient settlements and agreements, develops outcomes of mutual

gains, reduces legal costs; improve the quality and acceptability of outcomes.

- ADR has a positive potential to affect the long term of relationships of contending parties.
- ADR has been successfully applied in issues concerning labor management and employment matters, family discord and domestic strife, petty criminal cases, business affairs, public disputes, environmental concerns and intellectual differences.
- ADR has provided a useful alternative to the adversarial justice system and has given relief to various vulnerable groups like women, juvenile, workers etc.
- ADR presents an effective alternative to resolve disputes and includes in its ambit the collaborative approaches to reach agreements such as unassisted negotiations and assisted problems solving, as well as, voluntary third party decision making procedures.
- The spirit of ADR mechanism is to create a Win-Win- situation in place of Win-Lose situation of the adversarial system.

Objective of ADR

16. Some of the goals and objectives of ADR are following:

- a) To reduce delay in the resolution of disputes
- b) To by-pass ineffective and discredited court procedure and system
- c) To increase popular satisfaction with dispute resolution
- d) To increase access to justice for disadvantaged groups
- e) To support and complement court efforts
- f) To reduce the cost of resolving disputes
- g) To provide individual satisfaction, individual autonomy, social control, social justice, social solidarity and personal transformation

Police Prerequisites in the ADR Contexts

17. ADR, as a mechanism of conflict resolution is not very popular and acceptable in the police working because police are an integral part of the adversarial system in India. If the ADR is required to be made part of the police functioning, following

prerequisites are needed to be introduced and implemented.

- Awareness
- Acceptability
- Utility
- Adoption
- Cooperation
- Coordination
- Participation

18. Since the policemen are expected to work and function in the given legal frame work, their awareness about the ADR mechanism is quite inadequate. Consequently, the acceptability level and the level of the use and utility about the ADR mechanism is also quite inadequate. If ADR is to be adopted for the police department, and for their functioning, the level of awareness, acceptability and utility shall have to be improved. Police department, by dint of their role, functions and overall contribution to the justice system are in a position to cooperate, coordinate and participate in the ADR system. This is an appropriate time for introducing and adopting ADR in the police department. An appropriate committee should be set up to examine the extent, nature and scope of ADR in the police department.

Precautions

19. Following precautions should be taken for using and utilizing the ADR mechanism in the police department.

- i. Police are not meant to be a pure mechanism of ADR. However, their working, performance and functioning do have an intrinsic worth and value which can be used and utilized for ADR in a restricted, disciplined and limited manner.
- ii. Police can put in sincere and honest efforts to facilitate the contending parties to reach solution of their disputes, at their own level, particularly in petty, compoundable and ordinary criminal cases.
- iii. While playing the role of a facilitator, helping the parties to the ADR, the

police should always remain fair, impartial and neutral and must always avoid a partisan attitude and approach.

- iv. Their approach and attitude should not be infected with ulterior motives and vested interest.
- v. ADR approach to police working can be usefully utilized in the area of Law and Order maintenance, non-cognizable cases and the cases which have overtones of being resolved by ADR efforts.
- vi. Police personnel at all ranks should be suitably re-oriented to the concept, application and areas relevant to police functioning with regard to the realism of application of conflict resolution techniques to various facets of police roles, duties and working.
- vii. This re-orientation is possible by exposing police personnel to various academic courses, like the one, available at The Vardhaman Mahaveer Open University, Kota (Rajasthan) on conflict resolution or alternatively short term specialized courses on the subject can be organized in collaboration with the police training schools and the open universities like The VMOU, Kota (Raj.).

Functions, Roles and Duties of Superior Police Officers

Introduction

20. The hierarchy of the police organisation can broadly be divided in two categories i.e. Superior Officers and Junior Officers. The superior officers work in the supervisory and controlling capacity with regard to the units which they occupy at a particular point of time. They issue instructions, guidance and orders, which help and assists the junior officers in the discharge of their various functions. Every senior officer is empowered to exercise the powers vested in his subordinate officers and men. In addition, they have extra powers and responsibilities, which make them accountable for their actions in a more articulated way. The superior officers can be categorized as Central services officers and State service officers. The Central service officers are called IPS officers and the State service officers are designated in accordance with the State to which they belong. The IPS officers work as top management officers and middle management officers. The DGs, Additional DGs and IGPs belong to the top management level, whereas, DIGs and SPs belong to the middle management level. The State service officer belongs to the level of junior management. The powers, duties and functions of the superior police officers are following:

Director General of Police

21. The Director General and Inspector General of Police is the head of the Police Department in whom is vested the administration of the Police throughout the State. He is the adviser to Government in all matters relating to the administration of the Police force. He is responsible to Government for the internal economy, equipment, training and discipline of the force, for its efficient organisation as a means of preventing and detecting crime and maintaining law and order and for the efficient discharge of duties by officers of all ranks. It is therefore, his duty to decide or advice the Government on all spheres of police administration and on the state of crime and all activities having a bearing on law and order.

Subject to approval of the Government, he may from time to time frame such orders not inconsistent with the Police Act, as he shall deem expedient, relating to the general administration and distribution of the force, the places of residence, the inspection of units, the collection and communication of intelligence, modernization and such other matters with a view to keeping the force efficient in the discharge of all its duties.

21.1 The Director General of Police is empowered to make Rules and Orders under Police Act. Important Orders and Rules involving radical changes may be issued by the Director General and Inspector General of Police with the prior approval of the Government.

21.2 He is the central authority to direct operations necessitated by strikes, industrial disputes, riots, disorders or political movements spread over a wide area. Police action and dispositions necessary to combat such disturbances or movements will be under his general direction and control. In times of serious law and order problems he may deploy the reserve police to such areas as he deems necessary.

21.3 The Director General of Police will send in advance copies of his tour programme to the Chief Minister, Home Minister, Chief Secretary and Home Secretary. Copies will also be sent to the Commissioners of Police, Addl. Directors General of Police, Inspectors General of Police, Dy. Inspectors General of Police, Superintendents of Police and other related officers.

Additional Directors General of Police

22. The Addl. Directors General of Police will assist the Director General of Police in looking after Administration, law and order, Crime, Technical and Specialised Services in the Department. Their functions, powers and responsibilities will be laid down in the form of Standing Orders by the State Government.

Inspector General of Police

23. Inspectors General of Police work either in the Ranges or in other units to assist

the Director General of Police or the Addl. Director General of Police in the Administration of matters of the Police Department which come within the purview of the Units of the Department, placed under their charge. They may exercise all the administrative and financial powers delegated to the head of the department. They shall inspect all the units under their charge in accordance with the scale of inspections prescribed by the Director General of Police. Whenever they go on tour within the jurisdiction they shall send in advance the copies of their tour programme to the Addl. Director General of Police and Director General of Police and to the concerned Police officers.

Inspector General of Police In-Charge of Zone/Ranges

24. The Inspector General of Police in charge of a Zone/Range is a link in the chain of responsibility between the Director General of Police and the District Officer. He shall by regular personal inspection endeavour to establish and maintain efficiency and discipline ensure uniformity of procedure and practice, and secure co-operation between the Police of his several Ranges/Districts. He shall control, instruct and advise Range DIGs and Superintendents of Police to be careful and not to supersede one another in their legitimate functions. He will advise, and if necessary supersede Range DIG and Superintendents of Police in times of grave disorder by taking over full control of the situation. He will pay particular attention to the training of and the discipline in the Armed Reserves so that as high a standard of efficiency as possible may be reached and maintained. It shall also be his duty to instruct the Officers under him regarding man-management and propriety in their conduct and performance of duties.

24.1 The Inspector General of Police is responsible for the maintenance of strict discipline among officers of all ranks. He should be kept promptly informed of all serious cases of misconduct among officers occurring in his range. He is responsible for guiding and directing the efforts of Range DIGs and Superintendents of Police in dealing with such cases, for scrutinizing their reports and for making personal enquiries in cases where exigencies of the matter so demand.

24.2 The Inspector General of Police has a large measure of administrative control within his division/zone. His powers in the matters of appointments, postings, leave,

rewards, punishments and appeals will be in accordance with the instructions, orders and rules notified by the Government. He can exercise the financial and administrative powers of a head of department.

24.3 The Inspector General of Police shall be easily accessible to all members of the public. He shall hear their grievances and do his best to redress them. He shall meet the members of the public at convenient centers in various taluks, and take steps to improve police-public relations.

24.4 Whenever the Zonal Inspector General of Police visits a range or district headquarters, he shall make it a point to see all superior Police Officers who are still on probation so that he can assess the progress of their training and check the work done by them. It is the duty of the Inspector General of Police to ensure that steps are taken for the prevention of crime and particularly, adequate arrangements are made for dealing with any unusual outbreak of crimes. It is also his duty to exercise constant supervision over the course of investigation of cases and ensure that Superior officers take adequate part therein. He shall closely watch the investigation of complicated and important cases. He shall aid and control his Range DIGs and Superintendents of Police in the investigation of important cases and the Superintendent of Police should be able to rely on him for encouragement, instructions and advice.

24.5 Every Inspector General of Police in charge of a zone/division should send copies of his tour programme to the Director General of Police, the Addl. Director General of Police, Law and Order and to the Superintendents of Police under him. He will also forward to the Director General of Police and Addl. Director General of Police, Law and Order by the 5th of each month a report showing the details of his touring and inspections done during the previous month.

Deputy Inspectors General In-Charge of Range or Special Units

25. Where the Inspector General of Police is the in-charge of a Division/Zone, the range will be headed by an officer of the rank of Deputy Inspector General of Police and his powers, duties and responsibilities will be similar to the powers, duties and functions of the Zone/Division IGP.

25.1 The Deputy Inspectors General in charge of special units shall assist the Director General or the Additional Director General or the Inspector General, as the case may be, in the efficient discharge of all the duties which come within the purview of their jurisdiction. The general power, duties and responsibilities of the Deputy Inspectors General of Police are applicable to the Deputy Inspectors General of Police in charge of Special Units also.

Superintendent of Police

26. The administration of the Police throughout a district or part thereof shall be fully vested in the superintendent of Police. His work is of varied nature and in doing it, he should keep in view the following essential requirements:-

- a) to keep the district peaceful and the public satisfied with the security afforded to persons and property;
- b) to keep the force under control, in good discipline, well-trained, efficient and contented;
- c) to maintain cordial relations with the magistracy and other officials and non-officials;
- d) to ensure that the transport, arms and ammunition, stores and buildings belonging to the department are maintained in good condition;
- e) to promote good police-public relations;
- f) to organize good intelligence arrangements.
- g) To acquire full and detailed knowledge of the district and its current problems from the Police point of view;
- h) to participate, to the extent possible and permissible, in welfare activities sponsored by official and non-official agencies;
- i) to gain the confidence and loyalty of sub-ordinates by personal integrity, impartiality, devotion to duty, and a high sense of justice;
- j) to ensure by consistent supervision that the prevention, investigation and detection of crime in his district are properly and efficiently dealt with by the force under his command;
- k) to get to know all officers and men serving under him, redress their grievances if any, encourage those who are promising and effectively deal with those who are guilty of misconduct or remiss in the discharge

of duty;

- l) to ensure the honesty and integrity of his subordinate officers;
- m) to study crimes and criminals in his district as a whole; and
- n) to pay surprise visits to the police stations at irregular intervals and check up whether officers and men are alert.

26.1 The Superintendent of Police should consider it a part of his duty, as far as possible to give the Sub-Divisional Officers the benefit of his personal guidance and instruction whenever necessary. A Sub-division, wherein an officer is acting for the first time as sub-divisional Police Officer, should be visited as soon as possible after the latter has settled down. The sub-divisions in-charge of junior officers should be visited frequently.

26.2 When in headquarters the Superintendent of Police shall attend office on all workdays and shall ordinarily transact all official business in his office. He may however discuss confidential matters in his home-office. He shall be easily accessible to officials and members of the public generally. The Superintendent of Police shall make necessary arrangements for the transaction of all urgent and important work during the period of casual leave availed by him or by any of his sub-Divisional Officers. The Superintendent of Police shall take steps to ensure that the prosecuting and investigating officers show due interest in the prosecution of cases in court and that no case fails on account of apathy or neglect.

26.3 The Superintendent of Police should be fully informed of all activities in his districts that have a bearing on law and order and he must take precautions to ensure that such activities do not result in breach of peace. He should also require his subordinates to keep him fully informed of all the developments and he should use his District Special Branch staff to secure information in regard to such developments. The Superintendent of Police is personally responsible to prevent problems arising out of communal tensions and to take prompt action whenever there is any communal problem.

26.4 The Superintendent of Police may withdraw subordinate Police Officers temporarily from any of the Police Stations in his district for duty in other Police

Stations in the same district at which extra force is required to deal with an emergency or to make arrangements in connection with fairs, festivals, meetings, processions or the visit of VIPs. The Superintendent of Police is responsible for ensuring that his assistants and deputies work efficiently, and it is his duty to bring to the notice of the Inspector General and DIG and the Director General of Police, any defects of character or temperament or want of zeal, which detract them from their utility as Police Officers.

26.5 The Superintendent of Police should deal with crime as a whole, studying the criminal problems of districts, rather than merely visiting individual scenes of offences, a duty which more properly falls upon the Sub-Divisional Police Officers and other subordinates who have the main responsibility to ensure that investigations are conducted in the manner prescribed. The Superintendent of Police should visit the scene of offences and supervise the investigation of SR case like: Dacoity, Highway robbery, Murder, Culpable Homicide not amounting to murder, H.B. and theft of a sensational nature, Any disturbances, riot, or affray of heinous nature, Theft of a sensational nature, Case of counterfeit coins and currency notes, Offences under section 400 and 401 IPC, Conspiracy case, Any case of specially heinous nature.

26.6 The Superintendent of Police should immediately visit the scenes and enquire personally into serious occurrences endangering life and property such as heavy floods, train or boat disasters and fires which involve heavy loss of life or property.

26.7 The Superintendent of Police should tour all parts of his district, remaining longer in the troublesome localities. In addition to inspecting the police stations, he should visit villages and make himself acquainted with the members of the Village Defence Parties, Citizens Committees, Village officials and principal inhabitants, endeavoring to gain their confidence and co-operation and at the same time ascertaining the state of crime and enquiring into the work of his subordinates.

26.8 He should take special steps to improve the rapport between the police and the public by holding conferences of important and influential members of the public at convenient centres. He should take the assistance of District and Taluk level integration Committees with a view to promoting peace and understanding among

different communities. He will ensure that the services of Citizens Committees constituted by Station House Officers are utilized for prevention of crime and maintenance of law and order. He will also meet the members of weaker section and hear their grievances and take steps to redress them. He should satisfy himself by public contact that his subordinates are doing their duties faithfully and with integrity. His tours should not be rushed but so regulated that he becomes acquainted with the conditions in all important villages. During his visits to villages, he should also make enquiries about the current activities of the known criminals.

26.9 The Superintendent of Police should maintain a diary which should contain details of all the movements and every type of duty performed by him whether of a routine nature or otherwise and whether in headquarters or on tour. Police Motor Transport should be given personal attention by the Superintendent of Police, who should inspect all Motor Vehicles at least once in a month to ensure timely repairs and maintenance. The Superintendent of Police will send a monthly report to the Director General of Police through the Inspector General and Deputy Inspector General of Police.

Additional Superintendents of Police

27. Additional Superintendent of Police in the districts will assist the Superintendent of Police. In such cases the powers, duties and responsibilities will be laid down in a Standing Order to be issued by the Director General of Police with the approval of the Government. They will work under the control and direction of the Superintendent of Police of the District.

Sub-Divisional Police Officers

28. The duties of an Assistant or Deputy Superintendent of Police in charge of a Sub-Division are similar, subject to their limitations, to those of the Superintendent of Police. These Officers function subject to the orders of the Superintendent of Police, whom they are bound to keep fully informed of their doings and of what is going on in the Sub-Division, and to consult him in all matters of difficulty. Correspondence, other than matters of routine, with other departments should be routed through the Superintendent of Police.

(a) Supervision of Investigation

29. Sub-Divisional Police Officers shall as a rule visit the scenes of crime and supervise the investigations in the heinous cases. They shall also take up personal investigation in complicated or important cases. Dowry Death cases unless taken over by the special cell, will be investigated by the Deputy Superintendent of Police of the Sub-Division.

29.1 On reaching the scene of crime a Sub-Divisional Police Officer shall inspect it and examine all the witnesses. He shall then study the case thoroughly and discuss the evidence available and further evidence to be collected and ensure that the case dairies are written promptly and correctly under his supervision. He should normally remain in the scene of occurrence with the Investigating Officer and continue to supervise till the investigation is virtually completed. In cases where definite clues are not forthcoming, the Sub-Divisional Police Officer and the Circle Inspector of Police should camp in the village of occurrence till the case is detected or till, even after sustained and vigorous efforts, it is decided for want of further time, to leave further investigation to the local Officers. They should, however, resume the supervision of the investigation as soon as possible if necessary. In case the Sub-Divisional Police Officer receives information about the occurrence of another heinous crime while engaged in the supervision of the investigation of a case, he should decide whether the second case requires his immediate attention and if he feels that it is necessary for him to proceed for the supervision of the investigation of the second case immediately, he should give detailed instruction to the Circle Inspector of Police and the Sub-Inspector regarding the lines of further investigation to be pursued before leaving the place of offence. If necessary, he should return to the supervision of the investigation of the first case after completing the supervision of investigation of the second case. If, on the other hand, he feels that the investigation of the first case is more important than that of the second, he should continue the supervision of investigation of the first case and proceed after its completion for the supervision of investigation of the second case.

29.2 In case the Sub-Divisional Officer receives information about the occurrence of a

heinous crime while engaged in inspection, he should stop his inspection, proceed to the scene of offence, and resume inspection after his visit to the scene of heinous offence.

(b) Heinous Crime Report

30. immediately after visiting the scene in a heinous crime, and in any case not later than a week of the issue of the FIR the Sub-Divisional Police Officer should send a detailed report in duplicate to the Superintendent of Police, who will forward one copy to the Range Dy. Inspector General. A grave crime report should be sent by the Sub-Divisional Police Officer in a heinous crime even if it has not been investigated by him and even if it is treated as false or as a mistake of fact.

(c) Progress Report

31. Progress reports should be sent in duplicate every week till the final disposal of the case to the Superintendent of Police, who will forward a copy of it to the Dy. Range Inspector General of Police. It is open to the Superintendent and the Range Officers to order the discontinuance of progress reports in any particular case. Detailed progress reports received by the Range Dy. Inspector General of Police should be filed in his office, where a watch should be maintained over the progress and disposal of cases. Copies of grave crime reports and their progress reports should not be sent to the office of the Director General.

(d) Weekly Diary

32. The Sub-Divisional Police Officer should prepare and maintain a diary which should be written in ink in his own handwriting or typed with his initials on each page and it should be written on day-to-day basis, the entries for the previous day being made on the morning of the following day. The diary should contain details of all movements and every type of duties performed by him whether of a routine nature or not and whether in headquarters or on tour. The Sub-Divisional Police Officer will send a weekly report which is a true copy of the diary to the Superintendent of Police and Range DIG. The weekly report should commence from Monday of the week. The copies of the Weekly reports should be sent to the concerned officers with the superscription "Weekly Report" and they should be opened by the addresses only and none else on their behalf. All the case diaries received from the Inspectors should be

scrutinized by the Sub-Divisional Police Officer and necessary instructions should be passed upon them and communicated to the Investigating Officer. A crime registers to watch the receipt of the case diaries and the progress reports.

Functions, Roles and Duties of Junior Police Officers

Introduction

33. The various ranks, functionaries and positions of the police organisation can be classified broadly into two categories i.e. gazetted Officers and non-Gazetted employees or Junior Officers. The Gazetted and the senior/superior officers, who belong to the IPS or State service cadres function in the supervisory capacity, whereas the Junior/Subordinate Officers work as field officers and most of the police functions and duties are performed by them in person with the assistance of other ranks. The Junior/Subordinate Officers are known as Inspectors/Sub-Inspectors, Assistant Sub-Inspectors, Head Constables and Constables. The functions, role and duties of these officers are following:

(A) Inspector of Police

34. An Inspector of Police works in the capacity of a Circle Inspector, SHO, Staff Officer or as part of some unit of the police organisation. His functions and duties as Circle Inspector or in various capacities are following:

- i. The main duties of Inspector of Police are investigation of important cases, supervision of police work of his circle and branches, maintain discipline among subordinates, and to keep the Superintendent of Police and the Sub Divisional Police Officer informed of the state of circle, its crime and law and order situation on a regular basis from time to time.
- ii. The Inspector must thoroughly inspect each PS of his circle once in a year, should constantly and systematically tour throughout his circle. He should make enquiries about bad characters, the state of crime, community policing and general efficiency of police work. He should visit each of his Police Stations once in a month, check the current work of the Station, and give necessary instructions, pointing out errors, entering the same in the visitors' note book and sending a copy to the SDPO. He shall enter in the visitors' book the details of cases in which instructions issued relating to delay in

investigation, finalization, and trials. He shall discuss with the Sub Inspector(s) and IOs, the cases under investigation, clues for detection and assist in the progress of the cases in finalizing them without unnecessary delay. He should also supervise the prosecutions of cases, for quick disposal, and see that the witnesses are produced in courts regularly and co-ordinate with prosecutors and enlist co-ordination in the success of cases.

- iii. During his visits to the Police Stations, he shall scrutinize the station crime history and see whether all cases have been entered correctly and the register is maintained properly. He should peruse duty roster to see whether beats are properly detailed and checked. He should also check beats himself and visit as many villages as possible and see that he visits all villages once in a year. The villages visited by the Inspector shall be noted in the village roster maintained by him. The SDPO must watch the progress of village visits by the Inspector.
- iv. The inspector must inspect twice a year, the books, shops, premises and stocks of all licenced manufactures and vendors of arms, ammunition and military stores. He shall also inspect all licenced revolvers/pistols at the licensee's residence in the first quarter of each year.
- v. The Inspector shall assume charge of investigation in all grave crimes and be responsible from the initial stages till the finalization and prosecution of the cases. He shall personally investigate any other important case, or if the SDPO or Superintendent of Police orders him to do so. He shall write the case diaries in all cases that are investigated by him. On the occurrence of a crime of any importance, the Inspector should proceed to the spot without delay, to supervise and guide the investigation and take charge of the direction and co-ordination of all work. Where the Inspector takes up the investigation, he shall continue till it takes a definite shape. If however he has to leave the investigation for some unavoidable reasons, to be recorded in writing, he must come back as soon as possible and continue the investigation till the case takes a definite shape. In case he has to leave a case during investigation he should record in his case diary the opinion he has formed of the cases so far as well as detailed instructions regarding the line of further action.
- vi. If a serious breach of the peace is anticipated the Inspector shall promptly proceed to the locality and take measures to prevent it. In the absence of any senior officer, he shall take command of the police engaged in suppressing any

riot taking place in his presence. The Inspector should be present on the occasion of large festivals and public assemblies and supervise the police arrangements. He should plan, co-ordinate and organize anti-terrorist operations by collecting useful information about terrorists, their hide outs, shelters, financiers, modules etc.

- vii. At the close of the week, the Inspector shall submit a weekly diary. He should enter in it the work done by him and any other matter of departmental interest. When the Inspector leaves his headquarters, his halting places and the village visited, the distance traveled and the manner of performing journey should be given. The weekly diary should be dispatched on Monday containing the details up to previous Saturday night. If any thing of importance has occurred on Sunday or in a journey undertaken by him on Sunday, the same also will be incorporated in the diary. Besides the weekly diaries, the Inspector must also send special and immediate reports on any important or urgent matters, which occur, in his circle. He shall also send a monthly itineration report also. The Inspector shall forward to his immediate superior case diaries in cases investigated by him. He shall send a copy of the case diary to the station where the crime is registered and retain one copy with himself.

(B) Sub Inspector (Station House Officer)

35. It shall be the duty of the SHO to use his best endeavours and ability to prevent crimes, preserve peace, apprehend disorderly and suspicious characters, to investigate and detect offences, bring the offenders to justice, collect and communicate intelligence effecting public peace and promptly obey and execute all orders lawfully issued.

35.1 The Sub-Inspector in charge of a Police Station is fully responsible for the Police Administration of his charge. The Sub-Inspector is an important and vital functionary in the police department. He shall be responsible for proper management of the station and optimum utilization of the resources and facilities available. It shall be his duty to manage the staff and work of the police station in accordance with the law and rules and to make the police station a place where the needy public gets necessary and immediate response. The image of the police department basically reflects on the conduct and behaviour of the Sub-Inspector and his staff in the station, as it is at that

point, public has a direct access with the police. The Sub-Inspector and his staff should behave politely and courteously with the public giving an impression of friendly approach. Active co-operation from Citizen Committees shall be solicited in the matters of L&O, crime prevention etc. All illegal methods or ill treatments against persons should be avoided at all costs giving way to an impression to the public that the police are there to extend their helping hand in the discharge of their duties. The Sub-Inspector must respect human values and human dignity and should know that powers are vested in him to discharge his duties legitimately but not to arrogate to satisfy his ego and vanity. If he crosses his limits he will be doing so at his risk as the department will not come to his rescue.

35.2 He should assign duties to his staff and personally ensure that these duties are correctly performed. He shall take measures for the prevention of crime, for the preservation of peace, for speedy investigation and prosecution of cases. When more than one Sub-Inspector is employed in a police station, which is headed by a Sub-Inspector, the junior officer shall act in accordance with the orders of seniority. He shall maintain a notebook in which he will write then and there his daily movements and activities in discharge of his duties. The completed notebook will be retained for 3 years with the station records. He will hand over his current notebook to his successor when he goes on transfer.

35.3 He shall acquire full local knowledge and will become acquainted with the people of his station limits, especially the village secretaries and panchayat officials, and will also enlist their co-operation in prevention of crime and breach of peace. He should also involve various Committees in this regard. The SHO shall normally visit all the villages and localities in towns in his jurisdiction once a quarter. Passing through a village with out doing the work cannot be treated as a visit.

35.4 The duties of officer in charge of a police station are set out in the Police Acts and CrPC. They broadly relate to maintenance of law and order, prevention and detection of crime, investigation and prosecution of offences etc., etc.

35.5 The Sub Inspector of Police/SHO is responsible for the maintenance of the law and order and public order in his jurisdiction. His duties in this regard include,

personal leadership and supervision of duties and work of all the staff and men allotted to his charge including their welfare, discipline and morale, organizing active participation in crime prevention and detection, maintenance of law and order and anti-terror operations, dispersal of unlawful assemblies and prevention of breach of peace and public order, organizing beats and patrols and its personal supervision, designing and implementation of policing schemes suited to such beat areas and securing co-operation of public and social committees.

35.6 Obtaining prompt information about activities in the field of communal, caste, political, student, or other segments of society including subversive elements and identify trouble spots and trouble mongers and to take effective preventive measures like launching security proceedings under Cr.P.C.

35.7 Maintenance of good public relations in his station limits, visiting and spending adequate time in the villages, localities of his station limit, maintenance of effective surveillance over bad characters, anti-social elements, and rowdies of the area under his charge are some of the other important functions and duties of the Sub-Inspector/SHO.

35.8 He shall constantly endeavour to maintain high professional standard and keep himself updated, well informed and motivated, keep a pursuit and apprehension of offenders on available clues and information and collection of information on all important matters relevant to police duties and functions and communicating information to his immediate superior police officer and to other concerned superior police officers promptly.

35.9 The Sub Inspector of Police/SHO is responsible for the investigation of all cases reported in his jurisdiction except for those where the investigation is entrusted to Inspector/DSP or other senior officers or CID. As officer in charge of police station he shall perform the duties relating to investigation and prosecution of cases and shall register all cognizable cases and would furnish a copy to the complainant invariably free of cost and send the original FIR to the courts concerned immediately and copies to his superior officer.

35.10 In respect of non-cognizable offences reported in the station, he shall record the information in the general diary and also in the non-cognizable register, and refer the complainant to the court by an endorsement. In cases of non-cognizable offences referred by court or any cognizable offences presented by parties directly in courts but endorsed by the court to the SHO, he shall register such cases and investigate.

35.11 He shall promptly arrive at the scene of crime and thoroughly examine the same for clues and for other matters of investigation and will make arrangements for the preservation of the scene. He shall promptly conduct investigation by identifying, preserving, collecting and forwarding of material to scientific experts, and collection of documentary and oral evidence and would make use of scientific methods available for investigation.

35.12 He shall hold inquest where necessary and forward the bodies for the post mortem examination according to the necessity. He shall examine witnesses and record their statements accurately and promptly, and would conduct searches, and seize material, if any, as per provisions of Cr.P.C. He will make arrest of persons, where necessary observing the necessary provisions of law and the decisions of the court and send them to remand in time.

35.13 He will forward to the court the weapons and article seized from the accused, as well as, seizure affected from searches along with necessary reports. He will supervise investigations conducted by the IOs and will obtain progress reports. He shall write the case diaries regularly and forward them to the superior officers promptly to enable them to give instructions for further investigations. He shall finalize the cases without delay and file charge sheets where the evidence is sufficient for prosecution within the period of limitation imposed by the Cr.P.C. and Courts. He shall promptly serve and would ensure service of summons and execute warrants.

35.14 He shall take all steps to promptly prosecute the cases where evidence is sufficient by assisting the prosecutor by producing witnesses promptly to refresh their memory before examine them as witnesses in Courts and would obtain copies of judgments in cases of acquittal, read them and forward them to the prosecutor for his opinion for preferring appeal.

35.15 The station house officer shall forward daily to the Inspector a carbon or photostat copy of the station general daily with a docket in the form prescribed along with copies of FIR registered and case diaries of that day.

Inspectors and Sub-Inspectors (SHO) will up date the police station record from time to time and will make authorized entries in the small service books of their subordinates.

Assistant Sub-Inspector

36. The following shall be the duties of the Assistant Sub-Inspector.

- A. Investigation of simple cases as directed by SHO and assisting investigation in all cases handled by SHOs and other superior officers
- B. Petition enquiry
- C. Checking of enquiries in verification rolls
- D. Supervision of service of process work
- E. To function as an officer in charge of a beat area and check patrols
- F. Direct supervision or handling of station scriptory work
- G. Detailing duties to the staff during Sub-Inspectors absence and exercising supervision and control over the Constables and Head Constables
- H. Maintenance of cash book
- I. Preparation of pay and traveling allowance bills (He should sign them only when the SI is absent)
- J. Maintenance of arms and ammunition and registers connected therewith
- K. To be in charge of out post or beat and perform these duties when posted there
- L. Such other work as may be entrusted to him

Head Constable

37. Head Constables are mainly employed to be in charge of general duty in police stations, as station writer, as officer in charge of out post and guards, armed reserves, in charge of beat areas in rural and town police stations. He acts as SHO in the absence of Sub-Inspector and Asst. Sub-Inspector. He is authorised to hold inquests and make investigation when asked by the Sub Inspector to do so.

37.1 He will work with Constables and help them to understand instructions, catechism and drill and help them, to perform duties allotted by SHO. He will be in charge of guard or escort when deputed. He will visit villages in the station jurisdiction when deputed for a specific purpose and will work as HC in charge of a particular beat area. He will attend to court work under the orders of SHO, and will investigate cases when deputed by the SHO and to assist the IO in investigation. He will conduct enquiries into petty complaints and will take care of arrested persons kept in police station. He will take care of reception and proper behaviour with the persons coming to police station and to attend telephone calls. He will remain present in the police station in the absence of Sub-Inspector unless called away in an emergency.

37.2 Head Constable shall normally be assigned the duties of station writer. He will perform the ministerial work of the station under the direction of SHO. In the absence of SI or ASI, he will allocate urgent duties to the Constables and be in charge of station property including arms and ammunition and carry out the routine work of the station. In the absence of the SI, ASI and other senior, HC, he will function as station house officer; take steps for registration and investigation of cases reported under his charge. He may also be employed by SHO to go on night rounds and may occasionally be kept in charge of beat area. He is also responsible to watch the arrested persons kept in police station and proper reception to persons visiting police station and also for answering telephone calls when SHO, SI, or ASI are not present in police station.

37.3 The head constables form the main strength of investigating team. They assist the team leader in the investigation of cases especially in preserving, and collecting the clues like finger prints, foot prints, materials, photograph etc. and also in collection of information, process service, pursuit of clues and arrest of accused and recovery of property, assisting in searches and seizures, surveillance of specially marked persons, holding inquests where directed, securing the presence of witnesses, perform, court duty to assist prosecutor when SI or Inspector are not able to be present, any other work connected with the investigation of crimes.

37.4 Head Constable or Asst. Sub-Inspector is generally assigned a beat approximately covering 2000 households and around 10,000 populations in cities and towns and a group of villages in rural areas. He shall, with the help of constables provided, be responsible in that area for prevention of all offences, surveillance over criminals and bad characters, collection of information and intelligence, affecting crime, security and law and order, service of beats by night and day, preventing and dealing with public nuisances, maintaining order and incidence control, associate with citizen committees and keeping the SHO informed of all happenings, ensure discipline and conduct of constables of his charge, and conducting such enquiries as are entrusted to him.

37.5 HC may be kept in charge of small and rural out post. The duty of out post in charge is to supervise the work of constables in his charge, see to the proper performance of all duties attached to the out post and maintain the prescribed records. He should submit a copy of the out post general diary daily to the mother police station. Therefore whenever the information of cognizable offence is received in the out post, he shall forward it to the mother station for registration of FIR after issuing a receipt for the same to the complainant. He will also enter the substance of the report in the out post general diary. However the complainant is entitled for a copy of the FIR from the mother police station free of cost. The officer in charge of an out post may with out intervention of the officer in charge of a police station, take action in such of the offences as can be legally taken by SI, ASI or HC as per the rank of officer-in-charge. The officer in charge of out post shall on receipt of a complaint or information of a crime or serious occurrence, take such immediate action as may appear necessary i.e. proceeding and preserving the scene, rendering medical assistance to victims, arrest of accused persons etc.

37.6 In the absence of the regular SHO, the senior officer present shall assume charge of the station. Senior constable present shall also be deemed to be the officer in charge in the absence of higher ranks as per section 2(O) of Cr.P.C.

37.7 Whenever a guard is detailed for treasury or jail or for security of a minister of a government, a Head Constable shall be kept in charge of the guard. A Head Constable from reserve police will be deputed to be at the disposal of Sessions Judge, to

maintain order in the court when there is a criminal trial. Wherever it is warranted, the SHO shall make security arrangements commensurate with the situation with the permission and consultation of the District and Sessions Judge or other Judicial Officers.

Constables

38. A Constable has maximum interface with public. As the most accessible person for public, he is expected to protect the needy, rescue people from danger, apprehend offenders and assist in securing prompt help and justice. Some of the important roles assigned to him are organizing and securing community participation, activating himself in prevention and detection of crime and maintenance of law and order. Another main role of the Constable is, performance of all tasks connected with beat area and there by help in prevention of offence and breach of peace. The constable on traffic duty has the task of regulating traffic. All constables in their dealings with public should inspire confidence in the efficacy of police to protect them. The police image is directly proportionate to their good conduct and behaviour in the public as they are the persons who are basically and directly in touch with them. At all costs they must avoid ill treatment either to the victims or to the accused as a first step to build the better police image. The main duties of civil Constables are;

- A. To perform duties in beats, patrols and pickets and to keep surveillance over history sheeted and other potential criminals as per orders
- B. Collection of information and intelligence relating to crimes and criminals, subversive, terrorist and anti social elements in their areas primarily and communication of the same to the authorized superiors
- C. Developing cordial relations with local citizen committees/voluntary organizations and knowledge of households in the beat area and convey information relating to persons and events that cause or likely to cause law and order situation or wide spread disturbances
- D. Keep in touch with local disputes, caste/communal overtones and inform SHO
- E. Assistance to investigating officers in the matter of arrests, recoveries, searches, identification and securing of witnesses or verification of information and execute warrants and serve summons promptly, escort prisoners, arrested persons, escort injured or dead to the hospital, guard of prisoners in custody and all station property.

- F. Help and assist in dealing with Floods, Earthquakes, Fires, Accidents, Epidemics etc. and put in responsible efforts to save lives and property and to perform allotted duties in Fairs, Festivals, Bundhs, Agitations, Riots, Large Assemblies, Elections, Bandobust and security duties.
- G. To preserve and guard the scene of occurrence until necessity ceases.
- H. To behave courteously with all sections of public and treat poor people, children, women, aged and all weaker sections of society with consideration, sympathy and helpful attitude.
- I. To be regular and punctual in his duties, catechism, physical training and weekly parades.
- J. To work as data entry operators in Computers and in the areas of reprography, photography and cartography wherever they have necessary skill.
- K. To meet the common people in his beat on a regular basis and maintain rapport with the public representatives.
- L. To visit the victims of crime and keep them updated about the investigation of their cases, except where the identity of the victims needs to be kept secret or where the victim wants no interference.
- M. To keep a list of senior citizens living alone and visit them occasionally.
- N. To keep a list of vital installations and places of worship and maintain watch over the same.
- O. To keep a track of any brewing social, religious or sectarian conflict/ unrest.
- P. To keep a watch on the movement of foreigners in his area.
- Q. To make entries in the prescribed register and forms and maintain records entrusted to him particularly those relating to beat area.
- R. Any other duties allotted by SHO or other superior officers or elsewhere in this manual.

38.1 The entire preventive work of the police depends on the efficiency, commitment, professionalism and integrity of the beat area policeman. The Constable allotted to a beat should realize that his participation in the community even in a small measure is essential for successful policing. Professionalism and integrity but not power and authority shall command respect and bring in a large measure of co-operation from general public.

Chapter 4

Registration of Crime & First Information Report

Introduction

39. Police organisation, in any society, is said to be the chief law enforcement agency of the criminal justice administration. Crimes and offences of general nature are, therefore, registered and investigated by the police stations. Police station is the primary and basic unit of crime registration in all civilized societies. The common man whether victim, complainant or informer contacts police stations in the event of commission of a crime. It is expected that the police station will immediately take action on the report received by it and would register the crime for initiating appropriate and adequate action in the matter. Any lapse on the part of police in this regard will land them in a situation of criticism. Registration of crime and recording of an FIR is thus, one of the fundamental duties of the police.

Classification of Offences

40. Offences of various types, as per the provisions of CrPC, are classified as cognizable and non-cognizable offences. The offences in which police can arrest without warrant are classified as cognizable offences and the other ones are known as non-cognizable offences. On receipt of a report about commission of a cognizable offence, it should be recorded in the prescribed format, and this process is called recording of First Information Report (FIR).

The First Information Report (FIR)

41. Information of the commission of a cognizable crime that shall first reach the police, whether oral or written, shall be treated as the First Information. It may be given by a person acquainted with the facts directly or on hearsay, but in either case it constitutes the First Information required by law, upon which the investigation under Section 157, Criminal Procedure Code, shall be taken up. When hearsay information of a crime is given the Station House Officer shall not wait to record as the first

information the statement of the actual complainant or an eye-witness.

Rumour, Hearsay & FIR

42. A vague rumour should be distinguished from an oral report and should not be reduced to writing or signed by the informant but merely entered in the Station House Diary and should it, on subsequent information, prove well founded, such subsequent information shall constitute the First Information. If the rumour is in regard to the occurrence of a serious crime, the Station House Officer must embark upon an immediate enquiry to verify its authenticity and, if found true, obtain a complaint and register and investigate it. Police Officers shall not defer drawing up the First Information Report until they have tested the truth of the complaint. They shall not await the result of medical examination before recording the First Information when a complaint is made of grievous hurt or other cognizable crime.

Telephonic & Telegraphic Information and FIR

43. It is of utmost importance to secure all particulars regarding the occurrence in the first instance and to record them in detail. Care should also be taken to see if the complaint is trying to exaggerate an actual occurrence or trying to give the colour of a cognizable case to an incident of a non-cognizable nature. Complaints made by telegram or telephone should not be recorded in the First Information Report until the information has been verified and either a statement has been recorded from the sender in writing or a confirmatory written and signed complaint has been received from him. This does not mean that the Officer-in-charge of a Police Station need take no action on a telegraphic or telephonic complaint received by him. On receipt of a report by telegram or telephone regarding the commission of serious cognizable crime, he should make a note of it in the Station House Diary and hasten to the spot to verify the information and, if it is found to be true, he should obtain a complaint in writing or record the statement of the informer and send it to the Police Station for registration and immediately embark upon its investigation. On his return to the Station House, he should also record the result of his enquiries in the Station House Diary.

Procedure of Recording FIR & Subsequent Action

44. The registration of a cognizable offence shall be made by the Police Inspector/Sub-Inspector, if he is present at the Police Station when a report is made. Once the report has been entered in the First Information Report, the investigation of the offence will be commenced at the scene of occurrence with the least possible delay, and the PI/Sub-Inspector will himself proceed to the spot. If there are reasons that render this impossible or unnecessary, he will depute a PSI/ASI/Head Constable to take up the investigation, and he will note in the First Information Report why he did not himself take up the investigation. In the absence of the PI/Sub-Inspector, the senior most officer present will record the first information and take up the investigation till relieved by the PI/Sub-Inspector or any other officer.

44.1 The First Information Report shall invariably be written before the investigating officer proceeds to make an investigation. But, if a report of a serious crime is received by the Officer-in-charge of a Police Station, he must leave for the scene of offence directing the officer whom he places in-charge of the station or the station writer, as the case may be to register the case. For example, if a Station House Officer is informed that a serious breach of the peace is occurring in his jurisdiction or that a drunkard is running amuck with a weapon after inflicting serious injuries on persons, it is the duty of the Station House Officer to proceed to the scene at once and prevent the commission of further offences. He should not delay proceeding to the scene for the sake of issuing a First Information Report, which could be left to one of his subordinates.

Information at the Outpost and FIR

45. If the first informant appears at an outpost with or without a report, a First Information Report should not be issued by the Head Constable or Constable in-charge as he is not a Station House Officer as defined in Section 2(o) of the Code of Criminal Procedure. He will enter the substance of the report in the Outpost Diary, send the first informant with a note in which he should record the date and the time at which the first informant appeared at the Outpost and the date and time at which he left for the Station, where the First Information Report will be issued. He will then proceed to the scene of occurrence and will take steps to arrest the accused and

recover stolen property, if any, pending the arrival of the Station House Officer to conduct the investigation.

First Information Report Book

46. Information coming under any of the following headings received at a Police Station, shall be registered in the First Information Report Book, which is the book prescribed under Section 154, Criminal Procedure Code:

- (1) cognizable cases including those referred to the Police by Magistrates for investigation or inquiry under Sections 156 (3) and 202 Criminal Procedure Code;
- (2) fires, missing of cattle and all other occurrences where there is reason to suspect the commission of a cognizable offence;
- (3) non-cognizable cases endorsed to the Police by Magistrates for investigation or inquiry under Sections 155 (2) and 202 Criminal Procedure Code;
- (4) cases under Sections 41, 102, 107 to 110 of the Code of Criminal Procedure, only one First Information Report being issued if more than one person is involved in a case;
- (5) reports made to Magistrates with a view to action being taken under Sections 144 and 145 of the Code of Criminal Procedure.
- (6) Cases under Section 182 or 211 P.C. when it is proposed to prosecute the complainant for false complaint, although not investigated under Section 155(2) of the Code of Criminal Procedure.

46.1 Every report of a cognizable offence should be registered in the First Information Report book, even if it appears to be untrue, exaggerated or of civil nature. If the Officer-in-charge of a Police Station receives an oral report of a cognizable offence during his tour, he should take down the report in writing and have it signed or marked by the person who made it. He should then send it, with an endorsement duly signed by him, to the Police Station, where it will be treated as a written report and registered in the First Information Report book. In the meantime, he will himself commence the investigation. A First Information Report once recorded shall in no circumstances be withheld or cancelled by the Station House Officer. Cases entered in the First Information Report book will each be given a consecutive number, and this number will constitute the crime number for the purpose of subsequent references. As soon as the report has been entered in the First Information Report book, the

substance of the report must be briefly recorded in the Station House Diary.

47. Salient Points of Registration of an FIR

- i. Write the First Information Report immediately with all available details, and enter the fact at the same time in the Station House Diary, mentioning therein the name of the complainant or informant (with father's name, age, occupation and residence), the time of reporting at the Police Station and brief particulars of the report, including the crime number and section of law and action taken.
- ii. Record all available facts of the case in unambiguous terms and make sure that no important point is omitted. Use copying pencil for writing the First Information Report and make copies by carbon process.
- iii. Do not make corrections, erasures, scorings or over-writings. If a correction is necessary, strike out the word or words, leaving them still legible, and initial.
- iv. When the first informant presents his written report at the Police Station, read it and explain it to him. If he admits its correctness make on it an endorsement to that effect. Note on it the date and time of its receipt.
- v. If the written report reveals the commission of or reasonable grounds to suspect the commission of, a cognizable offence, it is not necessary to record any further statement. Proceed to register the case in the prescribed form, making relevant entries in the Station House Diary. If the written report is lacking in details of the articles stolen or their description including their identification marks, the names of persons who can identify them, etc., elicit them and record them at the foot of the report. The record made should be read and explained to the maker and attested by him. If the written reports does not contain the names and addresses of the accused, or some of the accused mentioned in the report have the same name, or the accused or some of them are not named but can be identified, their complete addresses to distinguish one from the other, and the descriptive marks of such of the accused as are to be identified, should be elicited and recorded. If the written report does not contain a list of the articles stolen and the first informant states that a list is under preparation and would be furnished, make a record to that effect at the foot of the report and obtain his attestation to it. If the written report is wanting in any other information but for which, the report cannot be said to contain all

the information falling within the purview of Section 154 of the Code of Criminal Procedure, question the first informant and if he is able to furnish it, record it at the foot of the report and obtain his attestation.

- vi. If the first informant does not appear with his written report but makes an oral statement, reduce his oral statement to writing in the space provided in the First Information Report form. If one form is found insufficient, use another form. Record the First Information in the actual words of the informant, as the record should not be your impression of what he meant to say. Employ plain and simple language, as nearly as possible, in the informant's words. Avoid technical or legal expressions of high-flown language.
- vii. When, after the First Information Report, a list or a further list of stolen property is furnished or obtained by police, ensure that it is signed by the persons concerned and record on it the date, time and place of its receipt. Do not keep the list referred to above in the case diary file. Retain its copy and send the original to the court for being attached to the relevant First Information Report.
- viii. Whenever it is found that having regard to the time and date of occurrence, the distance from the place of occurrence to the Police Station and other relevant circumstances, the first informant has delayed lodging the First Information, elicit from him a full and detailed account of the circumstances which contributed to such delay, while reducing to writing, his oral statement.
- ix. If a first informant appears before an officer superior in rank to an Officer-in-charge of a Police Station, the former should reduce to writing his statement or he should see that the informant is produced before the Officer-in-charge of the Police Station, who should then record his statement.
- x. When an accused appears at a Police Station and lodges a First Information Report, it should be read and explained to him and if he admits its correctness, an endorsement to that effect should be recorded. If he appears without a written report, his oral statement should be reduced to writing. In either case, if a cognizable offence is disclosed or there are reasonable grounds to suspect the commission of a cognizable offence, a case should be registered.
- xi. When a cognizable offence is committed in the presence of an Officer-in-

charge of a Police Station, he is not bound to take down in writing any information relating to the commission of the offence. Since he has the information himself, he can register the case suo-moto. In cases registered suo-moto, satisfy yourself that the First Information Report contains a full and correct record of all the facts and circumstances relating to the offence and the offenders, including the names of witnesses, if any.

- xii. When the First Information relates to theft, do not fail to ask the complainant to furnish a list of articles stolen, their value and any particulars as to weight, make, design or other distinguish marks which may assist identification, if they have not already been furnished. While eliciting the prices of articles stolen, take care that their prices are fixed having regard to the market rates prevailing at the material time and not with reference to the prices at which they were originally purchased.
- xiii. If the informant knows or has seen the person by whom an offence reported was committed but his name and address are not known to him, do not fail to elicit from him, a description of the latter's appearance, which should be recorded along with the rest of the information. If the complainant is unable to give a list of property stolen at the outset (may be because he is not the victim of the theft or the person in the know of things or articles is away at the time) or its weight, make, design or distinguishing marks, do not fail to obtain it from the person concerned. There should be no delay whatsoever.
- xiv. There should be no time-lag between the receipt of informant of the commission of a cognizable offence and the recording of it. Whenever a report clearly discloses a cognizable offence, do not embark upon a preliminary enquiry which is illegal; but register the case at once. The First Information Report is the first information of an occurrence or transaction in point of time which reaches the authority competent to investigate or order an investigation. Obviously there cannot be more than one First Information Report in one case, however many the victims of the offence may be. If three persons are murdered in the course of an occurrence, preparation of three First Information Reports, one for the murder of each person, is irregular.

48. Cases Reported at Other Police Stations Outside the Jurisdiction

- I. **Crime of Railway Police Reported at the Crime P.S. :** When an offence committed within the railway police jurisdiction is reported to a local district Police Station or vice-versa, the Station which receives the report shall forthwith inform the Police Station having jurisdiction by telephone, wireless or telegram, which shall be followed up by the First Information Report transferring the case. The police receiving the information first should take up the investigation and continue it till the arrival of the police having jurisdiction.

- II. **Crime of one PS reported at other PS :** If a crime committed in the jurisdiction of another Police Station within the State is reported to the Station House Officer of a Police Station, a First Information Report should be issued and its substance entered in the Station House Diary.

- III. **Action by PS where crime is reported :** If the place of occurrence is near and is easily accessible from the Station House, the Station House Officer will at once proceed to the spot, take up investigation and continue it till relieved by the police having jurisdiction. Simultaneously, action will be taken to send immediate intimation to the police having jurisdiction over the place. When the investigation is taken over by the latter, the First Information Report should be transferred.

- IV. **When crime is reported at the nearest PS :** If the place of occurrence is far off, immediate intimation should be sent to the police having jurisdiction over the place by the quickest possible means and the First Information Report transferred to them simultaneously. If any of the persons, who are reasonably believed to have taken part in the offence, are found in the limits of the station where the offence is reported and if the offence alleged against them is of a serious nature and there is reasonable apprehension that they will abscond unless immediately taken

into custody, they should be arrested and produced before the court having jurisdiction, intimation of their arrest being promptly sent to the Police Station within the jurisdiction of which the offence occurred.

- V. **When crime of another State is reported** : If a report relates to a cognizable offence that was committed outside the State, it will be entered in the Station House Diary and a certified copy of the entry will be given to the person who made the report and he will be referred to the Station House Officer within whose jurisdiction the offence took place. If any of the persons who are reasonable believed to have taken part in the commission of the offence are found in our State territory, and if the offence alleged against them is of a serious nature and there is reasonable apprehension that they will abscond unless immediately taken into custody, they will be arrested and produced before the court having jurisdiction, intimation of their arrest being promptly sent to the Police Station within the jurisdiction of which the offence occurred.

Registration of Cases Where Jurisdiction is Doubtful

49. The police to whom a cognizable offence is first reported shall register the case and take up the investigation, where the offence has been committed close to a boundary between stations and it is at first doubtful in which station limits it occurred. The station which should retain the crime should be subsequently settled. It is of little importance whether a crime committed close to a boundary line is registered in this or that station. What is necessary is that the police who first hear of it should take up the case and endeavour to detect it.

Non-Cognizable Cases

50. Information received in a Police Station of facts which constitute a non-cognizable case or any steps taken by the police on their own volition in a non-cognizable case will be entered in the Station House Diary. When a Police Officer finds it necessary to lay information before a Magistrate in a non-cognizable case, he may, under Clause (b) of Sub-Section (1) of Section 190 of the Code of Criminal Procedure, make a report to the Magistrate in writing of the facts which constitute

such offence. If there are persistent complaints against a particular individual, which legally fall under the category of a non-cognizable offence, orders from the competent court to register the N.C. case may be obtained for investigation or action U/s 110 Cr.P.C. may be taken.

First Information Report to Whom Sent

51. Once copy of the First Information Report will be retained in the Station and another will be forwarded without delay to the Magistrate having jurisdiction. Two copies will be sent to the Sub-Divisional Police Officer. The Sub-Divisional Police Officer will retain one copy and the Station House Diary and send the other copy of the First Information Report to the superintendent. In cases coming under Clause (b) of the proviso to Section 157 of the Code of Criminal Procedure, the copy of the First Information Report should be sent to the Magistrate.

Use of the First Information Report

52. The First Information Report is a very important document. It is the earliest record made of an alleged offence before there is time for its particulars to be forgotten or embellished. It can be used to corroborate or impeach the testimony of the person lodging it under Sections 145, 157 and 158 of the Indian Evidence Act. It can also be used under Clause (1) of Section 32 and illustrations (j) and (k) under Section 8 of the Indian Evidence Act. The necessity of drawing up this document with the utmost care and accuracy and with all available details need not, therefore, be overemphasized.

Powers & Duties of Investigation

Introduction

53. The concepts of **Rule of Law**, **Due Process of Law** and **Natural Justice** necessitate that all crimes should be registered promptly and they should be investigated impartially and competently. Police Station is the chief centre of registration of crime and, accordingly, the staffs posted there have legal powers and prescribed duties to investigate the crimes and cases. Various provisions of the Cr.P.C. and other enactments empower police to register crimes and take up investigation for their legal and logical conclusion. The police, thus, are empowered to investigate offences both cognizable and non- cognizable ones. The cognizable offences are investigated by police ip so facto and the non-cognizable ones are investigated by them after obtaining permission from the appropriate authority.

Power to Investigate Cognizable and non-cognizable Offences

54. The officer in-charge of a police station is empowered to investigate every cognizable offence within the jurisdiction of that police station. Even if the police officer investigates a cognizable offence registered in his police station but beyond that jurisdiction, it cannot be questioned. Police officers, of and above the rank of Head Constable, posted at the police station are empowered to investigate cognizable cases on behalf of the SHO.

Visit Scene of Crime Without Delay

55. After registration of the offence and sending FIR, the police officer has to proceed in person or he shall depute one of his subordinate officers to proceed to the spot for investigation and also for taking measures for discovery and arrest of the offender (section 157 Cr.P.C.). In case the offence is not of a serious nature, the police officer need not proceed in person or depute a subordinate officer to make investigation on the spot. (Section 157 Proviso (a) Cr.P.C.). If it appears to the police officer that there is no sufficient ground for entering on investigation, the police officer need not

investigate such a case (Section 157 Proviso (b) Cr.P.C.). Where the police officer does not investigate the case as no sufficient ground for investigation is found, then the police officer shall prepare case diary and send final report.

Action When Instructions Received from the Court

56. The Magistrate may under section 156(3) Cr.P.C. order the police officer to investigate any cognizable offence. Further, any Magistrate may direct an investigation to be made by a police officer on a private complaint received by him, of an offence, which may be either cognizable or non-cognizable. In both the cases referred for investigation either under section 156(3) or under section 202 Cr.P.C., the police officer has to necessarily register the crime in his police station and issue FIR immediately before taking up investigation. The police officer, whom the matter is referred, has to investigate that particular case and he cannot further endorse the crime for investigation to any other officer. After completing the investigation, the police officer in both the types of cases, has to submit his police report to the Magistrate under section 173 Cr.P.C.

Further Investigation

57. Even after submitting final report under section 173 (2) Cr.P.C., the police officer is not precluded from collecting further evidence and is empowered to obtain the case file from the court for further investigation. In case the police officer finds any relevant oral or documentary evidence even after filing charge sheet, the police officer has to forward the same to the Magistrate by way of further report, which is generally termed as additional information or additional charge sheet under section 173 (8) Cr.P.C.

Investigation of non-cognizable Crime

58. If a police officer intends to investigate a non-cognizable offence, he can take the orders of the court and investigate, but he shall have no power to arrest without a warrant.

Protection of Crime Scene

59. The investigating officer, on reaching the scene of crime should secure the crime

scene from getting disturbed or being changed by any persons, intentionally or unintentionally. The best physical evidence is normally found at the place where use of force against persons or property has taken place. Sometimes valuable pieces of evidence may be discarded or dropped or it may fall off accidentally or inadvertently at some distance from the scene of crime. Such spots also need proper protection. All such critical areas should be secured from intruders and stray animals or neighbours, friends, sympathizers, curious onlookers, newspaper reporters, press photographers and others who are not officially connected. The whole area should be cleared of all unauthorized persons in quickest possible time. The Press and other Media should be requested to keep beyond the barricaded/secured area. The following steps should be taken for protection of the scene of the crime:

- A. Cordon off the scene and surroundings, access and exit points effectively.
- B. Identify and persuade to retain the person who first informed the Police. Or, note his address, telephone number etc.
- C. Persons who are likely to provide information, investigation leads and other pertinent details should be segregated and examined for collecting all possible information, Eye-witnesses should be requested and allowed to stay at earmarked place for examination.
- D. Physical evidence should be protected from pet animals like dogs, cats, rabbits, etc., and also rats, mice and birds, as also from adverse environmental influences such as wind, rain, sunlight, dust, smoke moisture, etc.
- E. No physical evidence should be disturbed from its original position without properly recording it. Jewellery, keys currency notes and other valuable items with evidentiary value, vulnerable to theft from the scene, should be removed and preserved after a seizure list is drafted.
- F. During the preliminary inspection of the crime scene care should be taken to ensure that nothing is inadvertently dropped such as cigarette butts, match sticks, empty packs of cigarettes, match boxes, ash, etc. and nothing is touched that may cause interference with the fingerprints, footprints, etc., and nothing is added such as hair etc.
- G. All physical evidence/traces should be lifted only after recording and thoroughly searching the crime scene. Where traffic is to be restored or place required for use, the examination of scene and other work should be completed as expeditiously as possible but with thoroughness.

H. It should be borne in mind that evidence may not always be visible to eye. Even if visible, it may escape a non-observant eye or may not appear relevant. It is therefore necessary that the scene or places be subjected to close scrutiny both by experts and the Investigating staff.

Examination of the Scene of Offence

60. As soon as the information about an offence is reported, SHO shall, by quickest available means, proceed to the scene of offence after registering the FIR or making arrangements for the same depending on the nature of offence reported. It is important that the Investigating Officer and his team proceeds to the scene of crime as expeditiously as possible and perform their respective functions. Particular care should be taken for preservation of the scene, collection of all material and other evidence. Steps should also be taken for arrest of accused or pursuit of the accused if warranted and justified for the investigation of the case. The instructions of the Inspector investigating the case and authorized to investigate that case, shall be complied with by all subordinates concerned.

Search of Scene of Crime

61. The search of the scene and its surroundings should be made patiently, methodically and in a definite order and not in a hurried or haphazard way lest valuable clues are missed or lost. Special attention should be paid to the floor, walls, ceiling, window sashes and all protuberances and edges, which are likely to bear traces. Nothing capable of bearing fingerprints or other trace should be ignored. The procedure as laid down below should be followed.

First aid to the Injured

62. In the event of a person being dangerously wounded, the Police Officer who first arrives on the scene should render such first aid as is possible and necessary, without in any way disturbing the crime scene and take immediate steps to procure medical aid or send the wounded person without loss of time to the nearest hospital or dispensary for treatment. This should be done before entering on the formalities of the investigation etc., as the delay thereby incurred might cause serious risk to the life of the person so wounded. In nearly all cases, it should be possible for the Investigating

Officer to note the position and nature of the injuries while arrangements are being made to procure medical aid or to send the injured person to a hospital.

Preservation of Evidence

63. Simultaneous steps should be taken to preserve all valuable items or objects of evidentiary value at the scene. This is vital, as certain types of evidence is likely to get evaporated, decomposed, putrefied, degenerated or may undergo other chemical or biological changes with time and other environmental factors. Suitable containers like polythene or glass bottles, polythene bags, paper envelopes, aluminum foils, etc. and preservative substances should be kept ready for proper preservation of evidence. Depending on the nature of evidence suitable preservatives should be added under expert advice. Examples: Tissue samples should be preserved in 20% Dimethyl Sulphoxide saturated with Sodium Chloride for DNA analysis and Viscera should be preserved in saline etc.

Recording of the Crime Scene

64. The police have a limited time and opportunity to make an in-depth study of the crime scene in an undisturbed state. No time should therefore be lost to record as accurately as possible the conditions existing when investigating officer arrives at the scene. Such a record will help the on-going investigations, reconstruction of the scene of crime and also presentation in the Court. The judiciary and defence counsel need convincing evidence to substantiate the conditions and circumstances reported prevailing at the time of the crime. It is therefore necessary to make a visual presentation that shows the various evidentiary items, witnesses and their interrelationship with the scene of crime. The methods of crime scene recording are Photography, Sketch, Observation notes, Videography and Audio tape recording.

Sketching the Crime Scene

65. After the scene is photographed, it should be sketched, to provide measurements indicating the relative distance and position of the various items of evidence and their interrelationships.

65.1 The sketch is the first visual record of the condition of the crime scene. It

portrays the crime scene and items within that scene that are of interest to the investigation. Sketches properly prepared are useful during the interrogation of witnesses, in making notes in the case diaries and in presenting information to the court. The sketch complements the photographs and notes made while observing the crime scene. The ultimate purpose of the crime scene sketch drawn as per set scale and plan, which is also known as crime scene planning, is to represent the facts of the crime with such clarity and precision that the crime itself may be reconstructed from the details. Courts rely to a great extent on sketch of the scene prepared.

65.2 The Investigating Officer should make a rough sketch of the crime scene on the basis of his own observation but not what is stated to him by witnesses as such a sketch will be hit by 162 Cr.P.C. Even if the sketch contains some facts and narrations on the basis of his observation and some on the basis of what is stated by witnesses, such a sketch will also be inadmissible in the court, if admissible part cannot be separated from the inadmissible part. The sketch need not be drawn to scale, but should indicate accurate distances between objects dimensions of areas and relative directions. The items to be included in the sketch and number of copies should be determined at the outset.

65.3 The rough sketch once drawn should not be altered. A smooth or fair sketch should be prepared on the basis of the rough sketch. The smooth sketch also known as crime scene plan drawing is prepared as per a convenient scale and plan from the details of rough sketch. Colour drawing will be helpful to distinguish various objects or the features of an object.

Methods of Sketching

66. It is important that measurements shown on the sketch are as accurate as possible and are made and recorded uniformly. An erroneous measurement becomes difficult to explain and can introduce doubt in the minds of judges and others concerned not only regarding the authenticity of the crime scene processing, but also the competence of investigator. The investigator should therefore follow a standard method of sketching depending on the nature and background of a case. Standard methods normally adopted for sketching are: Coordinate Method or Baseline Method, Triangulation Method, Cross-projection Method.

66.1 There are various signs and symbols useful for sketching, therefore, every IO should have an in-depth knowledge above them and should make use of them in preparing sketching of the spot for crime.

Crime Scene Observation Notes

67. The officer making the search should take down accurate and detailed notes, supported by accurate sketches drawn to scale, showing the whole layout and the exact places where the articles, etc. were found. It is not sufficient to say that an article was in a certain room or on a particular table, but its exact position must be noted and, if necessary, an enlarged sketch of that portion of the scene must be drawn. In all-important cases, photographs, video graphs and where possible laser impressions should be taken of the scene and of the objects on which any useful clues are found.

67.1 The successful investigation of a case rests on the ability of the investigating officer to gather maximum information from various sources in a limited time in order to use it subsequently. The police officer cannot easily and accurately recall past events for crime scene reconstruction or for court testimony after a lapse of time. Sometimes many seemingly unimportant details may prove to be of utmost utility as evidence and in the investigation process. Hence the investigating officer should enter all details, observations, data, statements as and when they occur in his observation notes and case diaries and should personally get these sketches prepared taking fullest assistance of his team, scientific personnel and other experts. He should see that the team members work efficiently, professionally and cohesively.

Searching the Crime Scene for Physical Evidence

68. The primary purpose of inspecting the scene of crime is to search for any evidence left behind by the criminal while committing the crime. Such evidence will be invariable present in all scenes of crime is based on the principle of exchange propounded by Prof. Locard in 1928, which says “ Whenever any two objects or materials, animate or inanimate, come into contact with each other, there is always transference of material from each object on to the other”. Such transference may be

large or small, visible or invisible, detectable readily or difficult to detect, but such transference does occur. It is therefore the primary responsibility of Investigating Officers to search, identify and collect such evidence independently or with the assistance of 'CLUES' Team.

68.1 The crime scene is highly dynamic and is constantly undergoing change. It is also fragile, in the sense that the evidentiary value of the items it contains can be easily lost or downgraded. Usually there is only one opportunity to search the scene properly. Hence making a good overall survey of the scene is quite essential.

68.2 A competent search of a crime scene requires a thorough understanding of crime, its nature, and extent of damage, people aggrieved, property lost or damaged and the manner in which the offence was committed. All items should be searched with equal care and concentration. The search should be carried out carefully, avoiding unnecessary disturbance of the scene.

68.3 Based on the initial survey the investigator should first develop a hypothesis that will serve as the initial framework of the investigation. The hypothesis is simply a set of rational assumptions about how the crime was committed and the general sequence of acts that were involved. The hypothesis must be constantly reassessed in the light of each new fact or clue that is uncovered. There is often a tendency to arrive at unfounded assumptions. For example, if the Investigating Officer has substantial evidence that a murder was committed where the body was discovered, he may be tempted to ignore a fact or clue that does not fit the framework of that idea. Such inflexibility must always be avoided in the crime scene search. The Investigating Officer must be willing to modify or change altogether his initial ideas concerning any aspect of perpetration of crime. It is only through such a process of reassessment that the full value of the Investigating Officers experience can be realized.

68.4 By the time an initial survey of the scene is completed, the investigator should have noted the obvious items of evidence to be collected, and decide in what order he will collect evidence, what should be searched for, and how the tasks and areas have to be divided.

Search Methods

69. Following are some of the important search methods adopted for investigation of crime scene.

69.1 **Spiral Method:** The search is conducted following a spiral pattern working from outside to inside towards the centre or focal point (towards the body, safe or any other key feature) or vice versa, either clockwise or anti clockwise. It is an effective search pattern for single person search, with a very high probability of locating minute evidence like fingerprints, footprints, etc. Also, there is not much likelihood of the evidence being destroyed by the investigator's movements.

69.2 **Radial Method:** In this method, the investigator works outward from the centre along the radial, and moves in circles of increasing circumference repeatedly. This method provides a double check on the searched area and is one of the best methods available for both indoor and outdoor searches. This method is preferred if more than one officer is conducting the search.

69.3 **Strip Method:** This is a sector search, useful both for indoors and outdoors, in which the crime scene is divided into segments and strips. The method works well if the area to be searched is square or rectangular in shape with clearly marked boundaries. The search may be conducted by one or more officers depending on the size of the area and availability of officers.

69.4 **Grid Method:** Grid method is a slight modification of the strip method. This method is useful for small areas especially indoors. The area is divided into grids. In this method a single person can search the entire area by moving at right angles, and covering all the squares of the grid.

69.5 **Zone Method:** If the crime scene is large and enough personnel are not available, it is advisable to divide or sub divides the area into smaller zones and sub zones and uses this method of search. The method is particularly useful for searching in details the enclosed areas where items such as almirahs, safes, etc. have to be carefully inspected, and for cars or carriages which may contain minute trace evidence, necessitating a through search of all nooks and corners.

70. **What to See and Collect From the Scene of Crime**

- i. The IO should search for body fluids on the scene of crime and collect blood, semen, saliva, sweat, tears, milk, urine, faecal matter.
- ii. Body parts and body materials like skull, flesh, teeth, bones, nails, and broken bone pieces, viscera materials preserved during autopsy should also from part of collection of exhibits from scene of crime.
- iii. Containers of powders, chemicals, drugs, poisons, narcotics, inflammable liquids, miscellaneous substances including glass, plastic, tin, phials, bottles, cans, drums, gunny bags, and any other enclosed articles, if relevant should be collected.
- iv. Documents like papers, books, cheques, receipt, counterfoils, bills, files, carbon papers, letter pads, writing materials viz., pens, ink, seals, stamps and their impressions, photocopies, negative and positive photo etc. are also relevant and should be collected.
- v. Explosives like remnants of an explosion, springs, wires, timing devices, chemicals, stones, cotton, paper, fillers, residual and unexploded portions of explosives, explosive devices should also be collected.
- vi. Natural or synthetic fibers adhering to clothes, upholstery, seat covers, drapery, or any other articles, fingerprints-latent, visible, semi-visible, footprints-cast should also be collected from the crime spot.
- vii. Burnt remains, inflammable materials, fire remnants and burnt remnants accelerants, other arson related articles, firearms-country made, factory made, live-cartridges, empty cartridge cases, bullets, pellets, wads, gunpowder, discharge residues from hand, etc., where relevant should be collected.
- viii. Glass fragments, pieces, sheets, bangles, articles, animal or human hair and impression metals serial numbers on metals-cast, engraved, etched or punched

and other marks on metallic parts, filed, erased, stamped, etc. Impressions not included in any other category such as type writer impressions, shoe prints, glove impressions, tooth impressions, fabric impressions, bite-mark impressions, lip impressions, etc. are also relevant from investigation point of view.

- ix. Soil, dust, debris, mud, dirt, occupational dust in the form of stains, lumps, particles, powder, etc. and tools & implements, tool marks, cut marks, shear marks, punching marks, levering marks, file marks, chisel marks, drill marks, struck marks, depressed marks wood and vegetable matter and any fragments of wood, sawdust, or any vegetable matter on clothing shoes, tools, body etc., and materials like seeds, bark, leaves, etc., miscellaneous stains, impressions, prints, articles or other materials that is likely to link the crime or criminal with the victim or scene of crime should also be collected as part of evidenced collection by an IO.

71. Lifting, Packing and Forwarding Physical Evidence

- i. Each item should be packed separately so as to avoid breakage, loss or contamination in transit. Tweezers, forceps and similar tools are used to collect and place traces and small items into containers. It is advisable to use rubber gloves to handle such physical evidence. An “evidence box” such as deal wood box, clean empty carton, cardboard boxes, etc. should be utilized for transporting the items of evidence. An evidence box with pegboard sides allows for tying or wiring small and medium sized objects in place. A series of drilled holes and appropriately sized clamps can serve the same purpose.
- ii. Items of evidence that need comparative analysis for possible commonness of origin should be packed in separate containers to avoid any allegation of cross contamination. Thoroughly clean and dry containers, wrapping paper, corrugated paper boxes and sealing tape are the basic safeguards for physical evidence in transport. No wet or solid materials or boxes should be used.
- iii. Documentary evidence should be first placed in transparent envelopes without folding or bending, and then placed between two pieces of rigid cardboard and packed in a suitable cloth-lined envelope cover.

- iv. Plastic pill bottles such as used medicine containers with lids are unbreakable and can be easily sealed with tape. They make excellent containers for hair, fibers, and other small trace evidence. They are ideal for spent bullets, empty cartridge cases, and cartridges because they can be packed with absorbent cotton to minimize movement. Plastic envelopes and bags are suitable for packing many materials. However in case of soil, debris or clothing impregnated with bloodstains, this may result in bacterial action contaminating the blood sample, and should be avoided.

- v. If the stain is on a solid object that can be moved, such a knife, crowbar, fire arm or any other weapon, it is preferable to transport the whole object, protecting the area of the stain or completely enclosing the object in a package (if it is small enough). If the stain is on clothing, the garments should be wrapped separately in paper, marked appropriately and packed. This is better than any other technique such as scraping for forwarding a movable sample of the stain for analysis. Garments and other clothing such as bed sheets, towels, tablecloths and similar evidence should be folded as small as possible and without pressure. The specific areas of such fabric which contain trace evidence should be folded in such a way as to protect such areas to avoid loss of such materials by falling off, peeling off, etc. It is preferable to send a soil-stained or mud-soaked object to the laboratory rather than to attempt to remove and send the soil or mud as separate items. When such traces are picked up as individual items of evidence, it is vital that every precaution is taken to keep the evidence in separate sealed containers to avoid any accidental loss or mixing in transit.

- vi. Bed sheets, carpets, woolen materials from the scene of arson may be wrapped in metal foil and sealed in airtight containers. Smaller objects, such as paper and rags or solid samples should be sealed in the container in which they were found or placed in airtight bottles or cans. This protects the fire accelerants and their residues from evaporation. Pills and other non-caustic substances should be left in their original containers for transport to the laboratory. Such containers often contain useful information. The investigation officer should

count the number of pills and capsules or accurately determine the bulk quantity of fluids or powders and should include such data in observation notes. Caustic or corrosive poisons should not be transported until their safe transit is ensured by suitable means. Appropriate containers such as glass bottles with a glass lid should be used for transporting substances such as acids.

- vii. Food and edible substances should be placed in as many separate moisture proof bottles or containers as necessary to avoid any contamination. In case of suspected food poisoning the packages should be marked clearly as suspected or known samples of poison. Trace evidence, such as hair, fibers, etc. should be sealed in folded paper or placed in clean, sealed envelopes.
- viii. Adequate and appropriate samples should be collected. Bulky articles, samples in huge quantities e.g., cots, mattress, flooring stones, a drum of petrol or diesel oil, etc. or articles unconnected with the case should not be sent. Tag or mark all the articles. If the articles can be enclosed, put a mark on the container or the box. If special handling is required, it must be indicated and specific instructions provided on the packing itself, e.g., material is fragile or perishable.
- ix. Indicate any special priority that should be given to the case. Notify the laboratory if the case is associated with any previous submission or evidence. Always obtain a signed receipt whenever evidence is transferred (chain of custody) from place to place or person to person. All evidence should be forwarded or received only in a sealed condition. Label, initial and seal all envelopes and the packages without fail. The seal should be legible and intact and all knots of stitching ropes must be sealed. Ensure prompt delivery of all items of interest to the laboratory. Record all the procedures adopted for location, recording, lifting, packing and forwarding, in case diaries.
- x. Wherever feasible, it is advisable to bring the physical evidence in person and discuss the circumstances and history of the case so that the scientist will endeavour to bring out the right information from the scientific studies.

Chapter 6

Collection of Evidence

Introduction

72. Investigation is a process of connecting the offender to the offence. This is a method by which various events are connected with one another. A chain of events is prepared which illustrates and elaborates various steps and activities involved in the commission of crime. Relating each of such activity with another one will require the support of evidence of one nature or the other. The job of investigation and particularly that of collection of evidence is a serious, sensitive and complicated one. This requires use of utmost intelligence, competence, presence of mind, skills of observation along with utilization of various tools and techniques of evidence collection. Collection of various types of evidences through scientific interrogation and with the help of scientific aids to investigation can absolve the police of all the allegations with regard to use of third degree methods.

Nature of Evidence

73. The evidence to be collected during the course of investigation should be relevant and it should pertain to the facts in issue. Various provisions of Indian Evidence Act should be kept in mind, while collecting and recording evidences of various types. Only that evidence should be collected, which is admissible in the court of law. Collection of inadmissible and irrelevant evidence is wastage of time and even dilutes the quality and status of investigation.

Types of Evidence

74. The various types of evidences to be collected during investigation are following:

- a) Oral evidence
- b) Documentary evidence
- c) Expert evidence
- d) Circumstantial evidence
- e) Other evidences

- a) **Oral evidence**: Oral evidence is the most frequently used mode of evidence collection by an Investigating Officer. Oral evidence must be in the form of direct evidence otherwise it will be inadmissible being hearsay. The Indian Evidence Act deals with the provisions of oral evidence in sections 59 & 60. The oral evidence should be collected in accordance with the provisions of Cr.P.C. contained in chapter XII.

Recording the Statements of the Witness

75. The investigating officer is empowered under Section 161 CrPC to examine orally any person (including a suspect) who is likely to be acquainted with the facts and circumstances of the case. He may reduce to writing the statement of each such person, and when he does so, he shall make a separate record of each such person whose statement he records. The person so examined shall be bound to answer all questions relating to such case put to him, other than questions the answers to which would incriminate him to a criminal charge or to a penalty or forfeiture.

75.1 In order to examine a witness, the investigating officer should, as far as possible, contact him at his place, but may, if necessary, require the attendance before himself, of any person being in the limits of his own or adjoining police station. If a person so called intentionally fails to attend in spite of a written order served on him, he is liable to be prosecuted under section 174 IPC. However, under proviso to section 160 Cr.P.C., no male person under the age 15 years or woman shall be required to attend as a witness at any place other than the place in which such male person or woman resides.

75.2 When a police officer finds it necessary for the purpose of any police investigation to require any employee of any essential services, he shall give previous notice of the fact to the official concerned in order that the latter may take steps to replace the employee, and shall, at the same time, take all necessary measures to ensure that the object of the investigation is not thereby defeated.

75.3 The statement of each witness should be recorded separately, in direct form and as far as possible in his own language and with the full version of what he states. Section 173(5) of CrPC lays down a statutory obligation on the prosecution to furnish to the accused, copies of statements recorded under 161(3) of CrPC of all persons whom the prosecution proposes to examine as its witnesses.

Recording Statements of the Accused

76. It is important and necessary for an investigating officer to record the statement of an accused person, more so, if it contains lengthy details. These details may require verification. The statement may sometimes disclose the line of defence and may also at times indicate sources from which independent evidence may be available and provide clues for further investigation. Verification of all details given by the accused is vital for investigation and should be diligently done and the facts thereof should be entered in case diary on day to day basis.

Police Officers' Visit to Jails for Collection of Evidence

77. Any police officer of a rank not lower than an Inspector shall be permitted to enter the jail at any time between unlocking in the morning and lock up in the evening. He will be permitted to interview the prisoners only on a letter of authority to the jail Superintendent from Superintendent of Police or superior officers or District Magistrate. He may take other Police Officers and witnesses or informers with him for assistance. Police officers of lower rank than an Inspector in uniform are permitted to enter the jail for the purpose of recognizing old offenders. Any interview permitted as above shall take place in the presence of the jailer or other proper officer of the jail, who shall, if required to do so, keep at such a distance that he may not hear the conversation that takes place. The Superintendent of the Jail shall, produce any prisoner in his charge whom the police are authorized to interview and shall afford every reasonable facility for this purpose.

Dying Declaration

78. The statement given by a dying person is called dying declaration. Whether the statement is given expecting death or not, is not very relevant. Only those portions of the statement explaining the cause of person's death or the circumstances resulting in

that person's death are relevant.

Recording Dying Declaration : Process & Precautions

79. The declaration may be recorded by any person. It should preferably be recorded by a Magistrate, if available. If this is not practicable, the doctor or if he is not available the investigating officer may record it, in the presence of a witness. Even if the declaration is made to a police officer, it is admissible in evidence and its use is not barred by section 162 of the Cr.P.C. Even if it has been made orally in the presence of any person, it may be proved in court by the oral evidence of that person. The declaration becomes admissible, only if the declarant subsequently dies. If he survives, it will be useful, if made before a Magistrate or any one other than a police officer, to corroborate his oral evidence as a witness in court. If it was made before a police officer, it will be treated as a statement u/s 161 Cr.P.C.

79.1 The declaration should be in the form of questions and answers and in the very words of the declarant. The signature of the declarant should invariably be taken on the dying declaration wherever possible. If the declarant is an illiterate or is incapacitated from signing for any reason, his thumb impression should be taken. When a declarant dies while giving a statement, the declaration is valid even though he does not put his signature or thumb impression. A note should be made in the dying declaration giving reasons why the signature of the declarant was not taken.

79.2 When the declarant, being in a serious condition and unable to speak, makes signs by hand or head, the person recording the dying declaration must record the precise nature of the signs which the declarant made. Before taking down the declaration the persons recording the dying declaration should also ask the declarant whether he is mentally capable of making a declaration. He should obtain whenever possible a certificate from the Medical Officer as to the mental condition of the declarant. Incomplete dying declarations are not by themselves inadmissible in law. Though a dying declaration is incomplete by reason of the deceased not being able to answer further questions in his condition then, yet the statement to that extent is admissible provided it is proved he has given it consciously and the statement is not vague. An FIR can be recorded on the basis of dying declaration.

Confessional Statement Made to the Police

80. Though confession made to police officers are inadmissible, under section 27 of Indian Evidence Act, if a statement is given by an accused to a police officer while in custody and that statement reveals the discovery of any material fact and in consequence of that statement if that material fact is discovered, that statement is admissible to the extent of such discovery.

Recording the Confessional Statements

81. As soon as it appears to the investigating officer that an accused is likely to make a confession leading to the discovery of a fact, the investigating officer should secure the presence record the confessional statement himself, obtaining the signatures of the witnesses on the record. Stock witnesses or those who figure as panch witnesses in previous cases should not be taken. If it is not possible to secure the presence of witnesses, the investigating officer should himself record the confessional statement and afterwards when he is able to secure the presence of witnesses, he should read over the statement to the accused before the witnesses and, if it is agreed to by the accused as correct, note this fact on the record and obtain the signatures of the witnesses on it. The statement of the accused should be in the first person and in the very words of the accused; a separate Panchanama should be drawn up for the discovery. Giving information and recovery that follows it are two different transactions and a separate Panchanama should be recorded for each of them. The information given by an accuse person should not be mixed up in the Panchanama drawn up for the recovery made in consequence of such information. It is the information given by an accused person that determines his knowledge about that fact discovered and that has a direct bearing on his guilt.

81.1 When one of several accused persons who have taken part in an act, for example, the burial of property at a certain place, offers to point out the place and the property is found in consequence, his confessional statement is relevant against him under section 27 of the Indian Evidence Act. But if other accused persons suspected to have taken part in burying the property at the place also give the same information subsequently the discovery cannot be attributed to second person. These confessional statements cannot be said to have led to the discovery of the property which has

already been discovered and are not, therefore, relevant under that section. Though there is nothing objectionable in the investigating officer trying to see for his moral satisfaction whether such persons point out the same place as the one previously shown by one of them, no attempt should be made to utilize that evidence against subsequent persons. If two or more accused give statements under section 27 of Evidence Act, simultaneously, it is inadmissible, as it cannot be attributed to any single person. Where the place of recovery is a public place accessible to all and sundry a discovery from such a place cannot entirely be attributed to the exclusive knowledge of the accused and therefore much reliance cannot be placed.

81.2 The accused must be in custody of Police for a confession to come under purview of section 27 of Evidence Act. Even a man released on bail and giving information leading to discovery of a fact can be deemed to be in Police custody within meaning of section 27. Arrest and custody are not synonymous. A person can be in custody without being formally arrested.

Recording of Statements of Witnesses and Confessions of Accused by a Magistrate

82. In important cases, witnesses may be produced before Judicial Magistrate; competent to record such statements under section 164 Cr.P.C. Such statements can be used to contradict the statements given by the same person during the course of enquiry or trial. If he retracts later he can be prosecuted for giving false evidence.

82.1 If an accused person, on being arrested, expresses his willingness to make a confession, his confession may be got recorded under section 164 of CrPC by the competent Magistrate. As far as possible he must be taken before a magistrate other than the one who has jurisdiction to try the case.

Tendering of Pardon

83. Conditional pardon can be tendered to an accomplice. Tendering of pardon can be given in the following cases

- A. All offences triable by sessions court
- B. Offences under Prevention of Corruption Act

C. Offences which are punishable with 7 years or more

83.1 Tender of pardon is given where the investigation has to establish the guilt of the accused by independent evidence. In such cases participant who played a minor role with offence is taken into confidence with a view to prove the case against the other accused. The accused to whom the tender of pardon is granted is an accomplice witness.

83.2 The pardon tendered to a person under section 306/307 of Cr.P.C., as already stated, is conditional that he should make a true and full disclosure of the whole of the circumstances within his knowledge relating to the offence. If such person either willfully conceals anything essential or gives false evidence and thus does not comply with the conditions on which the pardon was tendered, he may be tried for the offence in respect of which the pardon was tendered later.

83.3 During the course of investigation the chief judicial magistrate and during the course of enquiry or trial the presiding magistrate or judge are competent to grant pardon.

b) Documentary evidence: The provisions contained in The Evidence Act, 1872 about private and public documents in the chapter 5 (section 61-100) should be kept in mind by every IO, while collecting documentary evidence with regard to the investigation conduct by them. In addition to that the instructions issued from time to time by the respective departments and the courts should also be taken note of by the IOs.

(i) Directions to Obtain a Document or Thing: Whenever any Officer in-charge of a Police Station or Officer entrusted with the investigation of a case considers that the production of any document or other thing is necessary for the purpose of investigation, such Officer may issue a written requisition to the person in whose possession or power such document or thing is believed to be, requiring him to attend and produce it or cause to produce it at a time and place stated in the order (Section 91 of CrPC). If the statement of the person in whose possession the document or this is, to be recorded, he should be directed to appear in person and produce such document

or thing. If his statement is unnecessary, such person can be asked to cause the document or thing produced on his behalf by any other person. If the document or thing is in the possession of an accused, an order for its production shall not be issued as it contravenes clause (iii) of Article 20 of the Constitution of India. It should be seized after conducting a search of a place where such document or thing is kept.

(ii) Documents Required From Bankers: According to section 4 of Bankers Books Evidence Act 1891 a certified copy (with prescribed certificate at the end) of any entry in a bankers book shall in all legal proceedings be received as prima facie evidence of the existence of such entry and shall be admitted as evidence of the matters, transactions and accounts therein.

84. In cases where bank employees are involved in offences like misappropriation, forgery etc., or other bank frauds, financial or any other offences, the original records are required for examination by the hand writing expert. The relevant original records may be requisitioned by making out copies. The copies so made can be retained by them for banking purposes. Where the examination by hand writing expert is not needed, and the records are required only for investigation, requisition should be confined to certified copies of entries which are admissible as prima facie evidence.

84.1 Section 8 of the Bankers Book Evidence Act 1891 authorizes the officers not below the rank of Superintendent of Police specified by the Government under this section to requisition records or entries which are needed for investigation into any offence. This requisition should be in the prescribed form.

(iii) Articles/Documents to be Obtained from Postal or Telecom Departments : If any document, letter, telegram, parcel or thing in the custody of Postal or Telegraph authorities is required, for the purpose of investigation, the Investigating Officer shall make an application to the District Magistrate or Chief Judicial Magistrate or Court of Session, and request for orders to the Postal or Telegraph authorities to deliver such document, letter, telegram, parcel or thing to the Investigating Officer (Section 92(1) of CrPC). The reference to Posts and Telegraphs authorities in this section may be interpreted to include Bharat Sanchar Nigam Limited (BSNL) and any other basic telephone (including WiLL) service provider or cellular operator whether Private or

Government.

85. If any such document, parcel or thing, in the possession of Postal or BSNL authorities in the opinion of Commissioner of Police or Superintendent of Police, is wanted for the purposes of investigation, he may require the concerned, to trace and detain such document, parcel or thing, pending the orders from the District Magistrate or Chief Judicial Magistrate as mentioned in the sub-order (1) (Section 92(2) of CrPC). Instructions in the P & T Manual 1982, volume V regarding production of records in the custody of the post office are reproduced below:

85.1 Records of a Post Office or mail office should be produced, and information available in them should be given on the written order of any Police Officer who is making an investigation under the CrPC, or of any Excise Officer empowered by a local government or administration to investigate offences under any Excise Act, but only those entries in the records should be disclosed which relate to the person or persons charged with the offence under investigation or which are relevant to that offence. In any other case, the official in-charge of the office should, without delay, refer for orders to the Head of the Circle, who will decide whether under Section 124 of the Indian Evidence Act, the information asked for should be withheld or not.

(iv) **Inspection of Records of Courts** : Inspection of records of criminal courts should be done by police in accordance with the instructions used in this contexts by the respective High Court of the State. Instructions in this regard for making applications for inspection of record and taking extracts should be strictly followed:

(v) **Inspection and Obtaining of Documents from Audit Department** : Investigating Police Officer will be given all facilities to inspect within the respective offices the original documents in the custody of audit offices. They will also have facilities to take out copies of such documents (including photostat copies). Even where an original document has to be shown to a witness during the process of investigation, it will be possible in many cases to have this carried out at the audit office.

86. Where the Investigating Officer inspects the original documents, he shall sign and

record the date of his perusal or inspection on the record so inspected or perused and thereafter request for the photo copies. The photo copies can be used in the investigation. He shall also handover a letter to the head of the office to have the original documents in his custody under lock and seal. The expenses for taking out the photo copies will be met by the concerned office.

86.1 In a case where an investigating officer finds it necessary to have the original documents in the possession of an audit office examined by the handwriting or fingerprint expert, the Director General of Police will request the Accountant General to hand over the documents, in original, directly to the investigating officer, who may use them for identification purposes and also have them examined by experts.

c) **Expert evidence** : In the large array of the list of witnesses, the expert witnesses have a special significance. The expert opinion and there evidence is taken to be more objective, impartial and scientific as compared to the ordinary witnesses. The IO should have deep knowledge about the role, significance and relevance of the expert witnesses. Evidence and opinion of an expert are relevant as per the provisions of Indian Evidence Act (Section 45 to 51). These provisions deal with various facets of evidence by experts and admissibility thereof.

87. An IO should suitably evaluate, analyze and asses as to which part of his investigation would require help and assistance from an expert. At the scene of c rime there are a number of exhibits and pieces of evidence, which might be relevant for the investigation and which may require expert opinion. The IO should prepare a list to such objects and should collect those objects for scientific examination and obtaining expert opinion. An IO should have knowledge about various categories of experts and the subjects with which they deal. He should also know where to send the exhibits for examination and which institutions, organisations and forensic labs are there to render the requisite help.

87.1 The experts who have given opinion on a particular matter should be cited in the list of witnesses with correct address and the issue on which they will tender their expert opinion.

87.2 Extreme care and caution should be exercised in identifying, lifting, packing and forwarding the exhibits for experts' opinion because during any of the above stages if the exhibit is distorted, disturbed or destroyed, it may cause serious damage to the quality of evidence because either the expert opinion will not be available at all or if the one is available then on the ground of it being not fool proof, it may be rejected by the court of law.

d) Circumstantial evidence: There are occasions when direct evidence is not available. In such a situation, in order to prove the case, an IO has to depend on the circumstantial evidence. Circumstantial evidence pertains to the various facts, situations and conditions, which would establish connection between the crime and the criminal. Such facts, conditions and situations which may form the basis of circumstantial evidences are dealt in the various provisions of the Indian Evidence Act.

88. Any fact, condition, or situation, which is relevant with relation to the fact in issue, that is, the investigation in question, may form part of the circumstantial evidence. The facts, which are so connected with each other that they form part of the overall transactions of crime are relevant and may form part of the circumstantial evidence. Likewise the facts, which are the occasion, cause or effect with regard to the crime under investigation can also form part of the circumstantial evidence. In the same manner the facts, conditions and situation, which prove the motive, preparation and previous or subsequent conduct of the accused persons can also form part of the circumstantial evidence. An IO should have deep knowledge of the various provisions of evidence act, which deal with the various facts, conditions and situations which may become part of the circumstantial evidence.

88.1 Collection of circumstantial evidence is a tough task and the IO has to work hard to collect such evidence. The evidence so collected should be corroborated by some support evidence. The circumstantial evidence must provide a complete chain of events connecting one another to become cogent, succinct and reliable. The connecting of the various facts, conditions and situations must provide a complete chain and no link of which must be missing. They must unequivocally point the guilt on the accused so as to exclude any point, which may be consistent with his

innocence. The circumstantial evidence in order to secure conviction must be complete and conclusive in nature and prove the guilt of accused person beyond every reasonable shade of doubt.

88.2 In order to make the circumstantial evidence valid foundation of conviction, the IO should collect various types of corroboratory evidences, which may be oral, documentary, incidental, occasional or intentional. The circumstantial evidences may be corroborated with the help of expert opinion and scientific examination of various types of exhibits.

Identification

89. Identification is one of the methods of collecting evidence. Witnesses see the individual or objects which are relevant for the investigation. In order to authentically connect such individuals and objects, the Investigation Officer prepares a profile on the basis of the statements of the witnesses. The witnesses later on are required to identify such individuals and objects to verify the authenticity of the version of the witnesses. This process is called identification and for conducting this process an identification parade is held often in the presence of a Magistrate. This process is relevant under Section 9 of the evidence Act.

Procedure & Method of Holding Identification

90. When a witness says that he can identify accused persons or others connected with the case under investigation, the Investigating Officer shall record in the case diary in their descriptions, the extent of prevailing light at the time of the offence (daylight, moonlight, flashing of torches, burning kerosene, electric or gas lights, etc., details of opportunities of seeing the accused at the time of the offence; anything outstanding in the features or conduct of the accused which impressed him (identifier), distance from which he saw the accused, and the extent of time during which he saw the accused.

90.1 The accused should as far as possible be mingled with persons of similar description, status, build and age in the proportion of a minimum of 1:5 and a maximum of 1:10, and they must be made to take their positions along with the persons with whom they are mingled up in a line. They should not be made to stand

together. The Magistrate or other persons conducting the parade should satisfy himself or themselves that no Police Officer takes part in the actual identification proceedings that witnesses are kept out of view from the premises where the parade is taking place and that it is not possible to communicate with them by signals or other communications. Witnesses should then be called in, one by one, and they should be asked to go round the persons assembled for the parade and point out the accused, if any. If the identification is held by a Magistrate the proceedings should be drawn up and signed by him. If the identification is held by panchayatdars in the absence of a magistrate, the proceedings should be drawn up by one of the Panchayatdars and attested by all of them. Statements made by the identifying witnesses to the panchayatdars at the time of the identification should be recorded in the proceedings. Even if a witness makes a mistake, it should be recorded. In short, the proceedings must contain a complete record of all that takes place in the identification parade. After the identification by one witness is over, care should be taken to see that the witness does not mingle or communicate with the other witnesses for whom identification parade is yet to be conducted or other outside persons and the whole parade will be reshuffled and the accused made to take different positions. If the accused so desire, they should be allowed to change their dress also. The same procedure will be repeated in the case of other witnesses also. Any well-founded objection by any accused during the identification parade should be recorded. After the completion of the identification parade and the drawing up of the proceedings, a certificate must be appended signed by the Magistrate or the panchayatdars conducting the parade.

Salient Points of Identification

91. The following are the salient points to be borne in mind by Police Officers arranging identification parades:-

- 1) Warn the accused person that he will be put up for a parade and he could keep himself veiled;
- 2) Secure the services of a Magistrate for holding an identification parade ; If this is not possible, secure two or more respectable and independent persons of the locality to hold the parade ; do not select persons already known to the identifying witnesses to stand along with the suspects in the parade ; arrange for the identification parade immediately an accused is arrested. There should

be no delay.

- 3) when one accused is arrested in a case in which more than one accused is required to be identified, do not postpone the parade of the arrested accused, till the others are secured. As each accused is arrested, go on arranging for the parade.
- 4) Other persons participating in the parade should be of the same build, age, dress and appearance as the suspects;
- 5) Maintain a minimum proportion of 1:5 and a maximum proportion of 1:10; distribute the accused among others, they should not be made to stand together;
- 6) keep the accused out of the view of the witnesses and take precautions to prevent their being seen by others from the time of their arrest, if they are to be put up for identification parade subsequently;
- 7) Shuffle the persons in the parade after identification by each witness and make a record of having done so in the proceedings;
- 8) In respect of each accused, a separate identification parade should be held;
- 9) When several accused persons are required to be identified, the innocent persons, mixed up with one accused at one parade, should not be mixed up with another accused at a second parade. They should be changed, with every change of an accused person.

Identification by Photographs

92. Photographs of certain classes of criminals are maintained in the District Crime Record Bureau. Photographs exist also for dossier criminals. Witnesses may be shown the photographs and asked to identify. In cases where criminals are identified through photographs, a regular identification parade should also be held after the apprehension of the accused. When identification is sought to be made through photographs, single and individual photographs should not be shown to witnesses. Photographs of as many persons as possible, among which should be the suspect's photograph, should be shown to the witness, who should be asked to pick out from among them the suspect's photograph, if it is there.

Identification Through Finger and Foot Impressions

93. Identification can also be established from finger impressions left on the scene. Finger impressions found on the scene can be developed and tested to find out whether they tally with those of the suspected persons or not. Foot impressions left on the scene can also be lifted and compared later with foot impressions of the suspects.

Previous Conviction or Acquittal

94. As prescribed by Section 298 of the Cr.P.C., a previous acquittal can be proved by a certified extract from the court record and the previous conviction either by such extract or by a certificate from the jailor or the warrant of commitment together with evidence in each of such cases, as, to the identity of the accused persons with the person so acquitted or convicted.

Identification of Property

95. During investigations it may sometimes be necessary to conduct test identifications of articles involved in criminal cases. A test identification of properties which do not bear any special marks of identifications is of immense value in enhancing the credibility of identification evidence in court; and a test identification of properties which bear definite marks of identification is not necessary.

95.1 When a witness states that he can identify properties connected with a case under investigation. Their descriptions and other marks of identification along with the circumstances under which he had previously seen them on several occasions during which he had previously handled them, and any other relevant circumstances should be recorded by the IO.

95.2 Make a clear record in the case diary and the search list of the places from which and how the stolen property was recovered. Evidence that the stolen property was buried under ground or was concealed in the walls or secreted in back yards or houses, etc., will help to establish the receiver's belief as to the nature of the property.

Case Diary

96. Section 172 CrPC requires that every Police Officer making an investigation

should enter day by day his proceedings in a diary, setting forth the time at which the information reached him, the time at which he began and closed his investigation, the place or places visited by him and a statement of the circumstances ascertained through his investigation.

Nature & Importance of Case Diary

97. Case diary is a confidential and privileged document. Though the accused has no right to look into it, the court may look into the diary. However if the police officer refreshes his memory while giving evidence by looking into the case diary, the accused is entitled to look into that portion as referred by the police officer and may use it for contradicting the police officer.

97.1 The Investigating Officer and his superiors shall ensure the physical safety of the case diary as well as its contents. Any leakage of the contents to any person other than authorized by law leads to undesirable consequences and will be detrimental to prosecution. They should not permit access to any unauthorized person particularly the accused or their agents or their counsel. The officer who has custody of case diaries either as an IO or a superior officer supervising investigation should ensure that it is handed over to their successors in office. The access to the case diaries is limited only to the IO, the superior officers and the concerned legal officers who are in charge at a given time and not to others.

Contents of Case Diary

98. Every case diary should contain the following information.

- A. date and hour of taking action;
- B. date of report of the case;
- C. name of the complainant or informant;
- D. names of accused known, if any;
- E. property lost;
- F. property recovered;
- G. date and last page of the previous case diary, if the case diary is not the very first one;
- H. name of the deceased, if any, and

- I. names of witnesses examined.

The First Case Diary

99. The first Case Diary should commence with a brief summary of the FIR, the time of receipt of the complaint, delay if any, in starting for the scene, the time of departure for and arrival at the scene,' and description and plan of the In cases where there is no scene as such like in Financial Crimes, the records and places where such records or data recording, storage or retrieval systems are located, the method of crime as reflected at such places, objects, computers, documents etc. and the plan or sketch or diagram representing the crime scene so to say may be described or drawn up as is possible.

Details & Description

100. A statement of circumstances ascertained through the investigation at the place or places visited by the investigating officer, and the date and hour of closing the investigation shall be noted. Every step taken by the IO shall be mentioned as concisely as possible. Every clue obtained, even if at the time it appears likely to be of no value, houses searched with reasons for the search and the names of witnesses to the search, property recovered, its description and place where it was found, arrests, information obtained which is likely to prove of value, and methods adopted by the suspects/accused are among the things to be mentioned in the case diary. -The substance of the statements of witnesses shall find place in the case diary.

100.1 The case diary shall be written incorporating the investigation done on each day. Statements of witnesses should be reduced to writing on the spot in the prescribed Form. If it is not possible they should be written in the IO's note book, and transcribed in the prescribed form as soon as he returns to the Station House. If, for any unavoidable reason, notes had to be taken on separate sheets of paper, these should not be destroyed after the case diary is written but preserved in the case file.

Copies of Case Diary

101. Case diaries and statement of witnesses will be duplicated by carbon process, or by photocopiers. The original is retained in the station and the other sent to the SDPO

concerned who shall deal with the case diaries in the manner prescribed. In cases investigated by Sub-Inspector who is also SHO of Police Station the case diaries will be directly forwarded to SDPO concerned who in turn shall after scrutiny and necessary instructions to the I.O., dispose them off as prescribed.

The Concluding Case Diary

102. In the concluding diary, the investigating officer shall record a summary of the reasons which have guided his final decision in the case. If he considers that there is no case, his reasons will, of course, be more detailed and fuller than the one sent up for trial.

Role & Responsibility of the Subsequent IOs

103. Succeeding investigating officer should the investigation made by the previous I.O. and to re-examine all the important witnesses already examined, to ascertain the facts and circumstances of the case. But, as regards the recording of their statements, law does not require the investigating officer to reduce such statements into writing. The Andhra Pradesh High Court has observed that, "Courts will not expect a Police Officer to stultify his investigation for the purpose of making such a record". It is, therefore, enough if the second investigating officer, in case he is the superior to the first investigating officer, re-examines witnesses with reference to their previous statements already on record and certifies to their correctness. If any additional facts are spoken to by any witness, the second investigating officer will have to record those facts and note such other facts as may be necessary in clarification of the facts and omissions in the statement already recorded. However, in a case where the statement recorded by the first investigating officer is devoid of essential details or has omissions or defects, it is advisable for the second investigating officer to record the statement once again in detail. In such case both the statements will remain on record and supplied to the accused.

Action When Case in Transferred to CID

104. In a case taken up by the CID, the I.O. of the CID is expected to verify and re-investigate the entire case and not merely to continue the investigation already done by the local Police Officer. To that end, it is necessary that he should not only re-

examine the witnesses but also record their statements in full. The fact that the recording of such statements may lead to possibility of contradictions and deviations in the statements of witnesses and may cause inconvenience to the police in furnishing copies to the accused cannot be valid and lawful ground for evading it.

Case Diary in Inquest Case

105. In inquiries under section 174 CrPC relating to suicide and accidental deaths, statements of witnesses examined during the inquest will be recorded separately and attached to the inquest report. However, in a case where it has not been clearly established that it is a suicidal or accidental death, though the panchayatdars at the inquest have so opined, a case diary should be written discussing the evidence gathered and available during the inquest and the grounds for treating the case as an accidental or suicidal death not warranting investigation. When a Head Constable holds an inquest, the Sub-Inspector should subsequently verify the investigation, and the result of such verification should be embodied by him in a case diary. A case diary should also be written summarizing the result of the postmortem examination, if conducted.

Progress of Trial to be Recorded

106. In order to report the progress of trials in courts, case diaries should be written, reporting details of all hearings and adjournments, the witnesses examined at each hearing, how each of them fared, gist of arguments of defence and prosecution, Court observations or orders and other matters of interest, if any, particularly with reference to their statements before police earlier and other material particulars including name and designation of the Police Officer who attended the Court.

Use of Case Diary for Seeking Remands etc

107. Remands should be applied for along with case diary. Sub- Section (1) of Section 167 of CrPC requires a copy of the case diary to be sent when remand is sought. The investigating officer should, therefore, prepare an additional copy of the case diary, when he is aware that he will have to send a prisoner for remand. The statements recorded under section 161 Cr.PC till then should also be enclosed to the case diary.

107.1 Case diary forms should be used for applying to Magistrates for warrants of arrest or search, for proclamations and other orders connected with investigation and for forwarding search lists provided these communications refer to registered cases. Ordinarily, the memorandum form will be used.

107.2 Case diaries should also be written in cases, referred by a Magistrate to the police for investigation under section 155, 156 or 202 of CrPC.

Arrest, Custody, Bail, Remand and Search

Introduction

108. After registration of FIR, visit to the scene of crime and collection of evidence, when an IO arrives at the conclusion that reasonable suspicion exists against the suspect that he has committed a crime and for completing the investigation his arrest is necessary, he may arrest him in accordance with the law. After arrest the accused person is taken under the police custody, and if the crime is bailable, he may be released on bail, and if the crime is non-bailable, the IO would approach the relevant court for providing police or judicial custody as per the requirement of the investigation. Arrest, Custody, Bail and Remand are therefore, essential ingredients of police investigation.

Power of Arrest

109. Chapter 5 of the Code of Criminal Procedures, 1973 deals with various provisions of arrest (Section 41 to 60). Police officers derive their powers of arrest without warrant from sections 41, 42, 43(2), 60, 129 and 151 CrPC. Provisions of sections 46, 47, 49, 50, 51, 56, 57, 167 and 169 of CrPC deal with various procedures and precautions during and after arrest.

109.1 The police under the above sections effect arrests without warrant; however, there are provisions when they are required to arrest persons with warrants. The arrest warrants are issued by the courts and there is no discretion available with the police for executing such warrants and these should be executed in accordance with the directions of the court.

Arrest Warrants

110. The warrants are either bailable or non-bailable. In respect of bailable warrants the arrestee should be released on bail when he offers the required security and in respect on non-bailable warrants the police officer has no discretion, and the person must be produced before the concerned Court. Prompt execution of warrant is one of the foremost duties of the police and should receive high priority. The warrant must be executed by the officer to whom

it is endorsed. If that officer wants warrant to be executed by his subordinate officer he must make endorsement by name accordingly.

Arrest Precautions

111. Articles 21 and 22 of the Constitution lay down that no one shall be deprived of his life or liberty except in accordance with procedure established by law and that arrested persons are entitled to know the grounds of their arrest and a right to consult and be defended by an Advocate of their choice and that every arrested person should be produced before a Magistrate within 24 hours. Arrest takes away the liberty of a person and should therefore be affected in strictly compliance of the law. Wherever it is warranted, it should be promptly carried out, but arrest, is not to be effected just because a police officer has the power. No accurate account of all circumstances under which arrest without warrant can be made or should not be made can be detailed. A police officer should exercise due prudence and exercise his discretion in this regard in a judicious manner.

Conditions of Arrest

112. To infuse confidence among the terror stricken victims, particularly in grave offences like murder, dacoity, robbery, burglary, rape, organized crime, terrorist offences etc. and, in case where the accused is likely to abscond and evade the process of law, arrest should be affected. If the accused is given to violent behaviour and is likely to commit further offences unless his movements are brought under restraint, and if the accused is a habitual offender and unless kept in custody, he is likely to continue to commit similar offences, he should be arrested. Where it is necessary that his presence is required for the purpose of investigation, he should be arrested. Likewise, where accused is likely to tamper or intimidate or cause physical hurt to witnesses or destroy other evidence, he should be arrested.

113. Cautions, Precautions & Guidelines for Arrest

- I. Police Officer making an arrest should record the reasons for making the arrest to justify it, if required. The Police Constables and Head Constables who make the arrest should submit a report detailing the circumstances of the arrest to the SHO or IO concerned who should incorporate the contents of such reports in the General Diary, Case Diary etc. All Police Constables, Head Constables and Sub-Inspectors working in the field and empowered under law to exercise the powers

of arrest without warrant, should exercise their powers with prudence and be accountable for the arrest made in the discharge of their assigned tasks and duties.

- II. In the light of these instructions, the action of Police Officers of all ranks in arresting persons, if not necessary and not arresting when it is necessary, will amount to misconduct, and may call for suitable disciplinary action. No arrest should be made in a routine manner simply because the law empowers the police officer to do so. The existence of the power to arrest is one thing, while justification for the exercise of power of arrest is quite another. The police officer may without arresting, keep a watch on a person and then arrest him, if subsequent events justify such action. No restraint can lawfully be exercised over a person so long as he is not arrested. The arrest should be avoided if the intention is only to verify the suspicion of involvement against a person. A police officer may under section 160 CrPC issue a notice to the suspected person to attend the police station and interrogate him. He should not be detained for long and more than necessary.
- III. When a police officer proceeds to arrest a person and cannot identify him personally, he should secure the services of a person who knows the person to be arrested and should also provide himself, if available, with a photograph, a descriptive role and the marks of identification of that person. He should be sure of the identity of the person to be arrested.
- IV. The police officer should be in uniform with his name and number if any, on the pocket, besides carrying his identity card, or, if in plain clothes, carry his identity card and should disclose his identity. He should arm himself with such firearms and accessories required for his defence, if the circumstances demand such a precaution.
- V. Police parties engaged on anti-dacoity, terrorist operations or similar duties which are likely to lead to arrests of dangerous persons, should carry handcuffs and leading chains to secure the arrestees, to prevent their escape or violence.
- VI. The person to be arrested with or without warrant should be informed of the

grounds for making the arrest. The arrest should be affected without unnecessary violence or publicity.

- VII. Section 46 of the CrPC lays down that the police officer making the arrest of a persons shall do so by actually touching or confining the body of the person to be arrested, unless there is submission to the custody by word or action. When a person is to be apprehended and if he resists by force or tries to evade, the arresting police officer may use necessary force to arrest him except causing death. But if the accused to be arrested is involved in an offence punishable with death or imprisonment for life, the force can be even to the extent of causing death depending upon the circumstances.
- VIII. When a person to be arrested is concealing himself in a closed place, the police officer has every right to enter such places even by force to affect the arrest. He can even arrest every one who obstructs him from discharging his duty. However, he must behave decently with women inmates. Police officer can exercise the right of private defence of his body and others while resisting arrest.

114. Supreme Court Observations on Arrests

- I. The police personnel carrying out the arrest and handling the interrogation of the arrestee should bear accurate, visible and clear identification and name tags with their designations. The particulars of all such police personnel who handle interrogation of the arrestee must be recorded in a register.
- II. The Police Officer carrying out the arrest of a person shall prepare a memo of arrest at the time of arrest and such memo shall be attested by at least one witness, who may be either member of the family of the arrestee or respectable person of the locality where the arrest is made. It shall also be countersigned by the arrestee and contain the time and date of arrest.
- III. A person who has been arrested or detained and is being held in custody in a police station or interrogation centre or other lock-up, shall be entitled to have one friend or relative or other person known to him or having interest in his welfare informed, as soon as practicable, that he has been arrested and is being detained at the particular place, unless the attesting witness of the memo of arrest is himself

such a friend or a relative of the arrestee.

- IV. The time, place of arrest and venue of custody of an arrestee must be notified by the police where the next friend or relative of the arrestee lives outside the district or town through the Legal Aid Organization in the District and the police station of the area concerned telegraphically within a period of 8 to 12 hours after the arrest.
- V. The person arrested must be made aware of this right to have someone informed of his arrest or detention as soon as he is put under arrest or is detained. An entry must be made in the diary at the place of detention regarding the arrest of the person which shall also disclose the name of the next friend of the person who has been informed of the arrest and the names and particulars of the Police Officials in whose custody the arrestee is.
- VI. The arrestee should, where he so requests, be also examined at the time of his arrest about major or minor injuries, if any, present on his/her body. The "Inspection Memo" must be signed both by the arrestee and the Police Officer affecting the arrest and its copy provided to the arrestee.
- VII. The arrestee should be subjected to medical examination every 48 hours during his detention in custody by a doctor from the panel of approved doctors appointed by Director, Health Services of the concerned State or Union Territory, Director, Health Services should prepare such a panel for all Mandals and Districts as well.
- VIII. Copies of all the documents including the memo of arrest, referred to above, should be sent to the jurisdictional Magistrate for his record. The arrestee may be permitted to meet his lawyer during interrogation, though not throughout the interrogation.
- IX. A police control room should be provided at all district and State headquarters, where information regarding the arrest and the place of custody of the arrestee shall be communicated by the officer causing the arrest, within 12 hours of effecting the arrest and it should be displayed on a conspicuous police board at the

police control room.

Search of the Arrested Person

115. Whenever a person is arrested and not released on bail by a police officer a thorough search of his clothes and belongings should be made before putting him in lockup. Articles found upon him other than necessary wearing apparel should be placed in safe custody and if any articles are seized from his person, a receipt showing the articles taken possession by the Police Officer shall be given to such person. The personal articles of the person should be kept in safe custody in the Property Room (Malkhana) and entries made in concerned registers. If there are any incriminating articles or objects or materials, which might be necessary for investigation, they should be separated and the procedure for recording and despatch of case property to courts should be followed. The other property should be returned to him or his nearest kith or kin when he is remanded to custody.

Arrest of Female

116. Whenever it is necessary to cause a female to be searched, the search shall be made by a Woman Police Officer or another female with strict regard to decency. The officer or other person making any arrest, shall seize from the arrested person any offensive weapons, which he has on his person and shall deliver all weapons so taken to the court or officer before which or whom he is produced.

117. Treatment of the Arrested Persons

- I. Whenever any person is arrested by a Police Officer or by a private person and is brought to the police station, the SHO shall examine the body of the arrested person and note whether he has any injuries over his body. If any, injuries are observed irrespective of their nature, he should forward the said person to the nearest Medical Officer of the Government Civil Hospital or other Hospitals of local bodies authorized for medico-legal work, for treatment and injury certificate. The Medical Officer should be requested to specify the age of each injury.

- II. When any person with injuries in a serious condition or a drunken person in uncontrollable condition, who is unable to take care of himself, is brought to the police station, the SHO shall immediately forward such persons(s) to the

Government Hospital. Any delay may cause death, in which case the police officer in-charge of the police station will be held responsible. The statement of the injured person should be recorded in the hospital and further action taken.

- III. When an arrestee demands examination of his body, which will afford evidence to disprove the charge leveled against him and establish his innocence or evidence of an offence against his own body, the Police Officer should forward him to the Medical Officer of the Government Civil Hospital for the examination and injury certificate. Such a certificate shall be forwarded to the Magistrate concerned.

Right of Arrested Persons

118. The arrested persons have certain rights with which the Police Officers should be familiar. These are important from the human rights angle also besides being statutory provisions and should be respected. The important rights are -

- A. Right to be informed of the grounds of arrest
- B. Right to be produced before a Magistrate without unnecessary delay and within 24 hours
- C. Right to consult a legal practitioner or any one of his choice
- D. Right to be informed of right to bail
- E. Right of a person without means to free legal aid and to be informed about it
- F. Right to be examined by a Medical Officer

119. Arrest of Children and Women

- I. The Juvenile Justice (Care and Protection of Children) Act 2000 prohibits lodging of children in police lock-ups or being brought to police stations after arrest. Alternatives are provided for lodging the delinquent juveniles. The procedure prescribed therein should be observed in respect of juveniles.
- II. While making arrest of a woman submission to custody should be presumed unless circumstances to the contrary exist. There should be no occasion for a male Police Officer to touch her person. It is therefore advisable whenever it is proposed to arrest a female, women police should be employed.

III. Arrest of women should as far as possible during night times be avoided unless it is inevitable. When it is not possible to secure the services of women Police Officers, an officer of the rank of ASI or above should effect the arrests. Bail may be granted where the offence for which the arrest is made is not of a serious nature. The SHO may take exercise his discretion in non-bailable offences to release a woman arrestee on bail.

IV. Whenever a woman is arrested, the services of women Police Officers should be utilized for guarding and escorting her. If women Police Officers are not available in the Police Station, one of the relations of the arrested woman, of her choice can be permitted to remain with her. When interrogation of the arrested woman is done by a male Police Officer the relation or woman Police Officer should be present. If a Woman Police Officer herself is conducting the interrogation, the presence of a woman relative may not be necessary.

120. **Arrest of Persons of Specific Categories**

a. Arrest of Ordnance Factory Employees: Arrest of an employee of an ordnance factory owned or sponsored by the Government should be notified immediately to the General Manager or the officer in-charge of the factory.

b. Arrest of Central or State Government or Quasi-Government Employees: When a Central government employee of any department or a State Government employee or an employee of a quasi-Government Organization is to be arrested by the police, wherever it is practicable and desirable, prior intimation of the arrest of such an employee should be sent to his immediate superior officer or the officer in-charge of the institution or department. The prior intimation must be treated as secret. Whenever prior intimation is given by telephone it should be followed by a written intimation mentioning the time and date of such conversation. The fact of telephoning should be recorded in the General Diary if intimation is by SHO. If the intimation is by a superior officer he should make a record of it in the Telephone Register. After the arrest by the police, intimation of the arrest along with a copy of arrest memo should be sent immediately to the highest officer of the department available in the district to which the person belongs with a copy to the immediate superior officer (of

the person) if, for any reason, prior intimation could not be given; and this should be followed by a detailed report of the offence committed together with an indication as to whether the arrested person is being released on bail or personal bond, by the police.

- c. Arrest of Public Servants on Operational Duty:** When a public servant on operational duty of a department of the Central or State Government, e.g., railway staff like station masters, assistant station masters, guards, drivers and train control staff; or electricity department staff like sub-station attendants, is to be arrested, prior intimation should be given to his immediate superior, as a rule, to facilitate them to make alternate arrangements. Departure from the procedure should be made only in very exceptional cases and even in such cases; intimation should be given to the superior officer immediately after the arrest of the public servant. "However, in respect of the operational staff of the trains, prior intimation should invariably be given to the Railway Divisional Authorities or where this is not possible, to the superior available at the Station where the arrest is made".
- d. Arrest of Employees of Foreign Diplomatic/Consular Missions:** In the event of the arrest of an Indian employee of a Foreign Diplomatic/Consular Mission, intimation should immediately be given to the Foreign Diplomatic/Consular Mission through the Government.
- e. Arrest of Foreigners:** When a foreigner is arrested, reports as required in Order 349 of Chapter 16 on Foreigners should be sent.
- f. Arrest of Military Employees:** The arrest of personnel of Armed Forces including Navy and Air Force charged with the commission of an offence should be intimated to the Commanding Officer to enable him to take appropriate measures for the defence of the personnel.

 - I. The persons so arrested shall be dealt with in all respects like any other person in the matter of the investigation of the offence in respect of which he is arrested. The question as to whether he is to be tried by a Court Martial or a Court functioning under the CrPC is a matter for decision between the Commanding Officer and the Magistrate before whom he is brought by the police, in accordance with the rules made by the Government of India under

Section 475 CrPC.

- II. When any investigation, search or arrest is contemplated within military lines (quarters), the Police Officers concerned should be in uniform and if in plain clothes should carry identity cards and, so far as circumstances permit, prior notice should be given confidentially to the Officer Commanding, Adjutant or Orderly Officer concerned.

g. Arrest of Indian Army Reservists: When a reservist of the Indian Army is arrested and remanded on a criminal charge, the facts of arrest and remand will at once be reported to the DGP with information to the Army unit to which the person arrested belongs. When the case is completed, its result and, in the event of conviction, the period spent in jail by the accused while under trial, prior to conviction and the sentence awarded shall be reported. The information so reported will be communicated by the DGP to the appropriate Army authority.

h. Arrest of Members of State and Union Legislatures:

- I. All the rights that any arrested person has, are available to Members of Legislature and Parliament whenever they are arrested. All guidelines and instructions contained in this chapter apply to them. The procedure contained in this should be scrupulously observed whenever any Member of Legislative Assembly/Council or Parliament is arrested by the police.
- II. Whenever a member of a State or the Union Legislature is arrested, he should immediately be produced before the Magistrate concerned and there should be absolutely no delay. The police will send information of the arrest through a telegram or Radio Message, to the Speaker of the Lok Sabha or the Legislative Assembly, as the case may be. Failure to send immediate intimation to the presiding officer of the Legislature concerned will constitute a breach of the privilege of the House.
- III. If a member of the Union or a State Legislature is concerned in an unimportant case, he need not be arrested, except when it is really

necessary. When arrest is made in a bailable offence, the member should be immediately released on his own recognizance. If the offence is a non-bailable one, the member should be immediately produced before the Magistrate. In any case the fact of arrest and release on bail or remand should be intimated to the Speaker. Though the instructions are that the Magistrate should send intimation to the Presiding Officer of the Legislature concerned, prompt reporting by police is necessary.

- IV. A report of the arrest (whether released on bail either by the Police or by the Magistrate) should be sent by the SP/CP in whose jurisdiction the arrest is effected to the Speaker of the Lok Sabha, the Chairman of the Rajya Sabha, the Speaker of the State Legislative Assembly or the Chairman of the Legislative Council, as the case may be, by telegram or Radiogram or automex or fax with a copy of confirmation dispatched simultaneously by speed post along with a copy of Arrest Memo.
- V. The message should contain the information as furnished in the arrest memo sent to Magistrate and relatives. Thereafter a detailed report should be sent to the Presiding Officers concerned containing the following information: the place of custodian detention of the Member, when a Member, who is under detention or is undergoing, a sentence of imprisonment is transferred from one jail to another, the change in the place of detention or imprisonment and when a member is released from jail on any ground e.g., on bail pending appeal or on the sentence being set aside on appeal or on the remission of sentence by Government on completing the sentence or on the termination of preventive detention, such release.
- VI. The SP/CP also should simultaneously report the arrest by telegram or radiogram to the DGP, to enable him to report it forthwith to the Government and the Secretary to the Legislature. The copies of such reports should also be sent to the superior police officers.

121. **Direction to Subordinates to Arrest**

- I. A Police Officer in-charge of a police station, or any Police Officer making an investigation, under Section 55 of the CrPC depute any officer subordinate to him to arrest the person. He should give an order in writing specifying the person to be arrested and the offence or cause for which the arrest is to be made. The officer so authorized shall notify to the person to be arrested, the substance of the order and, if so required by such person, shall show him the order. This section, however, does not take away the statutory power vested in all Police Officers by Section 41 of the CrPC.

- II. A Head Constable in-charge of an outpost or a beat area or check post, without the intervention of the SHO, may take action in offences under special and local enactments, which empower the Head Constable to take action. When a private person arrests any person who commits a non-bailable and cognizable offence in his view, he shall be taken to the nearest police station immediately and such person be re-arrested by the police.

122. **Police Custody**

- I. A person who is arrested and not released on bail shall be detained in a secure area of the Police Station earmarked for such purposes, under constant watch. A prisoner whom the SHO considers being dangerous and is likely to escape should be kept in the lock-up under continuous and effective watch. This should be done only making a thorough search and necessary entries should be made in the prisoners search register and guard or watch sentry relief book.

- II. A person called to a police station for questioning in order to verify his complicity in any offence shall not be kept in lock-up, without effecting arrest. Arrested persons who are known to be goondas, rowdies, dangerous criminals, members of organized gangs, terrorist groups, those likely to escape and charged in serious offences of murder, rape, kidnapping for ransom etc. should be kept in the lock up rooms.

- III. A person in police custody shall not be permitted to leave the lock-up after sun set, except in special and emergent circumstances (and that too with adequate escort) which shall be recorded in the general diary and the Sentry Relief Book.

- IV. A person in police custody prior to remand is entitled to see his relatives and an Advocate. He should not, however, be allowed to talk to members of the public. If the arrested person desires that one of his relatives may be permitted to remain with him, his request should be considered unless there are compelling security reasons. If the arrested person for health reasons prefers to get his food from his residence, he can be permitted, but the person bringing food to the police station should be made to eat samples of all the food items before serving to the person in custody. However, in normal course, the arrested persons should be fed at Government's cost as per the rates approved from time to time.

- V. Whenever any punitive action is taken or contemplated against a foreigner, he should be provided with facilities, if he so desires, to communicate over the telephone or by a telegram or latter, with the Counsel, High Commissioner or other representative of his country, as the case may be.

123. Treatment of Persons in Custody

- I. Once a person is in custody of the police, the responsibility for his life and safety will be totally on the police. The physical and psychological condition of every person in custody is a major factor that should determine the precautions, facilities and arrangements required to be made. The other factors such as the nature of the offence in which he is involved, the investigation required to be done, the antecedents, age, sex, ignorance and vulnerability are all vital and crucial. While every case has its peculiar features and circumstances, certain important stipulations should be observed.

- II. The first requirement is physical safety of the person in custody. This includes safety from injury and death, whether self inflicted or otherwise. As the psychological state of each individual cannot be accurately gauged, it is necessary to realize that the general mental state of a person arrested and brought to police station would be fear, shock, trauma, sense of guilt and shame etc. Suicidal

tendencies therefore develop. Hence the place where he is lodged should not contain anything including his apparel or belongings that afford him any opportunity to attempt or commit suicide.

- III. There should be a watch on the person all the time, at least by one policeman. The room or place where he is kept should be such as to afford a full view to the Police Officer posted to watch him and also to the Station Writer, HC or Duty officer. The place of work of these two should be so adjusted as to afford a complete view of the lock up rooms.
- IV. Wherever any attempt or suspicious about the movements or action comes to notice, the lock up room should be opened and searched. There should be effective intervention to prevent attempt at suicide and injuries. The whole episode should be recorded in the station General Diary, Sentry Relief Book and the person should be sent for Medical examination with a report. The Magistrate and all other authorities to which the Form report is made should also be informed in writing.
- V. Since the person is in custody, sometimes even self-inflicted injuries or suicides can be interpreted as those caused by police, hence effective and timely intervention, contemporaneous recording of events, reporting to all concerned of such attempts by persons in custody are important.
- VI. No Police Officer or IO shall use any force or cause any physical injury during interrogation of the person in custody. If such injuries are caused and result in death of the person, the Police Officers concerned will be liable for prosecution for homicide and the burden of proof of their innocence lies on them.
- VII. Two blankets and two dhurries for rural stations and four blankets and four dhurries for town police stations having lock-ups should be supplied for the use of persons in police custody for each lock-up. These should be always kept clean, washed and dried. These articles will be treated as station property and the officer in-charge of the station or Outpost will be responsible for their issue to such of the prisoners who do not provide themselves with their own bedding.

- VIII. The police lock-up, if it contains a prisoner or prisoners shall be unlocked at daybreak. The bedding of the prisoners, shall be at once brought outside, well shaken and left for some hours in the sun. In lock-ups where toilet facilities are not provided, the night vessels, if any used, shall be removed and toilets shall be thoroughly cleaned. Wherever toilets are provided they should also be thoroughly cleaned.
- IX. The persons in custody shall be taken to the latrine and shall be allowed to wash. They shall be given food daily at 10.00 am or earlier if necessary before he is taken to Court and again at 5 pm. If prisoners are not brought to the station before the hours prescribed for meals they should be given food as soon as possible after they are confined in the lock up rooms. They should be fed at government cost if food is not brought by their relatives.
- X. Prisoners are not to be subjected to needless indignity or harsh treatment. At district Headquarters or at places where police vehicles are available, prisoners should be conveyed from jail to court and back in the police vehicles. Prisoners whose confessions are to be recorded should be taken to the Court from the jail in a police van, when available, escorted by warders as a special case. In places where there is no police van, but where public transport is available, under-trial prisoners should be conveyed by normal bus service, irrespective of the distance to be travelled, provided that the number of prisoners to be taken at a time is small and can be controlled easily and provided that their presence in the bus does not cause inconvenience or annoyance to members of the public using it. In places where none of the above modes of conveyance are available, under-trial prisoners who are persons of good social position, accustomed to use a conveyance, may be allowed a conveyance, provided their safe custody is not jeopardized. The same rule should be followed in the case of prisoners who are certified by a Medical Officer to be physically unfit to walk. In other cases, prisoners should go on foot except in the cases noted below, but no prisoner should be compelled to march on foot for long distances.
- XI. When convicted prisoners are escorted along with under-trial prisoners, the

former may be conveyed by the transport Bus in which the latter are conveyed, irrespective of the distance travelled, in order to avoid the inconvenience and expense of providing a separate escort for them.

- XII. Whenever women prisoners have to be escorted by road, they should be provided with a conveyance, where the distance to be travelled by them exceeds 2 km. Conveyance may also be provided for shorter distances for reasons of health or custom or for other valid reason. Failure to make such provision would cause undue hardship to them.

Use of Handcuffs

124. The use of handcuffs or leg chains should be avoided and if at all, it should be resorted to strictly in accordance with the law mandated in judgment of the Supreme Court in Prem Shankar Shukla vs. Delhi Administration (1980, 3 SCC 526) and Citizen for Democracy vs State of Assam (1995, 3 SCC 743). The points to be observed in this regard are as follows:

- a. When an accused is in Court during the trial, he must be held to be in the custody of the Court. If an accused is so dangerous that it is necessary to handcuff him, representation should be made to the Court, and the Court will issue appropriate instructions in the matter. Accused persons while in Court during trial should not be handcuffed except with the permission of the Court.
- b. Under-trial prisoners and other accused persons shall not be handcuffed and chained without specific permission of the court and only if there is a reasonable apprehension, either due to heinous nature of the crimes with which they are charged or from their character or behaviour that such persons will use violence or will attempt to escape or that an attempt will be made to rescue them. The same principle shall be applied to convicts proceeding in public while in police custody. Whenever non-convicted accused persons are handcuffed with court's permission, the fact and the reasons for it shall be stated in the Station House general diary, the sentry relief book, and in the remand diary forwarded to the Magistrate.
- c. The prisoners either convicted or under trial and confined in a sub-jail shall not be handcuffed, whenever they are taken out in the precincts of the sub-jail for food or other necessities, rather the entire guard including the guard commander shall be present. If there are more number of prisoners, the guard in-charge should inform the

officer in-charge of the police station to send two or three constables to assist the sub-jail guard during the period when the prisoners are taken out. The officer in-charge of police station shall provided extra manpower as required by the guard in-charge.

- d. Whenever, it is considered necessary to handcuff certain prisoners confined in sub-jai, while they are taken out, the written orders of the Magistrate should be obtained and the permission granted by him should be maintained in a book to be kept by the guard officer.
- e. With regard to a refractory, violent or dangerous prisoner, the officer in-charge of the sub-jail guard or the senior Police officer present may control him only by utilizing more personnel and by such force as may be necessary, while rushing a messenger to the concerned court or Magistrate for permission to handcuff him.
- f. Under-trial-prisoners or accused persons in Hospital should not be handcuffed without permission of the court. In no case should prisoners or accused persons who are aged and bed ridden in hospital or women prisoners, juvenile prisoners or civil prisoners be handcuffed or fettered. If necessary extra guard should be provided. The restriction on use of handcuffs is not to place any embargo on use of minimum force to control a violent prisoner.

125. **Sick Prisoners**

- I. When a prisoner, who arrives at a Police station, is seriously ill, medical aid should be provided. When not available, the prisoner should be sent by the quickest conveyance available, if his condition admits of it, to the nearest station where medical assistance can be procured.
- II. Prisoners attacked by cholera or other infectious or communicable disease in a police station should be removed from the lock-up and places in an airy part of the station and all possible treatment provided.
- III. Whenever sick prisoners are brought from rural police stations to district headquarters hospitals and admitted as in-patients, the fact should be reported to the Superintendent of Police of the district or Dy. Superintendent of Police or the Inspector of the District Reserve Police in whose area the hospital is located, and an armed guard will be provided from the Reserve.

- IV. In large hospitals in cities, where prisoner's wards are provided, the guard provided for the prisoner's ward should take charge of such prisoners brought from the districts. The guard in-charge of the district headquarters hospital or city hospital, should find out from the resident Medical Officer or in-charge Medical Officer of the ward about the probable date of discharge of the prisoner. The information about date of discharge should be furnished to the police station or district from which the prisoner was admitted to the hospital, so that the concerned police shall take back the prisoner.
- V. Most of the District Headquarters Hospitals/General Hospitals are provided with prisoners' ward. If such provision is not available the SP or the CP should take up the matter with the concerned authority and ensure that the prisoner's ward as per the norms is provided. The prisoner irrespective of his status should be lodged in the prisoners' ward as to ensure their safety and enable the police to guard them effectively. This would also prevent inconvenience to other patients. Arrangements are to be made for their treatment in the prisoner's ward itself except where it is necessary to shift them in emergencies either to an operation theatre or to an Intensive Care Unit. The governments have issued instructions in this regard to the concerned authorities.
- VI. In case of death of a prisoner admitted to the hospital, the officer in-charge of the police station in whose jurisdiction the hospital is situated shall register a case under section 174 CrPC and, inform the Executive Magistrate to hold inquest and make such other enquiries. Finally the dead body will be handed over to the relations through concerned police.

Confinement of Other Department Prisoners in Lockup

126. When any prisoner arrested and escorted by officers of other units such as police stations & CID, Exercise, Customs etc., are brought for confinement in the police station lock-up, a written requisition shall be given to the officer in-charge of the police station and the latter shall keep such prisoners in the lock-ups. The Officers of the other units will keep their subordinates besides police station guard. If there are no prisoners in the concerned police station lock-up, the key of the lock-up shall be given to the officers of other branches or units or departments and they will be responsible for the prisoners' safe custody. In the

lock-up if there are already prisoners of the concerned police station, the key shall remain with the in-charge of the guard. In all circumstances, the duty of supplying the prisoners with food and guarding them, when taken outside the lock-up, shall lie with the outside officers.

Escape from Custody

127. In all cases of escape of prisoners from police custody including those from jails where police guards are posted, a report by Automax, Fax, Radio or Telephone shall immediately be sent by the Superintendent of Police or the Commissioner of Police as the case may be to the Director General of Police, Addl. DGsP L&O Intelligence, CID, and Zonal IG/DIGP who will communicate the information immediately to the government. The radio or telephonic report shall immediately be followed by a detailed report in triplicate furnishing the circumstances under which the person escaped, whether the escape of the prisoner was accidental or as a result of collusion or negligence, the action taken to apprehend him, the person or persons responsible for the escape, the exact quantum of responsibility to be attached to the Police personnel involved and the action taken against them, and other relevant particulars. These reports should be properly drafted and neatly typed with proper care.

Bail

128. Bail broadly means surety security for release of a person who is arrested. A person is released on bail with or without sureties. Offences are of two types as far as bail is concerned, bailable and non-bailable. When a person is arrested for a bailable offence, he is entitled to be released on bail either by the SHO or by court. In cases of arrests for non-bailable offences, bail is discretion.

- (a) **Bail in Bailable offences:** The SHO is competent to release a person on bail when arrested for bailable offences. If the arresting police officer is not the SHO, the arrestee shall be produced before the SHO with a written report for release on bail. If the accused jumps bail in a bailable offence and when he is arrested again, it should be treated as a non-bailable offence. In case bail is given by SHO in bailable offence the bond should be taken in the Form. The detailed addresses of the sureties have to be noted there in.

- (b) **Bail in Non-Bailable Offences:** When a person is arrested for a non-bailable offence ordinarily he shall be produced before the court but the SHO may release on bail in exceptional cases covered by section 437(1) and (2) CrPC after obtaining express permission by SP/DCP/CP concerned.

Grounds for Opposing Bail

129. Important points for opposing bail in non-bailable offences are: likelihood of absconding, possibility of tampering with evidence, intimidation and threat to witnesses, likelihood of repeating the offence, nature of the offender and the seriousness of the offence, likelihood of breach of peace and tranquility in the locality, likelihood of retaliations by the victims' party.

129.1 **Bailable Warrants:** When a person is arrested under a bailable warrant, he should not be compelled to come to the police station to give bail. He should be given bail at the place of arrest if he offers security.

129.2 **Anticipatory Bail:** When a person apprehends arrest for a non-bailable offence on a reasonable suspicion, he may apply to the High Court or Sessions court to give a direction to release him on bail in case he is arrested. In such cases the court gives notice to the P.P. with sufficient information to enable him to argue the case. In case the order is given in favour of the petitioner, the direction will be that he should be released on bail in case he is arrested on taking security as specified in that order. This clearly shows that the police officers are competent to arrest even if one gets such order. The only facility is that he should be released on bail in case of arrest without producing him in court. The court may be requested to impose appropriation conditions in case an order is given in his favour.

130. Remand of Arrested Accused

- i. When a person is arrested during the course of investigation and if the investigation is not completed within 24 hours, the officer in charge of the police station shall forward the accused to the nearest judicial magistrate along with a remand report enclosed by the case diary written till that date.
- ii. The accused will be remanded only when the investigation discloses some offence

against him so far and further investigation is needed for completion. A remand at a time will be for a maximum period of 15 days. However in cases under A.P. Control of Organized Crimes Act 2001 and Prevention of Terrorism Act 2002, the police remand may be for 30 days. Further remand if necessary is only by the jurisdictional magistrate. The police can seek remand for 60 days in ordinary cases where offences are punishable with imprisonment for less than 10 years and 90 days in cases punishable with death or life imprisonment or with imprisonment for not less than 10 years. If the charge sheet is not filed within that period, the accused shall be entitled for a bail even in a serious case like murder.

- iii. No accused shall be remanded to judicial custody unless he is produced before Magistrate. But in Andhra Pradesh an accused can be remanded even from jail by means of video conferencing. An accused can be remanded separately for each and every case committed under different transactions. Remands always shall be given by the Judicial Magistrate, but in the absence of any Judicial Magistrate an executive magistrate on whom the powers of judicial Magistrate are conferred can give remand, if the arrested person is produced before him. In such cases the remand can be only for a maximum period of 7 days by executive magistrate. Beyond this, remand can be given only by the competent Judicial Magistrate.

Searches

131. Searches, personal and house, are important tools of investigation. Police Officers are empowered to conduct these searches as per the various provisions under CrPC. Personal search is conducted immediately after a person is arrested and taken under the custody. House search can be conducted prior to arrest or after the arrest as per the needs and demands of the investigation.

132. Powers of Search

- i. An Officer in charge of a Police Station or an Investigation Officer, having reasonable grounds for believing that anything necessary for the purpose of investigation, may be found in any place within the limits of the Police Station, and that such thing cannot in his opinion be otherwise obtained without undue delay, may search the place under Section 165 of the Code of Criminal Procedure. Before making

the search, the Police Officer must record in writing the grounds of his belief, specifying therein the thing for which the search is made. If the Investigating Officer is unable to conduct the search in person, he may require any officer subordinate Police Officer so deputed should be given an order in writing specifying the place where and the thing for which the search is to be made. Copies of records made above should be sent to the nearest Magistrate empowered to take cognizance of the offence.

- ii. When a search has to be conducted in the jurisdiction of another station, whether in the same or a different district, an officer in charge of a Police Station making an investigation may require under Sub-Section (1) of Section 166 of the Code of Criminal Procedure, the officer in charge of the former station to make a search or cause search to be made. But, where there is reason to believe that the delay occasioned by such a procedure might result in evidence being concealed or destroyed, the Investigating Officer may, under Sub-Section (3) of Section 166 of the Code of Criminal Procedure, make the search himself or cause the search to be made, in which case, he shall forthwith send a notice of the search together with a copy of the list prepared under Section 100 of the Code of Criminal Procedure to the Officer in charge of the Police Station, within the limits of which the place searched is situated and to the nearest Magistrate empowered to take cognizance of the offence. When a search is made under Section 165 or Section 166 of the Code of Criminal Procedure, a copy of the list prepared under Section 100 of the Code of Criminal Procedure, signed by the witnesses, shall be delivered to the owner or occupier of the place searched.
- iii. Under Section 165(2) of the Code of Criminal Procedure, the Station House Officer or Investigating Officer must, if practicable, perform the actual searching in person. If incapacitated from so doing he must comply with Sub-section (3) of that section and deliver to his subordinate the prescribed order in writing. A verbal order given on the spot will not fulfill the requirements of the section.

133. **Procedure for Search**

- i. At least two respectable witnesses of the locality shall be asked to be present at a search. The search shall be conducted in their presence and the list of things seized should be signed by the witnesses. The occupant of the place or his representative

shall be allowed to be present during the search and a copy of the search list signed by the witnesses shall be given to him.

- ii. When any person is searched under sub-section (3) of Section 100 of the Code of Criminal Procedure, a copy of the list of things taken possession of shall be given to him. Before the commencement of the search, the person of the Police Officer and the witnesses should be searched, so that there may not be suspicion of something extraneous being planted in the house or the place to be searched.
- iii. The law does not require a search under the Code of Criminal Procedure to be made only by daylight, but, normally, daylight should be awaited. If information is received after dusk necessitating the immediate search of a house and if it is apprehended that delay till daybreak might result in evidence being concealed or destroyed, the house should be sealed and guarded and if that is not possible, search should be conducted during the night itself. Before entering the premises to be searched, the exterior of the place shall be inspected to see whether facilities exist for introducing property from outside. Search must be systematic and thorough. Women should be allowed to withdraw. Indiscriminate search and damage to property should be avoided.
- iv. A search list shall be prepared on the completion of the search in quadruplicate, all the copies being signed by the Police Officer making the search and the witnesses to the search. One copy will be handed over to the owner or occupant of the house, the second copy should be sent to the Magistrate and the third copy should be sent with the case diary to the superior officer to whom case diaries are sent. The fourth copy will form the station record. If blank paper has unavoidably to be used, four copies of the list should be made and dealt with as above affixing the fourth copy to search list book, on return to the station.

Precautions for Conducting Searches

134. The following precautions should be taken while conducting searches:

- i. Searches, as far as possible be conducted during daytime, except when circumstances otherwise warrant. Before proceeding to conduct a search, prepare a record indicating reasonable grounds for making the search, the place to be searched, the thing or things for which search is to be made, and why such thing or things cannot otherwise

be obtained without undue delay.

- ii. Search report and one copy of the record so prepared without delay should be sent to the Magistrate and duplicate copy to be submitted to the senior officer, and the third copy be kept in case diary file. The Panchas and witnesses should be respectable and inhabitants of the locality. When it is not practicable to do so and Panchas have to be selected from any other place, make a record of the reason in case diary. Avoid calling the same Panchas to witness several searches. If, for any reasons, the same Panchas have witnessed more than one search, make a record of those reasons in case diary. When the Panchas are selected, serve an order on each of them requesting them to attend and witness the search.
- iii. Commence the search only after securing the presence of witnesses and explaining to them the object of the search and the articles for which it is made. Before commencing the search, call out the inmates and have their bodies searched observing due formalities. Before commencing the search, request the occupants of the place to be searched to be present and to attend the search. If the occupant is not willing or fails to be present to attend the search, make a record of it in the search list and the case diary.
- iv. If there is reasonably apprehension that the delay caused in securing the attendance of the occupant frustrates the very object of search, proceed with the search in the presence of whosoever present on his behalf and record the reasons for so proceeding, in case diary and search list. Get yourself and the witnesses searched in the presence of the owner or occupier or any other adult male member of the house, if available, before the commencement of the search. When once the search is started, do not allow persons inside the house to go out or those outside to come in. conduct the search in each room in the actual presence of the witnesses.
- v. After the search is completed and the thing or things for which the search was conducted and any other incriminating articles are found or brought out, get yourself and the witnesses again searched and make a record of it in the search list. Mention clearly in the search list every item of property seized, the exact place where it was found and how and by what means it was taken out from that place. Note in the

search list the descriptive particulars and identification marks of the incriminating articles recovered. Make out the search list on the spot even if no articles re seized. Record the number of the house and other particulars including the occupant's name, parentage and occupation.

- vi. Recover documents, if any, to prove the ownership or occupancy of the person from the place where incriminating articles are recovered and record such recovery in the search list. Sign with date on all pages of all copies of the search list and obtain the signatures of the witnesses on all pages of all the copies. Give under acknowledgment a copy of the search list immediately to the occupant of the house searched.
- vii. On completion of the proceedings send without delay one copy of the search list to the jurisdictional Magistrate, attach another copy to the case diary of the relevant date to be sent to your officer, file the third copy in your case diary file, and attach the fourth copy to the final report to be sent to the court.

Custody of Property

135. According to Section 541 of the Code of Criminal Procedure, when any property regarding which any offence appears to have been committed or which appears to have been used for the commission of any offence is produced before any criminal court during any inquiry or trial, the court may make such order as it thinks fit for the proper custody of such property pending the conclusion of the inquiry or trial. If the property is subject to speedy or natural decay or if it is otherwise expedient so to do, the court may, after recording such evidence as it thinks necessary, order it to be sold or otherwise disposed of. Thus, this section provides for the interim custody of property. The Magistrate, as a rule, will provide a place for the safe custody of property seized in cases. If however, he refuses to take charge of it, the police must be responsible for it. Such property should be kept under lock and key in a lock-up cell or in an iron clamped box in custody of the treasury or sub-jail guard.

Disposal of Property if Court Declines to Take Possession

136. When a court or a Magistrate refuses to receive any property from the police or to pass any order under Section 452 of the Code of Criminal Procedure regarding its disposal on the ground that he does not believe that an offence has been committed in regard to it the

following instructions should be followed:

- a. The police shall retain the property sufficiently long to enable the parties to appeal to a higher court against the court's or Magistrate's procedure.
- b. If no application for revision is made nor order passed on revision, the police shall return the property to the person from whom it was taken, unless there is obvious objection to so doing.
- c. In doubtful cases the police may apply for an order under Section 457 of the Code of Criminal Procedure to the Magistrate having jurisdiction.
- d. When no order can be obtained from a Magistrate or court on the ownership of the property is in dispute or difficult of determination, the safest course will be for the police to retain the property until one of the parties obtains the order of a court. Such case shall be reported to the Director General for orders.
- e. The police shall not hand over property seized in a criminal case to a person, other than the one from whom it was taken, without the orders of a court or Magistrate.

Live-Stock

137. The seizure of live-stock by the police in criminal cases shall be forthwith reported to the Magistrate for orders under Section 457 of the Code of Criminal Procedure. Pending the orders of the Magistrate regarding its disposal, the live-stock shall remain in the custody of the police, but they may deliver it to the charge of the Village Officer or its owner to be produced when required. The Magistrate having jurisdiction will be responsible for the cost of its feeding in cases other than those in which it is handed over to the owner.

Scientific Aids to Investigation

Introduction

138. In order to make the investigations objective, impartial and value-neutral, use of various scientific aids to investigations must be made. Systematic, scientific and in depth questioning and interrogation techniques are primarily tools of investigation with police. The facts and evidence so collected could be further substantiated and corroborated with the help of scientific analysis and examination of various exhibits, items and materials available on the scene of crime or collected during investigation.

139. The Scientific Techniques

I. A wide range of scientific techniques are now available for analysis of varied nature of objects and materials encountered in the process of commission of crime by the culprit in and around the crime scene, on the suspect and victim. The study of such material evidence also known as objective evidence or physical evidence applying latest scientific tools and techniques for proving the guilt or innocence of the accused by the courts of law is broadly known as Forensic Science.

II. The applications/aid of science to the crime investigation is fundamentally one of reconstruction, that is, trying to assist in determining what happened, where it happened, when it happened, and who was involved. It is not concerned with, and cannot determine, why something happened. Forensic analysis is performed on evidence to assist the police and the court in establishing physical facts so that criminal or civil disputes can be resolved. It is the job of the forensic scientist to translate the legal inquiry into appropriate scientific questions, and to advise the Investigating Officer and/or the judiciary on the capabilities, limitations and results of the analytical techniques.

III. In forensic science, the laws of various facets of science are applied in conducting an analysis to determine the nature and characteristics of Physical Evidence collected in the process of crime or civil investigation. Using the scientific methods,

inferences are drawn about how the evidence can be linked to crime and criminal. These inferences are thus connected to the events that may or may not have taken place in connection with said evidence. The law defines elements of a crime; science contributes information to assist in determining whether an element is present or absent.

IV. It is an established fact that the criminals while committing crimes either due to carelessness or due to anxiety, or due to contact with other objects leave traces at the scenes and these are the basis for scientifically exploiting their culpability. This physical evidence when located, collected, preserved and forwarded for scientific evaluation and report is bound to have enormous potential in linking the criminal to the crime scene, victim or any other circumstances leading to the crime. Moreover evidence collected and based on scientific evolution and report is unbiased, universally acceptable and also stands the test of time.

140. Institutions to Provide Scientific Aids to Police

- (a) **Central Forensic Science Laboratory:** The Central Forensic Laboratory is situated at Delhi. Scientific aid, assistance, help and guidance can be obtained from the experts of CFSL by the Investigating Officer in case of need and urgency.
- (b) **State Forensic Laboratory (SFL)** Every State has a State level Forensic Science Laboratory with various wings along with regional or district branches to provide scientific help to police on various subjects.
- (c) **Professor of Forensic Medicine & Medico-legal Services:** The Professors of Forensic Medicine working in Medical Colleges are responsible for providing Medico-legal services to the investigating officers in the respective districts. The services rendered by a medico-legal expert extend to both the living and the dead individuals. 'Clinical Forensic Medicine' deals with the medico-legal examination of the livings pertaining to wounds, sexual offences, age determination, poisoning whereas the 'Forensic Pathology' deals with that of the dead like autopsies, examination of mutilated/fragmentary and skeletal remains, exhumation etc.

- (d) **Clinical Forensic Medicine:** Wounds cases are examined to decide the type (eg. Abrasion), age and nature (simple/grievous) of the wound as well as the type of the weapon (blunt/sharp) responsible for the same. In sexual offence cases, both the accused and the victim are examined for signs of recent sexual intercourse. Further, the accused in particular is examined for potency and the victim for determination of her age, if required. Age determination is also conducted in cases such as kidnapping, juvenile crime and disputed age claims.
- (e) **Forensic Pathology:** Dead bodies (whether fresh, decomposed or exhumed and whether intact or fragmented and mutilated) as well as skeletal remains can be examined for establishing the cause and time since death and for possible clues to establish the identity of unidentified bodies. Injuries, poisoning or asphyxia commonly causes unnatural or violent deaths while disease processes cause natural or sudden deaths. A host of physical characteristics and traits help in identification of the body while the onset and progress of the post-mortem changes are of use in estimating the time that has elapsed since death.
- (f) **Fingerprints Bureau (State Crime Records Bureau):** The Director, Fingerprints Bureau and his supporting staff at the head quarters and at Single Digit Finger Print Sections at district level are responsible for lifting, collecting and matching the finger prints in all criminal cases.
- (g) **Explosives/Bomb Disposal Experts:** In all matters relating to explosive substances the relevant agencies have to be contacted by the Investigating officers in handling, investigating, defusion and disposal of explosive substances.
- (h) **Miscellaneous Institutes:** In every State there are institutions like Institute of Preventive Medicine, Chemical Examiner-Prohibition & Excise, Government Food Laboratories, and Government Drug Control Laboratories which

provide help and assistance to the Investigating Officer in the respective areas.

141. **Purpose of Physical Evidence in Crime Investigation**

- I. The word Physical Evidence denotes all evidence having certain physical dimensions such as size, shape, pattern, length, width, height, volume etc., which can be preserved, lifted, collected, packed and forwarded for scientific analysis to the specialist concerned. Physical evidence can alternatively be called as material evidence, objective evidence, circumstantial evidence or indirect evidence in different contexts. Physical Evidence includes all naturally occurring substances as well as machine/men made objects in the Universe.
- II. The goal of physical evidence examination is to provide useful information for criminal investigators in solving crimes and for courts of law during the adjudication of these cases. The following leads can be obtained from the examination of physical evidence in the process of investigation.
- III. **Information on the Corpus Delicti:** The corpus delicti (literally means the "body of the crime") refers to those essential facts which show that a crime has taken place. For example, tool marks, broken doors or windows, ransacked rooms, and missing valuables would be important in establishing that a burglary has taken place. Similarly, in an assault case, the victim's blood, a weapon, or torn clothing could be important pieces of physical evidence.
- IV. **Information on the Modus Operandi (MO):** Many criminals have a particular modus operandi or (MO), which is their characteristic way of committing a crime. Physical evidence can help in establishing an MO. In burglary cases, for example, the point of entry, the means used to gain entry, tools that were used and articles stolen may all establish an identifiable method of operation. In arson cases, the types of accelerant used and the way the fires were set constitute physical evidence that helps to establish the "signature" of an arsonist. Similarly the type of explosive remnants, triggering devices, timing devices, containers and composition of explosive substances used in the making of Bombs and IED's establish the commonness of source/origin of Improvised Explosive Devices

(IED's) in serial blast cases. Analysis of physical evidence is one important way of linking cases in the investigation of a "serial" killer or rapist.

- V. **Linking a Suspect with a Victim:** This linkage is one of the most common and important aspects that physical evidence can help to establish. Blood, hairs, clothing fibers, cosmetics and other items from the victim may be transferred to a perpetrator. Items found in a suspect's possession can sometimes be linked to a victim, for example through the comparison of bullets with a weapon seized from the suspect; the suspect can be linked with crime. It is also possible that evidence is transferred from a perpetrator to a victim; in rape, murder and assault cases.

- VI. **Linking a Person to a Crime Scene:** This type of link is also one of the most vital in a crime scene investigation. Numerous types of evidence may be deposited by the person committing a crime, including fingerprints, foot prints, blood, hair, fibers, and soil. In addition, the type of weapons or objects used may also leave evidence, for example, bullets and cartridge cases or tool marks. Depending on the type of crime, various kinds of evidence from the scene may be carried away intentionally, as a stolen property and unintentionally as a transfer of trace evidence such as carpet fibers or hairs on the criminal's shoes or clothing. These materials are extremely useful in linking an individual to a particular crime scene.

- VII. **Disproving or Supporting a Witness' Testimony:** Physical evidence analysis can often indicate conclusively whether a person's version of a set of events is credible, or whether an alibi put forth is convincing or not. For example, the examination of a car, which fits the description of a hit and run vehicle, might reveal blood on the underside of the bumper. If the owner of the vehicle claims he hit a dog, laboratory tests on the blood can reveal whether the blood is from a dog or from a human and further testing for DNA Profiling may reveal the truth relating to the accident and victim.

- VIII. **Identification of a Suspect:** The best evidence for identifying a suspect is his or her palm prints and evidence such as blood, semen, saliva, skin tissues etc. collected for DNA Finger Printing examination. A fingerprint found at a scene, and later identified as belonging to a particular person, results in an unequivocal identification of that person as having been at the scene. The term identification when applied to people really means "individualization" (identifying a single unique source).
- IX. **Providing Investigative Leads:** Physical evidence analysis can assist the investigator in pursuing a productive path, by providing clues from the characteristics of the physical evidence. In a hit-and-run case, for example, examination of a chip of paint found in the victim's clothing could be used to provide information on the colour and possibly the model and year, of the automobile involved. With the rapid emergence of computerized fingerprint and DNA data-bases, the ability of physical evidence to provide investigative leads has increased enormously.
- X. **Identification of a Substance:** The results of examining a piece of physical evidence can provide information on the identity of a particular substance. As indicated above, this is a classification process. In its simplest form, such as in the identification of cocaine, heroin, LSD, morphine or any other type of drug, it meets the legal requirement for classification as a controlled substance. Laboratory analysis of fibers can sometimes yield information on the manufacturer of the fabric or garment. Simple identification of many types of physical evidence can provide critical information for use in the investigation or prosecution of a case.
- XI. **Crime Scene Reconstruction:** Transient evidence such as odour, temperature (of car engine, fire debris etc), imprints, marks/stains; pattern evidence like blood stain patterns, skid mark patterns, gun shot residue patterns, projectile trajectory patterns, glass fracture patterns etc., and conditional evidence such as light, smoke, fire, water, piled up news papers etc., will play a key role in

reconstruction of the events surrounding the crime scene and the nature of offence. Sometimes it may also give valuable leads regarding the perpetrator based on the individual traits in relation to the evidentiary pattern.

Sources of Physical Evidence

142. The primary source of physical evidence is generally the crime scene but it is by no means the only source. Many crimes occur over multiple scenes and many criminals carry physical evidence away from the actual scene in addition to leaving evidence behind. The victim, suspect and some times the witnesses are major sources of physical evidence. The methodology of search depends on the case and the scene. The purpose of the search is to look for clues and for evidence of what happened during the crime. It is not a random groping in dark but rather a directed search for objects and materials. Recognizing, recording, collecting, marking, packaging and preserving evidence discovered while searching a crime scene is the basic essential duty of the investigating officer. In cases where the evidence is of a common nature, i.e., evidence, which is not hidden and is easily collectable, without expert's assistance, the Investigating Officer should invariably collect all possible forms of physical evidence. For other kinds of evidence the investigator should take the assistance of CLUES Team or medico-legal experts. Some types of physical evidence, which are hidden, latent or fragile, require scientific procedures for location as well as collection and packing. In such circumstances the involvement of CLUES team from the initial stages of inspection is essential.

Significance of physical evidence

143. The major purpose of examination of physical evidence by a forensic scientist is to identify or absolutely determine the nature of the material or to compare two substances in order to know whether they possess the same characteristics and composition, with a view to establish their commonness of origin.

(a) Identification: The absolute determination of the biological, physical or chemical nature of a substance is the purpose of identification. This information helps the police officer to secure leads for further investigation or confirm his hypothesis or draw certain inferences and conclusions based on other circumstantial evidences, e.g.

1. Identification of specific poison in the viscera of a person who died under suspicious circumstances.

2. Identification of an inflammable material in the burnt clothing of young woman in a dowry death case.
3. Identification of a reddish stain to be blood in a case where the suspect claims it to be a vegetable stain or a synthetic dye.
4. Absolute determination of a white powder to be cocaine in case of illicit drug trafficking.

(b) Comparison: The comparison of two or more substances, usually crime and control specimens, is generally undertaken to establish commonness of origin (source) of the materials involved. For example, the forensic scientist may assist in placing a suspect at a particular location by matching similarities in the hair found at the crime scene to the hair collected from the suspect. Similarly, comparison of a paint chip found on a road accident victim's clothing with the paint removed from a suspected vehicle might prove its involvement in the accident. Comparing chance fingerprints at the crime scene with the fingerprints of the suspected persons may establish their association with the crime.

(c) Individual Characteristics: Evidence that can be traced to a common source with an extremely high degree of probability is said to possess individual characteristics. Examples of this type are the matching ridge characteristics of the fingerprints, the comparison of random striation marks on bullets, tool marks, irregular and random tread patterns in tyre or footwear impressions and handwriting for authorship determination.

(d) Class characteristics: Evidence is said to possess class or group characteristics when it can only be traced to a group and not to a single source. Here, probability is a determining factor. Class characteristics help provide leads and corroborate evidence.

List of documents to be sent with exhibits

144. Following documents should be sent along with the covering letter while forwarding exhibits of the FSL.

- a) Forwarding letter/authorization letter of competent authorities (Order 549-8)
- b) Letter of advice from Investigating Officers
- c) Doctor's Report (post-mortem examination) in Toxicology cases, Medical examination Report of victim and accused (if arrested) in rape and serology cases.
- d) Confessional Statements of suspects/accused, statements of witnesses, etc., in

- Polygraph cases.
- e) Inquest/Panchanama copies in Toxicology cases.
 - f) FIR copies where desirable.
 - g) Sample seal on a sheet of paper, or on forwarding letter/letter of advice.
 - h) Any other document relevant for examination

145. **Forensic Science & Scientific aid to Investigation**

1. Forensic science is a dynamic field comprising of mainly the application of various branches of science to the administration of justice in a criminal justice system. The criminal investigation is a team effort, where the Police and the Forensic Scientist have co-ordinate role to play. The effective prosecution of a case can be achieved largely by

- i. Producing the evidence in a legally admissible form
- ii. Scientific examination and analysis of clue materials
- iii. Evaluating the result of scientific analysis and interpreting them and
- iv. Effective use of forensic findings in the prosecution.

2. The major contribution of forensic science is in the area of scientific examination and analysis of evidence materials either collected from the scene of crime or obtained by the investigating agency during the course of investigation. Further, significant contribution can also be made to improve the efficiency of the investigation by the presence of the forensic scientists at the scene of crime to precisely decide on the nature of clue materials on which reliance could be placed either during the investigation and/or during the trial. Forensic science has gained tremendous evidentiary value owing to the rapid development of science and technology. The outstanding advancement of forensic science is in the area of DNA (DEOXY RIBO NUCLEIC ACID) profiling on the basis of which it has become possible to precisely fix the identity by analyzing tissues, bones, hairs, and body fluids including semen of the accused or victim.

3. The Forensic Science Laboratory has great responsibility in aiding the investigation right from the examination of scene of offence to the level of rendering evidence before the courts of law in the system. The FSL primarily caters to the needs of investigation at various stages, thereby producing an impact on the quality of investigation in the areas mentioned below:

- Recognition of evidence materials at the scene of crime

- Collection and preservation of the clue materials so recognized
- Analysis, examination and testifying the forensic findings and
- Interpretation of the forensic results

146. **Principles of Forensic Science**

1. Principle of Exchange

This was the first and foremost concept that led to the systematic development of forensic science. A French scientist Prof. Edmand Locard while working in the University of Lausanne, Switzerland in 1928 proposed this theory, i.e. *"When any two objects come into contact, each of them will leave its traces on to the other"*. The transfer of traces may be in the form of materials or impressions. Such transference may be large or small, visible or invisible, detectable readily or difficult to detect. Nevertheless, transference does occur. It is the responsibility of the investigating officer to search, locate and collect it.

2. Law of Individuality

Every object natural or man made, animate or inanimate has some individuality/uniqueness of its own which is not repeated in any other objects. The natural objects are; human beings, animals, plants, leaves, seeds, insects, wood, soil etc., whereas the man made objects are; tools, guns, bullets, shoes, pens, paper, ink, pills etc.

3. Law of Progressive Change

Everything in the Universe undergoes a change as the time progresses.

People undergo change with the passage of time. Criminal disguise themselves or adopt alibi to hide their identity. Witnesses also change as they become hostile, or get influenced to change their earlier testimonies. Policemen also get transferred, promoted and go on retirement. Likewise; judges also get transferred, promoted and go on retirement. Likewise lawyers, prosecutors, places, crime scene also undergo various changes. Similarly the materials/objects also undergo various changes and they become volatile and decomposed due to chemical, physical and biological transformation.

4. Principle of Comparison

The principle of comparison is based on the hypothesis that only like things can be compared. No purpose will be served if comparison is made between black fiber and black hair, grey hair and grey fiber, bullet .38 and bullet .32, nylon fiber and cotton fiber, Telugu Writing- English Writing, etc.

5. Principle of Analysis

The analysis can be no better than the sample itself. Hence the importance of proper collection of sample and also its integrity and chain of custody is of great significance.

6. Law of Probability

All identifications definite or indefinite are made consciously or unconsciously on the basis of Probability.

Technical Application for Police Work

147. Enhancement of police efficiency and the professional competence necessitate that adequate use of various technological aids, equipment and techniques is made in the working of police functioning. This technical application has to be integrated with every aspect of police working like investigation work, maintenance of Law and Order, arms and ammunition along with communication and transportation. For an effective and efficient technical application and technological advancement in the police functioning, the various areas and units like FSL, training, security equipment and police functional aids should be updated from time to time. There are many types of equipment which a modern police force should have. These range from office equipments like fax, photocopiers, modern and dynamic furniture, computers, internet to equipment like wireless, night vision devices, metal detectors, bomb disposal equipment, binoculars, body protectors, bullet proof vests, tear gas, arms and ammunition, cameras, recording devices etc., etc.

Technical Support, Equipment Upgrading of FSLs

148. Forensic Science Laboratories and the various wings including the chemical, biological, physical and documents wings in addition to the normal equipment must have the following equipment.

(A) Chemical Science Wing :

- UV Visible Spectrophotometer with PC (Range : 200-900/100)

- Gas Chromatograph with Capillary facility Detector- FID+ECD+NPD
- High Performance Liquid Chromatography with PDAD Dual Pump
- Meter Electronic Balance (Range : 0-200 gm) (Sensitivity : 1x10)
- TLC Plate assemblies and accessories
- Distillation set (E-Marck)
- Hot air Oven
- Refrigerators
- Cold Room
- Glasswares, Labwares & Chemicals etc.

(B) Biological Science Wing :

- Microscope
- Microtome Unit with accessories
- Balance (Electronic)
- Refrigerator
- Incubator
- Hot Air Oven
- Dissection set
- Centrifuge equipment
- X-Ray Machine
- Anthropology equipment

(C) Physical Science Wing :

- Comparison/Microscope & Accessories
- Measuring Equipment like Balance, Slide Calipers, Screwgauges
- IR & UV Spectrometers
- Refractometer

(D) Document Science Wing :

- Stereo Microscope
- Wild M-8 Microscope
- Magnifying Lenses
- VSC-4 (Portable)

- ESDA

149. **Miscellaneous Police Equipment for Technical Support**

- (1) Explosive Detector
- (2) Deep Search Mine/metal Detector
- (3) Extension Search Mirror
- (4) Night Vision Device
- (5) Hand held metal detector
- (6) Investigation Kit
- (7) Portable X-ray unit
- (8) Small Arm training stimulator
- (9) Satellite telephone - Iridium
- (10) Multi Shot riot gun
- (11) Cellular phones
- (12) Polygraph machine
- (13) Bomb Blanket
- (14) Bullet proof vehicle
- (15) Breath Analyser
- (16) Traffic radar for vehicle speed detection
- (17) Search light
- (18) Dogs- Tracker & Sniffer
- (19) Binoculars
- (20) Bullet proof jacket
- (21) Bomb Disposal equipment
- (22) Pollution measuring equipment
- (23) Traffic signaling equipment
- (24) Control Room Equipment.
- (25) Porta Hut
- (26) Body protector set - Poly Carbonate Sheet, Rubberised Baton, Riot Control Helmet
Self protection Aerosol spray
- (27) Vehicle mounted Water
- (28) Video Camera

Utility Contexts of Police Equipment

150. The following table presents a bird's eye view on use and utility of various police equipment.

S. No.	Name of Equipment	Utility
1	Explosive Detector	Useful for detection of explosives
2.	Mine Sweeper/Deep Search Metal Detector	To locate mines and other metallic devices buried under ground
3.	Mine Sweeper	Same (limited capability)
4.	Non linear Junction Detector	To detect and locate concealed electronic active/passive devices. It is to be used in combination with Deep search Mine Detector and Explosive Detector.
5.	Wire & Cable Locator WD-3.WD-4, WD-5, MEL-1690	For the detection of buried wire and cable which are connected to IEDs (improvised explosive devises)
6.	Optical Fiberscope search Kit	Used for covert viewing or for searching small cavities. Where explosives might have been hidden.
7.	Forensic Science Equipment	For Upgradation of State Forensic Science Lab
8.	Door Frame Metal Detector (Portable & Fixed)	For the detection of ferrous & non ferrous metals.
9.	Hand Held Metal Detector	Used for frisking
10.	Search Light	For carrying out anti sabotage checks
11.	Binocular	For Surveillance
12.	Extension Search Mirror	To search in accessible areas during building search.
13.	Prodder	Useful in anti sabotage checks for objects like flowerpots etc.
14.	TOOL Kit (Screw driver set cutter, plier, tester, nylon rope, etc.	Useful in anti sabotage checks

15.	Under -Vehicle Search Mirror	To search inaccessible areas under the vehicles.
16.	Trained Explosive Sniffer Dogs	For the detection of concealed explosives
17.	TFC Signalling Eqpt.	For City TFC
18.	Portable X-Ray Unit (RTVS)	For checking inside suspected Briefcases, closed packets etc. Images are viewed on a display monitor.
19.	Polygraph Machine	For Lie detection test
20.	Breath Analyser	For alcohol detection testing
21.	Night vision devices	For night time surveillance in the security areas.
22.	Self Protection Aerosol Spray	For self protection while escorting criminals
23.	Bomb Truck	Transport equipment for bomb disposal
24.	Bomb Blanket	Useful in suppressing bomb blast effects hi emergency cases.
25.	Bomb Basket	Used for temporary holding of suspected explosive devices.
26.	Bomb-suit	Guards against bomb explosion.
27.	RSP Tool Kit	Useful hi bomb disposal work
28.	Water Cannon(Bomb disposal)	To blast connection between power source and explosive.
29.	Blasting machine	Same as above.
30.	Gas Gun	Same as above.
31.	Car Remote opening Tool Kit	To open a car from a distance
32.	Ice Tong	To pick up a suspected item.
33.	Radio Communication. Set	For communication- between bomb squad members
34.	Cellular Phone	For communication
35.	Indium Satellite Phone	For long distance communication

		using a portable set.
36.	Thermal Cutter	For cutting electrical connection in a bomb
37.	Drilling Machine	For reaching spot where ED may be kept.
38	Bullet proof Jackets Composite	Protection against bullets & ambush
39	Sniper rifle	To shoot terrorists from a distance
40	Bullet proof light vehicle	For protection from bullets & ambush
41	Portahut	For temporary location of police station
42	Rubberised baton	Light weight high impact, useful in controlling mobs
43	Polycarbonate shield	Riot control
44	Vehicles Mounted Water canon	Non lethal, useful for mob dispersal
45	Investigation Kit	For scientific investigation
46	Control Room Equipment	For Police Control Room
47	Multi-shot riot gun	For quick firing of tear gas shells while controlling mobs
48	Speedet	For Over speed detection
49	CC TV Systems	For monitoring unauthorised intrusion
50	Alarm Systems	For perimeter security
51	Fire Arms Training system	For training of troops without expending ammunition.
52	Small Arms Trg. Simulator	For fire arms training indoors
53	Bomb disposal robotic vehicle	For remote controlled disposal of bombs & explosives
54	Vehicle immobiliser	To stop vehicles speeding away
55	Pollution Measuring Eqpt.	For city traffic
56	Frequency Jammer	For preventing IED s explosion

57	Vehicle tracking system with GPS	For auto tracking of police vehicles
58	Riot control helmets	For protection Of jawans
59	All terrain vehicle	For cross country troop transportation
60	Tape Recorder	For evidence recording
61	Concealed Camera	For clandestine photography
62	Ultra Violet Lamp	For identifying fake currency

Technical Support Contexts

151. Every State Police Organisation should create and maintain such ancillary technical agencies and services, under the overall control of the Director General of Police, as considered necessary or expedient for promoting technical efficiency of the Police organization. Such services should include a full-fledged Forensic Science Laboratory at the State-level, a Regional Forensic Science Laboratory for every Police Range and a Mobile Forensic Science Unit for every district, with appropriate equipment and trained manpower, in keeping with the guidelines laid down by the Directorate of Forensic Science or the Bureau of Police Research and Development of the Government of India.

Support Units for Technical Application

152. It should be the responsibility of the State Government to ensure regular maintenance of all scientific equipment and regular replenishment of consumables in the forensic laboratories and other technical support units. The State Government should take all measures to encourage and promote the use of science and technology in all aspects of policing. In order to achieve this, the State Government should appoint for the whole State or any part thereof, one or more Directors of Police Telecommunication, not below the rank of Deputy Inspector General of Police and as many Superintendents of Police and Deputy Superintendents of Police as deemed necessary for manning and supervising various technical support units.

152.1 The State Government should appoint for the whole state or any part thereof, one or more Directors of Police Transport, not below the rank of Deputy Inspectors General of Police, and as many Superintendents of Police and Deputy Superintendents of Police as

deemed necessary to assist them.

The Maintenance Contexts

153. The State Government shall ensure regular maintenance of all the needed equipment and regular replenishment of consumables for the Police Tele-communication, the Police Transport Services and other technical support units for an efficient and effective technical application and technological utilization.

Chapter 9

Final Disposal & Completion of Investigation

Introduction

154. On the receipt of a report about the commission of a cognizable offence, an FIR is registered at the police station. Thereafter the IO undertakes several steps for collecting evidence against the accused person(s). If there is enough evidence against the accused person(s), the case is sent for trial to the court of law, and if enough and sufficient evidence is not available against the accused person(s), the police would close the investigation as Final Report (FR); and the case file will be sent to the court for approving the investigation. This whole process is called Investigation.

155. Quick & Early Completion of Investigation

(i) Section 173 CrPC lays down that every investigation by police made under Chapter XII Cr.P.C. shall be completed without unnecessary delay. All investigations must be completed within the time limit provided under section 468 CrPC. No court will take cognizance of an offence after the expiry of that period. The period of limitation is as follows:

- Six months if the offence is punishable with fine only;
- One year, if the offence is punishable with imprisonment for a term not-exceeding one year;
- Three years, if the offence is punishable with imprisonment not exceeding three years,

(ii) The prosecution will have to explain the reasons for the delay if the charge sheet is filed after the expiry of the period of limitation. The Court has to be satisfied with reasons adduced for delay. Sections 469 to 472 CrPC deal with the commencement of limitation, exclusion of time in certain cases etc.

(iii) As per section 167(5) CrPC, when the police officer arrests a person in a summons case and if the investigation is not completed within 6 months and whether the person is on bail or in custody, the magistrate is competent to order the closure of the investigation and on such order further investigation is not allowed unless ordered by the session court. Therefore in such cases, it must be ensured that the investigation is completed within that period.

(iv) Section 167(2)(a) CrPC empowers the Court to order release of the accused in custody if the charge sheet is not filed within 60 days or 90 days as the case may be. Hence, the IO should complete the investigation in the above cases within the time prescribed. If the investigation could not be completed within the said period of 60 or 90 days the accused will be entitled for bail. Care must be taken to speed up investigation in such cases if the accused is to be continued in remand. However, incomplete charge sheet shall not be filed for the sake of keeping the accused in remand.

(v) Sections 173(8) Cr.P.C. provides for a supplementary or additional charge sheet. This provision is not a substitute for original charge sheet. This provision is meant for filing a subsequent charge sheet only when there is fresh and further evidence about the offence or offender, which is not known at the time of filing the first charge sheet.

Charge Sheets

156. If, upon the completion of an investigation, it appears to the Officer-in-charge of a Police Station that there is sufficient evidence to warrant the filing of charge sheet against the accused, he will submit to the Magistrate empowered to take cognizance of the offence, a charge sheet setting forth therein the names of the parties with their full addresses and of the persons, who appear to be acquainted with the circumstances of the case, stating whether the accused (if arrested) has been forwarded in custody or has been released on bond, and, if so, whether with or without sureties. The names of such of the accused as are absconding should be entered in red ink in the appropriate column of the charge sheet. Care should be taken to

see that all the columns in the charge sheet are filled in properly. No column should be left blank. The officer-in-charge of the Police Station shall also communicate the action taken by him to the person, if any, by whom the information relating to the commission of the offence was first given. Once the investigation is completed and a prima facie case is made out, there should be no delay in the submission of the charge sheet.

157. Features of Charge Sheet and its Preparations

- i. The charge should be brief but at the same time clear. The date, time and place of offence should invariably be mentioned in the charge. In simple cases, the charge sheets shall be prepared by Sub-Inspectors in consultation with the Inspector, where necessary. In cases involving complicated points of law, the charge sheets should be prepared in consultation with the Assistant Public Prosecutor, and also the Public Prosecutor, where necessary. In important and complicated cases, it is advisable to consult the assistant Public Prosecutor or Public Prosecutor, if necessary, even at the stage of investigation, in order to enable the Investigating Officer to conduct the investigation on proper lines and to collect the type of evidence required by law to bring home the guilt of the accused.
- ii. In every case in which an accused person previously convicted of an offence punishable under Chapter XII or Chapter XVII of the Indian Penal Code with imprisonment of either description for a term of three years or upwards, is prosecuted for an offence punishable under either of the two chapters, with like imprisonment, Section 75 of the Indian Penal Code should be added in the charge-sheet.
- iii. While all documents or relevant extracts thereof on which the prosecution proposes to rely other than those already sent to the Magistrate during investigation and the statements recorded under section 161 Cr.P.C. of all the persons whom the prosecution proposes to examine as its witness should be forwarded to the Magistrate along with the report under Section 173 of the Code of Criminal Procedure. The investigating officer should furnish to the accused copies of the documents.
- iv. If the Police officer is of the opinion that any part of statements recorded under Sub-Section (3) of Section 161 of the Code of Criminal Procedure is not relevant to the subject matter of the inquiry or trial or that its disclosure to the accused is not

essential in the interest of justice and is inexpedient in the public interest, he shall exclude such part from the copy of the statement furnished to the accused, and in such a case, he shall make a report to the Magistrate stating his reason for excluding such part.

158. **Absconders and Proclaimed Offenders**

- i. Where an accused person against whom a charge sheet is being filed is absconding, the officer-in-charge of the Police Station shall append a note on the charge sheet itself requesting the Magistrate to issue a non bailable warrant for the apprehension of the accused. If the warrant cannot be executed within a reasonable time, the Station House Officer or the Investigating Officer shall move the court for instituting proceedings under Sections 82 and 83 of the Code of Criminal Procedure. If it is proved that there is no immediate prospect of arresting the accused even after action has been taken under section 82 and 83 of the Code of Criminal Procedure, the court may, in the absence of the accused, examine the witnesses produced on behalf of the prosecution and record their depositions under Section 299 of the Code of Criminal Procedure. If, at any future time, the accused person is apprehended or appears before the court, the case against him shall be revived and dealt with according to law. Any such deposition recorded in the absence of the accused may, on the arrest of such person, be given in evidence against him in the inquiry into or trial of the offence with which he is charged, if the deponent is dead or incapable of giving evidence or his attendance cannot be procured without an amount of delay, expense or inconvenience which, under the circumstances of the case, would be unreasonable.
- ii. Where there are several accused persons in a case and only some of them have appeared or have been produced before the court and the presence of the other accused cannot be secured within a reasonable time, steps should be taken to move the Magistrate to proceed with the case against such of the accused as have appeared and dispose it of according to law reserving the right of the State to proceed against the other accused, when their presence is secured.
- iii. Proclamation orders under Section 82 of the Code of Criminal Procedure can be issued against any person for whose arrest the Magistrate has issued a warrant. The Investigating Officer has only to convince the court that the warrantee is evading

arrest and has gone into hiding and that the warrant could not be executed. Hence, the initiative has to be taken by the Investigating Officer. Once the proclamation orders are issued they should be immediately promulgated. Orders of attachment under Section 82 of the Code of Criminal Procedure can also be issued simultaneously along with the proclamation orders. The period of 30 days mentioned in Section 82 of the Code of Criminal Procedure is the time allowed to the accused to surrender. The Court issuing a proclamation under Section 82 of the Code of Criminal Procedure may at any time order the attachment of any property moveable or immovable both belonging to the proclaimed person. Attachment should be carried out promptly after the proclamation has been properly made and the property of the proclaimed person seized before he has time to transfer, alienate, mortgage or conceal them.

- iv. It is necessary that the proclamation order issued under Section 82 of the Code of Criminal Procedure should be widely published in the manner provided for in that section. In order to facilitate the arrest of an absconding warrantee or a proclaimed offender, it is also necessary that an effective watch is maintained over his harbourers. Persons who willfully or knowingly harbor such offenders could be prosecuted under Section 216 of the Indian Penal Code. It is, therefore, necessary that the widest publicity is given to the proclamation order issued under Section 82 of the Code of Criminal Procedure so that its knowledge can be conclusively proved against the harbourers for his successful prosecution under Section 216 of the Indian Penal Code.
- v. The Station House Officer should not be satisfied or rest content that the formalities under Sections 82 and 83 of the Code of Criminal Procedure have been gone through. As long as the proclaimed offender's name is on the list of proclaimed offenders of his station, he and his station staff are responsible for finding out where he is and who is harboring him. If the proclaimed offender is learnt to be in the jurisdiction of another station, he should forthwith inform the Station House Officer of the other station to arrest him. Preferably, he can proceed himself or in unavoidable circumstances send his subordinates immediately to arrest the wanted person with the help of the other station staff.

159. **Duty of SHO and IO**

- i. The charge sheet shall be prepared, forwarded and presented to the court only by the SHO/I.O. The IO should prepare report giving the details of the case, discuss the nature of evidence and the liability or otherwise of each accused, the probable defence and its plausibility or otherwise and finally the action proposed by him.
- ii. The IO while considering the case should not act as a mere post office to transmit each and every case to the Court. At the same time it is also not desirable that he should usurp the function of the trial court by examining the evidence inch by inch. Availability of sufficient evidence does not mean sufficient ground for conviction but such evidence as would be sufficient to put the accused on trial. Where there is reasonable doubt, as to what evidence is to be believed, it is better the SHO sends the case to the Court which is the proper authority to resolve the doubt. Where two views are possible the case should be sent for trial.
- iii. After completion of the investigation the SHO shall forward the file to the APP for his opinion whether the material is sufficient to charge the case and also to discuss with the APP in person. The APP after perusing the case file shall give his opinion. If further investigation is necessary he shall give his opinion in accordance with the guidelines. If the material is sufficient for charge sheet, he shall give a draft charge sheet. On receipt of the same the SHO shall file charge sheet or investigate further as the case may be. If further investigation is carried out it will be once again submitted to the APP for charge sheet. In small and simple cases, the SHO may file charge sheet himself but where the police expect the APP to conduct the prosecution successfully and with responsibility, the above procedure shall be followed.
- iv. In case of all grave crimes and in sessions cases the SDPO should submit the file for orders to SP/Additional SP with his comments.

Juvenile Offenders

160. When a juvenile accused is arrested or prosecuted, information about the age of such accused should invariably be furnished to the court by the Police officer taking action in the case to enable the court to determine the age of the accused.

161. **Sanction for Prosecution**

- i. Sections 195 to 199 of the Code of Criminal Procedure mention the cases of which the courts shall not take cognizance without the sanction of, or complaint by some competent authority. In such cases, it should be seen that the required sanction is got when the investigation is completed and the original sanction should be attached to the charge sheet when laid in the court.
- ii. Prosecutions under Section 182 or Section 211 of the Indian Penal Code should not be initiated without the orders of the Superintendent or the Sub-Divisional Police officer. For prosecutions under Section 182, Indian Penal Code, a complaint in writing should be made to the Magistrate having jurisdiction by the officer who registered the case, his successor or his immediate superior officer under Section 195(1) (a), Criminal Procedure Code. Presentation of charge sheets in such cases is illegal, as the court has to take cognizable directly under section 190Cr.PC.
- iii. No prosecution for an offence punishable under Section 211 of the Indian Penal Code shall be launched, when such offence is alleged to have been committed in, or in relation to a proceeding in any court except on the complaint in writing of such court or some other court to which such court is subordinate.

162. **Final Reports**

- i. If, after the completion of an investigation, the Investigating Officer considers that in spite of all steps taken, there is no prospect of obtaining any further clue and that nothing more can be done in the case, he will submit a final report treating the case as undetectable, unoccured, without sufficient evidence or report made due to genuine misunderstanding. But, in instances where cases have to be referred as mistake of fact, mistake of law, civil in nature or false, the final report should be submitted forthwith. In cases where accused person or persons dies/die before the completion of investigation and no person or persons can be charged, a final report should be sent to the Magistrate having jurisdiction.
- ii. Cases must not be reported as false unless they are clearly so. Mere probability will

not suffice. Delay in referring cases as false must be particularly avoided, and cases in which there has been serious delay must be returned as undetectable, unless fresh facts are elicited demonstrating them to be false. In cases disposed of under Section 173 and proviso (b) to sub-section (1) of Section 157 of the Code of Criminal Procedure, including charged cases, the police have to serve a notice on the complainant or informant and forward the duplicate, duly endorsed, with the final report to the Magistrate. In cases in which investigation is refused, a copy of the notice will be attached to the First Information Report sent to court. Final reports have to be sent through the Circle Officer who is bound to forward them to the Magistrate without delay, noting upon them any orders issued to the Station House Officer and any remarks that he may have to offer. The Inspector may order the Station House Officer to make further inquiry or do so himself.

Order of Magistrates on Final Reports

163. On receipt of a final report under Section 173 of the Code of Criminal Procedure referring a case as false, mistake of fact or law, or civil nature or undetectable, the Magistrate may order further investigation, but it is not open to him to direct the police to charge the case against their own report. The Magistrate has powers to take action himself under Section 190 of the Code of Criminal Procedure, if he is not satisfied with the report of the police in such a case. The fact that a final report has been sent in a case reporting it as undetected is no bar to further investigation. Further investigation may be taken up *suo moto* in such cases, if any fresh clues are forthcoming or under orders of a superior officer. It must be noted that the police are to lay charge-sheets only in cases investigated by them.

Appeal Against Acquittal

164. The procedure prescribed for filing appeals and revisions in respect of cases ending in acquittal or discharge in the Magistrate's or Sessions Courts should be adopted for making appeals and revision in the concerned courts. In cases ending in acquittal in the High Court, the Advocate General within 10 days from the date of the judgment will forward one copy of the judgment with his remarks whether or not, there are grounds for preferring an application for a certificate under article 134 or for the grant of special leave under article 136 of the Constitution to the Law Department and send another copy with a copy of his remarks to the

Director of Prosecutions who while keeping the Superintendent informed, may furnish his remarks, if any, direct to the Law Department.

165. **Withdrawal of Cases**

(1) According to section 321 Cr PC the Public Prosecutor in charge of a case may with the consent of the Court, at any time before the judgment is pronounced , withdraw from the prosecution of any person either generally or in respect of any one or more of the offences for which he is tried, provided that - where

- i. such offence was against any law relating to a matter within the executive power of the Union, extends or
- ii. it was investigated by the Delhi Special Police Establishment, or
- iii. the accused involved in misappropriation or destruction or damage to any property belonging to the Central Government, or
- iv. the offence was committed by a person in the service of Central Government while acting in discharge of his official duty and the prosecutor in charge of the case has not been appointed by the Central Government, he shall not, unless he has been permitted by the Central Government to do so, move the court for its consent to withdraw from the prosecution.

(2) The Public Prosecutor or Assistant Public Prosecutor is bound to receive instructions of the Government regarding the withdrawal of the case from the court.

(3) The opinion of the Superintendent of Police concerned will be taken by the Government through the Home Department before taking a decision for withdrawal of the case.

(4) The Public Prosecutor has to make out grounds which would show that the prosecution is sought to be withdrawn because inter-alia the prosecution might not be able to produce sufficient evidence to sustain the charge or that the prosecution does not appear to be well founded or that there are other circumstances which clearly show that the object of administration of justice would not be advanced or furthered by going on with the prosecution. The ultimate guiding consideration must be the interest of administration of justice.

Strictures

166. In the case of judgments in which there are strictures, the following action should be

taken -

- 1) As soon as a judgment in a criminal case filed by the police is concluded in the court, the concerned Prosecutor and the Investigating Officer will examine the judgment for any strictures or other remarks, either generally on the investigation or prosecution of the case or especially against any Police Officer or other Government servant.
- 2) When there are strictures or other remarks, the Prosecutor will at once obtain a copy of the judgment and send it with his remarks to the Deputy Director of Prosecutions who will then examine the judgment and forward it to the concerned Range Inspector General of Police and Commissioner of Police with his report and arrange to take appropriate action against the concerned Police Officer for the judicial strictures passed against them. He will then submit the records to the Director General along with his report indicating the nature of action taken in the matter.
- 3) In the case of strictures or other remarks in judgments pronounced by the High Court, the Advocate General will send with his comments, a copy of the judgments to the Director of Prosecutions who will transmit them to the Director General along with his remarks for appropriate action.
- 4) The Superintendent while furnishing his remarks required under Sub-Order (2) will specifically mention whether or not the strictures or remarks are justified; and if unjustified, what action he has taken for their expunction. The IGP will also furnish his specific opinion in that behalf.
- 5) If any strictures or other adverse remarks, either against a Police Officer generally on the investigation or prosecution of the case, are wholly unjustified or excessive or deserve expunction, the Superintendent will take prompt action to obtain the opinion of the Advocate-General and for addressing the Government for sanction to move the High Court, for expunction.
- 6) If the Advocate General makes a recommendation and the Government sanction the filing of a revision for the expunction of the strictures or other remarks, the Superintendent should promptly send to the Director General a copy of the Government order and make available to the Advocate General all relevant records he may require in that behalf for filing the revision.
- 7) If the Advocate General does not make a recommendation and the Government consider that no action is called for, the opinion of the Advocate General and the orders of the Government will indicate to what extent the strictures or other remarks are justified. The Superintendent will then take appropriate action against the

defaulting Police Officers.

- 8) When a revision is filed in the High Court for the expunction of the strictures or other adverse remarks, the Superintendent will obtain from the Advocate General, a copy of the judgment and send it to the Director General.
- 9) If the High Court dismisses the revision petition refusing to expunge the strictures or other remarks, and observes that they are justified, the Superintendent will take appropriate action for their avoidance in the subsequent cases and also institute departmental proceedings against the defaulting Police Officers. He will send a report of action taken to the Director General.
- 10) Every Commissioner/ Range Inspector General and Superintendent of Police will maintain a register of judicial strictures and commendations. The registers are useful for the officers to have an overall impression of the judicial appreciation of the standards of investigation and prosecution in a district.
- 11) The Inspecting Officers at the time of their inspections will ensure that the registers have been properly maintained by the Commissioner/Inspector General/Superintendent and that he has issued appropriate instructions for improving the investigation and prosecution in his district/range. The Inspecting Officers will make a specific mention about their having checked the register, in their inspection notes.
- 12) The law section will examine the judgment and the remarks furnished by the various officers and take action for the issue of appropriate instructions by law circulars and law bulletins, for the rectification of the defects and lapses pointed out in the judgment.
- 13) All departmental action arising out of judicial strictures in the judgment of courts will be pursued by the crime section of the Chief Office till final disposal.

Prosecution of Cases

Introduction

167. Investigation and prosecution are two important aspects of the criminal justice system. Investigations are handled by police and the prosecution matters are handled by prosecutors. Police, after conducting the investigation of a case, sends it to the court of law for trial. The prosecutors of various categories assist the respective courts in the conduct of trials of the cases. Every State Government, therefore, has to maintain a regular cadre of prosecutors. The Head of the prosecution department is known as Director Prosecution and the department is known as Directorate of Prosecution.

Organisational Set Up

168. The State Directorate is headed by the Director of Prosecutions. He is assisted in the administration of the Department by Add, Joint and Deputy Directors. The Directorate consists of Public Prosecutors including Additional Public Prosecutors, Senior Assistant Public Prosecutors and Assistant Public Prosecutors.

Director of Prosecutions

169. The Director of prosecution is head of department of the prosecution wing. His powers, functions and duties are following:

- a) To exercise powers of supervision and control over the work of the Joint Directors, Deputy Directors, Assistant Public Prosecutors, the Senior Assistant Public Prosecutors and Assistant Public Prosecutors;
- b) To give advice and instructions to the Senior Assistant public Prosecutors and Assistant Public Prosecutors in the conduct of prosecutions, who shall abide by his advice and instructions;
- c) To review the work of the Deputy Directors, Public Prosecutors, Senior Assistant Public Prosecutors and Assistant Public Prosecutors and send reports thereon to the department of Law and Parliamentary Affairs through the Director General of Police;
- d) To tender opinion and advice to the Director General of Police on any matter

- connected with the conduct of prosecution or investigation;
- e) To send periodical reports and returns to the Director General of Police and the Government in the Department of Law and Parliamentary Affairs;
 - f) generally to act in close co-operation and co-ordination with the Director General of Police in all matters connected with the conduct of prosecutions in Magistrates Courts and also with the work connected with the working of the Director of Prosecutions.

170. Public Prosecutor and Assistant Public Prosecutors

- I. The Public Prosecutors are appointed in accordance with the provisions of section 24 of the code of Criminal Procedure, 1973. The Public Prosecutor appears for the State and conducts prosecution in all session's cases, contests bail application, and argues appeal and criminal miscellaneous petitions in the Sessions Court and gives advice on legal matters.

- II. The Assistant Public Prosecutors are appointed in accordance with the provisions of If section 25 of the Code of Criminal Procedure, 1973. The Assistant Public Prosecutors conduct prosecutions in the Magistrates' Courts. It shall be the duty of the APPs to advise the Investigating Officers in case advice is sought for.

- III. It shall be their duty to properly examine the statements recorded by the Investigating Officer and the charges suggested. If a lacuna is found in the investigation, they must request the Investigating office to rectify the matter. This should be done as far as possible through discussions. In case there is a difference between the Investigating Officer and the Prosecutor, the matter should be reported to the concerned Superintendent of Police who would take it up with the Deputy Director.

- IV. It shall be the duty of the Public Prosecutor to advise the Investigating Officer during the investigation of a Sessions case when so requested by the Investigating Officer and it shall be further his duty to scrutinize the charge sheet in cases where the charges are exclusively triable by the Court of Sessions. Prosecutors should take utmost care in properly presenting the case

before the Court after studying the case adequately and interviewing the witnesses to be examined in the Court.

- V. The Prosecutor, before presenting a charge-sheet, should carefully scrutinize it and ensure that it has been properly prepared, the accused have been charged under correct sections of law and that all the witnesses necessary for proving the prosecution case have been cited. It is his responsibility to obtain from the Investigating Officer, all necessary instructions before the presentation of the charge-sheet and be prepared to go on with the conduct of the case on the day the charge-sheet is presented to the Court.

- VI. The Prosecutor as well as the Investigating Officer should bear in mind the relevant provisions regarding limitations for taking cognisance of certain offences as laid down in Chapter 36 of the Criminal Procedure Code Section 467 to 473. Here, Section 468 Cr.P.C. specifies the period for taking cognisance of an offence. Section 469 lays down as to when the period of limitation should begin to run in relation to an offence. Section 470 prescribes rules regarding exclusion of time while computing the period of limitation. Section 471 provides for the exclusion of the day when the Court is closed. Section 472 lays down the period of limitation in cases of continuing offences. Section 473 lays down as to when the period of limitation may be extended on a proper explanation of the delayer in the interest of justice.

- VII. With regard to charge-sheeting of a case, where any person is arrested and detained in custody and the investigation can not be completed in 24 hours, the provisions of Section 167 Cr.P.C. Sub-Section 2 should be kept in mind.

Co-ordination Contexts of Police and Prosecution

171. Registration of Cases, investigations and filing of charge sheets are the areas where police and prosecution are required to co-ordinate their duties in mutuality.

Consultation with the Prosecutors

172. The Investigating Officer must consult the Prosecutors in the following cases:-

- (a) Cases which are exclusively triable by the Court of Sessions;
- (b) Cases under section 120-B IPC;
- (c) Cases under section 121 to 130 IPC;
- (d) Cases under section 231, 233, 235, 237, 239, 241, 242 to 250, 252, 253,254, 256 to 263 A IPC.
- (e) Cases under section 295-A, 296 and 297 IPC; (f)
Cases under section 304-A, 330, 332, 353, 363, 365 IPC;
- (g) Cases under section 393, 394, 406 to 409, 419 and 420 IPC.
- (h) Cases under section 465 to 468, 471 to 477 and 477-A IPC.
- (i) When a case and counter case are registered and a decision has to be taken, whether both the cases have to be charge-sheeted or only one of them;
- (j) Cases involving complicated questions of law / fact;
- (k) Cases under the E.C.Act 1955;
- (l) Any other case where the IO/SDPO/DCP/SP desire that the Prosecutor should be consulted;
- (m) Any case where the Prosecutor/Director/Deputy Director of Prosecutors considers that such consultation is necessary.

172.1 In respect of the cases referred to above, while sending the charge-sheets to the APPs the Investigating Officer should give sufficient time to the Prosecutor to scrutinize the charge-sheets. Along with the charge-sheet, the Investigating Officer should send the case diary file to the PP/APP to enable him to study the papers for scrutinizing the charge-sheet. If there is a difference of opinion between the Investigating Officer and the Prosecutor on any matter pertaining to investigation or prosecution, such matters should be referred to the Superintendent of Police, who shall take it up with the Deputy Director for further advice.

173. **Trial Contexts**

(a) **Sessions Case:** District level senior police officers should attend the trial in Sessions Court in important cases. Probationary Police Officers under training should attend the Sessions trial as many times as possible. The Inspector General of Police / Deputy Inspectors General during their inspection will satisfy themselves that attendance has been satisfactory and not omitted without good reasons. The IO/SHO should invariably cause the process issued to witnesses served well in time and produce the served process three days prior to the

date of trial before the court under intimation to the public prosecutor and send the case diary file to him in advance. The Investigating Officer should assist the Public Prosecutor at least two days in advance of the commencement of the Sessions trial in ascertaining from the witnesses what they would be stating in Court, and what exhibits have to be marked through them. The Investigating Officer should give all facilities to the Public Prosecutor to visit the scene of occurrence. The Investigating Officer should also make enquiries and furnish relevant material to the Public Prosecutor for the cross examination of defence witnesses.

(b) In other cases: The Investigating Officer should give all facilities to the APP to visit the scenes of occurrences in important cases and give him necessary instructions for conducting the prosecutions. During the course of trial, for the purpose of conducting prosecution in the case, if the Prosecutor requires the case diary file for his study and reference, the Investigating Officer should send the case diary file in advance, to the APP and also give him personal instructions, if necessary. The Investigating Officer should personally attend the Court on all dates of hearing, particularly in contested cases, unless he is held up on any other urgent duty, in which case, one of the ASIs/HCs should be sent to the court with the case diary in time to meet the Sr.APP/APP. The Investigating Officer should assist the APP in ascertaining from the witnesses what they would be stating in court, instructing him which documents are to be marked as prosecution exhibits and what items of property should be exhibited and ensure that the prosecution is presented in the best possible manner. The Investigating Officer should also make enquiries and furnish materials to the Sr.APP/APP for the cross-examination of defence witnesses. In regard to the execution of processes and production of witnesses or documents in connection with any enquiry or trial, it shall be the duty of all the concerned police officers to render every assistance to the prosecuting agency.

174. **Examination of Witnesses in Court**

- I. The handling of witnesses in court calls for a technique different from that employed in the interrogation of persons during an investigation. The Prosecutor aims at establishing the guilt of the person known to be the culprit as a result of the investigation.

- II. **Examination-in-chief, cross examination and Re-examination:** Examination of witnesses in court is governed by the provisions of the Indian Evidence Act. A witness is first examined by the party that calls him and this is called his

examination-in-chief. The opposite party is then entitled to cross-examine him, after which he may be re-examined by the party calling him, if it so desires. Examination and cross-examination must relate to relevant facts, but the cross-examination need not be confined to the facts to which the witness testified in his examination-in-chief. The re-examination should be directed only to the explanation of matters referred to in the cross-examination. If, however, any new matter is, by the permission of the court, introduced in the re-examination, the opposite party may further cross-examine the witness upon that point.

- III. **Handling of the witnesses :** It is essential that before the trial of inquiry commences, the Prosecutor in-charge of the case, must prepare his case and know what his witnesses are going to state in the court. He should, therefore, interview each witness well in time and ascertain from him the facts to which he would testify in the court and instruct him how he should behave in the court. He should be cautioned keep his temper, to answer questions distinctly and in a natural manner, and not to volunteer more information than is asked of him. A timid or nervous witness would need encouragement, while a self-opinionated, loquacious one must be warned against making his answers unnecessarily long or speaking about matters regarding which he has not been questioned.
- IV. During this preliminary interview, the Prosecutors should make it a point to anticipate questions which may be put to his witnesses in cross-examination and put those questions **to** the witnesses and find out what answers they have to give. This would help them to face the defence lawyers' cross-examination in court with confidence. There should, however, be no attempt to tutor witnesses. A tutored witness is apt to perjure himself in court and damage even a good and true case.
- V. The Prosecutor must not produce in court more witnesses than are actually essential to prove his case. No particular number of witnesses is required for the proof of any fact (Section 134 of the Evidence Act). It is the quality and not the quantity that matters.
- VI. After a prosecution witness has entered the box, the very first thing that the

Prosecutor should do is to put him at ease. It must be realised that few persons will be free from flurry when figuring as a witness in court. It is, therefore essential that the Prosecutor should create confidence in his witness by his demeanour, by the form in which he frames his questions and by the manner in which he asks them. His tone should be modulated and reassuring. The witness should, as a rule, be permitted to tell his own story, but the Prosecutor should make sure that all important facts are clearly brought out. He should avoid technical terms as well as difficult and high-sounding words.

- VII. The Prosecutor should handle his witnesses according to their nature. An overzealous, garrulous witness, for example, should never be allowed to tell his own story, for by so doing, he is likely to expose himself to severe cross-examination. The effort should be to keep such a witness well to the point and compel him merely to answer the questions that are put to him. A stupid or timid witness will require great patience and good humour. Any display of anger will only add to his confusion.
- VIII. **Leading questions :** It is a rule of evidence that no leading question should be put to a witness in the examination-in-chief, except with the permission of the court. This does not apply to matters which are introductory or undisputed or which have been already sufficiently proved (Section 142 of the Evidence Act). In fact, questions in respect of introductory and undisputed matters are best asked in the form of leading questions, as it will expedite the trial and tend to infuse confidence in the witness. When, however, the main issues of the case are reached, the rule against leading questions should be strictly adhered to, though, in exceptional cases, when ordinary questions have failed to elicit a detail the court may permit the Prosecutor to lead the witness to the extent necessary to make him recall the point omitted.
- IX. **Hostile witness :** When a witness shows himself to be opposed to the side which has called him or adopts an attitude contrary to the truth, the court may, in its discretion, permit the side to treat him as a hostile witness and cross-examine him (Section 154 of the Evidence Act). But this permission will not be lightly given. The general attitude of the witness and his demeanor, and the trend of his

evidence as a whole must indicate his hostility to his side or desire to conceal the truth. If the court gives the permission, the side that called him may cross-examine him and may put him questions to contradict him and impeach his credit. Section 154 of the Evidence Act does not in terms or by necessary implication, confine the exercise of the power of the court before the examination-in-chief is concluded or to any particular stage of the examination of the witness, but is wide in scope. The discretion is entirely left to the court to exercise the power, when circumstances demand. A witness who has deposed favourably or not unfavourably to the case of the party calling him, may in the course of his cross-examination, show marked predilection to give answers sought or expected by the interrogator or otherwise disclose a hostile animus against the party calling him. A clever witness may in his examination-in-chief conform to what he has stated earlier to the police or in the committing court but in cross-examination introduce statements in a subtle way contradicting in effect what he has stated in examination-in-chief. The court can permit the prosecution to cross-examine such witnesses under Section 154 of the Evidence Act at any stage of their examination, as Section 137 of the Evidence Act, which lays down the sequence of examination-in-chief, cross examination and re-examination, has no relevance to the question as to when a party calling a witness can be permitted to put to him questions under Section 154 of the

- X. **Cross examination :** The Prosecutor must closely follow the cross-examination of his witness by the opposite side, as that would often enable him to discover the accused's line of defence. He must take exception in time to any improper questions that might be put by the defence lawyer. Questions which assume facts to have been proved, which have not been proved or that particular answers have been given contrary to the fact, are not allowed in cross-examination. An inveterate abuse is the grouping of several questions, admitting of different answers into one long composite question and a demand of a categorical answer "Yes" or "No". With such a question, even a cool witness is misled and puzzled. Exception should be taken to such composite and answering questions. The Prosecutor should promptly decompose the composite question into several parts and put each part to the witness.

- XI. If the Prosecutor finds that any of his witnesses has been made to give any misleading statement or that any point has been purposely left obscure, he should clear it in re-examination. After the examination of his witnesses is over, the Prosecutor has to prepare himself for the cross-examination of defence witness to destroy the effect of the evidence tendered on behalf of the opposite side in examination-in-chief. This may be achieved by discrediting the witness himself or his testimony. Leading questions are permissible in cross-examination.
- XII. **Payment of expenses to the witnesses :** Section 312 Cr.P.C. provides for payment of the reasonable expenses of any complainant or witness attending for the purpose of any inquiry, trial or other proceeding before such court. The prompt payment of the expenses of witnesses by courts will ensure the regular attendance of witnesses in criminal courts. The Prosecuting Officers concerned should, therefore, see that the expenses of witnesses attending the courts in the cases under their charge, as provided for in the said rules, are promptly paid by the courts.
- XIII. **Impeaching the testimony of the witness :** The testimony of a witness may be impeached by showing the scanty means he had for obtaining the correct knowledge of facts spoken to by him or by showing that, though he had the best possible opportunity, he has not the intelligence necessary to observe them correctly or the power of memory required to retain them so long. Again, two persons may witness an occurrence but give inconsistent versions of what they observed. Further, many persons enrich their personal experiences with the fabrications of their imagination or with what they have heard from others. It is one of the objects of cross-examination to separate fact from imagination and the personal observation of the witness from that of others.
- XIV. The credit of a witness may be impeached:-
- (a) by the evidence of persons who testify that they, from their knowledge of the witness, believe him to be unworthy of credit;
 - (b) by proof that the witness has been bribed, has accepted the offer of a bribe or has received any other corrupt inducement to give his evidence;
 - (c) by proof his former statements which are inconsistent with his present

evidence; and

(d) by showing, when a man is prosecuted for rape or an attempt to ravish, that the prosecutrix was of generally immoral character.

- XV. It is not necessary to cross-examine every witness. When the Prosecutor rises to cross-examine a witness, he should first ask himself the questions, "Has the witness testified to anything that is materially against him? Is it necessary to cross-examine him at all?". The cross-examination of a witness, when it is not really necessary, may go to elicit certain facts which are favourable to the opposite party.
- XVI. A skilful cross-examiner seldom takes his eyes from an important witness, while he is being examined by his adversary. His bearing, his manner of expressing himself, his movement of hands, all help any intelligent and experienced observer to arrive at an accurate estimate of his integrity. During the examination-in-chief of a defence witness, the prosecutor should always be on the alert for an opening for his cross-examination and should try to detect the weak spots in his narrative.
- XVII. Bullying or threatening the witness seldom pays. It will often make the witness mentally defy the cross-examiner at once. If, on the other hand, the prosecutor's manner is courteous and conciliatory, the witness will soon lose the fear all witnesses have of the cross-examiner and can almost imperceptibly be induced into revealing true facts. The mistakes of a witness should be drawn out more often by inference than by direct questioning, because all witnesses have a dread of self-contradiction. The loquacious witness should be allowed to talk on and he will be sure to involve himself in difficulties. He should be encouraged and led by degrees into exaggeration that will conflict with common sense. The downright liar should be encouraged to exaggerate the way he thinks the Prosecutor does not want to him. He will soon be found stretching his imagination to such an extent, that nobody will believe a word of what he says.
- XVIII. If the manner of the witness and the wording of his testimony bear the marks of fabrication, it is often useful to ask him to repeat his story. He will usually repeat it in almost identically the same words as before, showing that he has learnt it by

heart. Of course, it is possible, though not probable, that he has done this and is still telling the truth. An examiner should then test him by taking him in the middle of his story and jumping him quickly to the beginning and then to the end of it. If he is speaking by rote, he will be sure to succumb to this method.

- XIX. If the Prosecutor obtains any favourable answer from a witness, he should leave it there and pass quickly to some other question. The inexperienced examiner who repeats the questions, with the idea of impressing the answer upon his hearers, will have to blame himself if the witness corrects or modifies his answer.

175. **Duties of Investigating Officers**

- I. On every date of hearing, the Investigating Officer should attend the court with the case diary files and assist the PP/APP/Senior APP in the conduct of the cases by giving him necessary instructions. If the Investigating Officer is not able to attend the court in the cases on any date of hearing, he should instruct his assistant (ASI or HC, as the case may be) to attend the court with the C.D. files, contact the P.P. and give necessary instructions.
- II. Where a case is adjourned for more than six hearings, an extra copy of the court C.D. should be made for the seventh and subsequent adjournments and sent to the SP/DCP concerned. It shall be the responsibility of the SP/DCP concerned to examine such cases and take all necessary action for speedy disposal of the cases.
- III. Whenever a PSI/PI incharge of P.S. or a P.I. in charge of a Circle is transferred/promoted, he should prepare a list of cases, which are pending trial in the courts in which he is the I.O./Witness and in which his evidence has not yet been taken. It should be prepared in triplicate. The first copy should be sent to the Superintendent of Police of the district along with the charge report. The second copy should be kept in the PS/Circle Office in a separate file. The PSI/CI should carry with him the third copy and maintain it in a separate file in the PS/Unit to which he is transferred.
- IV. A Watch Register should be maintained in each District Police Office. The

Register should be written up as and when the list in Form, is received. It is the responsibility of the Superintendent of Police to ensure that the Investigating Officers attend the Courts on the dates of hearing.

- V. If there are several cases in which a police officer has to give evidence either as Investigating Officer or as witness, he should, in consultation with the APP so arrange the posting of cases that he is not summoned to court too frequently. During the monthly conference, the Unit Officers should ascertain from the SHOs the particulars of the cases in which the Investigating Officers have not appeared before the court, and pursue the matter to ensure their appearance before the court.

- VI. In the case of Investigating Officers who have been transferred out of the district, the Superintendent of Police should arrange with his counterpart for prompt attendance. The watch register should be kept up-to-date by making relevant entries. It should be referred to often, to ensure that Investigating Officers who stand transferred, attend the courts promptly on dates of hearing and have the cases disposed of by the courts as early as possible, so that within a reasonable time the Investigating Officers are relieved of their court duty arising out of work in their previous place of posting. If any Investigating Officer is absent before the court for two consecutive dates of hearing, the Superintendent of Police should write to the Range Inspector General, who in turn should ensure that the particular Investigating Officer attends the court.

How to Give Evidence in Court

176. The following are some hints for the guidance of Police Officers in the matter of giving evidence in courts;

- (a) Always appear in uniform when giving evidence in court;
- (b) Always salute the court, when both entering and leaving the witness box;
- (c) Be attentive, never fidget;
- (d) Be calm and dignified while giving evidence, so as to impress the court and the counsel favourably;

- (e) In giving evidence, look straight towards the court.
- (f) When questioned by the adverse party, never turn towards the prosecution counsel.
- (g) Answer no question without understanding it. If the question is not clear enough to be understood, say so and politely ask the counsel to repeat it in a simpler form.
- (h) Do not answer a question with a counter-question.
- (i) If you do not remember any fact, say so at once rather than attempt a random answer.
- (j) Never show irritation and do not be offended if the cross-examiner questions you in a way you do not like.
- (k) If questions are unnecessarily vexatious or obnoxious, represent the matter to the court and seek its protection. Above all, do not quarrel with the counsel.
- (l) Carefully distinguish between what you know personally and what you may have heard from others.
- (m) In answering a question, do not give unnecessary information, for example, if asked whether the colour of a certain article is white, do not say "No, it is black", say simply "No" or "Yes".
- (n) If you consider that some of your answer requires an explanation, which the counsel failed to elicit, you may, when both the sides have finished, represent the matter to the court.
- (o) Remember that all that the court wants to ascertain is the guilt or innocence of the accused and not your intelligence.
- (p) Give no more details regarding the source of your information than from information received "I did this or that".
- (q) Avoid lengthy answers, as they furnish more material for cross-examination. Your replies should be concise.
- (r) Do not leave the court without its permission.

Enhancement of Punishment

177. In every case in which an accused person previously convicted of an offence punishable under Chapter XII or Chapter XVII of the Indian Penal Code with imprisonment of either description for a term of three years or upwards, is prosecuted for an offence punishable under either of the two chapters with life imprisonment, the Prosecuting Officer concerned should, having regard to-

- (a) the nature and adequacy of evidence to prove in the Court of Sessions the offences

- committed by the accused;
- (b) the interval between the date of the commission of the offence and date of release of the accused after his latest conviction and sentence;
 - (c) the total number of previous convictions;
 - (d) sentences awarded in the case of each previous conviction; and
 - (e) the fact whether the Magistrate before whom, the accused is charge-sheeted is competent to award an adequate sentence commensurate with the gravity of the offences and the accused's previous convictions - move the court under section 324 of the Code of Criminal Procedure for committing the accused to the Court of Sessions for trial.

Prosecution of Witnesses for Perjury

178. With a view to preventing witnesses intentionally giving false evidence and for the eradication of the evil of perjury, it is necessary to take action against such witnesses who turn hostile in the Courts. The Assistant Public Prosecutor should, in such cases, take action on the lines laid down in the following order:

(1) When a witness in a criminal case turns hostile to the prosecution the concerned Assistant Public Prosecutions should, in the course of the cross-examination, lay a proper foundation for the prosecution of the witnesses for perjury, strictly complying with the provisions of Section 145 of the Indian Evidence Act.

(2) On the conclusion of the trial, the Assistant Public Prosecutor, while addressing his argument on the merits of the case, should also emphasise on the necessity of prosecuting the witness for perjury.

(3) If the court, at the time of delivery of the judgment or final order, does not record a finding that in its opinion the witness has intentionally given false evidence and that for the eradication of the evils of perjury and in the interests of justice, his prosecution for perjury is necessary and does not proceed under the provisions of Section 340 of the Code of Criminal Procedure, the prosecuting officer should carefully examine the judgment on the same day on which it is pronounced.

(4) After examination of the judgment as aforesaid if the Prosecutor finds that judgment does not contain any finding under Section 340, he should immediately after the judgment and in

consultation with his superintendent, present to the court, an application under Section 340 of the Code of Criminal Procedure for taking action as provided therein and for instituting a complaint for perjury in a competent Court of Law.

(5) If, after such application, the court refuses to take action and make a complaint as provided in Section 340 of the Code, a copy of the court order should immediately be obtained and the feasibility of appealing against it should be examined. In appropriate cases, appeals when justified should be preferred under Section 340 of the Code.

Abscondence of Accused

179. An absconder is one who intentionally makes himself inaccessible to the process of law and it is not enough if it is shown that it was not possible to trace him soon after occurrence. It should be established that he was available at or about the time of the commission of the alleged offence and ceased to be available thereafter. For this purpose, the prosecuting officer conducting the case, should elicit through the Investigating Officer and also the Police Officers deputed to trace and arrest the absconder, evidence on the following points after citing them as prosecution witnesses, in addition to any other points on which evidence is necessary to prove such abscondence :-

- (1) The residence and place where the absconder was living before the commission of the offence.
- (2) The place and places he was ordinarily visiting before the commission of the offence;
- (3) His daily occupation and the place or places of his occupation.
- (4) The names and addresses of his friends/relatives he was ordinarily frequenting, etc., before the commission of the offence.
- (5) Any other matters relevant, which became known during the course of investigation.
- (6) The order Number and date issued to them under Section 55 of the Code of Criminal Procedure, directing them to trace and arrest the absconder.

Examination of Medical Officers

180. The practice of summoning medical witnesses and making them wait for a long time in

A the court without examination or sending them back without their evidence being recorded should be resisted. The prosecutor should take steps to promptly bring to the notice of the court the presence of the Medical Officers and request that the cases in which they have appeared may be taken up first so that they may be examined as soon as possible and enabled to return to their duties. The prosecutor should move the court for priority in that behalf. If, however, it is not possible to record their evidence on the days on which they are summoned to appear, they should be informed of it sufficiently early so that they may return to their duties in the hospitals immediately. A Medical Officer should not be made to appear in court more than once in the same case unless absolutely necessary and every step should be taken to see that on the day he appears, his evidence is completed and he is relieved of his duty in that case.

Summoning of Experts

181. Only the experts cited in the charge sheet should be summoned to give evidence, the prosecutor should move the court well in time for the issue of process to the experts giving them sufficient time to adjust their programmes to attend the court on the dates fixed for their evidence. Teleprinter messages should not be sent at the last minute to get the expert witnesses to the court.

182. Arguments and Summing up of the Cases

(i) The prosecution consists of two distinct parts. The first is the presentation of evidence and the other is the summing up of the case and arguments. Normally the contents of the arguments will be:-

- (a) Statement of the essential questions involved;
- (b) Statement of quantum of proof required for proving the case;
- (c) Statement of the arguer's evidence, its credibility, probability, probative value and numerical preponderance, if any;
- (d) Discussion of adversary's evidence to show its weakness, its lack of credibility, its insufficiency because of its inherent weaknesses or lack of probative quality, and its opposition to the greater weight or superior credibility or probability of the arguer's evidence;
- (e) Applicability of facts to any points of law; and
- (f) Discussion of relief.

(ii) A good argument has the following characteristics;

- 1) Orderly presentation;
- 2) Balanced and well-proportioned length;
- 3) Courtesy towards court and opposing counsel;
- 4) Naturalness;
- 5) Earnestness and sincerity;
- 6) Maintenance of interest;
- 7) Use of plain and simple language;
- 8) Anticipation of adversary's arguments; and
- 9) Reply to adversary's arguments.

(iii) The Prosecutor will have to prepare his arguments on the lines indicated above and present them in the best manner possible.

183. Privilege in Respect of Official Records

(1) The law relating to claiming of privilege with regard to records and production of unpublished official records as evidence in courts is contained in Sections 123, 124 and 162 of the Indian Evidence Act, which are reproduced below;

(i) "123. No one shall be permitted to give any evidence derived from unpublished records relating to any affairs of State, except with the permission of the officer at the head of the department concerned, who shall give or withhold such permission as he thinks fit.

(ii) "124. No public officer shall be compelled to disclose communications made to him in official confidence, when he considers that the public interests would suffer by the disclosure.

(iii) "162. A witness summoned to produce a document shall, if it is in his possession or power, bring it to court, notwithstanding any objection, which there may be to its production or to its admissibility. The validity of any such objection shall be decided on by the court.

(2) "The court, if it sees fit, may inspect the document, unless it refers to matters of State, or take other evidence to enable it to determine its admissibility.

(3) If, for such a purpose, it is necessary to cause any document to be translated, the court may, if it thinks fit, direct the translator to keep the contents secret, unless the document is to be given in evidence; and if the translator disobeys such direction, he shall be held to have

committed an offence under Section 166 of the Indian Penal Code.

(4) The mere fact that the officer at the head of the department concerned does not wish the documents to be produced is not an adequate justification for taking objection to their production. Production of documents should be withheld only when the public interest would, by their disclosure be injured, or where disclosure would be injurious to national defence or to good diplomatic relations or where the practice of keeping a class of documents secret is necessary for the proper functioning of the public service. Privilege is not to be claimed on the mere ground that the documents are State documents or are official or marked confidential or that their disclosure would result in parliamentary discussion or public criticism or would expose inefficiency in the administration or tend to lay a particular department of the Government open to a claim for compensation.

(5) It has been held that it is desirable, but not indispensable, that the records should be sent in a sealed cover through an officer of the department claiming privilege and that the statement of the head of the department would be considered conclusive and the privilege upheld, except for compelling reasons to the contrary. So, the safe working principle under Section 123Cr.P.C. is to produce the records in question in a sealed cover and raise the claim of privilege, setting out the grounds in an affidavit. The court will generally accept the statements in the affidavit and uphold the privilege claimed.

(6) A Government Servant other than the head of a department, who is summoned to produce an official document, should first determine whether the document is in his custody and he is in a position to produce it. In this connection, it may be stated that all official records are normally in the custody of the head of the department and it is only under special circumstances that an official document can be said to be in the custody of an individual Government Servant. If the document is not in the custody of the Government Servant summoned, he should inform the court accordingly. If, under any special circumstances, the document is in the custody of the Government Servant summoned, he should next determine whether the document is an unpublished official record relating to affairs of State and whether privilege under Section 123 should be claimed in respect of it. If he is of the view that such privilege should be claimed or even if he is doubtful of the position, he should refer the matter to the head of the department who will issue necessary instructions and will also furnish the affidavit. The Government servant, who is to attend a court as a witness with

official documents should, where permission under Section 123 has been withheld, be given an affidavit duly signed by the head of the department. He should produce it when he is called upon to give his evidence derived therefore. He should, however, take with him in a sealed cover the paper, which he has been summoned to produce.

(7) A Government Servant who is summoned to produce an official communication, which is made to him in official confidence, should first determine whether the public interests would suffer by its disclosure. If he considers so, he should claim privilege under Section 124. In case of doubt, he should seek the advice of the head of the department. When he is not attending the court himself to give evidence, he shall have the claim of privilege. The person through whom the document is sent to court, should submit the affidavit to the court when called upon to produce the document. He should take with him the document which he has been called upon to produce but should not hand it over to the court unless the court directs him to do so. In such a case, privilege should be claimed under Section 124 and the document should not be shown to the opposite party nor should it be marked as exhibit in any proceedings. If the document is not in his custody, he should inform the court accordingly.

(8) The basic principle for deciding whether a particular document is a communication made in official confidence to a public officer or not, is whether the document produced or the statement made was under the process of law or not. If the former is the case, it would be difficult to say that a document produced or statement made under the process of law is a communication made in official confidence. If on the other hand, a document is produced or a statement is made in a confidential departmental enquiry not under the process of law but for the gathering of information by the department for guiding them in the future action, if any, they have to take, it would be a case of communication made in official confidence. The question whether a communication was made in official confidence is for the court to decide but the public officer concerned is the sole judge whether it should or should not be disclosed.

(9) The head of the department should abstain from entering into correspondence with the presiding officer of the court concerned in regard to the grounds on which the documents have been called for. He should obey the court's orders and should appear personally or arrange for the appearance of another officer in the court concerned with the documents and act in accordance with these orders. In case of doubt, the head of the department should

invariably refer to Government for orders.

Action on Breach of a Security Bond

184. When a person on a security of any kind is prosecuted for an offence involving a breach of the conditions of the bond, report in that regard should be made to the court in writing so that it may, in the event of conviction, order the confiscation of the security.

Delay in the Disposal of Cases in Courts

185. Delays in the disposal of criminal cases are mainly caused by -

- (a) piecemeal examination of witnesses and failure to hear the case, as far as practicable, from day to day, and
- (b) absence of police or prosecuting staff or witnesses on the date fixed for hearing.

Police officers to be punctual, vigilant and responsible with regard to trial

186. Police Officers should be punctual in attending court. If the Sub-Inspector is unavoidably detained on any other important work, he should arrange to send one of his Head constables with the case diary to attend the court in time. There can generally be no excuse for the absence of the prosecuting officers, as dates of hearing are fixed by courts in consultation with them, having due regard to their work in other courts. Reasonable time should be allowed for service of summons issued by courts, and Police officers on their part should see that summons are served on the witnesses and they appear in court on the date fixed for hearing in addition to returning the served summon's to the court at least a day before that date. Action should also be taken under Section 174 of the Indian Penal Code against the witnesses who fail to attend the court in spite of the service of summons. Pendency can be considerably reduced and disposal of cases expedited by co-operation with the magistracy.

Pendency of Cases With Magistrates

187. It is the responsibility of the Circle Inspector and the Station House Officer to take steps to obtain details of pending proceedings in all cases from Magistrates. While discussing Pendency in courts with Inspectors during the monthly crime meeting, the Superintendent will also ensure that details of all pending proceedings have been obtained from courts.

188. Issue of Summons

- I. According to section 69 of the Code of Criminal Procedure 1973, a court issuing a summons to a witness may, in addition to and simultaneously with the issue of such summons, direct a copy of the summons to be served by registered post addressed to the witness at the place where he ordinarily resides or carries on business or personally works for gain. When an acknowledgement purporting to be signed by the witness or an endorsement purporting to be made by a postal employee that the witness refused to take delivery of the summons has been received, the court may declare that the summons has been duly served. The police officers should make use of this provision and arrange to request the court for sending the summons by registered post where necessary.

- II. According to section 206 of the Code of criminal Procedure 1973, if in the opinion of a Magistrate taking cognizance of a petty offence, the case may be summarily disposed of, the Magistrate shall issue summons to the accused requiring him either to appear in person or by a pleader before the Magistrate on a specified date, or if he desires to plead guilty to the charge without appearing before the Magistrate, to transmit before the specified date by post or by messenger to the Magistrate, the said plea in writing and the amount of fine specified in the summons or if he desires to appear by pleader and to plead guilty to the charge through such pleader, to authorise, in writing, the pleader to plead guilty to the charge on his behalf and to pay the fine through such pleader.

- III. According to section 253 of the Code of Criminal Procedure 1973, where a summons has been issued under section 206 Cr.P.C. and the accused desires to plead guilty to the charge without appearing before the Magistrate, he shall transmit to the Magistrate, by post or by messenger, a letter containing his plea and also the amount of fine specified in the summons.

189. Filing Appeals and Revisions in Acquittal or Discharge

- I In every case ending in acquittal or where there is a conviction only for a minor offence, the accused having been acquitted of more serious offences in the court

of any Magistrate, the Senior APP or the APP in charge of the said case should, within 15 days from the date of the judgment, obtain and submit a certified copy of the judgment along with his report indicating the reasons for filing or not filing an appeal to the Director of Prosecutions. He should endorse a copy of his report to the concerned DCP/Superintendent. If the Director of Prosecutions decides that an appeal should be preferred, he should obtain the complete record of the case together with a Memorandum of grounds of appeal within two weeks from the date of receipt of the copy of the judgment.

II In every case in a Sessions Court ending in an acquittal or where there is conviction only for minor offences, the accused having been acquitted of more serious offences, the P.P. should likewise within 15 days from the date of the judgment obtain certified copy of the judgment and forward it to the Director of Prosecutions with his report indicating reasons for filing or not filing an appeal. He should endorse a copy of his report to the concerned DCP/Superintendent. If the Director of Prosecutions decides that an appeal should be preferred, he should obtain from the Public Prosecutor the complete records of the case together with a Memorandum of grounds of appeal, within two weeks from the date of receipt of the copy of the judgment.

III The Director of Prosecutions shall forward the relevant papers and the certified copy of the judgment along with his recommendation, to the State Government in the Department of Law and Parliamentary Affairs, The said department after obtaining (he orders of the Government for filing an appeal, shall communicate the order to the State Public Prosecutor with copies to the Director of Prosecutions the Director General of Police and the concerned Superintendent of Police. It will thereupon be the responsibility of the Director of Prosecutions to supply to the State Public Prosecutor the necessary papers and other information to facilitate the filing of an appeal within the prescribed period of limitation.

IV The procedure prescribed above for filing of appeals shall also apply to a proposal for filing any revision petition subject to the modification that the time allowed at each stage to forward the records is reduced to about half the time prescribed above. However, in the light of modified procedure prescribed by the

Government, every proposal for appeal etc., should be examined by the Deputy Director concerned in consultation with the Inspector General of the Range and forwarded to the Director who shall, after consulting the Director General of Police, forward the final proposal to the Department of Law and Parliamentary Affairs.

- V While the Prosecutor takes action to prefer appeal/revision in cases of acquittal/discharge, or conviction for minor offence/s the accused having been acquitted of more serious offence/s, the concerned DCP/SP also should, simultaneously, initiate action to obtain a copy (uncertified) of the judgment in such cases with the help of the Prosecutor of the court concerned, examine it in the light of the Prosecutor's opinion and forward it to the concerned Deputy Director with his opinion, for filing appeal/revision, if it is a fit case for appeal/revision. This should be done within a week from the date of pronouncement of the judgment. If a revision is proposed to be filed, action should be taken immediately after the order is pronounced.

Preventive Role of Police

Introduction

190. The twin important duties of police are: maintenance of order and preservation of law. Police are empowered to maintain law and order and prevent, investigate and detect crimes. Prevention, it is said, is better than cure. In support of the preventive role of police the popular saying explains that a stitch in time saves nine. Prevention of disorderly situations and that of crimes, therefore, is said to be a better strategy of policing the community.

190.1 Law empowers the Police and the Executive Magistracy to prevent offences, breach of peace, and maintain public order. These powers inter alia include preventive arrests, security proceedings, removal of public nuisances, prohibitory orders and also deal with disputes that threaten peace. The powers are meant to provide a sense of safety, security and confidence in all sections of society. Prevention is as important as punitive action.

Preventive Police Methods and Mechanisms

191. There are a number of methods, strategies and mechanisms used and utilized by the police for preventing law and order situations and crimes. Some of the important ones are following:

- (A) Legal provisions
- (B) Beats, Patrols, Gust, Nakabandi, Ambush etc.
- (C) Police records
- (D) Surveillance

(A) Legal provisions

Various provisions have been made in CRPC, IPC and other special and minor Acts, which give powers to police to prevent offences and contain law and order situations. Some of the important provisions in the CRPC pertaining to such powers are following:

(i) Unlawful Assemblies: Section 129 empowers any SHO or police officer not below the rank of SI to command any unlawful assembly to disperse, and if it does not disperse, to use

such force as may be necessary and also effect arrest. The powers conferred on the Police under this provision are both preventive and punitive.

(ii) Prevention of cognizable offences: Every police officer should take steps to prevent cognizable offences and for this purpose, he is empowered to arrest any person as a preventive measure (151 CrPC) but a person who is arrested shall not be in custody for more than 24 hours unless a specific offence is made out in the meanwhile. Likewise, Section 41 CrPC empowers a police officer to arrest any person without warrant in certain cases.

(iii) Preventive Action by Seizure: As per section 95 CrPC, a police officer is empowered to seize any news paper, book or document, the publication of which is prohibited by a notification of the government on the ground that such publication is punishable under section 124A, or 153A, or 292, or 293, or 295A of IPC.

(iv) Urgent cases of nuisance or apprehended danger: According to Section 144 of CrPC a District Magistrate, Sub-Divisional Magistrate or any other Magistrate especially empowered by the State Government may, where immediate prevention and speedy remedy is desirable, by an order in writing direct any person to abstain from certain act or to take certain order with respect to property in his possession or management. The ground for making such an order is that it is likely to prevent obstruction, annoyance or injury to any person lawfully employed or danger to human life, health or safety or a disturbance of public tranquility or a riot or an affray. The order can be either prohibitory or mandatory. The orders issued under the section are to remain in force for not more than two months and with State Government notification for another six months. The order can be issued ex-parte and can be directed against a person or persons residing in a locality or public generally when visiting frequently a particular area. The order under this section is an executive order. 'Curfew' orders are issued under this section only.

(v) Breach of peace on account of disputes over immovable property: Section 145 applies when there is a genuine dispute between two parties relating to immovable property and there is an imminent threat to peace. The main feature of Section 145 CrPC is that there is a bonafide dispute regarding land or water or boundaries and there is likelihood of breach of peace. The Executive Magistrate may pass an order directing the parties to appear and after having heard them and perusing the respective records pass final orders. Section 146 contains power of attachment and to appoint a receiver under certain circumstances. Section 147

relates to disputes that cause breach of peace relating to sea, land or water. Police must initiate action under this section when there is genuine dispute between the parties with equal claims and threat to peace is imminent.

(vi) Security for Good Behaviour and Keeping the Peace: Section 106 of the CrPC provides that the Court of Session or Court of a Magistrate of first class may, at the time of passing sentence on a person convicted of certain specified offences or abetting any such offences as laid down under that section, order him to execute a bond for keeping the peace for any period not exceeding three years. If the conviction is set-aside on appeal or otherwise, the bond executed shall become void. An order under this section may also be made by an Appellate Court or by a Court, which exercises powers of revision. In appropriate cases the SHO with the help of a prosecutor should file a memo in the court immediately after pronouncing the judgment and before passing the sentence mentioning the reasons for taking security. If satisfied the court may take security up to 3 years commencing from the date of release from imprisonment.

(vii) Security for breach of peace: Preventive action can be taken U/s 107 Cr.P.C. by an Executive Magistrate, if he has information through police or otherwise that any person is likely to commit breach of peace or disturb the public tranquility or to do any wrongful act that may probably occasion a breach of peace or disturb the public tranquility and is of the opinion that there is sufficient ground for proceeding. He may require such person to show cause why he should not be ordered to execute a bond for keeping the peace for such period, not exceeding 1 year. The Magistrate can take action whether such person(s) is residing in his jurisdiction or committing breach in his jurisdiction residing elsewhere. Section 107 is an effective means for preventing breaches or disturbances of public tranquility in connection with religious processions, communal tensions, festivals, fairs, elections, caste conflicts, political movements or other disputes between factions. It is not essential in every case that there should be two parties fighting against each other. It must however, be clear that a breach of the peace is imminent, unless averted by proceedings under the section.

Before launching proceedings the police shall gather evidence, oral and documentary, of persons (including police officers) acquainted with the circumstances of the case regarding the specific occasion on which the breach of the peace is anticipated, the existence of a cause, quarrel or other circumstance which is likely to lead to the breach and the period of its duration, the declaration of the parties indicating their determination to carry out, or to

prevent, certain things in connection with the subject matter of quarrel, the strength and following of the party or parties, and attempts made for conciliation, with their results. Arrests cannot be made u/s 107 CrPC. Only a Magistrate can issue a warrant u/s 113 CrPC if breach of peace cannot be otherwise prevented. Where the Police Officer feels that arrest is necessary he should report the circumstances to the Magistrate and obtain a warrant for arrest. However arrests may be made in urgent cases under section 151 CrPC, in the circumstances provided therein. Section 108 of CrPC is intended to demand security bonds for keeping good behaviour for a period not exceeding one year from persons who commit or about to commit offences under sections 124-A, 153-A, 153-B, or 295-A of IPC or criminal intimidation or defamation of a judge or an offence under section 292 IPC. The main test is whether the person has been disseminating the offending matter and whether there is any apprehension of the offence being repeated.

(viii) Section 109 CrPC: This section applies to such class of persons who are found taking precautions to conceal their presence with a view to committing cognizable offences. Both ingredients of concealment and with a view to committing cognizable offence should be present, before a person can be proceeded against u/s 109 CrPC. The object of the section is to frustrate the criminal designs before they are carried out. Its provision is purely preventive and not punitive. The security bond for good behaviour can be taken under the section for a period not exceeding one year. Concealment of presence is different from concealment of identity. The police officer must also be able to distinguish between a guilty person and a timid person.

(ix) Section 110 of the CrPC: The object of this section is preventive, and not punitive. The action is not intended as a punishment for past offences. It is aimed at protecting society from habitual offenders, desperate, dangerous characters and anti-social elements against the perpetration of crimes. It is intended to curb the dangerous activities of hardened criminals and secure the interests of community from injury at their hands.

(x) Preventive provisions in special and local Acts: In addition to the preventive measures describe in the CRPC, various special and local Acts also provide for situations and circumstances in which the police officer should initiate preventive action. The police officer should be well-versed with these provisions for exercising and initiating effective, preventive action as per the intention of the legislature and demands of each case.

(xi) Removal of Public Nuisances: Section 133 CrPC empowers Executive Magistrate to deal with public nuisances either on receipt of report of a Police Officer or other information. The public nuisances that can be redressed and unlawful obstructions that can be removed from any public place could be the following:

- Obstructions or nuisance to any public place, or way or channel lawfully used by the public.
- The conduct of any trade or occupation or the keeping of any goods or merchandise injurious to the health or physical comfort of the community, including blaring of loudspeakers beyond the prescribed decibels of noise and prescribed time.
- Construction of any building or disposal of any substance as is likely to occasion conflagration or explosion.
- A building tent or structure or a tree as is likely to fall and cause injury to persons.
- An unfenced tank, well or excavation near public way or place and
- A dangerous animal requiring destruction, confinement or disposal

The duties of police in this regard are to inform the concerned Executive Magistrate promptly, all the matters falling in the purview of section 133 CrPC, on the lines as indicated below.

- The local Police, beat and patrol men are responsible for reporting such instances without any loss of time.
- If any representation is made or information is received, it should be verified by a visit to the place by the Police Officers of the beat.
- If they come across such nuisances, the details should be collected including photographs or sketch of the place and submitted to the SHO.
- Private litigation or private interest should not be the basis for action by the Police.
- It is not necessary that there should be danger or inconvenience already existing to the public at large, but it is sufficient if there is likelihood of such a thing, being, caused.
- The term public nuisance is defined in section 268 of IPC, which can be adopted for the purpose of this section. Section 12 of IPC states that the term public includes a class or community residing in a particular area but that class must be numerically sufficient to be designated as such.
- Action under this section is not barred by Environmental Protection Acts.
- Untreated pollutants, dumping of solid wastes, letting out chemical substances, gases,

vapour or this section besides specific provisions of law attracts dust, husk etc. The concerned agencies also have powers and responsibility. There should be mutual liaison between police and concerned departments and agencies.

(B) Beats, Patrols, Gust, Nakabandi, Ambush etc.

- i. Out of the two principal police functions, that is, prevention and detection of crime, the prevention work must take precedence over detection. Intimate knowledge of the conditions prevailing in the police station jurisdiction and of the movements and activities of criminals are conditions precedent for successful execution of preventive role of police. To gain such knowledge, an efficient beat system is a primary necessity.
- ii. Village authorities are primarily responsible for reporting crime and supplying information about the movements of bad characters but it should be clearly understood that this does not take away the responsibility of the police for gathering information necessary for the effective prevention and detection of crime. For this purpose the constables should visit villages only under definite orders, for a definite purpose and for a specified period.

Meaning and objectives of Beats

192. Beat means a segment or part of the jurisdiction of a Police Station consisting of a village or group of villages or a locality in a town/city. Each beat is serially numbered in a police station. Beat service means performance of any of the functions and responsibilities of the police officer assigned to the beat, in that beat area. The objectives of beat are:-

- To provide police services within easy reach of the community;
- policing of a manageable area and households by specified Constables and Head Constables;
- promote awareness and thorough understanding of the policing needs of the community and of the law by the community;
- promote and build voluntary and participative support through CLG/maithri committees/village officers and groups in preventive and detective work of police and protection of lives and properties and honour;

- help understanding and reconciliation in caste, communal and group hostilities;
- Gather, record and communicate information on crime, criminals, strangers, factions, organised criminal gangs, terrorists, anti-national and anti-social elements;
- Provide day and night patrols to keep order, prevent crime, intercede when necessary;
- maintain effective surveillance on history sheeted persons and ex-convicts;
- arrest of persons in terms of section 41 CrPC;
- preservation of crime scenes and assistance in investigation.

193. **Organisation of Beats: Selection and grouping of villages**

- I. The beats should be organised taking into consideration the crime, the vigilance required, factions prevailing, clandestine activities being organised in the area etc. The frequency of visits and period of stay depends upon the sensitive or hypersensitive nature of the area. The classification keeps changing from time to time. The villages can be classified as sensitive or hypersensitive according to the existing crime and law and order situations and the past history of the concern village.

- II. All the villages in the jurisdiction should be first classified as important, unimportant and deserted villages. These villages can be classified into A, B and C categories. Group of villages then should be grouped into various beats. Each beat will be properly defined and beat constables and beat supervisory officers will be detailed for gust, patrolling and collection of intelligence pertaining to each beat. The category of each village could be changed from time to time in the light of crime and law and order situations of each village. In the constitution of beats, geographical positions of villages should be the primary criterion. A beat should not normally consist of too many Class A villages and these villages should be situated so close to one another that a constable can visit all of them one after another and return to the station within a reasonable time.

- III. Special attention should be given to villages in which bad characters reside i.e., offenders, criminals, or members of organised crime gangs or syndicates or those who foment or incite caste, communal violence, for which history

sheets are maintained and require surveillance, villages in which there have been in the immediate past frequent incidents or outbreaks of crime, either against persons or property, villages in which there are acute factions due to group rivalries, political, communal or caste or other tensions, and villages in which organised criminal or drug related activity or manufacture. Likewise the villages in which trafficking in firearms and movements of explosives exists or where there is possibilities of shelter being given to the terrorists and other organised criminals exist, should also be given special attention by the beat officers such villages.

- IV. The beat visits should be organised on geographical proximity and also to arrange the visit of villages one after the other. A village, which is neither sensitive nor hypersensitive, but must be traversed en-route is called a route village. There may be one or more such villages in each beat. Their names have to be entered in the column entitled, "Route villages" in the beat book of that beat.
- V. The beats in an outpost or police station jurisdiction should not be more than 3 or 6 respectively, and not more than 8 in both put together. Each beat should cover approximately 1000 households or 7,500 populations. If a police station area has 40,000 or more population there should normally be six beats, with each beat covering a population of 6000 - 10000 depending on factors mentioned above. Such other factors as most convenient, accessibility, road, rail, network, communication facilities and the number of sensitive or hypersensitive localities, villages should also be considered. Sensitive and hypersensitive villages should be distributed in all beats and not grouped into one or two. A beat book will be maintained for each general beat. The crime chart should show the areas covered by and the serial number of each beat.
- VI. The Sub-divisional Officer, during the annual inspections, must particularly ensure whether the beats have been organised conventionally and based on all relevant and realistic factors. He should personally tour in one or two beats along with SHO and the police officers assigned to the beat in the same manner as a beat Constable does, to make sure that it is organised properly

and can be served in the manner prescribed.

- VII. Two police officers i.e., either two police Constables or one Constable and one Head Constable should be allotted to each beat. They are responsible to visit and patrol sensitive village. The hyper-sensitive villages should be more frequently visited. It is not necessary that all villages in a beat should be covered every time the constables go to that beat. They should cover the villages in the beats at least once a week not only in the day time but also at nights. They shall proceed on beat duty at least 4 times in a month, each visit being spread over at least two days and one night. The SHO should ensure that they are not allotted any other duty in the PS when the Constables/HCs in charge of a beat proceed on beat duty once a week. The SHO may, however, earmark any two days or more if necessary to the Constables in charge of the beat to proceed to their respective beat areas to discharge their responsibilities and duties enumerated herein. The SHO should obtain prior permission for any deviation from this from Inspector/SDPO. The Inspector shall surprise at least one beat in a PS in a month in addition to regular inspections.
- VIII. Visiting villages and staying there is essential for efficient policing in a beat area. The smaller villages attached to larger village, should also be treated as a separate village for the purpose of village visiting or patrols either by day or night. All those areas constituted into Municipalities may be called Towns. Major Municipalities and Municipal Corporations should be identified as cities.
- IX. The duration of the visit by the Constables and Head Constables during the beat in a village depends upon the purpose. Visits should include all hamlets and settlements or colonies. The SHO should visit villages as prescribed. The beat area constables and HC before leaving the PS for duty on their beats should make relevant entries as to the purpose and duration in the General Diary. The instructions regarding village visiting, maintenance of village roster by SHO and others contained in this Chapter and elsewhere should be read as part of this Order. Visits include patrol by day or night, besides other duties, should be for a specific purpose. They should neither be hurried nor-

unduly prolonged. All visits and work accomplished should be reflected in the relevant records.

Duties of Beat Constable

194. The Constables assigned to a beat should perform the following duties:

- Identify through discreet enquiry, observation and verification about habitual offenders, specially dangerous criminals, the nature of crime they are addicted to, or gangs, including members of organised crime syndicates requiring surveillance irrespective of their area of operation;
- Collect information from or about travellers at camping grounds, choultries, rest houses, railway premises, ferries and other places of public resort;
- Ascertain or verify any definite piece of information concerning crime or criminals; Service of summons and execution of warrants.
- Gather Information about movement of bad characters, suspicious strangers and wandering gangs in the village;
- Enquire the movements/both good and bad activities of all ex-convicts and history sheeted persons specially with reference to their lavish expenditure or of other persons connected with them beyond their normal means;
- Find out the existence of any receivers of stolen property, contacts by bad characters or strangers with them;
- Identify liquor shops, illicit sources of liquor, vice dens, gambling houses, drug peddlars, unlicensed weapons.
- Collect intelligence about agitational activities of political parties or other organisations and clandestine activity of any organisation or their associates, or members or supporters.
- To notice and ascertain any fresh settlers in the village or visitors and the places from where they have arrived and their friends and relatives in the village with whom they are staying or providing support to them.

SHO to decide the interval of Beat visits

195. The Station House Officer should decide the intervals at which he should send men on the different beats in his jurisdiction according to the importance of the beats. Constables should be deputed to beats as often as possible, visits to more important beats being more frequent than to others. It is not necessary that all villages in a beat should be covered every time a constable is sent to that beat. This is a matter entirely within the discretion of the Station House Officer. It should, however, be ensured by the Station House Officer that every village whether of Class A or B or C in the jurisdiction of the station is visited by a Beat Constable at least once a month.

196. **Constables to Know Each Beat**

- i. Every constable in the station should be fully acquainted with every beat and he should know about suspicious characters and undetected crimes of each beat. Whenever a constable is sent out on duty either on beat duty or any other duty, the Station House Officer should give specific instructions to the constable regarding such matters as the nature of the work he has to perform, the manner in which it should be performed and the time by which he should return to the Police Station.
- ii. Constables going on beat duty will proceed to the beat direct from the Police Station. Likewise, on return they should report at the Police Station before going home. The departure of a constable on beat duty and the instructions given to him by the Station House Officer should be entered in the Station House Diary as well as in the Beat Book. Beats should be served not only in the daytime but also at nights.
- iii. Beat constables should be instructed to visit Railway Stations and Bus Stands in their beat and ascertain from the Platform Constables or Bus Stand Duty Constables or from others any information regarding the arrival or departure of suspicious foreigners and bad characters and obtain the signature of the Platform Constable or Bus Stand Duty Constable or Bus Stand Duty Constable, where one is posted, in their Beat Books.
- iv. It is incumbent upon the police to ensure the safety of the road and strict attention must, therefore, be paid to road patrolling. Unduly severe work should not be demanded from night petrol men. They should be sent out with definite orders which may be varied, as circumstances permit. It should always be possible to arrange for a

patrol to take some rest at a named place. If possible, two constables should patrol together. To secure the due performance of road patrolling, constant checking is absolutely essential, and superior officers must see that a sub-ordinate officer, from Inspector downwards, perform their fair share of this duty.

- v. On the National Highway, the State Highways and other important roads on which the cases of Highway Robberies and Dacoities are reported, arrangements have to be made for the movements of vehicles in a convoy with mobile armed escorts. Where mobile escort cannot be provided to the convoy of vehicles, armed men have to be provided to the first and the last vehicle of the convoy.

Beat Books

197. Every beat including a miscellaneous beat should have a Beat Book. Constables going on a beat should take the Beat Book along with them and note in them, under appropriate columns, the information they gather. The signatures of at least two persons whose sample signatures are maintained in the station in the Sample Signature Book should be obtained by the constables in the appropriate column. Such signatures should be obtained in all the villages including 'Route' villages through which the beat constables pass. If the signature of any of the persons could not be obtained the reasons therefore should be mentioned in the column. The Beat Book should be carried by the constable while on beat duty. Like beat books, Point Books should be supplied to the village officers or selected respectable inhabitants of the respective village for ensuring cross checking of the visit made by the beat constable. Likewise, check register of bad characters, duty roster, village rosters etc. should be maintained by each police station with regard to effective and efficient performance of beat duties.

198. Procedure On Return From Beats

- i. When a constable returns from beat duty, he should report to the Station House Officer. An entry should be made about the time of return of the constable from beat duty in the Station House Diary. The Station House Officer should check the signatures in the Sample Signature Book in the Station.
- ii. The Station House Officers should carefully seek report from the constables on their

return from beat to elicit any information they have obtained. Constables should be sent out with specific orders and questioned as to the performance of their duty on their return to the Police Station. This duty is not to be delegated to the subordinate officers Station House Officers should deal with it themselves.

- iii. The information brought by the constable should be studied and appropriate action taken. For example, if a bad character is reported to be absent from his village and the place to which he has gone is known an Enquiry Roll Form 'A' will be issued immediately to the Station House Officer to whose jurisdiction the bad character is reported to have gone. If the place to which the bad character is reported to have gone is within the jurisdiction of the same Police Station, a Constable or a head Constable will be sent out to the place to ascertain the movements and activities of the bad character. It must also be seen whether the absence of the bad character has synchronised with the occurrence of any crime in the limits of the station or neighbouring stations.

Checking of Beats

199. The Station House Officer/Police Sub-Inspectors, Assistant Sub-Inspector and Head Constables should check the constables on beat duty by surprise. The Circle Inspector who is the Station House Officer, Police Sub-Inspectors or Head Constable should visit selected villages with the Beat Books and compare the dates and hours of the entries in the Beat Books with those in the Point Books, Such verification should be made even when the Station House Officer or a Head Constable goes to a village on any other work, such as petition enquiry or investigation. If Beat Books are not available the checking officer will note down the particulars in his note book and compare them with the Beat Book on his return to the station. The Circle Inspector and the Station House Officer should also make enquiries with the villagers other than Point Book holders about the beat constable's presence on the days noted in the Beat Book. The Station House Officer should be able to check all the beats in the limits at least once a month. The Police Sub-Inspectors, Assistant Sub-Inspectors and Head Constables should do so more often. The Police Inspector/Police Sub-Inspector in charge of the Police Station should ensure that he visits every village in his jurisdiction at least once a quarter.

Duties Of Supervising Officers In Relation To Beats

200. Officers of and above the rank of Circle Inspector visiting or inspecting a station should not only see whether beat villages have been properly selected but also ensure that beats are being regularly served and checked. The fact of having done so should be embodied in the inspection notes together with the instructions, if any, given to the Station House Officer.

(C) Police records

- i. Police records, pertaining to crimes and criminals and the ones maintained at the police station and various other places with regard to law and order situations, play a vital role and assist the police personnel in a meaningful way in the discharge of their duties with regard to prevention of crimes and law and order situations.
- ii. Police records perform the role of broad database and on the basis of information available in this database police officers can devise methods and plan out for keeping check and control on the movements and activities of the criminals, and at the same time can also keep a track on the emerging law and order situations. The information available in the police record would help the police officers in making preventive arrests and evolving other strategies for prevention of crimes and law and order situations.
- iii. With the advent of computer technology and adoption of computerization at various levels, the record keeping has become more systematic, scientific and organized. A large bulk of records can be maintained by use of computers and even the retrieval of the desired record is also quick and fast. The computerization of police records thus should be gainfully utilized by the policemen of various ranks for the discharge of their prevention duties.

(D) Surveillance

Surveillance is a vital part of preventive action by police. It deters the designs of a person intending to commit offences. The nature and degree of surveillance depends on the circumstances and persons on whom surveillance is mounted. It is only in very rare cases and on rare occasions that round the clock surveillance becomes necessary for a few days or weeks. It is necessary that those who deserve to be kept under close surveillance receive maximum attention.

201. Surveillance of HS and BC

- I. The beat Police Officers should be fully conversant with the movements or changes of residence of all persons for whom history sheets of any category are maintained. They shall promptly report the exact information to the SHO, who will make entries in the relevant registers. The SHO on this basis of information should report by the quickest means to the SHO in whose jurisdiction the concerned person/persons are going to reside or pass through. The SHO who receives the first communication should acknowledge the communication and inform the concerned beat Police Officers of the area. If the subject is moving out to another area he should initiate the same procedure of intimating the concerned SHO. The receiving officer shall acknowledge the first and second communications. When replies are received the SHO shall make necessary entries in the history sheet and records. When a history-sheeted person is likely to travel by the Railway, intimation of his movements should also be given to the nearest Railway Police Station.
- II. **Bad Characters :** In the case of a BC who is known to have gone to another State, a BC Roll 'A' shall be sent directly to the Station House Officer of the station in the other State preceded first by communication through quickest means. Entries in the concerned record should be made when reply is received. If similar communication is received from other States, action should be taken to verify and enter in the concerned records. A reply should be sent to the concerned based on enquiries.
- III. **Suspicious Strangers:** When a stranger of suspicious conduct or demeanour is found within the limits of a police station, the SHO shall forward a BC Roll to the Police Station in whose jurisdiction the stranger claims to have resided. The receipt of such a roll must be immediately acknowledged and replied. If the suspicious stranger states that he resides in another State, a BC Roll shall be sent directly to the SHO of the station in the other State.
- IV. **Bad characters going out of view:** When a BC absents himself or goes out of view, whether wanted in a case or not, the information should be disseminated to the police stations having jurisdiction over the places likely to be visited by him

and also to the neighbouring stations, whether within this State or outside. If he is traced and intimation is received of his arrest or otherwise arrangements to get a complete and true picture of his activities should be made and the concerned record updated.

- V. **Transfer of criminals to jails of native place:** All dangerous convicts should be transferred to the jails near their native places, 2 months before their release. If the native place is not known, efforts must be made to trace it through the SCRB and FPB. The SP of the district where the prisoner is lodged should send intimation to the Superintendent of Jail sending a counterfoil to the SP of the prisoners native place.
- VI. **Release of Foreign Prisoners:** Before a foreign prisoner whose finger prints are taken for record is released the SP of the district where the case is registered should send a report to the Director, I.B. through CID informing the route and conveyance by which he is likely to leave this country.
- VII. **Shadowing of convicts and dangerous persons:** The following are the rules for shadowing the convicts on their release from jails.
- (a) Dangerous convicts who are not likely to return to their native places should be shadowed. The fact, when a convict is to be shadowed shall be entered in the DCRB in the FP register and communicated to the Superintendent of Jail.
- (b) The Police Officer deputed for shadowing an ex-convict shall enter the fact in the notebook. The Police Officers shall be furnished with a challan indicating the particulars of the ex-convict marked for shadowing. This form shall be return by the SHO of the area where the ex-convict takes up his residence or passes out of view to the DCRB / OCRS where the jail is situated, where it shall be on record for further reference and action if any. The subjects being shadowed should be kept in view, but on no account should any restraint be put upon their movements.
- VIII. **Provisions of 356 CrPC:** The following instructions are issued with regard to ex-

convicts ordered to notify residence under sub-section (5) of section 356 of CrPC.

- Each Station House Officer is responsible for maintaining a correct list in Form 123 of ex-convicts ordered to notify residence, which shall be displayed in the station. The villages notified and the dates of release will be entered from jail release lists. This order does not apply to Railway police stations.
- When an ex-convict does not appear at the place notified within a reasonable time, the SHO shall report the fact to the DCRB, which should order for enquiries to be made after approval of SP/Addl. SP.
- Ex-convict ordered to notify shall be watched in the same way as other dangerous criminals and their intended movements, of which they should give notice and movements communicated through BC Rolls.
- The certificate prescribed by rule 7 of the rules framed by the Government is in Form 124. A copy of the certificate shall be attached to the copy of the general diary sent to the office and remain filed with it.
- Prosecution of ex-convicts for breach of the rules shall not be undertaken without the sanction of the SP or the SDPO.
- The offence falls under the second part of section 176 of the I PC. Remission grants to heinous offenders

IX. **Convicts released on medical grounds:** A convict released by the Government on medical grounds is required to follow certain conditions for his release and thereafter. The conditions to which he subscribes before release are set forth below.

- That the said convict will, within fourteen days from the date of his release, present himself to the SP or if he is absent, to the Addl. SP in charge of Administration and will produce the copy of the conditions of his release given to him by the Jail Superintendent.
- That he will henceforth report himself, once in each month, at such time and to such officer as may be directed by the SP or Addl. SP.
- That he will not leave the district without the written permission of the SP.
- That he will accept and fulfil the conditions of grant of such permission.
- That he will not commit any offence punishable by law in force in India.

- That he will not associate with notoriously bad characters or lead a dissolute life.
- That he will live peacefully and will endeavour to earn an honest livelihood.

X. **Rules and Instructions regarding watching ex-convicts ordered to notify residence:** The following are the rules to be framed by the Government under sub-section (5) of section 356 of CrPC.

- (a) A convict in respect of whom such an order u/s 356 CrPC has been passed shall, when called upon by the officer in charge of the jail in which he is confined state before his release the place at which he intends to reside after his release, naming the village or town and the street therein. After release and on arrival at his residence, he shall, within 24 hours, notify at the nearest police station that he has taken up his residence accordingly.
- (b) Whenever he intends to change his residence he shall, (not less than two days before making such change), notify his intention at the nearest police station, giving the date on which he intends to change his residence and the name of the village or the town and street in which he intends to reside and, on arrival at such residence, he shall, within twenty-four hours, notify at the nearest police station that he has taken up his residence accordingly.
- (c) The officer recording a notification shall allow such period as may be reasonably necessary to enable the convict to take up his residence in the place notified. If the convict does not take up his residence in such place within the period so allowed, he shall, not later than the day following the expiry of such period, notify his actual place of residence to the officer in charge of the police station within the limits of which he is residing.
- (d) Whenever a released convict intends to be absent from his residence between sunset and sunrise, he shall notify his intention at the nearest police station, stating the time and purpose of such absence, and the exact address where he can be found during that period.
- (e) Every notice required to be given by the foregoing rules shall be given by the

released convict in person unless prevented from doing so by illness or other sufficient cause, in which case the notice required shall be sent either by letter duly signed by him or by an authorized messenger on his behalf.

- (f) Whenever a released convict gives any notice under the rules, he shall be furnished with a certificate to the effect that he has given such notice by the officer to whom he gives it.

"A" and "B" lists of absconding warrantees

- i. When a person for whom a warrant has been issued is absconding and there is no immediate prospect of his arrest, or when a criminal for whom a History Sheet is maintained goes out of view, the Station House Officer should send a descriptive roll of the individual to the DCRB.
- ii. In addition to absconding warrantees and "out of view" criminals of the district, the DCRB will publish in its list the descriptive rolls of absconding warrantees and "out of view" criminals of other districts and of persons whose names are published in the Criminal Intelligence Gazette, who are residents of, or likely to come to the district.
- iii. The lists will be filed separately in each station, and from them the Station House Officer shall compile a list in the regional language of persons likely to come to his station limits and display the same in the station. The staff of the station is expected to learn the details of these persons by going through these lists.

Maintenance of Law & Order

Introduction

202. Preservation of peace and maintenance of order in the society is the primary and basic duty of the police department. Peace and development go hand in hand. If there is peace, tranquility and order in the society, development and progress of various sorts take place in a natural way. On the contrary, if there is an atmosphere of disorder, disturbance and uncertainty, the overall development of the society will be a natural casualty. In a democratic society freedom of expression is a fundamental right, and at the same time in a plural society like India, there is every possibility of difference of opinion and consequent the dissention in the opinions, values and thoughts is likely to cause confrontation and conflicts among various groups. Such situations, if not regulated, controlled and contained, they are likely to create serious situation of law and order.

Law & Order : Concept and Dimensions

203. The field police officers should realize that society is full of factors and potentials which might cause disruption to normal peaceful conditions. Police, therefore should always keep a close watch on various social, political, economic, religious, cultural and other activities and issues so that these might not take an ugly turn and convert themselves into situations of law and order. All activities though normal may obtain abnormal dimension, and might cause breach of peace and tranquility to create a situations of law and order for the police. The concept of law and order, therefore is based primarily on the presumption that any normal situation, by seen or unseen, sudden or deliberate, accidental or intentional reason can become abnormal and thereby obtain a dimension of ordinary or serious law and order situation. The concept of law and order is a multi-faceted and multi-dimensional nature. The police, therefore, are required to handle a large variety of law and order situations including student unrest, political agitation, social demonstration, cultural and religious processions, industrial agitation, various types of strikes, Dharnas and Gheraos etc. Each of the above categories of law and order situation would have its own specific and special contexts and the police will have to tackle it accordingly.

Perspectives on Law and Order

204. Riots and other disturbances take place due to socio-economic and political frictions, communal, caste, regional, industrial, agrarian and political disturbances. Criminal, goonda gangs and unsocial elements provoke these disturbances and add fuel to the fire. The disturbances cause widespread panic, physical assaults, bodily injuries, murders, lootings, rapes and forcible closure of business establishments and shops and may create situations of intimidation. These inhuman acts take place posing a challenge to the efficacy of the police and the good governance of the government in dealing with these disturbances. Police have an onerous and difficult duty in tackling such situations with all the legal means available at their command.

Riots

205. No crime is so dangerous to the peace, harmony, life and well being of the people as riots. Widespread riots for any duration paralyse trade, free movement of people depriving their normal means of livelihood shaking the confidence in the police and the government. It is the prime duty of the police to prevent the commission of breach of peace by gathering intelligence to nip it in the bud. The police may later have to take effective measures in controlling the disturbances. Primarily, it is the duty of the law and order police to control these disturbances as per situation with the assistance of other wings of the department like Reserve Police, Railway Police, Spl. Police, Central Paramilitary Forces etc. as per the need. Each situation calls for different ways of dealing and adopting measures suiting to the laws and the needs.

Collection of Information

206. Police should collect information about every movement, state of feeling, dispute or incident, which may lead to a breach of peace. Communication of such information should be sent to the concerned authorities for taking action and to use the information for the purpose of preventing or detecting the associated crimes and for preventing breach of peace. All police measures and actions, their efficacy and use depend on the quality of intelligence gathered and its use.

207. Police Action at the Grass Root Level

- A. Consult police station records to identify the occasions of breach of peace, its nature, the places and potential troublemakers. The records should be kept accurate and updated,
- B. Visit the place and assess public feeling and likely trouble and contact persons who command respect and confidence of rival groups. Also gather information from all possible sources.
- C. Understand and follow thoroughly the communications and instructions from superior officers. Share this with the staff and ascertain full details from beat police and other police staff on all aspects.
- D. After the evaluation and assessment of the problem in all its aspects with reference particularly to the persons, places and nature of trouble, police officers should decide on surveillance, preventive arrests, promulgation of regulatory or prohibitory orders, arrangements to be made to contain and control trouble.
- E. It is the prime duty of the police to prevent the commission of cognizable offences. They should enlist the assistance of influential persons in communities in mitigating the situation and see that they exercise their influence in controlling the situations.
- F. Policemen on duty should be instructed to take help of village officials and keep vigil and report from time to time on the meetings, both public and secret, handbills distributed and rumours set afloat by mischievous local elements or outside agents.
- G. A striking force of adequate police strength should be mobilized and kept ready for attending to any sudden out break of mob violence. Besides this all riot control equipments like water cannon, gas guns, firearms and ammunition, helmets, shields, tear gas shells, shock batons, baton rounds (rubber/plastic bullet), lathis etc. should be kept ready for use.
- H. Precautionary measures for preventing or dealing with such disorders depend-upon a number of factors, including the cause of friction, the nature of the particular dispute, whether the danger is continuous or associated with a particular festival or occasion, and the influence of the leader of the communities.
- I. Experience has shown that precautions taken in proper time tend to inspire confidence among several communities and check the misguided zeal of irresponsible elements.
- J. Arrange frequent patrolling if assessment reveals possible breach of peace.
- K. Precaution signals, police preparedness and timely action act as a deterrent to possible troublemakers and inspire confidence among public.
- L. Pay utmost attention to fasts, feasts and festivals of different communities occurring

at the same time. Work out mutually acceptable arrangements; reconcile conflicting approaches or disputes with the help of rival local leaders. But do not be misled by promises and assurances and make necessary arrangements as a precaution.

- M. Keep the concerned Executive Magistrate informed in writing to be available. Police Officers should remain in close touch with the magistracy during situations of anticipations and actual breach of peace.
- N. When tensions and feelings run high, a clash in a large town develops into serious and widespread trouble. Precautionary measures need to be taken on this assumption as such steps will prevent and stop clashes in other areas apart from containing spread of trouble.

Police Action if Situation Deteriorates

208. If disorders get a firm foothold before the necessary arrangements are made to control and bring about normalcy, and if the trouble assumes the form of gang attacks, kill and run situations and the police are inadequate to prevent it, the following measures should be taken.

- i. Promulgation of orders under section 144 CrPC including curfew, prohibiting the holding of meetings, delivering of speeches, assembling of persons, carrying of weapons, taking out processions, or other acts from which a breach of the peace can be apprehended.
- ii. In case of disputes that occasion the breach of the peace relating to land or water or to boundaries of land or water, action under sections 145 to 148 of CrPC is appropriate and must be taken. Copies of reports to Magistrates for action u/s 144 or 145 of CrPC should be sent to the concerned superior Police Officers.

209. Further Police Action

- I. If the prospect of averting trouble is not encouraging, concentrate a sufficiently large police force in the vicinity of the scene of trouble. But where trouble is anticipated a show of strength, is sometimes sufficient to avoid untoward developments. The police force should be strong enough to deal promptly and effectively with major or minor incidents. Route marches by police columns through the affected areas help in containing and the spread of incidence. Arrangements must be made for patrols and pickets and for the establishment of communications between the various police parties and the police headquarters.

- II. The deployment in such situations should be to contain large-scale trouble and quick return to normalcy. Hence aimlessly scattering and thinning out the police force should be avoided otherwise it may result in not being able to prevent anything anywhere. All deployment should ensure communication between all pickets, patrols and striking forces both in terms of equipment and physical mobility between each point. In short physical contact by foot or transport should be ensured between one point and other when police are deployed.
- III. SDPOs, SP/Addl. SP should be present at the scene of the trouble and should not leave the situation to be handled by subordinates alone without taking away initiative from them. Mobile patrols in a vehicle with a Magistrate and motorcycle patrols in a town are more valuable form of patrol in a town or city.
- IV. Precautionary measures should include action u/s 151 CrPC against goondas, rowdies, suspects, bad characters and the persons likely to create trouble. Since the effect of an arrest u/s 151 CrPC is only for 24 hours. A specific offence must be made out in case a person is required to be kept in custody for more than 24 hours.
- V. In respect of breach of peace due to communal, caste or other problems, preventive detention can be resorted to. When public property is destroyed in the course of riots or agitations action can be taken under the Prevention of Damage to Public Property Act 1984.

210. **Dispersal of Unlawful Assembly**

- i. For the dispersal of unlawful assemblies by use of force 3 important conditions should be fulfilled. (1) that there is an unlawful assembly; (2) such an assembly is ordered to disperse; and (3) in spite of the orders the assembly refused to disperse. The force to be used should be minimum required to disperse the unlawful assembly. The quantum of minimum force differs from situation to situation and depends on the nature of crowd and its activities etc.

- ii. There will be salutary effect if arrests of those responsible are made immediately on the spot. Where the clash takes the form of mob fighting, there should be no hesitation to disperse it by effective use of force. Use of firearms should be the last resort, when all other measures have failed to save the lives and property of the people. However, the decision to open fire to control mob should be taken quickly and the situation should not be allowed to go out of hand due to indecision or delay in taking decision to open fire.

211. Riot Schemes and Police Action

- i. A riot scheme should be drawn up for every important town for each category of riot like communal, caste, regional or political. These schemes should be practiced every half-year. The object of the practice is to ensure that all officers are conversant with the details of the scheme and their duties therein.
- ii. Cases must be registered promptly, investigated impartially and prosecuted successfully under the close supervision of Inspectors and SDPOs. If need be, a separate investigation team should be formed during the period of riots. If there is a shortage of manpower, special police officers can be appointed under the Police Acts.

Action When Situation Under Control

212. When the situation has been brought under reasonable control the following measures should be taken.

- A. Police deployment should ordinarily continue, though on a reduced scale, until confidence is restored.
- B. Orders passed under section 144 CrPC, may be continued for some time since this helps in preventing panic.
- C. If curfew has been imposed, a relaxation for a few hours depending on situation may be given to start with and later it can be gradually withdrawn when situation returns to normal.
- D. The assistance of non-officials is of greater value during the conciliation stage and it should be fully availed.

- E. Senior Police Officer must assess the situation promptly and leave the scene when they are fully satisfied that the situation is brought under control without taking complacence haphazardly.
- F. Case reported during riots should be promptly investigated and finalised.

Legal Provisions to deal with Law & Order Situations

213. Police Act empowers DSsP and above to notify requiring licence by all persons conducting a meeting or a procession in public places or thoroughfares. If the authority is of the opinion that such assembly or procession if uncontrolled is likely to cause a breach of the peace, they can issue notice requiring licence by any assembly or procession for the use of music. As per the direction of Government, such order shall specify the duration for which the licence is required. A procession or an assembly which violates the conditions of a licence may be ordered to disperse. If the procession or the assembly so ordered to disperse neglects or refuses to obey the order, it shall be deemed to be an unlawful assembly.

214. Instructions for Officers With Regard to Processions

- i. The enforcement authorities should play an impartial role in implementing the respective right of the parties.
- ii. If it is apprehended that the enjoyment of the approved practice with respect to any procession will lead to a breach of the peace, it is the duty of the officers concerned to take adequate precautionary measures.
- iii. Leaders of factions should be involved from the beginning in the maintenance of order. Help of citizen Committees should be solicited.
- iv. Any newspapers carrying on negative propaganda should be cautioned against indulging in any action likely to disturb peace. All relevant material and its effects should be kept ready to face the challenge to such actions in courts. Freedom of press (expression), a right guaranteed under the Constitution should be respected. But the restrictions if any imposed on such right should be implemented. It should be borne in mind that flow of proper information to the public through press may also bring down tensions and help in restoring normalcy. Hence all Police Officers should assess the situation in its entirety and make proper use of the media to restore peace and confidence.

Industrial Unrest

215. The following orders should be followed by the police on the occurrence of trouble among the workers during strikes or widespread unrest.

1. Labour problems are due to economic reason, unresolved disputes between management and labourers or due to vested interests and issues raised by trade unions. When a strike or a situation that disturbs peace actually occurs, the duty of the police is only to preserve peace and not to interfere in or arbitrate on the issues involved. There are several departments under various laws to deal with such disputes. Police are concerned only in prevention of violent activities and destruction of properties. They should however; activate the labour and individual department officials to initiate measures for solution if they feel that clashes or undesirable activity may result in deteriorating law and order.
2. Timely information on the industries, the subsisting disputes with potential for law and order problems, the likely trouble makers, and the nature of violence that may be caused should be gathered by police.
3. The police should prevent breaches of the peace, secure the safety of property, and general public, deal with and investigate cognizable cases, and obtain information all other related points
4. The SHO should inform the Inspector, SDPO and the SP at the earliest about the possibility of a strike and give intimation immediately on its occurrence. The report should contain details of the number of persons affected, the issues involved in the strike and the extent of disorder anticipated. Should the police force of the area be insufficient to cope with the situation, the SP should requisition additional strength from other sources.
5. Peaceful picketing to prevent non-strikers from attending or resuming work by persuasion, as distinct from force or intimidation, or wrongful restraint, is not an offence, and does not call for police interference, but it only needs watchfulness and regulation of the situations.
6. Gherao and obstruction constitute offence, particularly when these activities assume violent or abusive shape necessitating police intervention. Police should make arrangements to cover demonstrations, hartals etc. so that they can intervene effectively. When information about the Gherao is received the police must rush to the place so that the person restrained is set free.
7. In dealing with violent situations inside a factory, particularly containing

sophisticated machinery or chemical substances the help of the officers should be secured. The industrial security personnel, or others posted for security would be in the best position to provide necessary assistance to the police in dealing with the situation. Close liaison should therefore be maintained with them.

8. Destruction of public property or physical harm to persons, violent demonstrations in the factory or outside should be dealt with in accordance with law.
9. The police must be aware of the right to protest for seeking solution of labour problems in accordance with law. However, they should keep themselves fully informed of the situation so as to act in time wherever violence is likely.

216. **Law & Order due to Factions**

- I. The frequent occurrence of factious riotings in certain areas of the state is a definite indication of the challenges, which the police have to face in controlling factious crime effectively. Attention should be paid to factious villages and all steps appropriate should be taken to prevent factious crimes. Impartiality, integrity, promptness and firmness are the most essential qualities required of a police officer in dealing with factions and investigation of factious cases.
- II. When a faction comes to notice for the first time, efforts should be made to nip it in the bud. Conciliatory methods may be successful at times. If the faction persists, there should be no hesitation in setting the relevant law in motion. Police should give clear message to the factionist that the police would mean business in dealing with any disturbance or crime and follow it up with necessary measures. The factious villages shall be covered effectively during day by beat area police officers. Informants should be cultivated and information network be built up. Arrests u/s 151 Cr.PC. should be made where necessary.
- III. Even a minor incident resulting from a faction should not be ignored. Section 160 IPC and sections 106 and 107 of CrPC should be used. In all cases under section 107 of the Code the Magistrate should be requested to take interim bonds from the parties. In some cases, it may be necessary to take action under clauses (e) and (f) of section 110 of CrPC against important faction leaders and rowdies. In cases of factious riotings and affray, the Magistrate should be requested to bind over the

parties under section 106 of CrPC. If police officers furnish all background material on the sureties, it will enable the Magistrate to decide whether to accept the surety or not and jail the persons if sureties are not to his satisfaction.

- IV. Even after the parties to a faction have been bound over under section 106 or section 107 of CrPC, there should be no relaxation of vigilance in regard to that faction, as instances are not wanting in which even after action has been taken under the security sections of the Code of Criminal Procedure, factionary parties have committed overt acts and indulged in sudden outbursts of violence. Every such incident, however small including the attempts should be taken cognizance of. The offenders should not only be charged for the specific offence but also action taken for forfeiture of their bonds. If, in spite of all these measures, factionists continue to be active, the Superintendent of Police should have no hesitation to come up with proposals for quartering additional Police in the area.
- V. All incidents arising out of a faction should be recorded in the general diary forthwith. An exhaustive note about the faction and its leaders and members with their antecedents, as well as information collected from time to time by Constables of the beat should be made in Part IV of the concerned Station Crime History by the SHO. Rowdy sheets should also be opened for those who are persistent factionists.

Dispersal of Mobs

217. The instructions for the dispersal of mobs and for use of fire arms are contained in the Police Drill Manual, besides legal provisions under section 129 to 132 Cr.P.C. District, City Armed Reserves and Civil Police shall constantly practise these instructions. An unlawful assembly may be ordered to disperse by a Magistrate or officer-in-charge of a Police Station and when so ordered, it is the duty of the members of the unlawful assembly to disperse. If they do not, force may be used to disperse them. Any Police Officer may without warrant arrest the members of an unlawful assembly and thus disperse the assembly. The following points have to be borne in mind.

- I. The Police must secure the presence of an Executive Magistrate as far as possible where a breach of the peace necessitating the use of force is

anticipated. The Executive Magistrate on information or requisition by police should be present at the spot. When a Magistrate is present at the spot he should be in complete charge of the situation. He has the necessary legal powers to order any Police Officer to assist him in handling the situation. The senior most Police Officer present is bound to assist the Magistrate by mobilizing the available Police Force and utilizing them as best as possible.

- II. If the crowd becomes defiant and the use of teargas, lathi charge or both are inexpedient or fail in their purpose, use of firearms may be resorted to. The Magistrate is responsible for taking a decision as to when an unlawful assembly has to be dispersed by force and also the kind of force to be used. After such a decision is taken, the officer-in-charge of the Police is solely responsible for deciding the exact amount of force to be used, the manner of using it and the settling of the details of the operations connected with the use of force, all the time keeping in mind the principle that no more force and no longer than necessary should be used.
- III. When a Police party is formed for dispersing an unlawful assembly, it should be numbered and split off into two or more sections. Each section should be under the charge of an officer. All commands to the Police are to be given by the Officer in command of the party. The Police are not on any account to open fire except by word of command of their officer, who has to exercise an extreme caution and discretion regarding the extent and the line of fire.
- IV. Officers commanding police parties will, ensure that the fullest warning is, if feasible, given to the mob in a clear and distinct manner before any order is given to use tear gas or lathies or fire arms. They will use the most effectual means to explain before hand to them that in the event of the Police party being forced to open fire, the fire will be effective and on the target. Whenever firing is resorted to, directions and warnings to the mobs should be announced through loudspeakers. Police vehicles should be equipped with loudspeakers and where such arrangements cannot be made hand megaphones should be kept ready for announcement.

- V. Even after being warned, if the mob does not disperse, the order to fire may be given. If the officer in command of the party is of the opinion that it will suffice if orders to only one or two files are given, he may accordingly order specifying the files that are to open fire. If, however, he considers that it will be insufficient, he will give the word of command to one or more sections to open fire. The fire order of each section will be given, by the regular word of command by the officer-in-charge of the party. Firing should be well controlled and officers ordering firing should always indicate the number of rounds that should be fired at any particular time.

- VI. Where the situation warrants firing over the heads of the crowd and where it is considered likely to be effective in dispersing the violent mob, such firing should be resorted to only with blank ammunition. Other policemen should be kept ready with rifles loaded with live ammunition so that if the use of blank ammunition fails, the Police would not be taken by surprise or overwhelmed. Firing with live ammunition should be directed against the most threatening part of the crowd, the aim being kept low. Firing should cease the moment it is no longer necessary.

- VII. Files or sections ordered to fire shall unload immediately after firing without further word of command until the order to cease firing is made finally. Firing should cease the moment the rioters show signs of dispersing and all help should immediately be rendered to tend or convey the wounded to the hospital.

- VIII. An Armed Force should never be brought so close to a large and dangerous mob as to risk its being overwhelmed by numbers or being forced into action resulting in infliction of heavy casualties. Firing should be carried out from a distance sufficient to obviate the risk of being rushed on and to enable strict fire control.

- IX. Riot flags and display banners should be taken when District Reserves are called out in apprehension of disturbances and before firing or any other means of dispersal is resorted to. They should be hoisted in front of the mob in a manner that what is written on them is clearly visible and can be read or clearly understood by the mob.

- X. The Police used for dispersing mobs should wear the prescribed uniforms and steel helmets. The teargas section and the armed party protecting the teargas section should wear antigas respirators.

Right of Private Defence

218. In the matter of dispersal of unlawful assembly the right of private defence can be exercised to protect the life and property of public or to protect themselves. This right can be exercised by using force as much as is necessary and as long as it is necessary. This right extends even to the causing of death in certain cases as laid down in section 100 IPC as against body and in section 103 IPC as against property. The police should exercise this right cautiously. Any amount of exceeding the right may make them liable for penal action as per law. Therefore, the police officers must make a judicious use of this right, only in dire need to save the life and property, when occasion arises as shown in sections 100 and 103 I PC.

219. Special Police Officers for Law & Order Purposes

- I. When there is apprehension that there is likelihood of disturbance of peace, riot or formation of unlawful assemblies or when such unlawful assemblies already formed for provoking breach of peace and when it is felt that the existing ordinary police is insufficient to meet the situation, special police officers can be appointed for such time and in such manner as deems necessary for the protection of life and property of the inhabitants.
- II. Every SDPO shall maintain a list of residents suitable with good antecedents for such duty at each place in his Sub-Division in order that he may be able at any moment to give the Magistrate the necessary details to enable him to appoint without delay as many special Police Officers as may be necessary. The lists should be updated every year. Those persons who have been in NCC, NSS, scouts and guides and employees in the government departments and other young persons of good antecedents would be the proper persons to be included in the list. The ex-servicemen are also useful for the purpose.
- III. A list of all Special Police Officers thus appointed shall be displayed in the local police station. The place of muster, which need not necessarily be a police station,

shall be attended at the time by an officer not lower in rank than a Sub-Inspector. He shall check the attendance of Special Police Officers and allot their duties in writing specifying the hours of duty and its nature.

- IV. The requirement of discipline for such special police officers should be liberal and ordinarily the physical drill is not necessary. The form of compliments to seniors will not be a salute but a civilian method of greeting. The periods of duty shall not be long and reliefs shall be frequent. The work of Special Police Officers shall be supervised and checked and absence from duty noted by specially selected Special Police Officers to whose charge they are given. The Special Police Officers whenever necessary shall be strengthened and supported by regular police. They shall remain as separate bodies, and the duty of using any necessary force shall be performed by regular police. Negligence or refusal to serve without sufficient excuse or disobedience to orders or directions makes him liable on conviction and fine.
- V. If a motor vehicle belonging to a Special Police Officer or obtained on loan by him or any of his personal property is damaged or lost during its use by such officer on duty, the cost of such damage or the value of such vehicle, as the case may be, in so far as it is not covered by insurance or is not met by the insuring office, will be made good by the government, provided that the claim in respect of such cost or of such value is made promptly and through the concerned police authority. The government will also award reasonable compensation for any injury or the loss of life to the Special Police Officer, if it is directly due to his service as such.

220. **Additional Police for Law and Order**

- I. Additional police may be quartered under legal provisions for controlling deteriorating law and order situations. Sanction for such additional Police should be obtained from the government and formal proposals as to how the cost should be recovered should also be submitted to the government.
- II. When the District Magistrate and the Superintendent of Police consider that additional police should be stationed in any area in the district, the SP will

immediately submit proposals to the Zonal Inspector-General/DIGP, through the District Magistrate furnishing information. The District Magistrate will forward the proposals with his remarks to the Zonal Inspector-General/DIGP. On receipt of the proposals the Zonal Inspector-General/DIGP will, if necessary, visit the area in question in order to satisfy himself that the conduct of the inhabitants of the area justifies the imposition of additional Police. If he is satisfied that additional police are necessary, he will endorse the proposals received from the district authorities and forward to the DGP.

- III. On receipt of the proposals from the Zonal Inspector-General/DIGP, the DGP will move the Government for the imposition of additional police and, if they agree, request them to issue a notification in the Government Gazette. As soon as the notification is published in the Government Gazette, the Superintendent of Police will draft the force of the strength mentioned in the notification to the area, from the district police strength.
- IV. Soon after the notification in the Gazette, the District Magistrate will submit proposals to the Government through the Zonal IG/DIGP and DGP as to manner of recovery stating clearly the financial condition of the inhabitants of the area from whom the cost is proposed to be recovered and the manner of distribution of cost amongst them. If it is considered desirable that any of the residents should be exempted from the contribution, the reasons should be clearly stated.
- V. Whenever it is considered desirable to extend the period by which additional police have been imposed, a report, specifying the reasons for retention of the force and the further period for which the force should be retained, will be submitted by the SP to the DGP through the District Magistrate and Zonal IG/DIGP at least two months before the term for which it was originally imposed expires. Before submitting the proposals it must be ensured that the dues till the date are collected/recovered. Additional police may not, without the sanction of the government, be retained beyond the term for which they were originally imposed.
- VI. **Duties performed by additional force :** The duties to be performed by additional

police are (a) to patrol the affected area and (b) to restrain the inhabitants of the area from committing excesses (c) any other duties prescribed by the SP. The Station House Officer is responsible for ensuring compliance of the duties.

Campus Violence and Student Unrest

221. **Reasons:** The breaches of peace occasioned by students' violence both in and out of the campus require special attention of the police. There are many reasons and occasions when violence breaks out. These may be broadly classified as internal and external. Internal causes relate to purely problems of students relating to fees, mess facilities, curriculum, examinations, copying, ill treatment by authorities, scholarships, group rivalries, student elections, ragging, misconduct of staff members or assault by outsiders on a student, teacher etc. Some problems may be genuine, some may not be. The external causes relate to political, social or other causes in which students or groups of them involve themselves either within the campus or outside. Like all other situations, information collection is the most important duty of police and an essential requirement. The SHO by personal contacts with students and teachers should keep himself abreast of the affairs involving the groups in the colleges or Universities in his jurisdiction. The guidelines for dealing with students' violence or incidents are given below:

- A. Keep the Head of the Institution informed of visits to the campus as far as possible. Only in an emergency where a violent incident has occurred or about to take place and where it is not possible to inform, the police may rush to the spot making arrangements for information to the Head of the Institution or other responsible person of the Institution.
- B. Do not express opinion as to the right or wrong of the cause or person, but only act according to law. Conduct parleys with rival groups to avoid imminent clash if possible. Take assistance of student leaders or neutral teachers to persuade against violence.
- C. Make prompt arrest if a serious incident like grievous hurt or homicide has taken place. While proceeding to deal with an outbreak of violence, strong police must be taken. All policemen should be doubly briefed on restraint and conduct. Use of force should be avoided as far as possible, unless there is no other way to stop further violence. While making arrests avoid doing so in the full view of the students, unless it is in the course of dealing with an unlawful assembly.

- D. Assist University/College authorities in ensuring that only genuine and legitimate inmates stay in hostels. Universities and College authorities should be prevailed by higher police officers in this regard. Assist the in situational authorities for keeping order during examinations and other activities.
- E. Collect full and accurate information regarding gangsterism, eve-teasing or assaults on teachers and act as per relevant law. Do not act on hearsay or on unverified information. Take all steps as in any other case for investigation of an offence occurring in the campus or hostels.
- F. Visit the campus during normal times so that it becomes easier to handle situations when they occur. Always remember that the students, being young and emotional are prone to flash actions impulsive and hasty acts. Handling of situations should be done with proper understanding of the issues/situation. Where group clashes are likely there should be no hesitation to initiate action under section 107 CrPC and to obtain bonds.

222. **Ragging** : The menace of ragging in the name of introduction and familiarization of newly entrant fresh students, by senior students of the educational institutions has, of late, taken an ugly turn of serious concern. This practice of ragging is more prevalent in the medical, engineering and business management college/institutes. In a few cases, the victim students have taken the extreme step of committing suicide. To prohibit this bad practice of ragging within or outside any educational institution, the governments have enacted the Laws prohibiting ragging. The 'ragging' means doing an act, which causes or is likely to cause insult or annoyance or fear or apprehension or threat or intimidation or outrage of modesty or injury to a student. The act includes words either spoken or written or signs or sounds or gestures or visible representations. Penalty for ragging is provided under each respective Act. Whenever any student complains of ragging to head or manager of an educational institution, such head or manager should inquire into or cause an inquiry to be made into the complaint forthwith and if the complaint is prima- facie found true, shall suspend the student or students complained against, for such period as may be deemed necessary. The decision of the head or manager of the educational institution in this regard shall be final.

- I. **Duties of Police** : The police officers have to play an important and active role in curbing this menace of ragging. Therefore, all Ss.P./Cs.P. should instruct their subordinates before the commencement of the academic session to contact Heads

of the educational institutions and enlighten them on the provisions of the law. Head of educational institution should also be advised to give wide publicity about the provisions prohibitively ragging.

- II. University and College hostels should be visited especially in the nights and in the beginning of the academic session along with the wardens and university/college staff. If necessary complaint box may be kept in the hostels. Efforts to collect intelligence or deploy men in plain clothes at the beginning of academic year besides keeping vigilance over senior students and also request the management to take preventive action besides involving the non-government organisations should be taken by the police to stop ragging. Suo-moto action should be initiated where the institutions or the targeted victims do not come forward to lodge a complaint for fear of reprisal.

Handling Communal Situations

Introduction

223. Communal disturbance means an agitation or interruption of tranquility involving two antagonistic religious communities. It may also be defined as an agitation arising out of a conflict between two or more religious communities. The nature of a conflict may vary from minor disturbances to big riot situations. Such disturbances always pose a serious threat to law and order. Communal disturbances are always attended with considerable loss of human life and destruction of property; they disrupt communal harmony and aggravate tension between different communities. They undermine public faith in the forces of law and order. If they occur on a large scale, they even threaten the stability of the country. Prevention or minimization of communal disturbances is, therefore, vital to the maintenance of law and order; smooth functioning of a secular democracy and the stability and integrity of the country.

Causes of Communalism

224. Communal disturbances and the causes underlying them are manifold. The main causes appear to be historical, activities of communal parties, opportunistic and parochial policies of political parties, enemy acts, mal-treatment of minority communities, and prevailing prejudices between members of the different communities. Conflict of interests and competition between two communities for sharing of economic and educational opportunities may, sometimes, assume the form of communal disturbances. In the ultimate analysis, prejudices, wrong attitudes and an atmosphere of mutual distrust and fear are responsible for communal disharmony. Absence of adequate mutual participation in social and cultural activities and a lack of devotion to common secular and non-religious values, consequent living in almost closed societies, largely contribute to the continued existence of prevailing prejudices and disharmony.

225. Role of the Police

- I. Maintenance of public order to a large extent depends on the response of police

and happens to be a basic responsibility of the police. Police Acts and the criminal procedure code require the police to maintain public order and to interpose and to proceed to the spot to investigate actual or suspected commission of offences. Under section 127 and 128 of CrPC, the officer-in-charge of a Police Station and other senior police officers are entitled to command dispersal of unlawful assemblies or even to use force for that purpose. The duties and powers of the police in India are both statutory and obligatory. The police are, therefore, duty bound to maintain law and order during communal disturbances.

- II. The police must remain absolutely impartial in handling of communal disturbances. The senior officers have a special responsibility in properly briefing their subordinates in this regard. The police officers must realize that communal disturbances are one of the worst threats to law and order and, therefore, they should be especially remain alert to this problem. Competent and selected officers should be posted to sensitive areas having a history of communal disturbances.
- III. Although, sudden eruptions cannot be completely ruled out, all communal disturbances, by and large, develop over a period of time. If right steps are taken in the beginning, it may be possible for the police to prevent communal tensions from developing into disturbances and violence. The police should, therefore, attach special importance to the preventive aspect of their duties in this regard.

226. **Preventive Action**

(i) **Collecting of Intelligence** : The first step in preventing communal tension from developing into violence is the collection of adequate and advance intelligence. This should be done by Special Branch at the State Headquarters and also at the District Hqrs. Police should get in touch with the leaders of both communities and find out the causes of tension. The past history of the place, the writings in the press, particularly local press, and, the vernacular press, the likelihood of repercussions of disturbances in neighbouring districts or neighbouring States should be given special consideration for prevention and handling of communal incidents.

(ii) **Rumors** : Generally, rumours play a very important role in the aggravation of communal tension. Although, rumours are a common phenomenon in normal life but in such situation,

these assume nastier and more purposive character. Rumours relating to communal, tensions generally go through the following three stages:

- (a) They begin with talks of alleged insults and discrimination.
- (b) The common stories of imminent violence, of the arming by the other community, of the need to protect house and loved ones from attack.
- (c) Finally, the crisis rumours develop and spread for example, inflammatory acts, like sex assault, beating or other crimes etc.

(iii) Watch on Community Leaders : During communal tension, the communal groups and their leaders, exhibit a progressive tendency to operate more boldly and more openly. They step up their propaganda; a campaign against other communities as they presume that there will be a greater degree of social acceptance of their views during such times. Their activities must be kept under close watch.

(iv) Preventive Arrests and Other Action : After collecting advance intelligence, it should be carefully assessed and appreciated by the senior officers and preventive action should be planned. If there is time, action under section 107, 117 of the criminal procedure code can be taken against ring leaders and other anti-social elements. Arrests under section 151 of the code of criminal procedure of ring leaders and mischief mongers of both the communities can also be made. Remand can also be taken for police or judicial custody of persons arrested under S. 151 Cr.P.C. Arrests of ring leaders and anti-social elements, who may fish in troubled waters, can also be made under the Preventive Detention Act for detaining persons for longer period. However, sufficient material should be collected in advance regarding their activities and speeches, etc., so that action under Preventive Detention Act can be taken and sustained against them.

(v) Prohibit Entry and Promulgation of Prohibition Orders : It may also become necessary to either restrict the entry of certain undesirable persons into areas of tension or to remove them from such areas in order to prevent their spreading communal propaganda and mischief. Suitable prohibitory orders under section 144 Cr. P.C. may be promulgated and enforced strictly. Issue of licences under Police Act requiring the processions to be taken along certain routes and imposing other suitable conditions should be ensured so that clash with the opposite group or party may be avoided.

227. Administrative Measures

- i. Apart from the legal measures certain administrative steps should also be taken. Joint Peace Committee consisting of respective leaders of the communities may be constituted for taking their help and that of other progressive political leaders for controlling the tension and preventing the tension situations from developing into violent incidents.
- ii. Patrolling should be organised in the mixed localities. Meetings of the minority community may be called to assure them that the authorities will take all legal action to protect them. The police should also make it known publicly and privately to all that in case of trouble, they will take quick, firm and strong action. A close watch should be kept on the circulation of nasty rumours. The best antidote to rumours is that as soon as rumour is found circulating, they should be quickly investigated and fact should be publicized adequately and quickly. Also persons found circulating such rumour should be stopped by police officers and asked to give verification and proof regarding the correctness of the rumour.

228. Post Preventive Measures

- i. If preventive measures fail and actual trouble breaks out the police will have to take action to deal with the same. The communal mobs are always under an intense excitement and they are swayed by feelings of hatred and they do not hesitate to take recourse to violence. Such mobs are generally not amenable to reasoning and persuasion. The police should, therefore, use determined, swift and effective force to deal such mobs right in the beginning.
- ii. If the mob gets an impression that the police are either weak or undecided in their attitude, it may embolden them to become highly violent and destructive. While in the initial stages, mob violence may be directed against specific targets like members of the opposite group and their property, as it gets into

high gear, it may become more generalized and may be directed to general public and their property. Determined and strong police action at the initial encounter with the mob, therefore, is of crucial importance.

Police Action Parameters

229. In order to make police action effective depending upon situation to situation, the following points should be kept in mind :

- i. Attempt should be made to prevent the formation of crowds and to break them as soon as they are formed. For this purpose, patrolling and posting of pickets at strategic points will be necessary. The crowds can be dispersed under Section 127 of the Cr.P.C.
- ii. Arrest of ring leaders may be made, if that is possible, without provoking much trouble.
- iii. If a crowd is already formed, it should be cordoned off so that its size does not increase by the joining of other people.
- iv. As soon as the mob starts indulging in violence or it is clear to the police that violence will be resorted to, immediate action should be taken to disperse the same. The police can use force for this purpose under section 128 of the Code of Criminal Procedure for dispersal of unlawful assemblies. In such a case, orders of the Magistrate, if present at the scene, should be obtained. Force can also be used by the police under the Right of Private Defence (Sections 96 to 106 of the I.P.C.). For use of force in the exercise of right of private defence, the orders of the Magistrate are not required.
- v. In case of serious rioting, orders under S. 144 Cr.P.C. and the popularly called curfew orders, may have to be imposed and strictly enforced. While major incidents may be controlled by the promulgation of curfew, sporadic incidents of individual stabbing or killing may continue for sometime, particularly in crowded areas. Therefore, the police must organize foot and cycle patrols in such areas to ensure that there are no such incidents. Care must be exercised in the withdrawal of curfew orders. This should be withdrawn by stages. Sometime withdrawal of curfew orders may aggravate the situation. After a mob has been dispersed, the police should pursue it and ensure that all persons return home so that the mob does not re-form. Police vigilance and patrolling should continue to prevent any eventuality.
- vi. When communal disturbance break out over a wide area in a District or a City, the

overall command of operations must remain in the hands of the District Superintendent of Police. Sometimes, the disturbed area may be divided into zones, where other officers may be deputed, but the overall control must remain with the District Superintendent of Police as he is in the best know of things. Sometimes, confusion may be created by the deputing of other senior officers in the areas, with the result that an overall plan of action and direction of operations is not possible.

- vii. The areas of tension should be isolated by effective patrolling and posting of strong pickets.
- viii. Investigation teams of competent officers may be constituted to register and investigate cases arising out of communal incidents.
- ix. A separate officer may be deputed to maintain a chronological record of events.
- x. The injured should be given first aid and the dead persons should be removed to the Mortuary.
- xi. Suitable liaison should be maintained with the press to enlist their cooperation in correct reporting and mobilization of public opinion against communal tension.
- xii. Patrolling pickets in sensitive areas and general police vigilance should continue till complete normalcy is restored.
- xiii. Policemen have to be on duty at various places for many days. Satisfactory feeding and shelter arrangements should be made for them.

230. **Broad Based and Comprehensive Administrative Measures**

- i. A high powered Standing Council presided over by the Home Minister consisting of representatives of major political parties, officials of the Home Ministry, police officers and eminent sociologists may be constituted to review the communal situation and advise the government on a regular basis on measures to promote communal harmony and to minimize communal disturbances. Similar Councils may be constituted at field level also.
- ii. Citizens committees consisting of respectable members of the majority and minority communities as well as district officials should be constituted at the district and the police station level. These committees can meet periodically to review communal situation. They may also mobilize popular support resolving differences in times of communal tension.
- iii. Setting up of Research Institute consisting of eminent Sociologists, Psychologists, Economists, Lawyers and Police Officers, to go into the cause of communal

disharmony and to suggest remedial measures. The institute should be an independent body and may collaborate with Universities and other centers of thought in its work.

- iv. Formulation and effective implementation of appropriate policies, if considered necessary, to give effect to the secular provisions of the Indian Constitution. These provisions are contained in articles 14, 15, 16, 19, 25, 26, 28, 29 and 30.
- v. The Government should evolve a definite policy in regard to ordering of judicial inquiries into the use of force by the police to control communal disturbances or other incidents. Too frequent appointment of such judicial inquiries may create fear and hesitation in the minds of police officers to use force swiftly, effectively and in a determined manner. Normally an administrative inquiry should be held, and if it makes out a prime facie case that there has been either unjustified or excessive use of force by the police, a judicial inquiry may be ordered.
- vi. A policy should also be formulated in regard to the withdrawal of cases by the State. Normally, cases against persons who have indulged in communal riots should not be withdrawn, but if it is thought necessary to do so in exceptional circumstances, a definite policy in this respect should also be evolved.

231. Political Approach and Attitude

- Major political parties should evolve a code of conduct and agree not to take advantage of communal feelings for gaining political advantage.
- They should propagate secular ideals and value and mobilize public support for the same.

Legislative Measures

232. A bill introduced in the Parliament to amend Sections 153-A and 505 of I.P.C. to enlarge their scope to enhance the provision of punishment and to make them cognizable has been approved. Amendment of Section 8 of the Representation of the people Act 1951 to provide for the disqualification from the membership of Parliament or State Legislature of persons convicted of offences under Section 153-A or 505 of the I.P.C. and a law to prevent the publication of alarming, incorrect or provocative news or views likely to disturb communal harmony also have deterrent effect. These are welcome measures. In addition to these measures, the State may pass enactments on the lines of the M.P, public Security Act 1959 to arm the law and order authorities with

additional powers in regard to the entry of certain persons into certain areas, regulation of the publication and circulation of provocative and alarming news or views, control of camps, parades and drills, prohibition or restriction of the use of pathways and roads, and constitution of special courts.

233. New Police Strategy

- The police organization should be considerably strengthened and improved by providing greater and better quality of manpower, better equipment, greater mobility and better communications.
- The Intelligence Branch of the police should be strengthened at all levels.
- Training of policemen should be more intensive in methods of crowd control and handling violence such course should include lessons in crowd psychology and social psychology. Specialized riot control squads with special training should be set up in every city and district.
- A suitable research organization should be established in those State police Headquarters where the incidence of communal disturbances is high, to objectively evaluate the handling of communal disturbances by the police. This research organisation should make a critical and objective analysis of each situation handled by the police, and make its findings available to all officers in the field as well as police forces in other States.
- Police plans in respect of communal pickets or areas having a potential of communal disturbances should be prepared and kept ready. Such plans should be based on a careful appreciation of the nature and magnitude of the problems likely to be faced. Estimates of requirements and availability of manpower, transport, control room and communication facilities, and equipment, etc., should be made and included in the plan.

Educational Measures

234. The syllabi of all educational institutions should be reviewed and, if necessary, revised to ensure that the secular values and requirements of national integration unity are adequately emphasised. Such a review, of course should also see that no objectionable material which may promote communal disharmony is contained therein.

235. Cultural and Social Impacts

- i. There should be greater inter-community participation in cultural and social activities. For this purpose, recreational facilities, sports, and youth clubs, etc may be organised in which members of both the majority and minority communities may be encouraged to participate.

- ii. Communal disturbances are outer symptoms of the deeper malady affecting the body politic. These are a product of political, social, economic, cultural, administrative and other factors in the society. Only an integrated, concerted and sustained action on all those fronts can strike at the conditions that give rise to communal disharmony and disturbances. The police need to be associated with and play an active role in the combined social action against the communal menace. The main role of the police, however, is limited to dealing with the outer manifestation of the communal menace involving potential or actual violence and actual or potential commission of offences. The main objective of the police should be to prevent communal tensions breaking into violence and in the event of its emergence to control and contain it within minimum limits. This is a heavy, difficult and delicate responsibility on the police which has to be discharged with determination, efficiency and impartiality. In this task, they should solicit the cooperation and support of leaders of public opinion, the press, administrative agencies and major social institutions.

Legal Provisions

236. The legislature has provided strict laws on preventive as well as punitive side for preventing and punishing the commission of crime relating to communal disturbances.

I. Preventive Provisions :

a) Preventive action under the Cr.P.C. :

(i) Security for good behaviour u/s 108 Cr.P.C. : Any person who either orally or in writing or in any other manner, intentionally disseminates or attempts or abets dissemination of any matter the publication of which is punishable under section 124-A, 153-A, 153-B or 295-A IPC or any matter pertaining to intimidation of a Judge or any person who makes a publication of any of matter

punishable u/s 292 IPC, may be bound down by a Magistrate for one year and may required to furnish security for good behaviour. Hence all such persons like communal elements who disseminate such matter may be bound down in advance. Police stations and the D.S.B. should have complete record of speeches and uttering of such persons which provide very good evidence under this section.

b) Preventive Police action regarding processions and Assemblies u/s 144

Cr.P.C. : Freedom of conscience and religious liberty are guaranteed to all persons including foreigners under article 25 of the Constitution of India and also a right to form associations or unions is guaranteed by Article 19 (1) (a), of the Constitution. But these rights are not absolute and the State is empowered to impose reasonable restrictions in the interest of public order safety, morality, health and public user of thorough fares etc. Hence laws regarding regulation of religious and other processions and Assemblies have been enacted u/s 144 Cr.P.C, and the Police Act, u/s 144 Cr.P.C., when a police officer considers that an assembly or procession is likely to commit a communal riot or other public disturbance, procession or assembly can be prohibited under the orders of an appropriate Magistrate. This can be done only when maintenance of public order becomes impossibility without restricting the religious assemblies and processions. This ban cannot remain in force for more than two months hence the police should be able to control the communal disturbance within this time otherwise a fresh order shall have to be taken again. Curfew orders banning assembly of persons or appearance at a public place at a certain time" can also be issued by the Magistrate but a blanket order "Shoot at Sight" for violation a curfew order is clearly illegal as violation of an order under 144 Cr.P.C. is a minor offence u/s 188 IPC punishable with 6 months imprisonment only. "Shoot at Sight" orders are justified either on grounds of private defence of life or property u/s 100 103 IPC or to cause dispersal of an unlawful assembly which is likely to cause disturbance of public peace u/s 129 Cr.P.C. Hence, "Shoot at Sight" orders should not be passed generally but only when serious threat to life and property is apprehended to the degree of rights given u/s 100 & 103 IPC' 129 Cr.P.C.

c) Dispersal of unlawful assemblies u/s 129 Cr.P.C - In any communal riot, any

Executive Magistrate, Officer In charge in a Police Station in his absence any Police Officer not below the rank of Sub Inspector may command an unlawful assembly or any assembly of 5 or more persons likely to cause a disturbance of the public peace, to disperse and if such assembly does not obey, it can be dispersed by force including firing also. But for dispersal a minimum force, required should be used. Help can also be taken of Armed Forces u/s 130 Cr.P.C. under the orders of Executive Magistrate. Disobedience of this order for dispersal if not abided by any member of assembly is punishable **u/s 188 IPC**.

d) Preventive action including arrest u/s 149, 150 & 151 Cr.P.C. - U/s 149 of the Cr.P.C. every Police Officer is duty bound to the best of his ability to prevent commission of Cognizable offence. U/s 150 Cr.P.C. every Police Officer is duty bound to inform the S.H.O. or his immediate superior of any design of any person to commit a cognizable offence.

e) Preventive measures under respective Police Acts - Under such Act preventive detention order can be issued against persons who either by violent speeches or by organizing militant processions, demonstrations and activities of like nature try to disturb public order when communal tension is already going on. This action can be taken against the local bad characters who can flare up communal tensions. However, it is necessary that a disturbance of "Public Order" is not confused with "Law and Order". A person can be detained for trying to disturb "Public Order" but not for disturbing "Law & Order". An individual who might have committed a murder but if that murder does not disturb public order as a stray case, he can not be detained. Although the Courts do not relish the violation of personal liberty of individuals guaranteed under article 21 & 22 of the constitution, yet, in a number of decisions the courts have shown encouragement to preventive detentions for prevention of communal riots. Hence **u/s 151 Cr.P.C.** a Police Officer knowing a design to commit any cognizable offence may arrest," without warrant, any person so designing, if it appear to such police officer the commission of the offence cannot be otherwise prevented. As such preventive arrest u/s 151 Cr.P.C. can be done if a Police Officer has information about the design to commit a communal disturbance if he thinks that the offence can not be prevented except by way of arrest. It is worth while to mention that under this

provision arrest can not be made merely on the apprehension of breach of peace. It is required that the Officer arresting must know that the persons to be arrested is designing to commit a cognizable offence. However, it is well settled that apart from malafide, the correctness of the information or the opinion of the Police Officer, cannot be questioned in a Court of Law.

Forfeiture of Blasphemous Publications u/s 95 Cr.P.C.

237. Under this section State Government is entitled to forfeit blasphemous publications which have a tendency to promote communal disharmony or offend the religious sentiments of others and the offending material false within the mischief of Section 153-A or 153-B or 295-A IPC. It is essential to mention in the forfeiture order that religious-feelings of a particular class have been outraged or it promotes feelings of hatred between particular classes of citizens. In such publications, truth of the matter published is no defence yet the publication to be forfeited must be considered as a whole and isolated passages torn from the context should never be picked up to pass such order of forfeiture. It is decided that basic religious books like Koran, Ramayana, Gita and Bible can not be forfeited being sacred books. An object held sacred by a class of persons, with in the meaning of Section 295 Penal Code, no action should be taken.

Special Provisions u/s 153 -B

238. Under this section following acts are punishable:

1. Making of any imputation on the basis of religion, caste, community or group that a certain group does have not faith in the Constitution of India.
2. Making assertion or propaganda that on the basis of caste or religion any group is deprived of their rights.
3. Making or publishing any assertion plea or otherwise which is likely to cause feelings of enmity and hatred between members of different groups.
4. Committing above Acts in a place of worship. All the above acts from 1, 2, 3, are punishable with 3 years imprisonment while at 4 is punishable with 5 years imprisonment.

238.1 Offences under, section 153-A & 153-B are cognizable or non-cognizable but cognizance of the offences by the court can be taken only after previous sanction of the Central or State Govt.

Offences Relating to Religion Under Chapter 15 of IPC

239. Under this chapter sections 295 to 298 of the IPC deal with different offence relating to religion.

1. **Section 295** - Under this section injuring or defiling place of worship with intend to insult the religion of any class is punishable with 2 year imprisonment.
2. **Section 295-A** -This section provide punishment of 3 years of imprisonment to any person, who, by deliberate and malicious acts out rages religious feelings of any class by insulting its religion or religious beliefs. This is a special provision which is non-bailable and cognizable but challan can be put up only after getting permission from the Central and State Govt.
3. **Section 296** - This section punishes persons who cause disturbances to any assembly performing religious worship or ceremony.
4. **Section 297** - This section punishes person's trespassing on the burial places with intention to bind the feelings of other religion.
5. **Section 298** - This section punishes persons who utter words with deliberate intention to bound religious feelings.

II. Punitive Action :

In addition to the general offences of injury to human body, loss or destruction of public or private property by mischief or otherwise, punishable under the different sections of the Indian Penal Code, the following few provisions are important which, specifically relates to communal violence and breach of communal peace:

a) Offences against public tranquility Section 141 to 153 IPC

Section 141 defines unlawful assembly as assembly of 5 or more persons with a common object to overawe by criminal force any Central or State Govt., to resist any execution of any law, to commit any mischief trespass and other offence, to obtain possession of land by show of criminal force etc. Under Section 142 any person who joins that assembly, is declared to be member of that unlawful assembly and has been held punishable u/s 143, Joining unlawful assembly armed with deadly weapons is a serious offence u/s 144 and joining or continuing in unlawful assembly knowing that it has been commanded disperse,

is also a serious offence u/s 145. When force or violence is used by the unlawful assembly becomes a riot define u/s 146 and who ever is guilty of rioting, is punishable u/s 147 and if the rioting, is with arms is becomes a serious offence u/s 148 punishable with 3 years of imprisonment, u/s 149 every member of the unlawful assembly has been held liable for every offence committed in prosecution of that common object. Similarly hiring of persons to join unlawful assembly is punishable u/s 150 and joining such unlawful assembly after it has been commanded to disperse is an offence under 151 IPC.

b) Special provisions to punish promoting enmity between different communities

This is a special provision added to the Indian Penal Code by Criminal and Election Laws (Amendment) Act, 1969 for curbing promotion of disharmony between different groups on ground of religion, race, place of birth, residence, language, caste or community or any other ground, disharmony or feelings of enmity, hatred or ill will between different religious, social, language or regional groups for caste or communities, or, who, commits any act which is prejudicial to the maintenance of harmony between different groups and classes or organizes any exercise movement or activity for training to use criminal force against any group caste or community, shall be punishable with imprisonment for 3 years. Similarly any person who commits the above offences in a place of worship, performance or ceremony shall be punished with a higher punishment of 5 years imprisonment.

Terrorism, Bombs & Explosives

Introduction

240. Terrorist groups the world over have been increasingly relying on use of explosive devices to spread terror, coerce the people into submission and pressurize the governments to accept their unreasonable political demands. The increasing dependence of terrorists on explosive devices is not only because of their damage potential but also due to various other factors which include:

- i. Abundance of sources of explosives,
- ii. Ease with which explosive devices can be manufactured, transported, handled and fitted with variety of unsuspecting objects multiplying their potential manifold,
- iii. Difficulties faced by the security agencies in timely detection and diffusion of the bombs,
- iv. It is much safer for the terrorists to use explosive devices and cause severe damage/loss to the target without themselves suffering any loss since they need not be present physically within the effective zone,
- v. The psychological impact created by the explosion on the morale of the security forces and the public in general.

240.1 In India, most of the terrorist/militant/extremist groups are resorting to increasing use of explosive devices. Over the years the casualties among the security force personnel and even civilians have been increasing because of explosions carried out by the terrorist/extremist groups. All terrorist and extremist groups operating in the country have been making extensive use of explosive devices to target VIPs and security personnel and create panic. The police have a special and specific role, duty and responsibility to deal with terrorism issues and handle the incidents of bombs and explosives in this context.

Bomb Threats

241. The primary purpose of any bomb threat is to disrupt the normal activities of society, government or business. It may be directed toward a person, family, or a group for scare threat, terror, intimidation or revenge. A bomb threat may be a fake call or can be an actual

warning. A warning may be to cause only property damage and not human injuries or death. Warnings may be coded, which is often the practice of some known terrorist groups. Some warnings may contain more details and may as a matter of procedure validate the threat. This uncertainty or validity of any threat is required to be taken seriously, acted upon and not ignored.

Bomb Threat Searches

242. Search is the method to check the validity of the threat or otherwise. The most efficient and expeditious system for the occupants of the building is the search. The occupants are familiar with the building and know what does or does not belong inside. This is termed as "defensive search".

Communication of the Threat

243. Bombs threats can be communicated in a number of ways. These are generally communicated in one of three ways. The most common made is telephone. However, such threats may also be written or communicated verbally.

- (a) **Telephonic Communication** : Some of the characteristics of the telephone communication are : anonymity, remoteness and poor possibility of trace, voice recognition, and recording which provide scope for follow-up investigation.
- (b) **Written Communication** : The characteristic of written communication is that it provides documentation/ evidence, provides a sample for handwriting analysis and provides trace and origin possibilities for follow-up investigation.
- (c) **Verbal Communication** : Characteristic of verbal communication is that it provides person-to-person communication where conversation can be overheard or monitored and personal recognition or identification and/or voice identification is possible for follow-up investigation.

Procedures for receiving a bomb threat by telephone

244. A telephonic bomb threat should be received in the following manner :

1. Remain calm.
2. Have a covert signaling system, such as a coded buzzer signal to alert a second telephone receptionist to listen in on the call and/or record the call if equipped to do so.
3. Keep the caller on the line as long as possible.
4. Ask the caller to repeat the message.
5. Make a written record of every word the caller says that you can recall.
6. If the caller does not indicate the location of the bomb or the time it will detonate, ask for the information.
7. Inform the caller that the building is occupied and the detonation of a bomb could result in death or injury to many innocent people, then note his or her reaction.
8. Pay particular attention to peculiar background noises, such as motors running, background music, or any other noise.
9. Pay close attention to the caller's voice: i.e. is the caller male or female? is the voice calm or excited? does the caller have an accent? does the caller have a speech impediment?
10. Immediately after the caller hangs up, report the threat to the senior officers.
11. Complete the bomb threat checklist.
12. Remain available to speak with law enforcement personnel.
13. Forward notification of the bomb threat to the local police department and other appropriate agencies according to procedural guidelines.
14. Preserve any recording of the threat as evidence for law enforcement.

Types of Searches

245. Searches to be conducted as a follow up of bomb threat are following:

- A. **Counter Terrorist Search** include systematic procedures to locate any terrorist resource, including personnel, hides, munitions, weapons, documents, equipment, bombs, and booby traps
- B. **Defensive Search Operations** are those operations undertaken primarily to protect potential targets
- C. **Evidential Search** is the legitimate search of any person, building, conveyance, or area conducted in order to locate any person or item sought in the pursuance of criminal evidence
- D. **High Risk Search** - Counter terrorist search is classified high risk when a bomb or booby trap (explosive or otherwise) is present, or when there is special reason to

believe that a bomb or booby trap is present

E. **Low Risk Search** - Counter terrorist search is classified as low risk when a bomb or booby trap (explosive or otherwise) is not present or when there is no special reason to believe that a bomb booby trap is present

F. **Offensive Search Operations** are those operations undertaken primarily to gain evidence for prosecution, to deprive terrorists of their resources, and to gain intelligence

I. **Personal Search**

246. Suspected persons must be searched, because terrorists transport small arms and ammunition and other incriminating items concealed on their clothing or body. Items found are directly attributable, increasing the chances of a conviction and making this type of search is particularly important. Great care must be taken when carrying out a search of a person, as there is the inherent risk of alleged brutality, assault, or unethical acts. Furthermore, since most people searched are innocent, the police must search in a manner that demonstrates their professionalism and courtesy. These factors make it imperative that searches of people are only conducted in circumstances which can be legally carried out and which involve procedures that minimize the risk of accusations against the police. Searches must only be conducted in accordance with the law. Persons who conduct searches must be aware of the appropriate laws and approved practices.

Constraints of Personal Search

247. Principle constraints with regard to the search of persons are following:

- The search must be conducted by a person of the same sex, if possible. If it is not possible then minimize and confine the search to areas where weapons are likely to be concealed, explain to the arrestee the purpose of search and have a witness to observe. Use protective gloves during the search.
- Generally, the police cannot require a person to remove clothing in public other than an outer coat, jacket, or gloves. If the subject does not consent to the search and the search is out of the public eye, there may be authority to require the removal of outer clothing.
- Intimate body searches involving the internal examination of body orifices other than the mouth may only be carried out by licensed medical personnel after authority has been obtained.

- A search should only be conducted to the detail necessary to discover what is being sought.
- The level of detail within a search is dictated by what is being sought, legal justification, permissible extent of the removal of clothing and necessary intimacy of the search

Categories of Personal Search

248. There are four categories for searching persons. These are :

- i. Quick body search or frisk (in the public eye),
- ii. Detailed body search (out of the public eye),
- iii. Strip search (usually at a place of custody) and
- iv. intimate body search (by a medical practitioner).

i. Quick Body Search or Frisk

249. The quick body search generally called frisking should be carried out when dealing with a large number of people and a detailed body search is not warranted. As a preliminary to a detailed body search, when the immediate requirement is to detect anything which could be used to harm the searcher, the person being searched, or anyone else. As a preliminary to a detailed body search when the immediate requirement is to secure any evidential material which could be discarded or destroyed before the detailed search. If possible, such searchers should work in pairs, with one person doing the physical searching and the other observing the searcher, the subject and the surrounding area. Following precautions should be taken:

- The searcher should not stand directly in front or behind the subject to avoid being kicked, kneed, or head butted.
- The searcher should not be distracted or intimidated and should avoid eye contact with the subject
- The observer should watch for non-verbal communications, such as increased nervousness or tension.
- When weapons are being used, the searcher should avoid crossing the line of fire of a covering officer.
- Ideally the subject should stand with legs slightly apart and arms extended sideways. Avoid spread-eagling the subject against a wall. Later it may be necessary to swab the subjects hands for explosive traces, and no opportunity should be given for any remains or residue to be rubbed off.

- The search should be conducted quickly in a systematic manner from head to foot, down one side and up the other, covering all parts of the body, front and back, or by dividing the body into quadrants.
- Attention should be paid to pockets and waist bands where weapons may be concealed. Care must also be taken to search quickly all external body depressions, such as the small of the back, armpits, crotch areas, chest, and closed hands.
- The searcher should never palpate the subject, but use a stroking squeezing movement and thus feel for foreign objects through clothing.
- When searching limbs, both hands are used with thumbs and index fingers touching where practical.
- Any baggage or removed clothing attributable to the subject must also be searched. Such items should be treated with respect.
- The use of equipment, such as hand and archway metal detectors or explosive and baggage x-ray machines, can be of assistance, especially at times when processing large numbers of people at access control points.

ii. Detailed Body Search

250. A detailed body search is normally carried out when there are reasonable grounds for suspecting that the subject is in possession of illegal items. This search would normally be conducted out of public view; however, the search must be conducted at or nearby the place where the person is first detained. A detailed body search should be conducted using the same procedure as the quick body search but with the addition of the following points:

- Establish the identity of the subject and the ownership of any baggage and other articles.
- Ideally the search should be conducted out of the public eye. The details of the search depend upon the amount of suspicion and the time available.
- Invite the subject to empty all pocket and remove all items and paper being carried.
- If it is necessary to remove clothing, the subject may do so voluntarily (this fact should be recorded), or you may require the removal of certain items in or out of the public eye. Typically, in the public eye, only the outer coat, jacket, gloves and hat should be removed. Out of the public eye, there may be grounds to remove other outer clothing, also.
- When conducting the search, pay attention to every detail, particularly clothing

seams, waist bands, belts, collars, lapels, padding, cuffs, and rolled up shirts, pants, etc. Socks and shoes provide easily missed hiding places. Areas such as the groin, small of the back, chest, and thick hair are also commonly missed areas, especially on females. Medical dressings are always suspected, and medical personnel should be called to examine dressings and plaster cast if thought necessary. Information from clothing, such as name tags, manufacture's labels, and laundry marks can be valuable.

- Unless there is some future interview advantage in doing so, no emotion should be shown upon finding articles, and significant articles should not be set aside from others unless they are weapons or evidence. All items should be saved out of reach of the subject.

iii. Strip Search

(a) A strip search is a search involving the removal of more than outer clothing. A strip search may take place if it is necessary to remove an article which a person would not be allowed to keep, and the officer reasonably considers that the person might have concealed such an article. Generally, strip searches are not routinely carried out where there is no reason to consider that articles have been concealed. The procedure for the strip search is similar in principle to the searches outlined above. The following additional points apply:

- A strip search shall be conducted as quickly as possible.
- The search should be conducted by a police officer of the same sex as the person being searched.
- The area where the person is searched cannot be seen by anyone who does not need to be present or by a member of the opposite sex (except an appropriate adult requested by the person being searched).
- Except in cases of urgency, where there is risk of serious harm to the person detained or to others, whenever a strip search involves exposure of intimate parts of the body, there must be at least two people present other than the person being searched.
- The search shall be conducted with proper regard to the sensitivity and vulnerability of the person. Embarrassment

should be minimized.

- Where necessary to assist the search, the person may be required to hold their arms in the air or stand with their legs apart so that a visual examination may be made of the genital and anal areas, provided no physical contact is made with an intimate area.
- If articles are found during the search, the person shall be asked to hand them over.

(b) The clothing should be carefully examined when it is removed. However, if there is the slightest possibility that the clothing may have forensic value (explosive traces, fiber evidence, etc.), it should be immediately preserved and sent for examination. Care must be taken to avoid any possible contamination of items of forensic evidential value.

iv. Intimate Body Search

251. Body orifices other than the mouth may be searched only with proper authority if:

- a) An article or potential weapon which could cause physical injury to the detained person, the officer, or others has been concealed; or
- b) The person has concealed a Class A drug which he/she intended to supply to another person; and
- c) In either case, an intimate search is the only practical means of removing the article or drug. The procedure for an intimate body search is similar to the searches outlined above.

The following additional points apply:

- The reason why an intimate search is considered necessary shall be explained to the person before the search takes place.
- The search may only be carried out by licensed or authorized medical personnel.
- Search under (a) above may only take place at a hospital, surgery, other medical premises, or police station.
- Search under (b) may take place only at a hospital, surgery, or other medical premises.

II. Building Search

252. The nature and focus of the building search should depend on the evaluation of the threat. If the building has to be subjected to extensive search it should first be evacuated. Although several things are to be considered in evacuation, the officer responding to call should contact the concerned officer-in-charge of the place and advise him that the location should be evacuated, complete evacuation may not be necessary.

Evacuation Precautions

253. Most bombs are located on the outside of a building, near the entrance or on the first floor or at the place of actual function. Hence while evacuating; the occupant would be passing by the best possible location of a bomb. The occupants, therefore, may be placed in greater jeopardy while they are leaving than if they stayed where they were. Hence evacuation of the building or function site may not be always time considered the best procedure. Decision by the search officer should be taken after assessing the situation.

Evacuation Instructions

254. Following guidelines may be followed when a decision has been taken to evacuate a building or place where a function is to be held :-

- a) Ask the occupants to walk out of the building in a quiet manner. Don't run.
- b) People should go to safe areas and wait for instructions.
- c) Do not use elevators/lifts/conveyors.
- d) Follow instructions from guides.
- e) Open all windows/doors.
- f) Carry all personal belongings.
- g) Do not leave safe area until told.
- h) Help ladies, old people and children.
- i) Cut off gas and electric supply before leaving.
- j) Do not obstruct passage of security/bomb search personnel.
- k) Do not spread rumours in assembly or safe area to cause panic.

254.1 Standard building searches will vary according to the type and dimension of the search. Teams may be increased or diminished in size by varying the numbers of search pairs, as appropriate to the task, but technique should remain the same. Where there are real

suspicions that a premise is or has been used by terrorists, consideration must be given to the priorities of entering and searching such a building. First consideration should be toward danger, whether from occupants or whatever they may have left. Second, every effort must be made to retain all possible forensic evidence. Third, systematic search should ensure that nothing of relevance remains hidden.

Building Search Procedure

255. Standard building search procedures can be considered in four phases :-

- A. Planning
- B. Entry
- C. Search
- D. Exit

A. Planning

256. The following points are particularly relevant to standard building search procedure and should be considered for inclusion in operation orders and briefings:

- ❖ Address and precise location of the building;
- ❖ Building description, including identification, structural details, out buildings and garages, and plans if available
- ❖ Details of previous searches at the same or nearby addresses
- ❖ Surrounding area environment and local mood
- ❖ Details of occupants and owners - numbers, gender, age, previous convictions, violent tendencies, health, employment
- ❖ People likely to be in the building at the time of the search
- ❖ Occupants' vehicles - type, color, location
- ❖ Dogs or dangerous animals present which may require a specialist
- ❖ Authority to search (warrant)
- ❖ Probable point and method of entry
- ❖ Timings - briefings, cordon placement, first and last light, entry and expected completion (A small dwelling house may take at least four : hours to search.)
- ❖ Search manpower - ensure sufficient personnel to deal with the anticipated occupants and carry out the search.
- ❖ Cordon manpower

- ❖ Communication - channels (restricted and scrambled preferred), call signs, and code words
- ❖ Other agencies - explosive search dogs, photographer, female searchers, entry team, investigating officers, evidence collection officer, and support personnel
- ❖ Equipment requirements - search kits, ladders, optical equipment, Polaroid camera, pocket tape recorder, and refreshments
- ❖ Transport - quantity, type (covert), security
- ❖ Documentation - search records, inventory lists, copy of warrant, etc.
- ❖ Clothing - appropriate to type and nature of search and weather, including soft shoes, masks, disposable gloves and coveralls to avoid contamination of evidence

B. Entry

257. Following guidelines should be followed when entering a building to conduct a search:

- It may be necessary for a cordon to be positioned prior to the start of the search to prevent the escape of suspects from the search area, witness any attempts to dispose of evidence, and ensure the security of the search team.
- If the search is linked to the investigation of terrorism, police officers should only be referred to by number and not by name especially within the hearing of suspects.
- It is frequently necessary to enter the building rapidly in order to catch persons in physical possession or to prevent them from disposing of evidence. For example, suspects may flush evidence down the toilet in some cases, it may be necessary to monitor all waste water and sewage systems from buildings prior to entry by the search teams.
- After briefing and before entering the building or search area, the search pairs are allocated their initial areas of responsibility,
- Enter the building with a minimum of disturbance. Maintain strict control of occupants and police personnel during the early stages of any search to counteract tension and confusion. Tension and confusion can be minimized by good planning, thorough briefing, and regular training.
- Each search pair moves quickly through its area, locating any occupants.
- All keys are handed to and retained by the scribe until the conclusion of the search.
- If there are clear indications that a building, room, or area requires a detailed forensic examination (for example, it is the scene of a violent crime or illegal manufacture),

the forensic examination must be completed prior to the search.

Preparation for building search

258. When preparing to conduct the search, following guidelines should be observed:

- Before the search commences, the occupants should accompany the team leader and recorder throughout the premises to conduct a check of damage existing prior to the search. The details are noted on the Search Report.
- It may be appropriate for a photograph or video to be taken of the damage.
- When the check for damage is complete, the occupant is invited to sign the Search Report, agreeing to what has been recorded.
- Simultaneously the check is being conducted, a sketch plan of the building and rooms should be drawn by the recorder, ensuring that each room and area are allocated a unique identifier, such as kitchen, bathroom, bedroom 1, bedroom 2, etc.
- Gas, water and electricity meters should be read, particularly if the search is likely to take a number of days. Such information can then be available to counter any exorbitant claim made for the use of these facilities while police are in occupation.
- Computers should not be touched, as any action can cause evidence in them to be destroyed. If found switched on, then leave it switched on. If found switched off then leave it switched off. Deny access to them by the occupants and employ specialists to retrieve information.
- Search pairs are allocated rooms to search systematically. It is advisable to search the kitchen and toilet early in the search, to enable use by both occupants and police.
- During the planning and briefing for the search, decide whether to allow the occupants or person responsible for the property found in a specific area, to be present in or near the room as it is searched so that finds may be witnessed as they are made. Such action may interfere with the effectiveness of the search and slow it down; however, their presence and reaction at the time of the find may strengthen evidence given later.
- In counter terrorist operations, where the search may well be part of a number of searches, the investigating team must decide and brief on what the search team requires.

III. Systematic Search

259. A systematic search is the heart of the operation. Searching of the whole building and identified areas must be done systematically so as to ensure that nothing is missed. Search pairs are tasked progressively by the team leader, and the recorder completes the search record detailing who did what, where, and when. Detailed documentation is essential to ensure that the correct procedures are followed and that nothing is missed. The following procedure is recommended for searching a room and using any search equipment that may be required :

- Stand at the door, look, and listen.
- Identify to the Team Leader all visually obvious and relevant items so that they can be recovered and documented by the Evidence Collection Officer.
- Complete visual/no touch search of the room for anything obvious. As a pair, search all furniture, using a "no damage" marking system, such as removable stickers or chalk, to record progress. Move all furniture into one half of the room. Consider the run of the floor boards so that complete lengths can be lifted if necessary. As a pair, closely search the floor, walls, ceilings, and fixtures in the cleared half of the room. Examination of the floor may determine the necessity of lifting the floorboard and covering. If so, use correct methods and equipment to minimize damage. Walls should be checked from floor to ceiling, working around the room from a chosen point, perhaps from the doorway. Do not forget the door and frame. The ceiling and walls should be checked for height and width against neighboring rooms to ensure there are no false cavities.

(a) **Room Search**

260. When searching rooms, check the following :-

- Doors (Take off the hinges. Is the door hollow?)
- Furniture and interior fittings
- Walls and air vents
- Windows (especially sash type) and outside ledges
- Fireplaces and chimneys
- Ceilings (compare ceilings from different rooms)
- Floor coverings and floor (particularly loose floorboards)
- Lights and fixtures when searching bathrooms, check the following :
 - Drain pipes (extra)
 - Panel surrounding the bath tub or shower

- Shower curtain rods
- Behind and under the bath if possible
- Toilet and water tank
- Hot water system
- Mirrors and towel racks
- Examination panels
- Recently tiled, disturbed, or mismatched areas.

(b) Search of Stairways

261. When searching stairways, check the following :-

- * Staircase frame
- * Panels
- * Step and riser treads
- * Boxed and hollow woodwork

(c) Search of Attics

262. When searching attics, check the following :

- ✓ Roof void and skylights
- ✓ Between eaves and roofing
- ✓ Water tanks and pipe work, including gutters
- ✓ Rafters and any insulation, such as felt or beads

(d) Search of Kitchen

263. When searching kitchens, check the following :-

- ✚ Refrigerators, stoves, and other appliances (Switch off power supply before moving)
- ✚ Food containers, pots, etc. (Tip the contents out into Polyurethane bags, and then replace them in the original containers.)

(e) Other Searching Areas :

- All tubular systems
- False letter boxes
- Crib and children's toys
- Air inlet systems
- Sewers and drainage systems
- Outside areas, including vehicles, garages, and outbuildings

- Electricity boxes
- Televisions and other electrical devices
- External fittings, such as gutters, pipes, and window boxes
- Outbuildways, garages, vehicles

264. After a room has been searched, it must be left in its original state. Any damage caused must be reported to the Team Leader and recorded on the Search Record. Photograph and video may be appropriate.

General Precautions

265. Searchers must always use their eyes, think three-dimensionally, and consider any voids within closed spaces. Remember that hidden items may be more than arms length away. Look as well as feel. Persons secreting articles may "mask" them by using rubbish, dirty washing, used sanitary napkins, or diapers to discourage the searcher from detailed examination. Minimize damage by the correct choice and use of tools and search equipment. Work closely as a pair and monitor each others actions. For example, search one piece of furniture together. Talk to each other to maintain motivation and system.

IV. Area Search

266. Open areas are often used as the sites for hiding places, as they have the advantage that they can be watched from nearby houses without being attributable to individuals. Although normally associated with a rural environment, open spaces occur in an urban setting in the form of parks and gardens or vacant ground. Therefore, the areas to be searched may vary from the side of hill to a back garden.

(a) Planning

267. Area searches are especially dependent upon good planning for success. The following points are particularly relevant to the planning and conduct of an area search. Where appropriate, these points should be re-evaluated as the search progresses.

- Indicate the center of the search area by a lot number or grid reference, with an address if possible.
- Obtain the identity of the owner or tenant of the land.
- Information gained from aerial photographs, even if only library material is valuable.

An analysis should identify the most likely hide locations.

- Air reconnaissance may be useful, but care must be taken to avoid giving advanced warning to the terrorist. Obtain details of suspected terrorists and sympathizers in the area.
- Search dogs can cover large areas more quickly than men. Prioritize the use of available dogs.
- Divide the total area into sub-areas. The searching of sub-areas by individual search teams requires care. Inclusive and exclusive boundaries must be clearly defined and should be marked by obvious features, such as hedges and ditches. Each team area should be searched in one day.
- Identify the location of the main incident control point.

(b) Hide Locations

268. An appreciation of the needs of the terrorists helps in identifying likely hide locations. These vary with the situation and the type of hide being sought, but common points include:

- Case and speed of access
- Proximity to a road or track
- Base of locating the hide

268.1 The location of the hide includes the general area, which must be easily identifiable, such as a small hedgerow or building. The precise location of the hide may be marked in some fashion. This applies particularly to temporary hides. The markers may be artificial, such as a painted fence post, but are usually some natural landmark that is identifiable at night. Examples of terrorist markers include:

- A distinctive tree in the corner of a field
- A lone tree in the center of a hedgerow
- A gap in a hedge
- A telegraph pole in a hedge
- Any distinct natural object or set of objects
- Case of access into the hide itself
- Concealment and camouflage

268.2 The terrorist does not want to be seen when actually using the hide. Therefore, it is likely to be in dead ground, although the general area may be observed by a sympathizer. The

surroundings of the hide must provide natural camouflage and concealment. It should provide proximity to terrorist's route to or from targets. A terrorist's local knowledge may obviate the need for markers. Searchers should be suspicious of anything out of place, such as worn patches of grass, broken twigs, footprints, etc. Use aerial photography to identify recent digging or the disturbance of the normal pattern of plant growth.

268.3 The search of areas is normally conducted on the principle that the most likely locations for hides are searched first, including team individual control power, boundary, primary search points and other vital points. The team commander must always ensure that the whole area is searched. Searchers must remember to look up as well as down. Even if a find is made, they must carry on searching, as there may be other hides in the vicinity.

V. Route Search

269. Route search is a defensive search operation carried out on both urban and rural routes that are to be used by a person subject to protective measures. Routes include roads, tracks, railways, and waterways. They provide obvious locations for the terrorists to stage ambushes. The likely methods and locations of a terrorist attack must be given special consideration when planning and throughout the execution of the route search operations.

Ambush Weapons

270. From a search viewpoint, the main threat is that of an improvised explosive device used as an ambush weapon against the target. Improvised explosive devices used as an ambush weapon, which can be anti personnel or claymore type, blast or fragmentation bombs, culvert bombs or direct the weapons. All these devices require some device of initiation, radio control, projectile control etc.

Terrorist Considerations

271. A terrorist will attack his target where it is particularly advantageous. The target is always at greater risk when he has to slow or stop due to traffic lights, road junctions, sharp bends, narrow roads, and other impediments. These positions are known as vulnerable points. Examples of vulnerable points are: Culverts, bridges, high banked stretches of route, routes dominated by high ground (possible firing points), junctions, isolated buildings and walls near the route, and parked vehicles etc.

The choice of a vulnerable point is influenced by

Route Search Methods

272. The following consideration should be taken by police when determining the best search method:

- Type of route-urban, rural, or channeled
- Predictability of target
- Movements known
- Route used more than once
- Publicity
- Threat assessment
- Level of protection

272.1 The three search methods are:

- ❖ Full route search
- ❖ Vulnerable point search
- ❖ Search and seal followed by visual search.

VI. Vehicle Search

273. Vehicles are searched for three reasons:

- To find terrorist resources while they are in transit
- To deter the movement of terrorist resources
- To detect the movement of criminal resources

273.1 Vehicle search covers a very broad field, from bicycles to ships and aircraft. This concentrates on the most common- the car - but the principles involved embrace all forms of transport, although the more complex, such as aircraft, may require special planning and assistance.

273.2 Terrorists and criminals may try to avoid being searched and may be working in liaison with others. Signs of such behaviour may include signaling to the following vehicle, such as flashing brake lights or using radio and movement of the pedestrians who may have left vehicles just before the check point.

Initial Impressions

274. The initial impressions created by a vehicle and its occupants may give a good guide to their integrity. The search may have come as a surprise and their apprehension may be at its height. It is important that the search procedure should not given them time to compose themselves. When forming an initial impression, follow the guidelines below:

- Look at the faces of the driver and passengers. Are they relaxed and normal, or tense and nervous?
 - Beware of the over police, apparently "pro police" persons. Nobody likes being delayed.
 - Look for anything suspicious or out of place like
 - I.Driver wearing gloves (he or she may be trying not to leave fingerprints)
 - II.Vehicles with "out of place" occupants
 - III.Vehicles with open windows on cold days or strong smells of scent or excessive smoking (Are they trying to disperse or cover the smell of explosives?)
 - IV.Vehicle which appears overloaded (down on rear axle). It could be a large vehicle bomb.
-
- Look at the door and window catches. Broken catches may indicate forced entry.
 - Tell the driver to switch off the engine while you are talking to him. If the ignition has been short circuited in order to steal the car, he or she will be unable to comply.
 - Look at the ignition key. Most drivers have their keys on a ring or medallion. Be suspicious of a single key in the ignition switch.
 - Ask the driver to estimate the contents of the trunk and describe where the spare wheel is stowed. Watch to see if he or she can open the trunk with the correct key.
 - Request the driver to open the hood. He or she should know where the release is situated.
 - If a radio is fitted, turn it on to make sure it is not tuned into a police frequency.
 - Ask the driver to operate the accessories, such as the windshield wiper, lights, etc.
 - Cross check the age of the vehicle, as shown on documents, with marking on the vehicle.
 - Always verify doubtful answers with a check of registration and warrants, but remember

that it is not infallible. The terrorist may steal or hijack a car from a person who cannot or dare not report the theft, or it may be so recently stolen that it has not yet been reported.

- Always be aware that if the occupants are terrorists, they may be armed and traveling in escort with others in another vehicle.

274.1 In all vehicle searches, a suspicious and inquisitive mind is required, in particular to check all welding and bodywork repairs, suspect unnaturally clean or dirty areas, follow pipes and ducts from one compartment to the next, to remain aware of false compartments to check the internal and external dimensions.

274.2 Searchers must be courteous, efficient, thorough, and quick. They must not refrain from searching the interior of vehicles due to the presence of children and babies, pets, old people, young ladies, or apparently sick or drunk persons. If necessary, special assistance must be called.

Conducting Vehicle Searches

275. Procedure for vehicle search is following:-

1. Ask the drivers and passengers to dismount from the vehicle with their possessions.
2. Search all occupants with their possessions.
3. Allow a search (drugs or explosives detections) dog, if available, to search the vehicle. The search pair then starts with the interior search.
4. Search the vehicle. The owner or driver may watch the whole operation. Any change in demeanor should be noted.

275.1 For all vehicle searches, the vehicle should be divided into the five areas listed below for the search:

- Interior of the vehicle
- Exterior of the vehicle
- Trunk or cargo area
- Engine compartment
- Underside of the vehicle

Searching the Interior of the Vehicle

276. Check the following parts of the interior of the vehicle:

(a) **Roof lining**

- Gain access by removing door sealing strips or trim.
- Check sun visors.
- Check front, rear, and center window.
- Check door pillars.

(b) **Door panels**

- Lower the window first. Can you search without removing the trim? Avoid damage to spring clips and other parts.
- Check that the windows and doors open easily and completely.
- Check the rear side panel (two door vehicles)
- Remove and check through the trunk.

(c) **Back seat**

- Check the cushion - some spring in some bolted in
- Check the back rest

(d) **Front seats**

- Look for easy stow under seat.
- Check inside padding and under seat.
- Are the front seats bolted to a hollow cross member?

(e) **Dashboard area**

- Be careful of wiring and other components.
- Check behind dashboard panels.
- Check ventilation and heater hoses.
- Check radio and speakers.
- Check behind and above the glove box.
- Check the contents of the ashtray and beneath the ashtray
- Check the center tunnel console.

(f) **Front foot wells**

Remove panels and check access to wing space and door seals.

(g) **Floor**

- Remove carpets and mats.
- Check for signs of false floor, such as welding or mastic.
- Check drain holes.

(h) **Recreational vehicles (RVs) are ideal for smuggling, since they are double-skinned vehicles.**

- Check for access to space between the skins.
- Do the timber panels look unusually thick?
- Check domestic fittings.
- Does the refrigerators work, and is the insulation intact.
- Does the water tank contain water?
- Is the toilet system functioning correctly?

Searching the Exterior of the Vehicle

277. When searching the outside, search the top and sides of the vehicle, starting at the rear, with one searcher on either side or finish at the front of the vehicle. Areas of particular attention are listed below:

- Check headlights, sidelights, and rear lights.
- Check behind bumpers.
- Check wheel trims and hubs. Check tire pressures. Bleed a small amount of air and smell the air.
- Examine under wheel wells and bolt-on mud flaps.
- Check for signs of welding, new under seat (soft), and tampering with bolts on mud flaps.
- Does the shape of inner and outer fenders agree?
- Take an oblique look at the bodywork and roof for signs of adaption.
- Check the front and rear panel and spoilers.
- Check for different shades of paint.

(a) Searching the Trunk or Cargo Area

278. This is done by the clean pair. Before they start the search, they should stand back and look at the contents. Do they match the driver's story? Is there any glue, mastic under seal, or pop rivets?

278.1 The search pair should search all contents, including the spare wheel, before removal of items from the trunk or load carrying area. Once searched, these items should be placed to one side. The search pair then searches the compartment as a pair, from the rear of the rear seats to the number plate, top to bottom. Once the search is complete, the searchers should replace everything. Areas of particular attention are listed below:

- Check the spare wheel.
- Is there any new welding, mastic, or new paint?
- Are there any stuck down carpets?
- Check the space in the wings.
- Check the tailgate
- Check the fuel tank. Is it spare or false? Does the tank match the vehicle, age, etc? A mechanic will be required to drain the tank.

(b) Searching the Engine Compartment

279. This is a difficult area to search. A good idea is to use searchers who have a good knowledge of engines. Areas to check include:

- Under battery tray
- Windshield washer bottle
- Heater and ventilation hoses and vents
- Heater and ventilation motor
- Air filter
- Hood double skin and soundproofing
- Volkswagen Van-heat shield. Checking anything more is a mechanic's job.

(c) Searching the Underside

280. To search the outside skin of a vehicle, the pair should start shoulder to shoulder at the front or rear license plate. One works the offside and the other the nearside.

Areas of particular attention are:

- Behind license plates
- Light clusters
- Bumpers
- Mirrors

- Drain holes and seals
- Welding/new undersea!
- Exhaust system - false section
- Oil pan
- Wheel wells

(d) Additional procedures for a Counter Terrorist Search

281. Specialist equipment may be available for use on search of vehicles, including explosive vapour detectors and mass/density anomaly detectors. Use of this equipment must always accord with manufacturer's instructions by trained operators. When searching searchers must be careful not to damage the vehicle. Common sense must be used. Although small, bicycles and motorcycles should not be ignored. They are a quiet and fast way of carrying small quantities of terrorist resources and may even contain the bomb itself. Bicycles have been used for major terrorist strikes by LTTE in Sri Lanka including for killing President Premadasa. Motorcycles and scooters have been used by Sikh terrorists on a number of occasions in India.

281.1 Points of check include:

- Light and bell
- Pump under the seat
- Tubular frame
- Fuel tank
- Underneath the machine

Search of commercial vehicles

282. The vehicle may not be owned by the driver. If the vehicle is part of a large fleet, it is likely to be inspected and maintained by persons other than the driver to make any modifications to the vehicle to form a hide without being discovered. However, if the driver is the owner or if the vehicle is part of a small company where all the employees are in the conspiracy, it could have been extensively and skillfully modified to form hiding places.

(a) Driver as Suspect

283. If the driver alone is under suspicion, he or she has to collect and deliver the illicit

goods without the vehicle owner's knowledge. Therefore, collection and delivery have to be completed quickly, and concealment is likely to be in a readily accessible place.

(b) Goods

284. The goods may have no connection with the owner or driver of the vehicle. They may only have the information contained on the consignment documentation. The searching of a vehicle's load at other than its destination can present any problems, such as customs, sealing, handling (especially when hazardous cargoes are involved), and deterioration of cargo (refrigerated loads). The use of cross loading techniques may be required.

(c) Passengers

285. The following points should be kept in mind when searching passenger carriers:

- Passengers are unlikely to be associated; therefore, they must all be individually questioned and searched.
- The majority of passengers are probably innocent and their patience is likely to be severely strained by a lengthy search.
- Movement of passengers must be strictly controlled so that they can be associated with their baggage and seats. The whole of the vehicle being searched must be dominated to prevent unauthorized movement of passengers and incriminating material being dumped. A Polaroid photograph, taken as soon as possible after the vehicle is stopped, may help in relating passengers to positions and luggage.

Point of Interest

286. Points of interest on a commercial vehicle are described below:

(a) Fifth Wheel

287. Most trailers are constructed in such a way that there is a hollow compartment above the articulated joint where the trailer is connected to the tractor unit. This joint is commonly known as the fifth wheel. Access may sometimes be gained underneath the trailer and can be checked with a light and mirror. Fiber-optic instruments have been able to get into most of the fifth wheel spaces. They are simple to use and more versatile than a light and mirror. In some cases, the only way into the compartment is to remove the floorboards inside the trailer, which are usually held down by two screws at each end. The spare wheel can be used as a

place of concealment and is unusually mounted under the trailer. Positions may vary.

(b) Fuel Tanks and Side Lockers

288. Some trailers are fitted with belly tanks for extended range. There is usually a space between the top of the tank and the floor of the trailer. Items can be attached to the top of the tank. Also check the tank for recent welds or bolted panels. Similarly, there is often a space between the back of the side lockers and the chassis number on which they are mounted.

(c) Chassis cross-numbers

289. Most trailers are constructed with two "U" section girders running the whole length. A large hide can be constructed by placing boards on the reverse ledges, bridging the gap between the girders. In addition, battery boxes, crash bar bumpers, open trailers, cab linings, air filters, false floors or roofs should also be searched carefully.

289.1 Such searches tend to be complex operations with a number of features which differentiate them from other search operations. Therefore, special planning and control procedures have been developed for them. Some of these procedures may also be applied to other large defensive search operations. The Site Coordinator (or a number of site coordinators if there are different sites to be searched) will be designated as responsible for the search operations.

VII. Venue Search

290. A venue search is a defensive search operation mounted to assist in providing a safe environment for an event or visit to take place. It forms part of the overall security operation, which is controlled by the Security Coordinator. Such searches tend to be complex operations with a number of features which differentiate them from other search operations. Therefore, special planning and control procedures have been developed for them. Some of these procedures may also be applied to other large defensive search operations. The Site Coordinator (or a number of site coordinators if there are different sites to be searched) will be designated as responsible for the search operation.

(a) Search Teams

291. Many of the issues involved in the planning phase will not involve searchers; however,

it is likely that team leaders will be involved in initial site survey and will hopefully be given the opportunity for a familiarization tour or walk through before the search operation. A venue search operation may cover the following:

- The venue
- Routes to and from the venue
- Vehicle control and search points
- Adjacent buildings
- Surrounding areas
- Contingency plans (safe house/alternative venues and routes/evacuation areas)
- A number of issues may effect the operation, including time, manpower, costs, and commercial interest. Political acceptability may even be a consideration.

(b) Planning

292. The leads times for planning can be very short, especially for events given little or no prior publicity. For public events involving multi-agency activity, a minimum planning period of eight weeks is not unusual extending up to a year for major planned national or international events.

(c) Sectorization

293. Once the task is defined, it must be matched to the time and resources available. To assist in this part of the planning and the subsequent organization and control of the operations, it is usual to divide the overall location to be searched into a number of sectors, which conform to natural boundaries in the location, such as the floors of a building or possibly a wing of the building.

293.1 The sectors are normally designated alphabetically by a single letter starting at the lowest level. The sectors are then sub-divided into sub-sectors; typically a room each sub-sectors becomes an individual search task. The sub-sectors are designated numerically starting at the same end of each floor/sector level; thus each sub-sector has a unique reference number, e.g. F/12. The sector and sub-sector boundaries are marked on the map of building plan. The sector and sub-sector marking code must be logical so that it can be followed in outline without reference to map or plan.

(d) Building Vulnerability

294. Search teams of all types should be matched to task which best suit their expertise and equipment, with the most proficient being employed in the most vulnerable areas. The venue can be divided into colored zones - red, amber, green - these being used as a flexible planning aid. Search teams will not normally be told whether the area they are searching is red, amber or green. This is to prevent complacency; however, as you become more experienced, it will not be difficult for you to appreciate the color of the area you are in.

Conduct of search Operations

295. The search operation can be divided into three parts:

- A. Pre-searches
- B. Main phase
- C. Isolation and maintenance of sterility

(A). Pre-searches

296. Pre-searches are conducted before the main search normally to save time and resources during the main search. If appropriate, the following pre-searches may be conducted:

- Pre-search and seal
- Explosive vapour pre-search

Pre-search and seal

297. Some areas may be able to be searched well before the vent and then sealed to indicate that access is prohibited and to detect illegal access. This type of search is particularly useful for searching areas such as plants rooms and services ducts, which require very detailed work by a few searchers over a long period. Other suitable areas may include storerooms, vending machines, fire extinguishers, street furniture, underground area, and roof voids. The effectiveness of the pre search and seal is totally dependant upon the integrity of the sealing. It requires the provision and control of suitable seals. Seals should be uniquely identifiable, tamper evident, and unobtrusive. Many types are available. The selection of the seal and its emplacement must ensure that it is effective, allows for easy checking, and discourages vandalism. Once in place, seals must be regularly checked as part of the overall security plan. If seals are found to be broken without a valid reason, the area must be searched again.

Explosive Vapour Pre-search

298. An explosive vapour pre-search may be conducted a day or so before the main search with equipment or dogs that detect explosive vapour. The purpose of this search is to obtain a vapour profile of the venue in order to:

- Locate and eliminate any spurious vapour readings.
- Identify any vapour problem areas, which can be investigated as a matter of priority during the main search phase.
- Conduct all mechanical vapour sampling prior to the use of search dogs, as dogs and their handlers are often contaminated with explosive vapour, which can cause false readings with detection equipment.
- Reduce the effects of long warm up times and equipment failures during the main search phase.

298.1 The use of explosive vapour pre-search must be balanced against the likelihood of a device being planted between it and the main search. The alternative is to conduct the explosive vapour search as the first element of the main search.

(B). Main Phase

299. The bulk of searching is carried out during this phase, which should be conducted in as short a time as possible before the start of the event to reduce the chances of terrorist resources being introduced after the search, and to reduce the cordon commitment and other costs. Two types of searches conducted during this phase are the Main Search and the Re-task Search.

(a) Main search

300. The main search involves the searching of the venue sub-sector by sub-sector by search teams using the procedures previously described. The efficiency with which the main search is conducted is dependant upon:

(b) The command, control, and administrative systems

301. These systems must be established before the main body of search teams arrives on site. These systems determine the early searching and securing of predictable evacuation areas. They also determine search cell location and rooms intended for equipment storage and

resting prior to the deployment of the main body of search manpower. Any areas that are searched in advance must be secured either by way of police cordoning or by sealing.

(c) Access Control

302. The object of access control is to ensure that no terrorist resources are introduced into the venue after it has been searched and to allow the searchers to work without distractions. Therefore, once the search of an area starts, it must be cordoned and all personnel and material entering it must be accredited and searched. Ideally the whole venue should be cordoned and evacuated before the search starts and no one admitted, except search personnel, until the search is complete. In practice, it is normally only practical to exclude people from actual areas being searched and the cordon expands as the search progresses. This is known as "ballooning" a search. Separate security personnel (police officers) should be employed on cordons. Searchers cannot effectively both search and cordon.

(d) Re tasking

303. If a search team is unable to complete a specific search task due to access being unattainable, equipment malfunctioning, etc., then it is normally more efficient to use the re-task procedure rather than have the team wait.

303.1 The search record referring to the incomplete sub-sector is marked as requiring a re-task search, with a brief explanation of the reasons, and the search team moves on their next task.

303.2 The search cell staff, on checking the search record, notes the incomplete sub-sector, records it on the search bags, and re-tasks a team to search it when the difficulties have been overcome. If possible, the original team should be re-tasked to complete the search.

(C). Isolation and maintenance of Sterility

304. The location must be isolated and areas searched kept sterile from the time the main search starts until the end of the vent. This entails:

- Establishing of a cordon and access control points where personnel and vehicles that have a legitimate reason for entering are searched.
- If necessary, conducting maintenance searches (detailed below) within the area that has been searched to confirm that it remains sterile.

- Retaining sufficient search personnel on site to deal with any contingencies during the vent, such as response to a threat call or change of event plan.

Maintenance Searches

305. There may be a need to carry out further searches after the main search has been completed to ensure that the area remains clear. These are known as maintenance searches and are particularly relevant where confidence in the access control system is not high. Maintenance searches are not normally required. As an example, maintenance searches may be carried out on a daily basis or before a session is reconvened after a break. There must be close liaison between those who carried out the initial search and those doing the maintenance search for local knowledge and to ensure that an object discounted during initial search does not cause alarm during the later search. If possible, such items should be removed when first discovered.

Exit

306. The exit procedure at the end of the search is equally as important as the entry. The exit procedure is outlined below and includes important principles:

- Once everywhere has been searched and the occupants have been regrouped, it is worthwhile for the team leader to mentally review what has occurred. He should ensure that all procedural and documented activity up to that point have been properly carried out, and exhibits have been properly bagged, documented, and labeled.
- The occupant accompanies the Team Leader and recorder for a final damage Search Report and signed by both the occupant and the team leader.
- As the final damage check is being conducted, the search pairs should ensure all search equipment has been accounted for. No rubbish or defective or broken equipment (such as batteries) should remain on the premises once the search has been completed.
- The search team and attached officers leave the premises, and any cordon is withdrawn.

Bomb Squad

307. A bomb squad has the following responsibilities:

- Render safe and/or remove improvised explosive devices and incendiary chemicals.
- Conduct legal and safe transportation, storage, and disposal of explosive materials.
- Conduct post-blast bomb scene investigation.
- Conduct inventory and maintenance of bomb squad equipment.
- Respond to bomb threats.
- Provide dignitary protection.
- Provide training.

(a) Personnel Selection

- Selection committee - A selection committee should be made up of personnel with bomb squad experience.
- Qualifications - Personnel being considered for admission into a bomb squad should be tested through one of the personality tests. Candidates should score high in team work traits with low supervision requirement.
- Physical qualifications - Personnel being considered should be in above average physical condition, with no limitation in physical dexterity. Technicians must be able to perform strenuous physical activity. Testing should be performed for initial and periodic performance evaluation.

(b) Personnel Training

- Initial training - Candidates being considered should be given initial on the job training to evaluate their ability to perform tasks assigned.
- Formal training - After the candidate has successfully passed the initial job training, formal training should be conducted.
- In-Service - Skills learned during the formal training need to be continually applied through in service training at regular intervals.
- Training records - Up-to-date training records must be maintained on all bomb technicians.

Operation Standards

308. Duties of Bomb Squad Officer on arrival

1. Coordinate with command and assess the situation
2. Determine the incident category (life threatening or non-life threatening).

3. Evaluate the need for evacuation.
4. Verify and request support (fire, medical, canine, etc.)
5. Gather all witnesses and conduct interviews.
6. Search for secondary devices or hazards
7. Establish a bomb squad control point.
8. Briefs other team members.
9. Assign duties to other members of the squad.
10. Get all equipment set up and tested.

Situation Assessment

309. Following consideration should be kept in mind

- What is the maximum possible amount of explosives?
- What is the probable effect (fire, gas leak, damage)?
- Is evacuation adequate?
- What assistance is needed?
- What category is the incident and can it be reduced?
- Where is the best approach route?

310. **Incident Categories**

(a) Life threatening situation

- Consider possibilities of reducing the situation to a non-life threatening situation without working on the device.
- Consider the time factors.
- Due to the extreme nature of a life threatening situation, the bomb technician is authorized full latitude in determining the following:
 - ✓ Type of render safe procedures attempted
 - ✓ Type of equipment to be used
 - ✓ Use of non-use of essential safety equipment
 - ✓ Number and exposure time of bomb technicians and support personnel

(b) Non-life threatening situations

- Normally remote procedure will be employed, particularly on closed bombs.
- Hand entry procedures are not recommended and must be justified by the bomb

technician

- Wait time will be used.
- Limit initial response on the suspect package to one properly equipped technician with a minimum exposure time.
- Rendering the item or situation safe may include the removal and/or transportation of the item to a remote area.
- Suspect items that are transported to a range for render safe procedures and/or disposal no longer require emergency handling. Time is no longer a factor. Procedures used will be remote. Exposure time will be held to an absolute minimum.

(c) No threat to life or property

- Employ remote procedures
- Use wait time

311. Priorities while conducting search

- Public safety
- Safety of the officer on the scene
- Protection and preservation of public and private property
- Collection and preservation of all evidence
- Convenience to the public/restoration of service

312. Basic principles of search

- Human life shall not be put in jeopardy over property.
- Bomb squad response is a minimum of one two-man team with essential safety equipment.
- Only bomb squad personnel or their designees will be permitted within the bomb disposal operation area.
- Paramedics and fire personnel shall be at the scene on stand-by
- Medical histories of all bomb technicians should be on file and updated.

Task Orientation

313. The task performance will request following considerations :

- Transport and dispose of hazardous materials.
- Begin crime scene investigation.

- Maintain cordoned off area (may be adjusted).
- Photographs should be taken of both scene and device components Preserve evidence
- Fingerprints are one of the most important types of evidence and must be preserved.
- Wire ends cut by the bomb technician should be taped and marked for the laboratory.
- Bomb components should be identified by the technician to assist in the immediate investigation.
- A detailed report of the incident should accompany the components to the laboratory.

DO's and DONT's for IEDs and Mines

314. Following Dos and Don'Ts are important and should be kept in mind always.

- a) Do not touch suspicious object or bomb
- b) Do not open the package with hand or other material
- c) Do not puncture the package or object
- d) Do not submerge the object in water.
- e) Do not cut the strings or wire.
- f) Do not pass the metallic object over the object or package.
- g) Do not accept the identification marks on the package on its face value.
- h) Do not use radio or wireless equipment in the vicinity of a suspicious object or bomb.
- i) Do not direct a flashlight on the suspicious object or bomb.
- j) Do not permit re entry of people until object is removed.
- k) Do not panic.
- l) Remain calm and walk out of the building in quiet manner.
- m) Cut off gas but electric supply should not be disturbed as it can detonate the bomb/IED.
- n) Stop movement near the object.
- o) Inform the Bomb Disposal Squad or Police Control Room or nearest police Station or concerned authorities.

More points to remember

315. Keep the following points in mind for the search situations :

- a) Keep telephone numbers of
 - i. Police Control Room
 - ii. Important Police officers

- iii. Bomb Disposal Squad
 - iv. Fire Station
 - v. Hospitals and
 - vi. Dog Squad.
- b) Do not be dead here. DO not touch the object
 - c) Evacuate all people from the area if suspicious object is detected and inform Police Control Room. B.D. Squad and nearest Police Station.
 - d) Report about the area and exact location where suspected object is found.
 - e) Do not assume that only one bomb or IED is planted.
 - f) Trust nothing and assume nothing is safe.

Search for Mines

316. Look for the following this for searching mines :

- a) Look for disturbed and freshly dug earth.
- b) Look for dry grass used as camouflage
- c) Use mine detectors while moving in areas of suspicion.
- d) Ensure that the patrols move astride, the road and not on the road and be on the look out for mines.
- e) Look for trip wire and trip feelers/stick hooks.
- f) Wear body armour, helmets and mine goggles if available
- g) Train all security personnel to be mine/body trap conscious.
- h) Look for diert, grass sticks, dung or other material on roads. These areas can conceal mines.
- i) Look for signs of road repairs, new paving, patches, ditching or culvert work. Such areas may conceal mines.
- j) Watch for marks and signs such as sticks/stones placed in mine or clump of grass placed at intervals.
- k) Watch for wires leading away from the side of the road.
- l) Be careful in following exploded wire. It may be to lure you to a trap.
- m) Watch civilians and look for habitation. If there are signs of being abandoned, be alert.
- n) Be careful not to move over ruts or soft areas when moving on hard surfaced road.
- o) Have the leading vehicle of a group of vehicles or convoy empty except its driver.

- p) Mark, withdraw and report when a device is found.

DON'Ts

317. Following Don'ts should be kept in mind.

- a) Bunch up during operations.
- b) Cut any wire unless the device is identified.
- c) Panic, but remain cool.
- d) Assume only one mine is planted.
- e) Try to be a dead hero.

Safety and Special Handling Precautions for Incendiaries

318. Some improvised incendiary explosive mixtures are toxic by inhalation, absorption, or ingestion. Due to these factors, the following safety conditions should be adhered to:

- Keep reactionary chemicals separated
- Use only proper containers.
- Be able to recognize chemical composition by size, color, or shape
- Always work up wind.
- Wear proper protective clothing and breathing apparatus as determined by threat level.
- Never eat, drink, or smoke in an area of exposed chemicals.
- Never carry improvised explosive mixtures in your bare hands.
- Never accept labels for positive means of identification.
- Never re-use containers found at a scene.

Safety Equipments while handling incendiaries

319. The following safety equipment should be available any time improvised incendiary explosive mixtures are encountered:

- Face mask or goggles
- Gloves (depends on level of danger)
- Flame-proof clothing
- Acid protection
- Fire extinguisher

- Eye wash
- Fire blanket
- Water supply

VIP, Protocol and Ceremonial duties

Introduction

320. There are many important personages who due to their particular significance require special security and protection arrangements. Such people are called VIPs and VVIPs. Hon'ble President of India and Prime Minister fall into the top category VVIPs. Likewise, other defined political personages and Heads of the States of various nations and other identified persons also need special security arrangements. Similarly, there are persons who need to be given special protection coverage on the basis of security threats to their lives. One of the important duties of police is to provide security to all such persons and make several arrangements for them. Each State Police organization is responsible for the security arrangements to be made for their Hon'ble Governors and Chief Minister and other VIPs of the State. The State Government may issue instructions, in this regard, as per the exigencies and demands of the arrangements at their own level.

Main Tasks of VIP Duties

321. The main tasks of the police force employed on duties connected with the Very Important Personages are following.

- (i) to ensure the personal safety of the Very Important Personage,
- (ii) to ensure that all functions immediately concerned with the visit of the Very Important Personage and his movements pass off punctually and smoothly,
- (iii) to ensure that the public assembled on such occasions get full benefit of the very important Personage's visit and,
- (iv) that normal tranquility and law and order at the place are fully preserved to ensure that terrorist/extremist elements do not gain access to the Very Important Personage.

321.1 During such arrangements there should be least show of police force, however, full protection to the VIP must be ensured and the functions should pass off smoothly and peacefully. There should be no resentment of any kind in the public regarding the arrangements made by the authorities.

321.2 The objective of any such security arrangement should be to ensure that no danger or harm, deliberate or accidental, from living beings or from inanimate objects is carried near to the protected person, and that no person or object not confirmed to be safe or secure reaches near the protected person. VIPs are often the target of extremist organisations, militant terrorist groups, disgruntled individuals, mentally disturbed individuals etc. The two main modes from where security threats can emanate are fire arms and various forms of explosive devices including remote control devices. An alert and efficient security system only can prevent the possibility of such danger penetrating security cover. Effective anti-sabotage check and access control are useful factors in this regard.

322. Anti Sabotage Check and Access Control

- i. Anti-sabotage precautions along with access control constitute the cornerstone of any security arrangement for the protection of VIPs. Anti-sabotage check can be carried out by employing the following three methods:
 - (a) Physical search (visual/manual)
 - (b) Use of Technical gadgets (explosive detectors, Door Frame Metal Detectors, Mine sweeper etc.)
 - (c) Use of sniffer dogs.
- ii. Modern aids like explosive detectors, metal detectors are useful and must be utilised for anti-sabotage checks. To ensure precautions against damage from explosives a thorough anti-sabotage search and checking of the camp, venue, route and transport should be conducted.

Important Areas of VIP Security

323. There are some important facets of V.I.P. duties. Important ones are following:-

- A. At the camp;
- B. Journey by road;
- C. Journey by train;
- D. Journey by air;
- E. Journey by steamer;

- F. Public functions;
- G. Liaison with the security officers accompanying the VIP.

(A.) At the Camp Duties

- I. The VIP may be residing temporarily either in the Raj Bhavan, Guest House, or a private building. The degree of security would vary with the nature of residence. The lay out of the place should be studied and adequate lighting arranged. A thorough anti sabotage check should be conducted. Catering arrangements should be checked and staff deployed for these arrangements should be security vetted.

- II. A Camp Commandant (of appropriate rank) corresponding to the status of the very important personage may be designated. It will be the responsibility of the Camp Commandant to be in overall charge of the place of stay and be in contact with the concerned authorities/SPG/etc., wherever applicable.

- III. The Police Officers on guard duty should be fully conversant with the correct method of giving compliments and should have smart turn out. The guard should be posted in such a manner that police are not very much in the public gaze, but are in a commanding position to observe everything.

- IV. Arrangements should be made for regulating and controlling a small crowd which may gather near the residence. The constables doing this duty should be tactful, yet firm, so that they can carry out their duty without giving offence and thereby causing any embarrassment to the VIP. When laying out security arrangements at the residence, attention should be paid to overhanging roofs, balconies or trees which could be vantage points under certain circumstances.

- V. Officers in plain clothes should be detailed for security duty, the number depending upon the importance of the VIP, place of stay and other local conditions. Officers and men should be deployed for duties in outer, inner and isolation cordons, wherever necessary.

- VI. Facilities should be arranged at the reception point and entry to the place for

subjecting all persons/items to a thorough anti sabotage check. Installation of Door Frame Metal Detectors and use of Hand Held Metal Detectors and other equipment would be necessary.

- VII. Alternative arrangements should be made for supply of power. Fire fighting and medical arrangements should also be made.
- VIII. Contingency exit and contingency Carcades should be arranged at the place of halt. Adequate communication facilities including setting up of wireless, hot lines, fax etc., may be arranged.

(B.) Journey by Road

- i. Pilots and escort should be provided according to scale. The security box consisting of pilot car, VVIP car, escorts I & II, spare car should preferably be of the same make and colour. Wherever required (as per scale) the main and the spare car should be bullet-proof. Instructions given in various circulars as regards composition of the Carcade for the President, Vice-president, Prime Minister and other dignitaries should be complied with.
- ii. Vehicles should be subjected to thorough mechanical and anti-sabotage check. The antecedents of the drivers should be thoroughly verified and preference should be given to experienced drivers while finalising the scheme. Care should be taken to ensure that while finalising Carcade arrangements no deviations are allowed. Seating plans in the Carcade should be finalised well in advance and the drivers instructed to be always available near the vehicle. The drivers must also be briefed regarding the speed so that all vehicles of the Carcade keep pace with each other.
- iii. The flag rod for flying the National flag/party flag, depending on the nature of the visit, should be fixed on the left side and not in the centre of the car bonnet.
- iv. An assessment of the time to be taken during road journey from place to place should be carefully worked out. If the Carcade is likely to pass through areas with high-rise buildings, these buildings should be identified and staff posted. All unmarked and unattended vehicles on the route should be identified and action taken to remove them. A thorough physical and anti-sabotage check of the route including culverts, bridges, drains, etc., will be necessary all along the route. Contingency routes and

contingency hospitals and safe houses should be identified and the officers in the Carcade should be briefed regarding these arrangements.

- v. Very often the VIP's passage is held up by enthusiastic crowd wanting to offer flowers or to request him to participate in a short function. Such contingencies should be anticipated by collection of intelligence and necessary security arrangements made without display of unnecessary uniformed policemen. When, however, a VIP makes an unscheduled halt, then the senior most police officer present at such places should make such security arrangements as could be commanded in such circumstances.
- vi. The road, if it lies through a very heavily populated area and is of a considerable length, should be divided into small sectors, each placed under the charge of an officer with his staff who are responsible for maintaining order in that sector. The officer should be constantly on the move, along the allotted sector.
- vii. The constable posted for the duty should be given a manageable sector depending upon the anticipated crowd. It is his responsibility to control tactfully and with good mood that portion of the crowd which is in his sector. The co-operation of elders and responsible persons of the locality gathered there should be taken wherever possible to ensure orderly and disciplined behaviour on the part of the crowd. When large crowds gather along the route at certain places, strategic reserves should be kept to be used for controlling sudden increase of crowd which cannot be held back by the policemen already in the street.
- viii. Officers are not expected to work with mathematical exactitude; all the same, they should avoid deploying too many policemen where very few are needed, or requisitioning reserves when it is not necessary. It often happens that when the VIP continues his journey through thick crowds, the younger and enthusiastic elements of the crowd begin to run behind the VIP's vehicle either on the road immediately behind the vehicle or on the sides of the road parallel to the vehicle. This is a very undesirable tendency and should be stopped by the policemen and officers standing along the route.

324. **Traffic Control and Regulation During Journey**

- i. The traffic points should be manned by traffic policemen as far as possible and should be reinforced at very heavy cross-roads by drawing men from other stations. No traffic should be stopped but should be regulated unless a stoppage becomes inevitable for the security of the VIP and smooth running of his programme. If traffic is to be stopped at the cross-road, the officer on duty should see that the traffic is stopped just at the very last moment and when the stoppage takes place, it should be at some distance away from the cross-road. Instructions issued by the Ministry of Home Affairs and concerned authorities from time to time should be carefully followed. It may be necessary to declare certain streets closed to certain types of traffic. This matter should be considered in advance and decision taken. Also temporarily changing both-way traffic into one way has to be considered. It generally happens that after the motorcade of the VIP has passed the traffic arrangements are relaxed or almost given up. This causes great hardship and inconvenience to other vehicular traffic which may be following or which may be held up temporarily. This aspect should be borne in mind and traffic should be controlled till the congestion is minimised and the normal traffic conditions are restored.
- ii. While the V.I.P. passes through the rural areas, there may be slow moving traffic due to carts etc, therefore, adequate arrangements such as driving them on to a side, stopping them altogether or even unyoking the animals from the carts should be made. There may be certain roads which are narrow and winding in nature and hence stoppage of traffic particularly coming from the opposite direction may be necessary. The police officer on duty should decide how long before the arrival of the VIP's motorcade, the traffic should be stopped on either side so that the oncoming traffic does not clash with the motorcade of the VIP. If there is traffic coming from the opposite direction which could not be stopped, each such vehicle coming from the opposite direction should be warned to keep to the extreme left of the road particularly at blind corners.

(C.) Journey by Train

- i. When the VIP travels by a special train or saloon or in a reserved compartment attached to a train, an armed guard of such strength depending on the scale to which the VIP belongs or as the DIG/SP Railways decides, should accompany the

VIP's train. This guard will be accommodated in a composite bogey which should be placed next to the VIP's saloon. The concerned Superintendent of Police, Railways will be responsible to ensure that the VIP performs a safe journey by train and is protected from the attention of all unauthorized persons. The assistance of the local police should be taken wherever necessary. The VIP's saloon or compartment will be searched before the commencement of the journey by the security staff. After the anti sabotage check and until the train leaves, one sentry each on both the sides of the saloon to guard it should be posted. The armed guard will remain alert and keep a careful watch on all sides of the VIP's compartment.

- ii. At all halts, one armed guard each on the rear and offside of the VIP's saloon will be posted. Unauthorized persons will be prevented from approaching the saloon or the compartment. The crowd will be kept at a reasonable distance. When the VIP travels by special train, the platforms of all railway stations where he does not halt or alight should be kept clear.
- iii. At railway junctions or other large stations where the special train stops, the Railway Police/ Sub-inspector of Police/ Inspector having jurisdiction will post constables on the platform to augment the train guard to the extent necessary. If a long halt is made at any station and the VIP continues to occupy the train on a siding, the armed guard escorting the VIP will mount guard on the saloon occupied by the VIP and the Railway Sub-inspector/Police Inspector having jurisdiction will arrange relief. If the halt is only for a short time, say two or three minutes, or if the train stops outside a station on account of signal or any other cause, the guard will not be mounted at the saloon itself, but one constable will take the position on each side of the compartment and look along the train towards the saloon.
- iv. The Superintendent of Police, Railways, will be responsible for seeing that proper police arrangements are made en route. He should be in touch with the district police for augmentation of staff at stations of halts, interchange, arrival and departure. Ordinarily, there should not be any patrolling of the railway track, but when the Deputy Inspector General, Railways, or the Superintendent of the

district considers it necessary; detailed sections will conduct patrolling. The Railway Police Sub-Inspector/Inspector will travel in his jurisdiction in the same train as the VIP and the Superintendent of Police, Railways, will travel in the same train, if specially ordered.

- v. At stations of arrival and departure the local police will make security arrangements outside the platform- The Railway police will see that the platform exits and entrances are kept free from undesirable persons. The local police and the Railway Police will be responsible for the VIP's security at all halting stations. Escorts of High Personages will be relieved by the respective Railway Police escorts when the VIP travels to different states.

(D.) Journey by Air

325. Sufficient uniformed police should be kept on duty at the airport at the time of arrival or departure of the VIP with a view to preventing unauthorised persons from crowding too near the person of the VIP. Plain clothes officers should also be present. The airfield and its entrance should be kept clear of all the unauthorised persons, care being taken not to cause any inconvenience to bonafide air passengers. Police arrangements to keep the landing ground clear of any object or obstruction likely to hinder safe landing should also be made. The police guard should prevent any unauthorised person from having access to the aeroplane. The existing arrangements at the Airport should be studied and parking bay of the VIP aircraft should be checked. If any reception line up has been arranged care should be taken to ensure that no unauthorised persons gain access. When the VIP travels by Helicopter, guidelines laid down for construction of helipads should be complied with. All precautions prescribed for journey by helicopter should be followed as stipulated.

(E.) Journey by Steamer

326. At the pier, adequate uniformed police arrangements should be made by the local police to prevent unauthorised persons from approaching the VIP and for the maintenance of law and order.

(F.) Public Functions

- I. A VIP's visit is generally associated with a public meeting. The nature and

magnitude of arrangements depend upon the status, prevailing condition and place of such public meeting. These and all aspects connected with a public meeting should be thoroughly examined and appropriate security and bandobust arrangements made.

- II. The venue, date, time and duration of the meeting should be ascertained well in advance. The organisers of the public meeting should be contacted and their full co-operation secured. It is always advantageous to visit the place of public meeting a few days in advance of the meeting and discuss all aspects of the function with the organisers so that proper arrangements could be made not only by the police but also by the organisers and other Government departments or public bodies
- III. Advance intelligence should be collected so that preventive action could be taken to prevent anti social elements from creating a breach of the peace. The approach roads to the venue of meeting should be kept clear. Loudspeaker arrangements should be tested well in advance so as to ensure that all the assembled members of the public can clearly and distinctly hear the VIP. A spare set of equipment should be kept standby. The exit and entrance of the VIP should be without hindrance. Where possible, the exit and entrance of the VIP and VIP's party should be separate from those meant for the general public and other invitees. Depending upon the crowd and venue of the meeting, sufficient number of exits should be provided so that the public and the invitees may leave the place quickly and in an orderly manner.
- IV. The seating of the VIP should be such that all those invited and others in the assembly can have a clear view of the VIP. It is always desirable that the VIP's seat is on a raised platform or rostrum and the distance between him and the general crowd is such as to ensure the security and free movement of the VIP. If guidelines so stipulate, a sterile area should be kept in front of the rostrum. This rostrum should be under the protection of a guard from the time the programme has been finalised. Rostrum should be subjected to thorough anti-sabotage check of the number of persons who need to be near the rostrum should be determined well in advance. Where the entry to a public meeting is not regulated by

invitations, the distance from the platform or the rostrum to the crowd should not be less than 10 metres.

- V. The number of persons to be seated on the platform or rostrum should be kept to the minimum and should be such as to ensure security of the VIP. Barricades, where necessary, should be put up and in doing so, it should be ensured that passages are left for easy ingress and egress and that separate enclosures are reserved for women and children. Adequate reserve police, where necessary with necessary lathies, arms and tear gas equipment should be kept in the neighbourhood of the venue of the public meeting.
- VI. The officers and men posted to control the crowd in such meetings should be adequately familiarized with their duties. They should be tactful but firm. The tendency to blow whistles and brandishing of lathies should be avoided. The tendency of the police officers to congregate near the VIP should be deprecated and each officer should stick to his sphere and sector of duty.
- VII. Sufficient and definite space should be allotted for parking cars and other vehicles of not only VIP's and invitees but also of the general public. Separate parking place for the VIP convey should be earmarked which should be guarded properly. Arrangements for parking cars and vehicles should be such that the cars of and other dignitaries could be summoned at a moment's notice.
- VIII. Appropriate bandobust schemes should be drawn up fixing the responsibility of each officer and be circulated among all concerned. The officers and staff detailed for duty should be at their positions well in advance of the start of the meeting. It is also desirable to check the bandobust arrangements a few hours before the meeting for ensuring their proper implementation. Arrangements should also be made for a stand-by system of power supply both for the function and public address system. Adequate number of fire extinguishers may be made available at the venue of public meeting.
- IX. Access control is very vital in all public functions. Adequate number of Door Frame Metal Detectors, Hand Held Metal Detectors etc., may be installed. In

addition to this staff may also be deployed for subjecting all persons attending the function for physical check. Contingency planning should be made to meet any emergent measures. An officer should be exclusively assigned for being in over all charge and control of all the arrangements at the place of function.

The Scale and Quantum of Security Arrangements

327. The extent of security arrangements depends upon the importance of the VIP and the local conditions. Where special instructions are issued by Government of India, State Government, or the Director General those instructions should also be followed.

- i. **President of India-** Security arrangements will be provided in accordance with the instructions contained in the booklet "Rules and Instructions for the protection of the person of the President when on tour, including short residences in Simla".
- ii. **Vice President of India -** Security arrangements will be provided in accordance with the instructions contained in the book "Rules and Instructions for the protection of the
- iii. **Prime Minister-** Security arrangements will be provided in accordance with the instructions contained in the blue book "Rules and Instructions for the protection of the person of the Prime Minister of India when on tour and in travel."
- iv. **Ministers of the Central Government -** The Commissioner in Bangalore City and the Superintendents in the district are responsible for the security arrangements in this connection with visits of the Ministers of the Central Government. Necessary security arrangements will be made for guarding the residence and for protection during journeys by road, rail and air and at public functions as provided in the "Rules and Instructions for the protection of the Ministers of the Central Government when in residence and on tour".

Arrangements for Special Categories of the Protected Persons

328. Security arrangements will be provided in accordance with the instructions issued by the Ministry of Home Affairs to individuals who have been categorised depending upon threat perception as per the scale prescribed below:

Category	Scale of Security
I. 'X'	2 PSOs round the clock
II. 'Y'	<p>(1) Uniformed Armed Guard of 1:6 at residence to cover the house round the clock.</p> <p>(2) Additional Security during sun-set and sun-rise.</p> <p>(3) 2 PSOs at a time round the clock one with Stengun and other with 9 M.M. Pistol.</p>
III. 'Z'	<p>(1) Uniformed Armed Static guard of 2 -8 cover both front and rear of the place of stay.</p> <p>(2) Two PSOs at a time one with Stengun and the other with a 9 m.m. Pistol on a round the clock basis.</p> <p>(3) An Armed Escort-(1-3) for all road journeys in two shifts during the day.</p> <p>(4) Screening watchers two at a time during the day and one during the night.</p> <p>(5) Strict access control and anti-sabotage checks are also necessary.</p> <p>(6) A bulletproof vest.</p>
IV 'Z' SPECIAL	<p>In addition to above security arrangements prescribed for 'Z' category the following additions would also be necessary.</p> <p>(1) Provision of a bullet proof car in case available.</p> <p>(2) Provision of Escort in three Shifts.</p> <p>(3) Augmentation of the Static guards depending on the locations of place of stay.</p> <p>(4) Additional security arrangements as required by the local situation.</p> <p>(5) Additional security arrangements may also be made if required depending on the local situation.</p>

Disaster Management Duties

Introduction

Ministry of Home Affairs is the nodal Ministry in the Government of India. National Disaster Management Authority has issued detailed guidelines for preparation of State Disaster Management Plans including the role of State Disaster Management Authority /State Executive Committee and the State department for disaster response. These guidelines include vulnerability assessment, risk analysis, preventive measures, preparedness measures and the response and Disaster specific Action Plan.

India is vulnerable in varying degrees to a large number of natural as well as man-made disasters- 58.6 per cent of the landmass is prone to earthquakes of moderate to very high intensity; over 40 million hectares(12 per cent of land) is prone to floods and river erosion; of the 7,516 km long coastline, close to 5,700 km is prone to cyclones and tsunamis; 68 per cent of the cultivable area is vulnerable to drought and hilly areas are at risk from landslides and avalanches. Further, the vulnerability to Nuclear, Biological and Chemical(NBC) disasters and terrorism has also increased manifold.

Disaster Risks in India

Disaster risks in India are further compounded by increasing vulnerabilities, due to a variety of factors. These include the ever-growing population, the vast disparities in income, rapid urbanisation, increasing industrialisation, development within high-risk zones, environmental degradation, climate change, etc. Clearly, all these point to a future where disasters seriously threaten India's population, national security, economy and its sustainable development; therefore the urgency to issue the guidelines for the preparation of the State Plan for Disaster Management(DM) as mandated by the disaster Management Act, 2005 (DM ACT, 2005). The DM plans will build in region and hazard specific management tools in the context of regional and multi-hazard vulnerabilities.

Past Initiatives

The High Powered Committee

The first initiative towards formulating a systematic, comprehensive and holistic approach to all disasters, was the setting up of a High Powered Committee (HPC) in August 1999 under the Chairmanship of Shri J.C.Pant. The HPC prepared comprehensive model plans for DM at the national, state and district levels.

The National Committee on Disaster Management.

An all party National Committee on Disaster Management(NCDM) was set up after the Gujarat earthquake, under the Chairmanship of the Prime Minister and with representatives of national and state level political parties, for catalysing and enabling the preparation of DM plans and suggesting effective mitigation mechanisms.

The Disaster Management Act, 2005

On 23 December 2005, the Government of India(GoI) took a defining step towards holistic DM by piloting the enactment of the DM ACT,2006.

The DM Act, 2005 – A Paradigm Shift.

The DM Act, 2005, mandates a paradigm shift from a response and relief-centric approach, to a proactive, and comprehensive mindset towards DM covering all aspects from prevention, mitigation, preparedness to rehabilitation, reconstruction and recovery.

It also provides for:

- The creation of a policy, legal and institutional framework, backed by effective statutory and financial support.
- The mainstreaming of multi-sectoral DM concerns into the development process and mitigation measures through projects.

- A continuous and integrated process of planning, organising, coordinating and implementing policies and plans in a holistic, community based participatory, inclusive and sustainable manner.

National Vision

The national vision is to build a safer and disaster resilient India by developing a holistic, proactive, multi-disaster and technology driven strategy for DM. This will be achieved through a culture of prevention, mitigation and preparedness to reduce the impact of disasters on people. The entire process will centre stage the community and will be provided momentum and sustenance through the collective efforts of all government agencies supported by Non-Governmental Organisations(NGOs).

Role of the National Disaster Management Authority(NDMA)

The DM Act mandates the NDMA to lay down policies and guidelines for the statutory authorities to draw their plans. In essence, the NDMA will concentrate on prevention, mitigation, preparedness, rehabilitation and reconstruction and also formulate appropriate policies and guidelines for effective and synergised national disaster response and relief. It will coordinate the enforcement and implementation of policies and plans.

The Role of the State Disaster Management Authority (SDMA) State Executive Committee(SEC) and the State Departments.

Section 23 of the DM Act, 2005 provides that there shall be a DM plan for every state. It outlines the broad coverage of the plan as well as the requirement of consultation in the preparation of the state plans. It also provides for annual review and updating of the state plan, and enjoins upon the state governments to make provisions for financing the activities to be carried out under the state plans. It provides for the departments of the state governments to draw up their own plans in accordance with the state plan. The state plans shall be prepared by the SEC in conformity with the guidelines to be issued on related matters by the SDMA having regard to the guidelines laid down in this regard by the NDMA, and after such consultation with local and district authorities and the people's representatives as the SEC may deem fit. The state plan prepared by SEC shall be approved by the SDMA.

Need for Immediate Action

Ideally, state DM plans should be made after vulnerability assessment and risk analysis of a state have been undertaken. Guidelines issued by the NDMA will also need to be internalised in these plans. Even though this process has begun, it is likely to take some time. It is felt that the preparation of plans cannot, and should not, await the outcome the disaster risk analysis. On the basis of extant information and knowledge, a plan should be formulated by every state and updated regularly adding fresh inputs on an ongoing basis. Pending detailed micro-level vulnerability assessment and risk analysis, information as currently available about the vulnerability profile of different areas of a state, including information contained in the vulnerability atlas of India published by the Ministry of Urban Development may be incorporated in the plan.

State profile- social, economic and demographic

- Vision
- Theme
- Objectives

Vulnerability Assessment and Risk Analysis

- History of vulnerability of the state to different types of natural disasters.
- Hazard risk assessment and vulnerability mapping.
- The probable threat and types of man made disasters.
- A hazard profile of the state together with maps and details of zonation, if any, undertaken. The district hazard profile in GIS format should also be included, if available. The plan should also refer to emerging concerns such as urbanisation, environment protection, population explosion etc.

Preventive Measures

- Natural Disasters – specific to the state.
- Man made disasters.

- Early warning and dissemination systems.
- Prevention and mitigation plans; short, medium and long term with structural and non-structural measure required to be taken together with identification of nodal department(s) for each activity.

Training needs analysis and development of state HR plan.

Mainstreaming DM Concerns into Development Plans/ Programme/ Projects.

- This includes economic and social infrastructure like irrigation, power, drinking water, sanitation, roads, buildings, schools and hospitals, housing, heritage monuments, etc.
- Elements of impact assessment, risk reduction, and the ‘do no harm’ approach to be built into the developmental plans of each department while building in DM concerns into such plans.
- Classification of disasters and residual agenda.
 - (i) What will be done?
 - (ii) How it is to be done?
 - (iii) Who will do it?
 - (iv) By when?

(In a brief manner logistics management details to be incorporated in respective Standard Operating Procedures (SOPs).

Preparedness Measures

- Resource availability-national and state resources: government, private, civil society:
- Inventory of human and material resources should be included in IDR/SDRN with modalities for regular updating on quarterly basis.
- Community Based Disaster Management (CBDM)
- Training, capacity building and other proactive measures.
 - i. Civil Defence.
 - ii. Home Guards.
 - iii. NCC
 - iv. NSS

- v. NYK
- vi. Educational and training institutions.
- vii. Civil society, CBOs, Corporate entities.
- viii. Fire brigade
- ix. State Disaster Response Force.
- x. Civil Police.
- xi. Media- electronic, print and through folk media, inter personal communication.

- Awareness generation
- Outline an effective GIS process for collecting and analyzing spatial data for emergency management problem solving.
- Techno-legal regime.
- Medical preparedness- nominate/ designate hospitals, doctors and paramedics to cover emergency health management including trauma and psycho-social care.
- Knowledge management:
- Take steps to inventories indigenous technological knowledge for combating disasters and validate it for appropriate use.
- Arrange for the use of ICT tools and resources such as community service centres.
- Fail- safe communication including last-mile connectivity.
- Testing of the plans-through mock-drills, exercises and rehearsals.
- Lessons learnt- to be incorporated at the time of updating of plan.

Response

The design of plans developed for immediate response which would be initiated on trigger mechanism basis upon the occurrence of a calamity of extreme nature.

- Incident Command System (suitably modified/indigenised).
- Emergency Operation Centres.
- Alert mechanisms – early warnings etc.
- Disaster risk reduction framework, policy, act of the state/state road map for hazard risk management.
- Probabilistic scenario-building for different levels of various disasters to which different areas of the state are vulnerable.

- The yearly schedule for the conduct of mock exercises for different disasters in different parts of the state at specified locations. Some exercises should be undertaken without prior intimation to enable a correct assessment of the level of preparedness.
- Procedure for the activation of plans – upon occurrence of any disaster.

Partnership with other stakeholders

- The roles of academic institutions and scientific and technical organisations which have an important function in DM may be spelt out from early warning to recovery, together with names and designation of the nodal persons.
- Media.

Financial Arrangements

- Arrangements for the funding of the components of the state plan.
- Provision of funds for specific mitigation projects aimed at improving prevention, preparedness, and mitigation in requirement of specific disasters at the national, state and district levels(these would have to be prioritised and phased over time).
- Steps taken for the constitution of the Disaster Response Fund and Disaster Mitigation Fund both at the state and district level which can also serve as a source for funding of various activities as mandated by the DM Act, 2005.
- Detailed SOPs of each department to make provision in its annual budget for funds to carry out the activities set out in its own DM plan and role and responsibilities of all other stakeholders.

Disaster Specific Action Plan

- Floods
- Cyclone
- Earthquakes
- Landslides
- Chemical Disasters (including emphasis on off site plans-preparation and rehabilitation).

- Nuclear and Radiological Disasters
- Biological Disasters
- Oil Spills and Mine Disasters
- Tsunami

Cross Cutting Issues

Review and updation of plans

The plan should include a schedule for submitting Action Taken Reports at prescribed periodicity, confirming that their components have been duly updated.

Coordination and Implementation

Coordination, as between and amongst the various agencies involved in DM and ensuring implementation of the tasks entrusted to them is an important statutory responsibility of the DM authorities of various levels.

The plan should explicitly spell out the cross-cutting nature of activities that constitute DM and the vertical and horizontal linkages required between government departments, scientific and technical institutions. NGOs, CBOs and local bodies and describe how ensuring of implementation of their functions will be done by the SDMA/SEC/DDMA. Etc.

Coordination of efforts amongst various government departments and other stakeholders generates synergy and involves the bringing together of agencies and functionaries to ensure effective performance.

It is primarily concerned with the systematic acquisition and application of resources(personnel and equipment) in accordance with the requirements demanded by emergencies. Monitoring mechanisms incorporating. Inter alia, quality and outcome indicators should also be spelt out.

Through the installation of a regular Management Information Systems(MIS), clear responsibilities should be cast upon the various agencies to report either to the

SDMA/SEC/DDMA in regard to the subject matter to be reported upon, the authorities to whom the report has to be sent together with specific time lines, frequency and reporting formats. To focus attention on areas that are not functioning as required, the principle of management by exception should be followed.

Chapter 17

Intelligence and Security

Introduction

382. One of the principal duties of the police is collection and communication of intelligence with a view to maintaining peace and order and prevention and detection of crimes. The Intelligence Branch of the police is intended to collect and disseminate intelligence in all matters of police interest. However, the criminal intelligence is the responsibility of the local Police and Criminal Investigation Department. The local Police in addition to criminal intelligence has also the responsibility of gathering and communicating intelligence on all matters. The SP and CP have District Special Branches (DSB) to concentrate on intelligence work. At the state level, the Intelligence Branch/State Special Branch (SSB) is organised to maintain the records and disseminate timely information to avert breach of peace, threats to security, public order and serious disturbances.

Structure of Intelligence Set-up

383. The Addl. DGP (Intelligence and Security) is the Head of the Intelligence Branch of the State subject to the control of DGP. He is assisted by such number of Inspectors General of Police / DIsGP and other officers as determined. The organisation and functions of the Intelligence Branch are contained in the Manual on District Special Branches and the State Intelligence Branch. Addl. DGP (Int.& Security), and the Intelligence Branch to deal with all the intelligence matters relating including left wing extremism, and extremist operations within the state. This branch keeps liaison with the concerned officers and units of other extremist affected states, dealing with the intelligence in the field of left-wing extremism and the anti-extremist operations. Under Addl. DGP (Int. & Security), an officer of the rank of DIGP, called DIGP Operations is in-charge of Counter Intelligence Wing of intelligence. The Intelligence Branch of the State shall send information and reports to the Government subject to orders of the Director General of Police.

Role of Addl. DGP (Int & Security)

384. The Addl. DGP (Int. & Security) shall be responsible for the efficient and professional working of the Branch. He shall exercise such control and direction to ensure effective functioning of the District Special Branches. The collection, analysis, recording and dissemination of information, provision of the necessary training inputs and keeping an alert watch on the public order and security in the State shall be his main functions. He will assign duties and set tasks to officers of the Branch and the District Special Branches.

Liaison With Other Units, States and MHA

385. Closest liaison should maintain with the neighbouring state organisations and the MHA. The reports to MHA and other places shall be governed by instructions of the Government and DGP from time to time.

Functional Modalities of State Intelligence Organisations

386. State Intelligence deals also with the matters of interest relating to overall security of the State and the VVIPs. One of its important functions is to give promptly to the Government as well as to the Director General of Police information on all matters of public importance. The State Intelligence communicates to the Intelligence Bureau and the Intelligence Organisations of other States, information which is of interest to them. It communicates to the Range Police Officers and Superintendents of Police in charge of the districts and other specified Officers important information which is of importance to them. It prepares periodical reports on matters falling within its purview and forward copies to those specified. It makes confidential enquiries into all matters of public importance and those affecting national interest. It also helps in the investigation of those crimes which have a bearing on public issues. It collects advance intelligence regarding the problems affecting the law and order situation in the State and communicates it to the concerned for taking precautionary measures. It liaises with the district special branches through which it collects intelligence and it passes on important advance intelligence to them. Functionally the district special branches are almost part of the State Intelligence as far as the collection of intelligence is concerned, though administratively they are under the charge of the concerned Superintendents of Police of the districts.

Role of District Police

387. The Superintendents of Police, in-charge of the divisions will be responsible for collection and dissemination of information in their respective jurisdictions and they will report to the Additional Director General of Police, Intelligence promptly all matters of importance. Telephonic/wireless/fax messages should be followed by more detailed written reports. The Superintendents of Police will also send reports on the various subjects indicating their assessment of the events for the next fortnight.

Duties of Field Staff

388. The functions and duties of the field staff of the State Intelligence and DSB are to gather intelligence on all matters of interest to the State Intelligence. They also carry out such other tasks which may come within the purview of the State Intelligence. Generally speaking, the distribution of work amongst the field staff is on a territorial basis. Special staff is also allotted for protective and security duties. Standing orders will be drawn up showing the distribution of work among the field staff.

Security Orientations & Duties of Intelligence Wings

389. The security wing is a part of the intelligence branch. It is headed by an officer of the rank of an IG/DIGP. The functions of the security branch are connected mainly with proximate security of VIPs and VVIPs and also to plan, coordinate and direct security measures for the protection of those persons who face threat to their personal security. Though the security wing provides proximate security to the VIPs/VVIPs, the responsibility for their protection rests with the District/City police. The branch-also assesses threat perception of various protected persons, issues guidelines to the various Units in the State for ensuring their security. The other important function is to monitor the programmes and tours of the protected persons, assess information gathered and issue suitable and timely instructions to the concerned, from time to time.

390. Special Training Contexts

- i. The security wing has specially trained personnel drawn by deputation from other branches of police and trained for the purpose of providing proximate security to VVIPs. In the districts and the city plain-clothes personnel who are trained in security duties provide security cover when the protected persons tour the State and also to those who require protection in the district. A special group in the

various reserve police Units of the State is formed for providing guards as well as uniformed gunmen.

- ii. The State security wing draws up the training programmes specifically in respect of personal security of the VVIPs. These programmes are carried out either in the Police Academy or in the other training institutions. The specialist support units like the bomb disposal squads and sniffer dogs' squads are also attached to the wing. The detailed instructions and guidelines to be followed by the various personnel providing security are drawn up and circulated by the security wing.

Co-ordination With District Police & Other Units

391. The responsibility of the wing as detailed above is carried out through its own personnel as well as through the district and city police. They are responsible for coordination of all security arrangements in the State. This wing shall issue the instructions and training for police personnel and their role in making security arrangements from time to time. The Unit officers are responsible to carry out all the instructions issued and to keep the personnel fully trained and alert in carrying out the security duties.

Supervision and Control

392. The Addl. DGP (Intelligence & Security) is responsible for the effective functioning and supervision of the security wing at the State headquarters. Elsewhere in Districts/Cities, security matters are handled by the Unit officers.

Unnatural Deaths

Introduction

393. Cases of unnatural deaths are shrouded by suspicion, and there is always a possibility of some foul play behind such incidents. The circumstances leading to such deaths are indicative of abnormal background and may also involve facts which may indicate commission of some crime or the other. Such deaths may be of homicide, suicide or an accidental type. These incidents of death are required to be handled carefully by the police. Even the law provides special provisions for handling such cases. The police conduct inquiry for ascertaining the reasons and circumstances leading to unnatural death for arriving at a conclusion whether the death is homicide or suicide or it is due to some accidents.

Sec. 174 to 176 Cr.P.C.

394. Section 174 to 176 Cr.P.C. lay down the procedure for holding the inquests. Inquest means legal examination of dead body. Inquest is to be held on the bodies relating to unnatural deaths. The purpose of the inquests is to ascertain the apparent cause of death in cases where the police receive information that a persons has met with an unnatural death;

- A. By committing suicide or
- B. Has been killed by another or by an animal or machinery or accident or
- C. Has died under circumstance in which the death is suspected to be due to an offence committed by another person.

394.1 The inquest is to be held by the SHO or by HC, if he is so authorized by the government. On receipt of such information the SHO shall record it in of the same in the prescribed proforma or the pro-forma as that of the FIR and promptly dispatch it to the executive magistrate.

Inquest Cases

395. Inquest should be conducted in the following cases:-

- i. Where the case involves suicide by a woman within seven years of her marriage; or

- ii. Where the case relates to the death of a woman within seven years of her marriage in any circumstances raising a reasonable suspicion that some other person committed an offence in relation to such woman; or
- iii. Where the case relates to the death of a woman within seven years of her marriage and any relative of the woman has made a request in this behalf; or
- iv. In cases of custodial deaths. The officer in-charge of the Police Station shall get the Inquest proceedings conducted by the Executive Magistrate and if the investigation reveals such death was caused due to harassment for dowry; all such cases should be investigated by the Dy.S.P. Having jurisdiction till the cases are taken over by the COD for further investigation.
- v. Where there is any doubt regarding the cause of death; or
- vi. Where the police officer for any other reason considers it expedient so to do, the investigating officer shall, subject to such rules as the State Government may prescribed in this behalf, forward the body, with a view to its being examined, to the nearest Civil Surgeon, or other qualified medical man appointed in this behalf by the State Government, if the state of the weather and the distance admit of its being so forwarded without risk of such putrefaction on the road as would render such examination useless.
- vii. The District Magistrate or Sub-divisional Magistrate and any other Executive Magistrate specially empowered in this behalf by the State Government or the District Magistrate can conduct inquest.
- viii. Assistant Sub-Inspector and Head Constables are also empowered to hold investigation under Section 174(1) Cr.P.C. When the officer-in-charge of the Police Station is unable for adequate reasons to hold the investigation himself and deposes a subordinate who has been specially empowered by the State Government to do so, he shall, at the first opportunity, personally verify the latter's investigation, if there is a suspicion of any crime.

396. Action on Arrival at the Scene

- i. On arrival at the place where the body of the deceased is lying, the officer making the investigation will prevent the destruction of evidence as to the cause of death; prevent crowding round the body and the obliteration of footsteps or other traces or marks before disturbing the body. The IO will arrange to take its photographs and its immediate surroundings, if the nature of the case warrants such action and

would note carefully, the location of the body, the position of the limbs, the condition of the wearing apparel and will also preserve hair, skin, Fibres, etc., found on the body.

- ii. If a Medical Officer or superior Police Officer is available near the scene and is immediately expected to arrive, it is advisable to keep the body without altering its position until his arrival. When the Investigating Officer reaches the spot and if it is night and postponement of investigation over the dead body involves the risk of putrefaction, the investigation over the dead body should be conducted in the night itself with the help of petromax or other bright lights and any investigation conducted in the night checked up in the morning by observation.

397. Enquiries under Section 174 Cr.P.C.

- i. The inquest must be held in the presence of two or more respectable inhabitants should be summoned under Section 175 Cr.P.C. by an order in writing who appear acquainted with the apparent cause of death and the dead body should be examined in the presence of panch witnesses.
- ii. While examination the body the following points must be noted in the inquest report:-
 - A. The position in which the body was found.
 - B. The position, length and width, and colour of any wounds, bruises or other marks of injury.
 - C. The nature of any fracture.
 - D. The articles, clothing, jewellery, or any other incriminating (material) found near the body (An inventory should be made).
 - E. The age, condition of hair, the description of the face etc.
 - F. Any old scars, warts, moles etc. and their exact position, approximate height.
 - G. Any other details.
- iii. The witnesses summoned should be examined and their statements recorded separately and enclosed with the inquest report. The witnesses shall not sign them.

Preparing the Inquest Report

398. When the inquest is completed the officer conducting the inquest shall draw up a report with apparent cause of death, the description of any marks, or marks of violence which may be found on the body and describe the manner and the weapon with which such marks appears to have been caused. The report shall be signed by the officer holding the inquest and by the panch witnesses after their opinion is recorded. The inquest report along with the statements of witnesses should be forwarded to the court and to senior officers immediately. The individual opinion of the panch witnesses should not be entered in the report. They can be written in the case diary by the I.O. Persons who do not concur with the report shall not be pressurized to sign. A carbon copy and attested photo copy of such report shall be filed in the connected station records. In case of death of more than one person there shall be separate inquest reports on each body.

Procedure on Occurrence of Large-Scale Deaths

399. There will be occasions when large scale deaths occur due to railway accidents, bus, boat or air accidents, building collapses, fires, poison, gas leakage's cyclones, tidal waves, earth quakes etc. In such cases where the cause of death is apparently known, there will be no need to hold inquests, unless in respect of any specific dead body foul play is suspected. In such cases inquest may be conducted on one or two dead bodies. But a certificate from medical officer in such incidents may be sufficient keeping the requirements of compensatory claims for death or injury. The dead bodies should be disposed off quickly in the interest of health and hygiene.

Inquest by Executive Magistrate

400. In the following cases, the Executive Magistrates only shall hold inquests.

- A. Where the case involves suicide by a woman within 7 years of her marriage or
- B. Death of a woman within 7 years of her marriage and there is suspicion that some other person committed the offence.
- C. Death of a woman within 7 years of her marriage and any of her relation made a request in this behalf
- D. The police officer for any other reasons considers it expedient to do.
- E. In all cases of deaths under custody of police and encounter deaths.

Disinterment of Bodies (Exhumation)

401. Where an SHO making an investigation reasonably suspects that the body of the person is buried under questionable circumstances, he shall record his reasons in writing and forward the information with a requisition under section 176(3) Cr.P.C. to the nearest executive magistrate to present at the time of disinterment. In the mean time he should make arrangement to guard the grave. When the body is disinterred, the SHO or the IO shall establish the identity of the body through witnesses. If there is a possibility of the body being decomposed and unfit for removal for post mortem and in anticipation of such circumstances, the presence of a doctor can also be secured along with the magistrate even before exhumation and the doctor may be requested to conduct post mortem there on the spot.

Magistrate Should Record Statements & Prepare the Report

402. In all cases inquests held by magistrates, as part of the inquiring he will prepare statements of witnesses and the enquiry report. This becomes a part of the record in a trial. In such cases there will be two sets of statements from the witnesses, one by the magistrate and another by the police during the course of investigation. Since both the statements will be supplied to the accused any discrepancy in the version will go to the benefit of the accused.

Postmortem for the Inquest

403. Postmortem examination is a necessity in cases where it is felt necessary, as the medical opinion is important in ascertaining the cause of the death. When the body is sent for post mortem examination a police officer must be deputed to accompany the dead body for the purpose of identification of the body and must necessarily be cited as a link witness. In cases of advanced putrefaction/decomposition of the body and where the movement of the corpse may make it impossible for the medical officer to form a correct opinion as to the nature of injuries or cause of the death, the medical officer may be requested to conduct his examination at or near the scene. When the body is sent for post mortem all available information relating to the body must be given to the medical officer.

Preservation of corpse

404. All fresh bodies should be preserved in cold storage. If such facility is not available they

should be kept on ice blocks. In the absence of ice blocks it should be placed up on a layer of powdered charcoal from which it is separated by a cloth. A cloth with another layer of charcoal should then cover it. The whole body being covered by another cloth and a mat. After the post mortem examination, unless there are orders to the contrary, the police shall hand over the body to the relatives or friends of the deceased. In their absence they shall arrange for the disposal of dead body.

Unidentified Bodies

405. If a body is unidentified the IO shall take the following steps:

- i. Take Photographs (face, lateral and length wise) of the deceased through which body can be identified. If face is smudged due to bloodstains etc., one photograph is taken as such and another photograph after cleaning the face, for identification purpose.
- ii. Find out whether the dead body is of a Hindu or a Muslim Search for identification marks, tattoo marks, tailor marks and any physical deformity or any physical peculiarities.
- iii. Search for tyre marks or other incriminating evidence in and around the dead body to ascertain whether the body was brought from outside and thrown at the scene or otherwise.
- iv. Inform the local press to publish photo and also the local cable T.V. network to broadcast the news. Send photographs and descriptive particulars to all SHOs of bordering P.Ss and those P.Ss where there is reason to identify the body. The same should also be published in the district crime and occurrence sheet and in criminal intelligence gazette. Send a detailed message to all the Circle Inspectors of the District, besides sending a copy of message to bordering CIs / SDPOs and SsP concerned to inform whether any men / women missing cases were reported prior to noticing the dead body.
- v. Take fingerprints as per the procedure. If the body is putrefied, address letter to Medical Officer to preserve alt the 10 phalanges so that FPs could be taken. Send Finger Prints to the concerned District Finger Print Bureau and State Finger Print Bureau to locate the person if he / she is having any criminal record.

- vi. Depute a PC / HC with photograph and details to the neighbouring districts to meet the concerned Inspectors of DCRB to find out the identity of the deceased. The District Control Room should inform all the SHOs for a report, if any, of the missing persons, so that the identity can be crosschecked. If the dead body bears ante-mortem injuries, register a case under 302 IPC immediately and take up necessary action.
- vii. In cases of suspected homicides it is advisable to collect blood samples on a clean white cloth or a white paper, dried under shade for the purpose of future D.N.A. finger printing tests. Collect the body fluids and other material objects in accordance with the guidelines contained in the relevant orders.

Death in Encounters or in Police Custody

406. In all deaths in police custody and encounters, FIR shall be registered and immediate report made to the concerned executive magistrate, who shall hold inquest. The executive magistrate shall hold an inquiry and submit his report. Publicity must be given to facilitate the relatives to be present and give evidence during inquiry. The NHRC guidelines regarding investigation of cases of deaths in encounter should be followed.

Death in Jails

407. In all cases of death in jails the inquest and inquiry should be made by a magistrate in terms of Jail manual.

Compensation Cases - Supply of Documents by Police

408. In all cases of accidents, compensation is paid to victims resulting in death or injuries due to natural calamities, accidents by Air, Railways and roads and also due to violence in caste, communal and terrorist incidents. Apart from insurance companies various authorities also pay compensation. To facilitate such victims and the legal heirs of the deceased to claim relief from the authorities or tribunals in time, the police must furnish free of cost, the following documents to the victims as well as to the authorities of claims Tribunal having jurisdiction and insurance companies within 30 days without their requisition as required under section 158 (6) of M.V.Act.

- A. Attested copies of FIR, inquest reports, postmortem and wound certificates and the statements of witnesses if any.

- B. In motor accident cases the report of the Motor Vehicle inspector relating to the damage of the Vehicle, copies of Certificates of Insurance, Certificate of Registration, Driving Licence and Fitness Certificate.
- C. Charge sheets or final reports.
- D. These documents may be furnished free of cost to the voluntary agencies, legal aid committees and legal service authorities also if they take up the cause of the victims.

Points for Enquiry in Death Caused by Various Reasons & Modes

409. The following important points must be observed during inquests:

1. Suspected poisoning

- A. Collection of food remains, vomiting.
- B. Ascertain exact time of taking food

2. Hanging or strangulation

- A. Before cutting or removing note the strangulating medium, lividity of face, lips and eyelids, state of the tongue whether enlarged or protruded, flow of any fluid from the mouth or nostrils.
- B. Note the state of the neck, whether there are any marks, state of the thumbs whether crossed over the palm.

3. Body in a tank or well

- A. Note for marks of blood around the mouth or sides of the well or tank
- B. State of the skin whether smooth or rough and any external marks of injury
- C. Note the condition of the hands and feet. Sand or weeds under nails if any should be removed and preserved.
- D. Details of clothing and the manner of wearing

4. Body found murdered in open

- A. Note the location, character and number of injuries
- B. If weapon is found pack and seal it carefully without disturbing the prints if any
- C. In the case of exposed infant, note the state of umbilical cord and any marks of violence. Examine the skull for any fracture
- D. If the sex is not definite seize and collect the Jaw and the bones of the Pelvis and samples of skin.
- E. If the body is burnt, collect the pieces of bones and shes

5. Death due to firearms and explosives;

- A. Exact shape, location and number of entry and exit wounds
- B. Marks of burns of hair or skin around the wounds
- C. Recovery of pellets, spent cartridges or any firearms from the scene
- D. Remains of explosive devices
- E. Show in the sketch the damage caused by firing or explosion in the scene

6. Deaths in Motor accidents

- A. Tyre marks and skid marks
- B. The description of all injuries
- C. The portion of the road where the body is found
- D. Any of the fibres of clothes of the deceased sticking to the vehicle

410. Special Precautions About Inquest

1. Inquest must be held immediately after inspection of scene
2. Independent witnesses of the locality must act as panchayatdars and they must be present all through the inspection of the IO.
3. Inquest must be drawn at the scene:
4. When different parts of the body are found at different places separate inquests must be drawn, steps should be initiated to establish the identity of the body. If the identity is not known a colour photograph and colour video graph should be taken in an undisturbed position. Then different photographs should be taken in different angles. Finger impression also should be taken. When several bodies are there, number of police officers may be engaged to hold inquest on different bodies. Body and the wounds should be described methodically and systematically from head to foot.

5. The description of clothes found on the body and the exact place of blood or stains found should be noted.
6. If any article is seized packing and sealing shall be done on the spot,
7. Every detail touching the apparent cause of the death shall be recorded.
8. Exact measurements must be given and vague expressions should be avoided.

Correspondence

Introduction

411. Communication is fundamental to official working and functioning. The official communication can be oral or in writing. The communication made in writing is called as correspondence in official parlance. Correspondence should be simple, clear, cogent and effective. There are some formal rules which are required to be observed while making official correspondence. Some of the general rules of correspondence are mentioned herewith.

412. General Rules

- i. The name as well as the official designation of an officer should be set out at the head of every letter or proceedings issued by him or from his office. Every correspondence should be duly signed by the concerned officer. However, an authorized subordinate officer may sign it, once the draft of the letter or proceedings has been approved on the file. The use of facsimile signature stamps in lieu of manual signature in regular correspondence is forbidden. Official documents should be signed in a uniform and legible manner. Initials and full signatures should always be dated, with the year as well as the date and month being shown on each correspondence.
- ii. Complete address of the addressee should be written including the pin code. In case a particular officer has to see the letter, the letter should be addressed to the concerned office but caption added on the first page of the letter as: Kind Attn: Sri (Name) just below the official address. Wherever it is urgent and necessary to seek orders from DGP Office in any matter, Unit Officers should write letter and sent it in name cover to the concerned Officer dealing with the subject in DGP, Office.
- iii. Telegrams and telephones should not be used when police communication networks or e-mail or fax machines can be used. Wireless messages should be sent in the manner prescribed in this regard.

- iv. The postage for all letters dispatched by Government officers in their official capacity in reply to communications of any kind received from private individuals or associations should be at government cost.

Signing of Official Communications

413. Notifications and orders including that addressed to members of the public, issued in the exercise of statutory powers, should be duly signed both on the office copies and the fair copies by the officers empowered to issue them and not by any other officers on their behalf. All communications addressed to Government or superior officers should be signed by the officers concerned or by the officers specially authorised to sign on behalf of the officer concerned. Initials and signatures should always be dated, the year as well as the date and month being shown. All communications should contain the name of the officer signing the communication either typewritten or legibly written in brackets, below the signature. When a large number of enclosures are sent with a letter, a list of such enclosures should be forwarded. Urgent letters should be dispatched by speed post/express delivery. Courier system can be used rarely in extremely exceptional and urgent situations.

Classification of Correspondence

414. The official correspondence can be classified broadly as follows :-

- A. **Top Secret** - This marking is reserved for papers containing information of such a nature that for reasons of national security, it must only be disclosed to persons whose duty makes it essential that they should have knowledge of it. Such papers include references to current or future military operations, impending movements or dispositions of the armed forces and shipping and secret methods of warfare, to matters of high political policy and to methods of secret intelligence and cyphers.
- B. **Secret** - This marking is reserved for papers other than those marked top secret which are of such a nature that their disclosure to persons other than those whose duty is to have knowledge of them, would cause administrative embarrassment or difficulty or would be helpful to the enemy, without being gravely dangerous to the national interest.
- C. **Confidential** - This marking is reserved for papers containing information the circulation of which is desirable to restrict, for administrative reasons and which do

not disclose such vital information as to warrant their inclusion in the secret category.

D. **Private** - It means, not to be placed in an official file or referred to in official correspondence'. Papers so marked should be kept by the recipient so long as they are required and then destroyed.

E. **Personal** - It means not to be opened by any one except the officer named on the cover and to be returned to the sender if the addressee is not available.

The Precautions

415. All Top Secret' 'Secret' and 'Confidential' papers should invariably be sent in double covers The Security marking should be indicated on the inner cover only (and not on top cover) and should be properly sealed and addressed by name to the officer for whom it is intended The top cover should bear only the official address. If sent by hand delivery through an assistant or a clerk only a single cover may be used in which case the cover should be carefully sealed and clearly marked with the correct name, address and security marking. When such papers are sent by a messenger they should be closed in double covers. Economy labels should not be used on the inner covers containing Top Secret, Secret and 'Confidential' documents. They should be used on outer covers only.

Address on Envelops and Covers of Official Correspondence

416. Covers containing official correspondence which is not of a confidential nature should be addressed to the officer for whom they are intended by his official designation only and without the addition of his name. All Top Secret' 'Secret and 'Confidential documents should be placed in strong covers and where the contents are bulky, cloth-lined covers should be used. Letters or packets containing Top Secret', 'Secret', and 'Confidential' papers, when sent by post, should invariably be registered and sent 'Acknowledgement Due;. Even when they are sent by hand delivery the signature of the recipient should be obtained in token of his having received the documents. Parcels or envelopes containing Top Secret' or 'Secret papers should be placed in a canvas bag while sending to the post office. They should be sent by insured post, if necessary. Top Secret papers should be opened only by the officer for whom they are intended or by an officer who is dealing with his work in his absence. 'Secret' or 'Confidential papers should be opened only by the officer for whom they are intended or by the officer who has been authorised to do so or who is looking after the work in his

absence. In no case should such papers be opened by an officer other than a superior officer.

Disclosure of the Identity of Sources

417. No record or information which relates to, or which leads or may lead to the discovery of the identity of the source from which or of any agent or informant from whom any secret information has been or may be obtained shall be communicated by any Police Officer to any other member of the police force to which he belongs, except as provided below:

- I. Officers of and below the rank of Inspector in the Intelligence shall not communicate, any record or information of the type described above to any Police Officer other than the Superintendent, or an officer of higher rank, if any of these officers require it.
- II. Officers of and below the rank of Inspector in the Criminal Investigation Department shall not communicate any record or information of the type described above to any Police Officer, other than the Superintendent, or an officer of higher rank, if either of these officers require it.
- III. Officers of and below the rank of Inspector in the district police shall not communicate any record or information of the type described above to any police officer, other than a superior officer of the district in which they serve if such an officer requires the information. Any superior police officer who is in possession of any record or information of the type described above shall not communicate it to any police officer, other than his immediate superior officer, if that superior officer calls for it. For the purpose of this order, the Deputy Inspector General and above of the State Intelligence or Deputy Inspector General and above of the Criminal Investigation Department, Bangalore will be regarded as the immediate superior of a Superintendent, so far as information relating to matters coming within the purview of the Intelligence or the criminal investigation department is concerned.
- IV. No record or information which relates to, or which leads or may lead to the discovery of the identity of any Police Officer who has obtained or may obtain, any secret information or who is or has been employed or who may be employed on any secret enquiry shall be communicated by a Police Officer to

another Police Officer, other than his own immediate superior Gazetted Officer, if such superior officer requires such record or information.

- V. No record or information which relates to, or which leads or may lead to the discovery of the identity of any source from which or of any agent or information from whom any secret information has been or may be obtained and no-record or information which relates to, or which leads or may lead to the discovery of, the identity of any Police Officer who has obtained or may obtain any secret information, or who is or has been employed on any secret enquiry shall be communicated by any Police Officer, otherwise than as provided in the preceding orders to any person except under the specific orders of the Director General & Inspector General of Police which should be obtained in each case. Greatest care shall be exercised to avoid exposure when the source of information has to be transmitted to another Police Officer. Original report or a copy of any original report shall not be transmitted. Either the substance should be communicated or the report paraphrased.

Communication of Secret Information

418. No secret information of a type other than the one described above shall be communicated by any Police Officer to any person other than a member of the police force within the State except as provided below :-

- i. The State Intelligence as well as the CID may communicate secret information to such persons, other than members of the police force within the State as are approved by the Government, lists of whom shall be maintained in the State Intelligence and the CID respectively. In urgent cases, the Heads of the State Intelligence and CID may, in anticipation of approval of the DG & IGP, communicate such information relating to their respective departments to members of a police force outside the State other than those mentioned in the approved lists.
- ii. Secret information which has to be communicated to District Magistrate in the interest of maintenance of law and order may be sent by or under the authority of the Superintendent of Police of the district.
- iii. Communication of secret information by the District Police to any member of a police force outside the State should ordinarily be made through the State Intelligence or CID, as

the case may be. In urgent cases, however, the Superintendents, may, in anticipation of approval, communicate such information to an officer of corresponding or higher rank in a police force outside the State, either in response to an enquiry from such officer or on his own initiative when the delay caused by communicating through the usual channel is likely to be prejudicial to the peace and security of the district concerned or the area to which the secret information is to be sent.

419. **Demi-Official Correspondence**

- i. A demi-official communication may be made when :-
 - a) the matter forming the subject of the communication is at the stage of discussion and has not reached any official finality;
 - b) the writer wants to express his personal views on any subject without allowing them to be treated as his final conclusions or opinions;
 - c) the writer desires that the contents of the communication should not be given any publicity beyond communication to the addressee; or
 - d) the writer wishes to elicit the individual views or opinions of the addressee and desires it to be understood that such views or opinions will not be treated as final decisions or opinions.
- ii. No demi-official letter or telegram/Fax/TP or wireless message should be quoted in official correspondence without the express sanction of both the sender and the receiver. On no account should it be quoted in the issue of orders to subordinate officials. Demi-official communications or instructions, which are provisionally required for action or record, must be supplemented by official communications containing no reference to the demi-official correspondence. Demi-official covers should ordinarily be addressed to the officer for whom they are intended, both by his name and by his official designation. If the officer addressed by name has vacated his appointment, his successor or locum-tenens should open such covers and deal with the communications enclosed, if he is competent to do so. Demi-official covers which are intended to be opened by the addressee and by no one else should be enclosed in covers addressed to him by name only, his official designation being omitted. If he has vacated an' appointment and they are delivered

to his successor or locum-tenans, they should be forwarded to him direct if his address is known, and, if not, returned to the sender.

420. Mode of Addressing Demi-Official Communications

1. The following procedure should be adopted as regards the manner of addressing demi-official letters by one officer to another in the department :-
 - i. Whenever the Addl. Directors General of Police/inspectors General of Police, Deputy inspectors General or Superintendents and officers of equal rank address the Director General & Inspector General of Police, the D.O. letter should begin with Dear Sir.
 - ii. Whenever Superintendents and officers of equivalent rank address the Addl. Director General / Inspector General/Deputy Inspectors General and whenever the Assistant Superintendents/Deputy Superintendents and officers of equivalent rank address the Superintendents or the officers of equivalent rank, the D.O. letter should "Dear Sir".
 - iii. When a higher officer addresses a lower officer for example, the Director General of Police addresses the Additional Directors General or Inspectors General or Deputy Inspectors General or the Superintendents and the Additional Directors General address the Inspectors General or Deputy Inspectors General and the Superintendents and so on, the salutation "Dear (name)" should be used. There is no need to address "Dear Sri so and so".
 - iv. Between officers of equal rank, the salutation 'Dear Sri (name)' should be used, if the addressee is senior 'Dear sir should be used, if the addressee is junior then Dear (name) should be used.
 - v. All the D.O. letters should close with 'yours sincerely'.
2. Except for social purposes or in reply to congratulatory messages, etc., Assistant Superintendents, Deputy Superintendents and officers of equivalent rank should not ordinarily address D.O. letters to the DGP/ADGP/IGP/Deputy Inspectors General. All correspondence addressed to subordinate Police Officers should be in memo form. If the addressee is one outside the department and superior in status, he should be addressed as 'Dear Sir. If the addressee is one outside the department and equal in status or junior in

status, he should be addressed as 'Dear Sri (name)' if the addressee is one outside the department and is well acquainted, he may be addressed as 'Dear (name)'. While addressing District Magistrate, ordinarily, 'Dear Sri (name)', should be used unless the officers are well known to each other in which case they may address as 'Dear (name)'.

D.O. Reminder to Director General & Inspector General of Police

421. Demi-official reminder letters should not be sent direct to the Director General and Inspector General for a reply in routine cases. If a reply is due from chief office in respect of any reference, the Superintendents will, in the first instance, send the usual reminders to the Director General and Inspector General by designation and if such reminders fail to bring about the desired effect, D.O. reminder letters may be sent, addressed to the concerned Deputy Inspector General who should promptly see to the expeditious disposal of the case in question. If, even after such D.O. reminders to Deputy Inspector General concerned, reply is not received, then a D.O. reminder letter addressed to the Director General (by name), may be sent.

Official Correspondence

422. All correspondence to the superior officers should be addressed by means of letters which should contain the following salutations:

- (a) The word 'Sir' at the beginning of the letter.
- (b) The words 'Yours faithfully' at the end of the letter.
- (c) The subject-matter and the reference, if any, should invariably be noted in all letters.
- (d) A sample form of letter is given below for guidance.

MODEL

From,	To,
(Designation)	(Designation of the officer)
No.....	Date.....
Sir,	

Subject :- .

Reference :-(Contents of the letter)

Yours faithfully,

(Signature) Name and designation.

422.1 The same form as shown in the preceding order should be adopted while addressing official letters to a private or non-official person or body or to officers of other States or a letter of the nature of an official reference addressed to a higher officer of any other department of the Government. In respect of correspondence passes through 'Endorsement', 'Forwarded to' should be followed when sent to subordinate officers. In addressing superior officers or officers of equal status whether of the police department or of other departments, the words "copy forwarded with compliments to....." should be used.

423. **Forms of Address**

(1) In all official correspondence and Government records only the following honorifics will be prefixed to the name of Indian nationals, men and women, irrespective of their race or religion.

- a) For men - Sri; for Women- if married, Srimathi; if unmarried, Kumari.
- b) So far as men are concerned, each name should have the honorific Sri and Sriyuths in case of plural while addressing a group of names. For example, Shriyuths Sharad, Vivek, Anil etc., Women 'Srimathis' and 'Kumaris' should however, be used as plurals for 'Srimathi and Kumari', respectively.
- c) While addressing companies, firms, etc., 'Sri may be used.
- d) As far as possible 'Sri', 'Srimathi', or 'Kumari', as the case may be, should be used
- e) As prefixes to all, but in the case of foreign nationals prefixes appropriate to them (i.e. commonly used in their respective countries) may be used.
- f) The honorific 'Srimathi' may be used for widows and 'Sri' may be used for boys.

(2) Medical practitioners (except those who hold military ranks) whether in the service of

the government or otherwise, should be addressed by the courtesy title of 'Dr. before their names and with their degrees and service (in the case of Government servants) added at the end.

424. Disposal of Applications/Petitions From the Public

- i. A letter or petition duly stamped in accordance with the law on the subject or where there is no such legal requirement, postage stamps are affixed, should be acknowledged within 24 hours of the receipt of the letter/petition. The acknowledgment should indicate the reference number in the office to enable all future correspondence to be addressed. IGP Grievances Cell/ or PRO in his absence, in the case of Director General & Inspector General and Heads of Offices in other subordinate offices who receive the communication will be responsible for issuing the acknowledgment.
- ii. When a communication is received in an office, and the subject matter is such that it should be sent to another office for disposal, it should immediately be forwarded to the concerned office and the petitioner should be informed of it while sending him an acknowledgment. When petitions are presented to Ministers while on tour, they may be handed over to the local officers concerned for necessary action. The officers receiving such petitions should take immediate action to acknowledge them in the following manner.
 - a) Acknowledgment should not be granted in the following cases :-
 - b) Applications for appointment, but when the application is in response to an advertisement, the application may be acknowledged;
 - c) Applications repeating a request already disposed of and when the applicant has been told that further representations will not be considered;
 - d) Applications couched in improper, impolite or scurrilous language neither may nor be acknowledged.
 - e) When only copies of communications addressed to other offices are received, except when a communication received from a superior authority specifically asks for an acknowledgment neither may nor be acknowledge.

- iii. The acknowledgment may normally be in the prescribed printed card and the officers may, at their discretion, send acknowledgments in the letter form also. All communications other than the initial acknowledgment to non-officials including applicants and petitioners should invariably be in the form of a letter. Applications should be read carefully and dealt with promptly, expeditiously and satisfactorily. If delay in their disposal is likely to occur, the applicants should be informed suitably. It should be borne in mind that the public have a right to expect promptness, courtesy and care in the disposal of applications sent by them.

425. Correspondence With Public Representatives

- i. Whenever a member of legislature or Parliament writes on matters relating to the public or section thereof or an individual to whom the member thinks injustice has been done, the officer receiving such communication from the Member should give an acknowledgement to the Member concerned within seven days. The concerned officer should also examine the matter promptly and send a considered reply within a month as far as possible. If this is not possible, they should give interim replies indicating among other things, the probable date of the final reply and every attempt should be made to adhere to this date.
- ii. The Unit Officers should maintain a special register in this behalf showing the date of receipt of the letter from the Member of Legislature or Parliament, date of issue of acknowledgement, further stages of the case and the date of issue of final reply. This register should be reviewed once a month personally with a view to verifying that prompt action is taken at all stages. All sections of the chief office should likewise maintain the special register in each section and the registers should be put up before the Director General or chief of the section every month for his perusal.
- iii. With regard to the supply of information, to the members of the Legislature / Parliament, the unit officers concerned may furnish information on request made by the members subject to the following conditions :-

- (a) The information is purely factual;
- (b) The information is readily available and special efforts to collect it from the number of sources are not required;
- (c) The information is not secret or confidential;
- (d) The information does not relate to individual cases, whether of government servants or otherwise;
- (e) Information on question does not involve a statement of opinion or general policy will not be furnished.

426. Correspondence With Government

- i. The Superintendents should invariably send replies to reference, received by them direct from Government, through the Director General of Police: The replies should invariably be accompanied by copies of the Government reference and its accompaniments, if any, and should, when necessary be submitted through the Range Inspector General concerned.
- ii. All routine and urgent references relating to information collected by the criminal investigation department may be sent direct to Government by the Director General, CID, Training, Special Units & Economic Offences, copies being simultaneously forwarded to the Director General of Police. References on important and policy matters should be submitted to the Director General of Police and replies sent to Government either direct or through the Director General of Police according to the nature of correspondence.

Orders Issued by Ministers

427. The following procedure should be adopted in respect of oral orders issued to the Police Officers by Ministers :-

- i. Orders of Government should normally be issued only under the signature of Secretariat Officer and routed through the official channel.
- ii. Where, however, in special circumstances, directions are given to a Police Officer

directly (e.g., a Minister may give certain directions orally during an inspection) , it is the responsibility of the officer who receives the instructions to reduce such instructions to writing and send a copy thereof to his official superior, with a request to address the Secretary in the administrative department concerned through the Director General of Police to get those instructions confirmed in writing. This should be done promptly on the day the instructions are given or at least on the following day.

428. Replies to Legislative and Lok Sabha Questions, etc.

- i. Replies to questions raised on the floor of the Legislative Assembly, Legislative Council and the Lok Sabha, Rajya Sabha should be furnished on top priority basis.
- ii. When questions which rose on the floor of the Legislative Assembly or Council are referred to the Director General of Police, he should immediately furnish the required information if the information is available in his office. Where information has to be collected from subordinate officers, the Director General of Police will send copies of the question to the unit officers not below the rank of Superintendent of Police who should furnish draft replies, a note to answer supplementary and any other relevant information to the Director General at once or within the time-limit specified, as the case may be. The Director General will prepare a draft reply to the question (s) along with a note for replying possible supplementary and furnish the same to the Government within the prescribed time-limit.
- iii. If the questions are sent to the officers direct by Government i.e. Addl. DG of Police, IG of Police, DIG of Police or Superintendents of the districts and other unit officers, etc.) such officers should furnish the replies to the Director General and Inspector General of Police, who will send the reply to the Government promptly after examining the same.
- iv. Whenever the information is called for by fax with a view to avoid any possible delay the replies should also be furnished by fax.
- v. Similar action should be taken in sending replies to Lok Sabha or Rajya Sabha questions.

- vi. If, in spite of the best efforts, it is not possible to furnish a reply within the prescribed time-limit, an interim reply should be sent to the Government specifying the time-limit within which the reply could be sent, with specific reasons for the delay. This procedure may be adopted only in exceptional cases.
- vii. All correspondence regarding Lok-Sabha / Rajya-Sabha / Legislative / Assembly/ Council questions should go in envelopes super scribed as " IMMEDIATE - LOK SABHA / RAJYA SABHA / LEGISLATIVE ASSEMBLY / COUNCIL QUESTION".

429. Correspondence With Other States :

- i. Direct correspondence on routine and non-controversial matters may be carried on between officers of other States to facilitate matters in day-to-day administration. The Heads of Departments and other officers authorized are permitted to correspond directly on routine and non-controversial matters.
- ii. Correspondence with police officers of corresponding ranks in other States is permitted in the cases detailed in the following paragraph subject to the restriction that it is confined to matters of routine and is not controversial in character. Inspectors and Sub-Inspectors may correspond directly with police officers of equal ranks in other States on the following matters being handled by them pertaining to movements of criminals, enquiries as to antecedents and convictions of persons, circulating lists of property, information concerning crimes, soliciting assistance in cases or requesting statement of a person to be recorded. The police forms, if prescribed should be used in correspondence. If wireless communication is required to be made, the prescribed message form should be adopted.

430. Direct Correspondence With Foreign Countries

- i. The Indian Union has its own diplomatic representatives in foreign countries including Pakistan. It is not permissible for Police Officers to enter into direct correspondence with their counterparts or with private companies, investors or manufacturers in such foreign countries. All correspondence intended for such persons in foreign countries must be routed through the Director General of Police,

who will address the person through the State Government.

- ii. All references about the political crimes and all other references about policies and general information must, be routed through the Director, Intelligence Bureau, Ministry of Home Affairs, Government of India.
- iii. In case of a direct communication permissible under sub-order (ii), a copy thereof should be submitted to Government in the Home Department for transmission to the diplomatic representative of the Indian Union in the foreign country concerned.
- iv. The police authorities in India on the one hand and foreign countries on the other have to correspond in routine matters relating to the control of emigration or investigation of specific crimes of non-political nature, such as murder, dacoity, robbery, burglary, etc., through the Interpol unit of CBI.
- v. Any information required by any foreign police force concerning police in India should not be furnished direct; but the information together with a copy of the letter received should be sent to the Director General of Police for onward transmission through the Director, Intelligence Bureau, and Government of India. On no account should such information be furnished direct.
- vi. Whenever certificates or documents are issued by executive authorities in India for use in foreign countries at the instance of private parties, the following points should be kept in mind.
 - a) The document should be drawn on reasonable quality foolscap paper;
 - b) The paper or the form used should bear the name of the authority issuing it;
 - c) As far as possible the signature of the officer signing the certificate or the document should be supported by his official seal;
 - d) In cases of documents and certificates required by the Government of India on behalf of foreign countries, these should be submitted to the competent officers of State Government for attestation, under his seal, of the signature of the local authority originally issuing the document or the certificate.

Correspondence With the Accountant General

431. The Superintendent may furnish direct to the Accountant General information on accounts matters required by him. In respect of matters requiring sanction of the Director General of Police or Government or involving interpretation of rules, etc., the Superintendent should make a reference to the Director General of Police.

432. Prompt Submission of Reports to Chief Office

- I. Whenever a report is called for from Chief Office, it should be submitted within the time stipulated; if no time is stipulated, then the report should be sent within a fortnight.
- II. If, for any unavoidable reason, it is not possible to expedite the report, the officer concerned should send an interim report within the time stipulated in Sub-Order (i) above, mentioning when he would be sending the report called for.
- III. If the officer concerned does not send a report as required in sub orders (i) or (ii) a reminder on white paper shall be issued from the Chief Office and the officer concerned should at once expedite his report without any delay.
- IV. If, in spite of the reminder, the report is not expedited, a second reminder will be issued on green paper and this will be a warning reminder.
- V. If, even after the issue of the warning reminder on green paper, the report is not sent, a final reminder on red paper will be issued, stipulating a time limit within which the report should be sent. This reminder will have a counterfoil in which the officer concerned should acknowledge the receipt of the reminder on the day he receives the reminder, and send it by post to the chief office. The officer concerned should then send the report within the time stipulated in this reminder and if he still fails to do so, he will be held personally responsible for his failure to comply with the above instructions.

433. Delay in the Disposal of Official Correspondence

- i. It is the duty of every Government servant to contribute his utmost

towards quick and efficient disposal of correspondence entrusted to him, and if he fails to do so it will be presumed that he is either indifferent or incompetent.

- ii. Heads of offices should take very severe notice of any unreasonable delay in the disposal of the work entrusted to an officer subordinate to him.
- iii. At the same time the practice of members of the staff taking Government files home with a view to keeping their work up to date should be deprecated. No member of the staff should be allowed to take Government files home, except in special circumstances and then only after the permission of the officer concerned has been obtained.

Radio Messages

434. All officers issuing "Confidential" or "Secret" radio messages should mark them "Secret." The transmitting radio station will then transmit such message promptly. After noting only a gist of relevant particulars in the log books, if necessary the message may be kept with them for 24 hours for purposes of verification. Thereafter it should be returned intact to the originator for record. The receiving station, after receiving the message, should check it back with the transmitting station and then deliver the original copy itself to the addressee without retaining any copy. The receiving station will make only a very brief entry in the log book omitting the text of the message. Secret matters, which even the operators need not know, should be sent in code.

Correspondence Between SHOs and Superior Officers

435. Sub-Inspectors and Station House Officers shall address Magistrates, ROs and Officers of and above the rank of Inspector of Police and other Government Officers of the corresponding ranks by letter using the following format:

From	To,
Station House Officer	District Magistrate

(Any other designation according to the status
of the address)

----- Police Station

February 16th, 2008

Ref. No.....

Sub

Sir

(Contents)

Yours faithfully

(ABC.....)

Encl: As above

Copy to:

Papers to be Sent Through the Zonal IG and Range DIG

436. All reports emanating from District Police on subjects of crimes, law and order police operations, police functions. Etc. internal security, coordination, internal management of police shall be routed through the Zonal IG/DIG of Police.

Unpaid Letters, Petition and Nil Report.

437. Unpaid letters prescribed as on public service, even though unsigned by a person authorized to rank, must be accepted. Petitions received from persons outside the department should not be returned in original but an order should be communicated to the sender. Petitions and communications received from private individuals or organizations should be acknowledged forthwith and a reply sent in due course. The Inspecting Officers should invariably verify whether the above instructions are being complied with. Printed forms of returns should not be used when the return is a "NIL" one. A quarter sheet of paper can be

used for such correspondence.

Savingram

438. Telegrams should not be sent and trunk telephone calls should not be made in cases where letters would serve the purpose. All urgent references should be marked "Immediate" and sent by speed post. Officers receiving them should deal with them most expeditiously as though they were telegrams. Telegrams should be sent only in exceptional cases. To draw the immediate attention of the recipients, Savingrams may also be sent. "Savingram" is the name given to a communication sent by post but intended to be treated as if it were a telegram. It will be worded just like a telegram, written or typed on a sheet of paper and sent to the addressee by post, thereby saving telegraph charges. The recipient of a "Savingram" should attend to it as he would do to a telegram. He will send his reply either by an "Immediate" letter or by "Savingram". Savingrams can also be sent by Fax network of Police Communications or through e-mail.

Correspondence to be in Official Language of the State

439. All correspondence within the State should be in the official language. While addressing the Central Government organizations or other States English or Hindi should be used. English may be used in correspondence with the courts. The station records may be maintained in State Language. The instructions of the Government and the Official Language Commission on the subject issued from time to time should be complied with in all correspondence.

Traffic Duties

Introduction

440. Smooth flow of traffic, safe and secure vehicular and pedestrian movements have become basic to the modern living because of concentration, congestion, road jams and varied types of movements of vehicles and human beings on the roads. Safe, secure and smooth flow of traffic has become inevitable conditions of overall progress, prosperity and development of human existence today. Even investments, setting up of new units, industrial growth, corporate expansion etc., now depend to a large extent, in addition to other factors, on the positive or negative traffic condition available in a particular area. Smooth and effective traffic regulation, positive and safe road conditions, driving time and overall road security scenario have become an integral part of the emerging trends of traffic managements today. The police, nay, the traffic police have an onerous duty to perform all these duties in an efficient manner.

The Basic Traffic Premise

441. The functions and responsibilities of Traffic and Highway traffic police are to achieve smooth and safe flow of traffic by efficient regulation and enforcement of traffic laws and to ensure prevention of accidents. Efficient road traffic management should aim at striking a just balance among the following three essential factors :

- i) Satisfactory circulation
- ii) Absolute safety and
- iii) Reasonable Cost.

441.1 In the mechanics of traffic management, Engineering, Education and Enforcement should operate coordinately together for making the roads safe and the passage smooth.

Co-ordination Aspects

442. While regulation and enforcement is the major preoccupation of the traffic police, they have to liaise with the local Municipal authorities, Urban Development Authorities, Roads and Building agencies etc for continuously updating the road surface, geometrics and

accessories like signals, islands, railings, dividers, flyovers, underpasses etc. etc.

Duties of Traffic Police

443. The basic duties of the traffic police personnel include:

- i. Manning fixed traffic points in a town or city.
- ii. Mobile patrol to regulate traffic and clearing the road
- iii. Enforcement of MV Act and Rules and other notifications
- iv. Check and control of rash, dangerous and drunken driving.
- v. Patrolling of highways, enforcement of traffic discipline and maintenance of order on the main roads
- vi. Removing obstructions to traffic flows and organizing traffic diversion whenever necessary, both in the congested areas of the towns/city and on the highways.
- vii. Prompt arrival at the scenes of road accidents, guarding the scene, rendering first aid and shifting the injured to the hospital, intimating to the L&O Police and assisting them in the investigation of the cases.
- viii. Communicating information to civil police of any incident or movement of criminals or suspected persons or property, which they come to know
- ix. Observation and apprehension of wanted persons or taking charge of missing persons in course of their duties
- x. Setting up barricades to check vehicles on alert from the police authorities
- xi. Assisting civil police or detective police in checking for suspicious persons or properties
- xii. Assistance to police during large gatherings
- xiii. Undertaking Traffic education
- xiv. Maintenance of prescribed records
- xv. Upkeep and maintenance of all traffic equipment including traffic signals
- xvi. Take special care of school children, old or blind or handicapped persons and others at road crossings and peak traffic points
- xvii. Monitoring of traffic on the highways on a full time basis
- xviii. Advice the local bodies and other authorities for erection of road signals, road painting and other matters connected with traffic engineering
- xix. Coordination with local authorities, highway department, telephones, water works, drainage, electricity in the matter relating to free flow of traffic and its regulation,

occasioned by maintenance and repair works undertaken by the concerned departments.

- xx. Organize road safety education, awareness and training for drivers, road users, public, students and other stake holders.
- xxi. Set up road safety and education parks.

444. Organisation and Supervision of Traffic Police Stations

- i. Traffic police station should be established in all Commissionerate cities and "A" grade municipalities and in other places depending on the necessity. Each police station shall be equipped with a mobile wireless vehicle for patrolling purposes. A Highway patrol vehicle shall have staff consisting one SI, one HC and 1 or 2 Constables. The vehicle should be equipped with public address system, searchlights, first aid kit and shall have clear markings indicating the area and identity of the mobile. A certain number of motorcycles with necessary communication equipment shall be provided for each police station to enable mobile patrolling on two wheelers. A traffic police station should be normally located in a separate building equipped with all communication facilities in the same manner as ordinary police station. The recovery vans (cranes) and other equipment needed for clearing of obstructions is provided in large cities and at other important places.
- ii. The traffic and highway police stations should be under the control of a DSP in the districts. In large cities where numbers of traffic police stations are more an independent SP or a Deputy Commissioner of Police should head the Traffic Branch. Adequate staff equipments and facilities looking to the quantum of work and work load should be made available to the traffic police in accordance with the need, necessity and demands of the traffic duties.

Work Allocation and Jurisdiction

445. The staff of the Traffic PS is divided into sections and each section kept in charge of a Head Constable. The traffic section shall work in accordance with cycles of duty to be fixed with reference to the local conditions.

445.1 The location of the traffic and highway police station should be determined on the extent of the highway to be patrolled and the regulation of traffic in large towns. The location should be determined also on the basis of nodal traffic points and the need for setting up of police check-posts during emergencies.

446. Records to be Maintained and Functioning of Traffic Police Station

- i. The traffic police station shall maintain all the records relating to personnel and management of station in the same manner as prescribed for ordinary police stations. The important records are general diary, duty roster, traffic point books, petty case register, MV Act cases register, challan book, small service books, process register, a map of the area and accident prone areas, the general information book etc. The mobile patrolling teams should maintain apart from the log books, a point book similar to beat book in which all matters connected with mobile patrolling and incidents are recorded.
- ii. All other schedule of duties and managements as prescribed for civil police station apply to the traffic PS. Any person approaching traffic police with a cognizable case should be helped to contact the nearest police station without delay taking such action as may be necessary to safeguard the scene of occurrence and shifting of the injured to the hospital.
- iii. All information on traffic offences and offenders shall be maintained in the Traffic Police Station concerned and necessary information sent directly to District/City Crime Records Bureau with a copy to the Addl. SP/SP/DCP. There should be an ideal understanding and interaction between the local civil police units and the traffic police personnel.

447. Road Accident Cases

- I. Whenever a road accident causing death or bodily injury to any person or involving damage (excluding trivialities) is either reported or otherwise brought to the notice of the police, the Station House Officer concerned shall, after prompt enquiry, prepare a report in duplicate and forward the original without delay to the Superintendent through the usual channel, the duplicate being retained in the

station.

- II. A monthly return shall be prepared by each Superintendent and sent to the Commissioner for Transport, the Regional Transport Officer and the District Magistrate and to the Director General. An annual report to the Director General shall be sent, who will send a consolidated annual report to the Government. Superintendent should include in his administration report an analysis of the causes of the road accidents in his jurisdiction in the year.

- III. Each accident causing death or personal injury is counted as one accident only irrespective of the number of persons killed or injured thereby. An accident in which more than one vehicle is involved is also counted as one accident only. Accident in which only the driver or the rider is injured or killed should also to be included in the report.

- IV. Investigation of a road accident will comprise of the examination:
 - A. At the scene of accident;
 - B. Of injured person or dead boy;
 - C. Of the suspected vehicle;
 - D. Of the driver of the vehicle.

(A.) Examination of The Scene of Accident

- 1. The place should be isolated till the examination is complete. Note the exact position of bodies of victims and the vehicle. Take photographs where necessary from different angles of the scene before removal of bodies and the vehicle. Search should be conducted for the following things.
 - a) Skid marks - Note their length, prepare a sketch giving details of various measurements.
 - b) Tyre impressions- For determining their make, condition, size and the direction of movement.
 - c) Dirt and debris from impact - For comparison with the dirt from the under surface of the suspected vehicle.
 - d) Chipped flakes of paint and enamels - For comparison with samples from the suspected vehicle.

- e) Fragments of glass - Pieces of glass from damaged headlights, mirrors, windows or window screen must be collected to determine the type of vehicle involved in the accident and also connecting a suspected vehicle found with broken wind screens or headlights, etc....
- f) Broken equipments - Such as pieces of metals from broken bumpers-door- handle - radiator - emblem, which may have been detached.
- g) Fabric - Small fragments of cloth or fibers of garments torn away should be collected.
- h) Blood, hair tissues - These will indicate as to what else to look for in a suspected vehicle.

2. A sketch of the Scene should invariably be prepared showing-

- a) point of impact
- b) track marks of vehicles concerned in the accident.
- c) position of the vehicles of the accident
- d) width of the road and nature of road surface (whether metalled or tarred or otherwise)
- e) visibility - whether the road at the accident spot is a straight road or with bends, presence of fog if any and such other details to be noted.
- f) gradient of the road at the scene of accident.
- g) skid marks and brake impressions.
- h) position on the road of glass or other debris.
- i) width and nature of the katcha position of the road and roadside land,
- j) dimensions of vehicles involved.
- k) if visibility is observed by hedges, fences, poles etc. and if so, measurements
- l) any fixed objects (e.g. telegraph, telephone or electric poles) which might have a bearing on the accident or which might help to fix the exact position on the road of vehicles and injured.
- m) road directions, traffic, signs and their location
- n) compass points, if any,
- o) position and direction of the dead body or injured.
- p) position of blood stains,
- q) lighting facility with the location of street lights.

(B.) Examination of Injured Person or Dead Body

1. Attempt should be made to find out -
 - a) whether the injury was caused by a direct or glancing impact.
 - b) whether the injuries were due to crushing effect of weight of the vehicle.
 - c) whether the body was dragged along.
 - d) whether the person was lying on the road when hit.
 - e) when the person fell down from a vehicle.
 - f) whether the injury was by parts projecting under the vehicles, such as axle, etc.
 - g) the speed of the vehicle at the time of the impact.
 - h) any physical disabilities of the injured or deceased, cataract, deafness, epileptic, fits etc.

2. Preserve any foreign matter present in the wound; note carefully marks, such as tyre marks, grill marks, if on the person or his clothing. Take samples of blood and urine of the deceased, if any along with sample of hair from the head of the deceased, if any, and any foreign matter found on clothing and note loss of buttons and signs of tears, etc. Preserve clothing of the deceased or injured which should be searched for flakes of glass, traces of paints, traces of metal, blood or any other stains, dirt and debris which should be carefully preserved. Such clothing should be dried naturally and not by using heat, before packing.

(C.) Examination of Suspected Vehicle

1. The suspected vehicle should be protected from other interference and should not be cleaned and search for finger prints should be made first. If glass ware is broken it should be taken possession of and sent to the expert for examination. Specimen sample of paint and enamel should be taken and sent to an expert for examination along with any paint found at the scene of occurrence. Foreign objects including paints and debris found on the suspected vehicle should be carefully collected.

2. The inside of the vehicle should also be searched for presence of material from the other vehicles involved having been thrown inside through the window, etc. at the time of impact. Broken portion of the vehicle found at the scene or on the route should be preserved for comparison. These should also be photographed, if possible.

3. Stains of blood, etc. should be scraped and collected. Hairs and fibres sticking to the vehicle should also be collected. Sometimes pattern marks of clothing of the victim are produced on the area of impact. These should be photographed. Dents and scratches can provide valuable clues to find out the nature of impact and should be closely examined.

4. The presence on the vehicle of vegetation and soil typical of the scene will fix its identity. The understructures should be examined for evidence of contact with the victim. Mechanical examination by the Motor Vehicle Inspector should be done to find out defects.

Examination of Driver

448. The Driver of the vehicle should be examined for drunkenness, disease or any bodily infirmity which affects his driving. All the documents and the past record of the driver should also be examined.

Chapter 21

Inspection

Introduction

449. Observation, assessment and evaluation of the work and performance for analyzing the quality, quantity and standard of work and performance, are necessary to provide speed and dynamism to the functioning of any organization. Inspection is such a tool by which the seniors not only observe the working of their subordinates, but they also make an evaluation of the positive and negative aspects of their performance. Inspection, thus, becomes an effective mechanism of feedback and follow up with regard to working and performance of any unit and its personnel. Inspection, as an effective and efficient supervisory style for organizational development, personnel growth and performance evaluation, should be used and utilized on a regular basis with objectivity and without any prejudice, bias and preconceived notions. It should not be used only as a fault finding technique. It should rather be utilized as a sound system for arranging removal of errors and as a positive set of guidance for better performance in future.

Objects and Aims of Police Inspections

450. Inspection of offices and police stations by superior officers is one of the effective methods by which the efficiency of the force can be raised. It is, in fact, the only way by which the superior officer can come to know his subordinates by personal contact, their standard of work, and their personal difficulties on the one hand, and the general state of crime, standard of investigation and preventive work on the other. The object of inspections should, therefore, be not to criticize and find fault with the work of the subordinates but to suggest or take measures for the improvement of police administration and quality improvement in the service delivery in their work and functioning.

Scale of Inspections

451. The heads of offices are required to make a detailed inspection of their offices at least once a year to ensure that their offices are functioning properly and efficiently. In addition, the officers should inspect every year in detail the police stations and the offices of their

subordinates in accordance with the scale prescribed from time to time. The govt. and the D.G. of Police will prescribe the scale of inspections, the inspecting authorities, and the mode of inspection of their related matters. The inspections should also be supplemented by surprise checks and visits, with a view to ensuring that the defects pointed out at the time of inspection have been rectified and that there is general improvement in the standard of work.

452. Programme of Inspection

- I. Inspection should be conducted in a systematic, scientific and methodical manner. Inspections done by fits and starts and hurried through at the tail end of the year or half-year will not serve any real purpose nor do they enable the officers to judge and gauge the work of their subordinates.
- II. Inspection should be properly spaced out and spread over the year or half-year, as the case may be, particularly the first ten months (or five months) in the year (or half-year) leaving the last two months (or one month) for unforeseen and urgent work. The inspecting officer should make sufficiently long halts and conduct detailed inspections. For this purpose, the inspecting officers should chalk out regular programme of inspections during the ensuing year well in advance and adhere to it.
- III. Each Superintendent or unit officer, as the case may be, should finalize his programme of inspection and obtain the approval of the concerned Zone Inspector General by the 15th of December and send copies to the Director General. While finalizing the programme of inspections, care should be taken by the Superintendent or the unit officer concerned to see that the inspection of the same office/police station/unit by more than one officer do not fall on the same day or at the same time. There should be a reasonable gap between two inspections of the same unit.
- IV. Each Assistant Superintendent/Deputy Superintendent should finalize his programme of inspection and send it to the Superintendent/unit officer, as the case may be, by 1st December which should be scrutinized by the Superintendent/unit officer concerned subject to such changes as he considers necessary with a view to avoiding a clash of programme.

- V. The programme should be so chalked out as to include the maximum number of offices in the same visit. The inspection should be done periodically and systematically. Neither the same office should be inspected too often nor do the others completely neglect.
- VI. All the police officers should be present in ceremonial uniform during the inspection unless otherwise ordered by the inspecting officer.

453. Inspection of a District by the Director General/ Addl.DGP

- I. The S.P. in order to enable the Director General/ADG to gauge the general situation of a district should supply information in the prescribed Performa. The Director General/ADG may direct the Superintendent to prepare such additional statements as he may require for his inspection.
- II. The other officers whose units or offices are inspected should keep such information as is necessary and as may be required for purposes of inspection.
- III. During his inspection visit to the headquarters of a district, the Director General will inspect the police at a ceremonial parade. The parade should be arranged on a convenient day so that maximum numbers of officers are available.
- IV. As far as possible, the Superintendent must command the ceremonial parade. If he is unable to do so, he may depute another suitable officer to command the parade in which case he should receive the reviewing officer as he arrives at the parade ground.
- V. After the ceremonial parade is over, the officers and men may be tested in such drill, use of arms and training exercises as the inspecting officer decides. For this purpose all accessories used in training and drill should be kept handy for being used. Armoury, stores and the entire fleet of police motor transport in the district should be available for his inspection.
- VI. All officers of and above the rank of Sub-Inspectors, including those working in

the Railway Police, Wireless, and other police units stationed at the place of inspection and Inspectors and above stationed in other parts of the district should be called to meet the Director General/ADG during his inspection/visit to the headquarters of a district.

- VII. Arrangements should be made so that MLAs, MLCs and MPs of the district and such officials and non-officials as may desire may meet the DGP. During the inspection visits to the headquarters and other places of the district, the Director General will meet as many retired police officers as would like to meet him.
- VIII. Copies of inspection notes of the Director General/ADG will be sent to the Superintendent concerned with copies to the zone Inspector General and police station or office concerned. The Superintendent will ensure compliance of the instructions issued and send a report to the Director General through his range Inspector General.

454. **Inspection by the Zone/Range IGP/Deputy Inspector General**

- I. Zone Inspector General/Range DIG should spend at least one week for the inspection of the District, Armed reserve and all branches of the office of the Superintendent, the office of the Sub-Divisional Police Officer, the Circle Police Offices and the Police Stations in the district headquarters. He should, in addition, spend sufficient time for inspection of other police stations in the district.
- II. The same police stations and circle offices should not be inspected repeatedly year after year but should be taken in rotation. The inspection of the Range Inspector General should be thorough and should cover all aspects of police work. The one item of inspection in a district should be ceremonial parade. After the ceremonial parade, the parade could be broken up into small units and a particular unit directed to perform a particular drill. He should pay particular attention to the standard maintained regarding P.T., assault course, obstacle course, lathi drill, guards and escort duties, mob-control and fitness exercises. Superior officers, Police Inspectors and Sub-Inspectors should be tested for their ability to take parade, impart instructions and command the men under them.

- III. The armoury, stores and motor transport should be inspected in detail. The inspection of District Police Office should be a detailed one covering the work of all branches including accounts and establishment. While inspecting district special branch, DCIB and district crime record bureau, he should review the state of crime, the collection and filing of special branch/ intelligence wing.
- IV. The Inspecting Officer should inspect all the personal and confidential files and sheets maintained by the Superintendent including confidential and secret documents. The Inspector/Deputy Inspector General should pay particular attention to the maintenance of discipline, speedy disposal of departmental proceedings. Award of adequate punishments and prompt rewarding of those who have done good work are some of the points which should be examined thoroughly. Police buildings and lines should be inspected with a view to ensuring their proper maintenance. Due attention to the welfare activities organized for the benefit of police officers and their families should be given proper and judicious use of the benevolent fund should be ensured.
- V. All officers of and above the rank of Sub-Inspectors including those working in the Railway Police, Police Wireless, and other police units stationed at the place of inspection and Inspectors and above, stationed in other parts of the district should be called to meet the Range Inspector General during his inspection/visit to the headquarters of the district. Arrangements should be made for the Range Inspector General to meet MLAs, MLCs, and MPs residing in the district and such officers and non-officials as may desire to meet him. During the inspection visits to the headquarters and other places of the district, the Range Inspector General will meet as many retired police officers as would like to meet him. It is not necessary for the Superintendent or the Deputy Superintendent to be present during the inspection by the Range Inspector General except at the headquarters of the district or sub-division, as the case may be.
- VI. After completing the inspection of a district he should write a comprehensive report on the district as a whole and also detailed note in respect of each of the units including police stations inspected by him. Copies of his inspection notes should be sent to the Director General along with his comprehensive report on the

district. Copies of inspection notes of police stations and units will be sent to the Superintendent and the office concerned for compliance of instructions issued in the notes within a period of one month.

Inspection by Superintendent of the District

455. The inspection by the Superintendent should cover all aspects of police work including stores, accounts, accommodation and kit. Inspections should be systematic and as far as possible, be carried out by circles and there should be sufficient interval between the inspection of a circle by the Superintendent and that by the Sub-Divisional Police Officer. He should halt at the places of inspection sufficiently long and not less than 3 days in the case of police stations to enable him to get a thorough grasp of local conditions and crime and a full knowledge of the work of his subordinates. An outpost should as far as possible to inspect during the inspection of the parent police station. The Superintendent should inspect the men on parade and test them in drill. He should inspect all buildings, residential and non-residential, as well as buildings under construction and sites selected or earmarked for construction of police buildings. He should hold kit inspection and condemn such articles of clothing as have become unserviceable. He should study the various welfare activities that are carried out at the headquarters and in the police lines and take action to step up the activities. He should make a physical check of cash and all the Government properties and the properties seized in cases. He should go through all the station records.

455.1 The Superintendent should take the opportunity of visiting some of the villages including colonies of Scheduled castes and scheduled tribes, meeting and addressing the local people, acquainting himself with the conditions obtaining in those villages, and devising ways and means of improving the law and order situation in the villages. It is especially important that the approach to the people should always be marked by a polite and helpful attitude. In cases where there are complaints from villagers, particularly in regard to harassment or unnecessary interference by members of the police force, prompt action should be taken to investigate them and punish the miscreant. Beat villages, which are crime centres or where there are factions or criminals, should receive the special attention of the Superintendent.

455.2 The Superintendent must inspect one or two branches of his office every quarter and complete the inspection of the whole office during the year. He must record his reports in the

visiting book maintained in his office for the purpose. The stores, armoury and motor transport should be inspected in detail once a year.

455.3 While inspecting the district special branch and district crime record bureau and the DCIB he should examine the state of crime as a whole in the district and the special branch work turned out by the district special branch.

455.4 He should take with him the personal confidential sheets of head constables and constables during the police station inspection. He should also test each head constable and police constable and write his remarks in their sheets.

455.5 As and when the inspection of a police station or office is completed he should send copies of inspection notes within a week of the inspection to the range IGP/Deputy Inspector General and to the concerned officers for compliance and report within a period of one month.

Inspection by Sub-Divisional Police Officer

456. SDPO should conduct systematic inspection of all police stations and outposts under him. The Deputy Superintendent stationed in the district headquarters should also inspect the district armed reserve and all branches of the district police office once a year.

456.1 His inspection of police stations and outposts should be a detailed one. He should halt at the police station under inspection at least for three complete days to enable him to get a thorough grasp of local conditions and crime and acquire a full knowledge of his subordinates. If the inspection of a police station is interrupted either due to his being required to visit a scene of heinous crime or other law and order duties he should resume his inspection work and ensure that he spends the required number of days at the place of inspection. The three days halt prescribed is the minimum. It may extend for bigger police stations up to 5 complete days.

456.2 The Sub-Divisional Police Officer should test the-men in drill and parade and make a detailed inspection of police lines and police buildings, kit inspection. He should see each officer and test him in drill, law, procedure, etc., and make entries in the personal confidential sheet of each head constable and constable. A physical check of cash and all

government properties and the properties seized in cases should do along with through and detailed inspection of station records and case diaries maintained in the police station.

456.3 The Sub-Divisional Police Officer should take the opportunity of visiting some of the villages, meeting and addressing the local people, acquainting himself with the conditions obtaining in those villages and devising ways and means of improving the law and order situation. It is especially important that the approach to the people should always be marked by a polite and helpful attitude. In cases where there are complaints from villages particularly in regard to harassment or unnecessary interference by members of the police force, prompt action should be taken to investigate them with a view to securing the confidence of the public. 'A' class villages, which are crime centres or where there are factions or bad characters, should receive the special attention of the sub-divisional police officer.

456.4 As and when an inspection of a police station, outpost or an office is over, he should send copies of inspection notes within a week of the inspection to the Superintendent and the police station or office concerned for compliance and report within a period of one month. The Superintendent may, if he considers necessary in any case, forward a copy to the range IGP.

456.5 Station and circle inspection reports will contain the following information at the beginning:

Inspection by Sri.....(Name & Rank)

- (i) Name of the station house officer/Inspector.
- (ii) Name of district.
- (iii) Date of arrival and departure of the inspecting officer.
- (iv) Date of last inspection by the inspecting officer.
- (v) Date of inspection by other officers (with names and rank subordinate to the Inspecting officer)
- (vi) Name of station and /or circle,
- (vii) Date of taking charge of the station/circle,
- (viii) Sanctioned and actual strength of the station,
- (ix) Name of the Inspector,
- (x) Date of taking charge of the circle.

(xi) Number of times he has inspected/visited the station during the past twelve months with dates.

456.6 The officers of the equivalent ranks in all other police units will inspect the units coming under their control as per the scale covering all aspects of their work. They should prepare a check list of items to be covered during their inspection.

Chapter 22

Police Public Relations & Community Policing

Introduction

457. Police organisation, in a democratic polity can discharge its duties effectively only with the cooperation of the people. Public assistance is needed for prevention, detection, investigation and prosecution of cases, and also for maintaining peace during all major social, cultural, economic and political events. For eliciting and sustaining such a co-operation constant interaction with the members of the public needs to be maintained by professional public relations set up within the organization. Police are an important wing of the executive. They are the primary law enforcement agency. The execution of police duties presupposes citizen and public support to police. Police need assistance of the public as witnesses, informers and supporters. The police should therefore endeavor to create impression in the public that they are their friends and are there to help them in case of need. The intention to serve the public to understand the problems of others and a commitment to job are bound to earn laurels for beneficial public relationship leading to healthy police public relations.

458. **Organization and Structure of Police PR Wing**

- i. There should be one public relations officer with necessary secretarial assistance, communications, transport and other equipment in every SP in the district and the Commissioners of Police in large cities. At the State level a Director of Public Relations of the rank of a DIGP with necessary secretarial assistance should be located in the office of the Director General of Police. The Addl. DGP (L&O) may be in charge of the public relations work at the PHQ. Professionals in print and visual media, as well as, advertising will be part of the PR set up at state police headquarters. The public relations officers in the district may be drawn from police officers of the rank of Inspector or from among professionals on deputation/contract. In the other units of the police the PR functions shall be handled by the officer of the rank of a DSP or Inspector at the Unit headquarters.

The CID shall have a separate PRO of the rank of a DSP or a professional on a contract appointment or deputation.

- ii. All PROs, either from the police or on deputation may undergo a two-week orientation course in a professional PR Institute and one-week orientation course to be designed and implemented by training colleges with suitable curriculum with essential features of police public relations.

- iii. The overall profile of the police department and its PR objectives are to be borne in mind in all PR interactions PR wing should be attuned to serve the interests of the public and the goals of the organization. Since the services to be rendered are linked closely with the lives, possessions, liberties, rights and honor of all persons, it is all the more necessary that the public relation functions become a part of the police organization's work.

459. **Functions of PR Wing**

Following are the functions of the PR wing of the police department at various levels.

- i. Illustrate and notify the public the objectives of the police, the rights of the whereas under law, the services which the police can render to the public
- ii. Highlight the constraints and problems of police with the mental strain to which the policemen are subjected.
- iii. Disseminate information on the public of police matters particularly on important incidents and crimes. And apprise the public on importance on preservation of crime scenes for evidentiary value on informing them about the importance of giving truthful information and also the need to come forward to give evidence in courts part of service to the society. In times of emergencies, serious public order situations and outbreak of crime, provide all the information required to the public.
- iv. Elaborate the need for the public to co-operate with the police in furnishing clues, giving assistance in investigation and to come forward to figure as witnesses in the court for the effective control of crime by the police
- v. To identify favourable as well as adverse criticism on behaviour of police officers as reported or appeared in news media and other sources and bring to notice of SP/DCP/CP and other unit officers with press clippings and with their instructions

- issue rejoinder with facts of the case.
- vi. Maintain interaction with voluntary organizations particularly the ones dealing with the problems of children, women, scheduled castes, scheduled tribes, minorities and crime prevention societies.
 - vii. Production, display and distribution of brochures, television serials, short films and other mass media to bring out the areas of police-public co-operation and highlight important aspects of police work including sensational crimes, crime prevention measures, and manner of overcoming lapses and failures in the police; and the need for effective co-operation by the public in detection, investigation and prosecution of cases. It should be ensured that the relevant articles relating to police public relations, the need for station staff to maintain good public relation are contributed to police magazines and other publications to enlighten the staff and the public In addition, efforts must be made to needs awareness among public about police actions and dispel any misunderstandings or doubts.
 - viii. To launch internal communication programme between police officers through In-house Journals, video exhibitions, seminars, meetings etc. and to provide correct feedback of public reactions and their grievances from publications or other media as well as opinion leaders.
 - ix. Setting up and running of an Information Centre and arrange press conferences with senior officers when necessary and maintain close liaison and relation with media and organise seminars with media and police officers to evolve better communication, understanding and co-operation in police work.
 - x. Organize traditional cultural forms of publicity like street plays, dramas, burrakathas, puppet shows, songs etc. and release all advertisements of the department relating to recruitment, procurement etc.

Internal Efforts

460. No amount of effort in public relations will yield the desired results unless it starts first with the police personnel themselves. With a view to developing better internal relations publications of various types can be published and circulated among the staff.

460.1 **In House Journal, Magazine and Publications** : This is a channel of communication for the police personnel of all ranks to get themselves acquainted with the police functioning in all respects. It provides a medium for expression of views and communication of various

developments in the department from time to time. It is also a means by which the personnel can communicate with one another. The contents of these print outs should be devoted to discussion on police duties, personnel problems, cases of good work, updating of knowledge, and the views of the public. The policies of the department and the legal changes are also incorporated in the departmental publications. Publications provide a reading material for policemen and their families. Such activities should run with regular staff headed by a Manager of the rank of an Addl. SP. The staff needed for printing, binding, packing and despatch can be contract appointments.

Strengthening Police Publication Efforts

461. Following activities can strengthen the police publication efforts.

- ✚ Every police officer should become a life member of State Police Journal by contribution at the subsidized rates.
- ✚ The Journal should distribute direct to the entire member.
- ✚ The free distribution should be limited to all police training institutions, stations and police officers for record and use.
- ✚ Apart from regular publication of the State Police Journal, the printing press of police should be utilized for publication of other literature useful to the department as well as informative to the public.
- ✚ A video magazine of the Journal with necessary visuals and live commentaries and interviews should be compiled and released every month.

PR as Part of Police Training

462. The training programmes of the Constables and other police officers should include a module on public relations both at the district training centres as also in other training institutions. Lectures should be organised on PR to the trainees in the training institutions as well as in the district training centres by professional public relations officers. Stickers, motivation posters for different categories of officers and a short poster on code of conduct, do's and don'ts for field police officers displayed at all police station, training institutions, inside the police buildings, police rest houses, barracks, parade ground etc. should be done to improve the communication with the employees. Bulletin board is an effective medium of internal communication which serves the purpose of talking to the personnel and listening by the personnel. This has to be a permanent information fixture particularly in the police

stations, control rooms, police headquarters of the districts/cities and the headquarter of the battalions and the police training institutions.

External Public Relations

463. The Deputy Inspector General of Police, Public Relations and the PROs should be in regular touch with the Information and Public Relations Department of the State Government, Door-Darsan, All India Radio, the Directorate of Field Publicity of the Government of India etc. and organize publicity for all the good work done by the police since positive work usually does not readily attract the attention of the media. The external public relations campaign should be designed to inform, educate, build awareness and confidence in the minds of the public by adopting the following methods.

- A. Educative slogans:** These can be publicized through posters, hoardings, newspapers, radio, television, and printed literature, and electronic display, meetings with voluntary bodies, audio visuals and direct interaction with public.

- B. Newspapers:** This is a powerful media and is read by a large number of people and still those who read and discuss about what they read influence a larger number. Regular press releases in a neat format containing information from time to time on important policy decisions, events, bundobusts, crime information, clarifications, traffic diversions, arrangements for fairs, festivals, elections and in times of emergencies, peace and order situations would go a long way in keeping the public properly informed. Press conferences by senior officers occasionally, and whenever situation demands is a useful method of direct interaction with the press and also indirectly with the public. The rejoinders, letters to the Editor and clarifications in a proper format would enable clarifications and action taken on grievances brought to notice. Press clippings provide useful feedback to the police officers and enable them to respond or take suitable measures.

- C. Electronic Media:** The educative slogans may be displayed or read out through the electronic media and radio. Arrangements to make special announcements in the news channels and in cases of emergencies even by interrupting the normal programmes are an effective means of communications. Interviews with senior officers, telecast on specific topics or matters of interest would also help in improving the information to the public. The news releases made to the newspapers should also be conveyed through

the radio and television channels. The other forms of audio and visual media which can be utilised are documentaries, commercial spots, panel discussions, talks, special announcements, specialised audience programmes, film strips, telefilms, cinema slides, video cassettes, news photographs, and photographs for TV, pictorial albums and record albums.

- D. Advertising:** The main objective of advertising is to disseminate information of major schemes or situations, significant achievements, building up of an image based on performance. It is also a method of presenting the good news covering the major achievements, which sometimes the media may not normally print or give due position or importance. This may be done in all the three media particularly in the print and the visual media. Advertising may be done through press, radio, TV and film ads, and outdoor hoardings and also through classified public service and institutional advertisement.

- E. Audio-Visuals:** This is an effective media to give a glimpse of the functioning of the organisation for the benefit of employees as well as others and to select audiences like visiting dignitaries, elected representatives, institutions, students and those who visit the departments and its facilities.

- F. Exhibitions:** The trade fairs, industrial and agricultural exhibitions and rural exhibitions can be utilised for visibility campaign through erecting police stalls portraying the work being done by the department.

- G. Traditional Media:** This media through songs, dances, drama, puppet shows and other folk forms lends itself as a very good media for communication with the public. Being live forms they have a powerful appeal if properly conceived and correctly portrayed. Apart from professionals, police officers themselves who have the necessary talent can be utilised to stage such programs. Talented teams can be prepared to tour different areas staging plays and other programmes utilising the latest sound, light and music equipment.

- H. Other Media:** This includes open house discussions, bulletin boards, sponsorship of sports, art and culture, professional awards and scholarships etc. The sports and culture

media is of advantage as policemen have the capacity of attractive display talents of mass drill and other specific forms of martial arts which have a relation to their profession. These shows attract large gatherings and are a good media of communication. They also provide a feedback to the department directly.

- I. **Verbal Communication:** The conferences, meetings, group discussions, seminars, meeting the public, which should be fully used and utilized for developing, should police public relations.

- J. **Meeting the public:** The grievances of the public will be known better if the officers meet the public face to face. Detailed instructions in this regard are issued in the duty profiles of the various field officers in this Manual. These meetings should take place when the officers go on tour or on inspection. The visits should be to various villages and localities. Meetings on specific subjects or on specific problems with those affected or likely to be affected should also be convened to know the correct facts and the feelings of the public apart from their views. These should not be confused with the meetings, which may be held with representatives of certain organisations to handle a particular situation or a problem.

- K **Evaluation:** The primary duty of the PR organisation and the senior officers is to evaluate the impact from time to time of the public relations function. The evaluation should be in terms of the employee's response and the extent to which knowledge, interest, acceptance and sympathy have replaced the ignorance, apathy, prejudice or hostility respectively. The results should be studied and suitable modifications made to improve the impact of the information on public relations exercise.

Some Specific Steps to Better Public Relations

464. The expectations from the public relations organization of the police will be the same as in organisations and are briefly mentioned below:-

- a. Sharpen staff communication skills and maintain good media relations by both receiving and transmitting information of interest to the organisation;
- b. Staff should keep the eyes and ears open to peoples' reactions;
- c. Police should act as an ambassador of the department;

- d. Police leadership should create an all-round understanding of management problems and actions;
- e. Efforts should be made to project the image to various publics;
- f. The PR wing should serve as an antenna-cum-receiver by providing feedback information and disseminating department's policies both with the employees and the public.
- g. Identify problems and measures to solve them;
- h. Serve as facilitator lubricants of communication between the department and the public;
- i. Make the management public relations conscious.

Do's and Dont's for Public Relations Officers

465. Following are source of the things which the police PROs should do and develop in themselves.

- A. Skill in communication and full knowledge of both mass and traditional media;
- B. Intimate knowledge of the organisation to act as a source of information;
- C. Ability in voracious reading, writing, speaking and patient listening;
- D. Anticipating change and ability in understanding human environment;
- E. Organising ability and capacity to get along with people;
- F. Extrovert, team spirit, positive thinking;
- G. Good at media relations to get fair coverage;
- H. Eyes and ears to represent both the department and public as a harmoniser between the public and the department;
- I. Possess good grasp of imagination and sound judgment;
- J. Honest, sincere and hard-working.

465.1 The PR wing staff should avoid doing the following things.

- A. Never think public relations are 'panacea' to all police problems;
- B. Never be a panegyric;
- C. Never seek personal publicity.

465.2 **Liaison with State Information and Public Relations Department:** Every

Government has a full fledged, well equipped and organized public relations network in the State headed by Commissioner for Information. The facilities, equipment and infrastructure are meant for all government departments including the police department. They have representative units in every district and city and maintain constant interaction with the news media. The PR organization in the police must be in close touch with the State Information Department and provide all assistance to them to disseminate information regarding the police. The public relations campaign of the department can be successfully done through cooperation of the State public relations wing. The SsP/CsP should similarly utilize the services, equipment, infrastructure and other facilities available with the department in their districts and cities. There should be frequent interaction between them and the police officers so that the larger infrastructure can assist the police in better communication with the public. The Government of India has its organizations like Directorate of Field Publicity and Audio-Visual Publicity, Publications Division, Doordarshan, and All India Radio connected with the department of Information and Broadcasting. All these are located in the State Headquarters and also at a few other places in the state. A proper liaison is necessary with these organizations that have a responsibility for conveying information of any government organization to the public. In fact, the Doordarshan and the AIR have specific policy priorities to convey matters of police interest or emergencies. Even though these organizations have other priorities they do take up police programmes on a regular basis. Doordarshan particularly the local channel can have a specific time fixed for police programmes. It is necessary that the PR organization of the police department is in a position to produce such programmes so that the regularity and the timings can be followed without interruption.

Community Policing : Concept, Application and Areas.

466. Community Policing like normal policing is done in consultation, cooperation and partnership with the community at large.

466.1 "Community Policing is both a philosophy (a way of thinking) and an organizational strategy (a way to carry out the philosophy), that allows the police and the community to work closely together in creative ways to solve the problems of crime, illicit drugs, fear of crime, physical, and social disorder neighborhood decay and the overall quality of life in the community. The philosophy rests on the belief that people deserve input into the police

process, in exchange for their participation and support. It also rests on the belief that solutions to today's community problems demand freeing both people and the police to explore creative and new ways to address neighborhood concerns beyond a narrow focus on individual crime incidents.

Principles of Community Policing.

467. Following are some of the principles of community policing:

1. The basic mission of police is to prevent crime and disorder as an alternative to the repression of crime and disorder by military force and severity of legal punishment.
2. The ability of the police to perform their duties is dependent upon public approval of police existence, actions behavior, and the ability of the police to secure and maintain public respect.
3. The police must secure the willing cooperation of the public in voluntary observance of the law to be able to secure and maintain public respect.
4. The degree of cooperation of the public that can be secured diminishes proportionately and the necessity for the use of physical force and compulsion in achieving police objectives.
5. The police seek and preserve public favor, not only by catering to public opinion, but by constantly demonstrating absolutely impartial service to the law, in complete independence of policy, and without regard to the justice or injustice of the substance of individual laws; by ready offering of individual service and friendship to all members of the society without regard to their race or social standing; by ready exercise of courtesy and friendly good humor; and by ready offering of individual sacrifice in protecting and preserving life.
6. The police should use physical force to the extent necessary to secure observance of the law or to restore order only when the exercise of

persuasion, advice, and warning is found to be insufficient to achieve police objectives; and police should use only the minimum degree of physical force which is necessary on any particular occasion for achieving a police objective.

7. The police at all times should maintain a relationship with the public. They should follow the principle that police are the public and that the public are the police.
8. The police should always direct their actions towards their functions and never appear to usurp the powers of the judiciary by avenging individuals or the state, or authoritatively judging guilt or punishing the guilty.
9. The test of police efficiency is the absence of crime and disorder, not the visible evidence of police action in dealing with them.

Components of Community Police Relations:

468. Police Community relations may be viewed as a kind tripod based on three equal components. These are:

1. Public Relations
2. Community service
3. Community Participation

Key Characteristics of Community Policing

469. The essence of Community Policing is to minimize the gap between policemen and citizens to such an extent that the policemen become an integrated part of the community they serve. In other words the individual policeman should know each member of the community and he should, in turn, be known by them. That is to say there is no anonymity for either of them and there develops between them a relationship of harmony and trust. Such a relationship is vital for the development of their abilities and initiatives to solve problems of crime and social disorder.

- (a) Community policing - that it is based on a 'small scale approach.' The basic unit of

Community Policing should be geographically, and demographically, compact enough to enable a foot-patrolman to know all and everyone within a reasonable span of time and in turn be himself known in the community. Such thorough and personal knowledge will help the policemen to take proactive measures to prevent crime and disorder in the area under his charge, both by his own efforts and by making use of the community's help and resources. The policing and security needs of a compact geographical area can be easily identified and attended to by employing local resources. Such knowledge will also have its impact on local anti-social behaviour, apart from keeping the outsiders at bay.

- (b) Proactive action is the second key characteristic of Community Policing. Pro-active steps will lead to the growth of co-operation and partnership in crime-prevention and security in the local area and shall earn the Community Police Officer the acceptance and trust of the community. When such bonding takes place it shall also bring the community together and enhance the citizens' ability to resolve their conflicts without even involving the policeman. In fact such coming together will reduce conflicts to a great extent.
- (c) Another key element of a successful Community Policing Project is localized decision making. What is to be done to prevent crime and disorder in a particular community or locality', has to be worked out, decided and implemented by the police officer serving the local area in consultation with members of the community. This will require devolution of decision making power in such matters to the Beat level Police Officers. In the absence of such devolution, when the Beat Level Police Officer is seen referring such matters to his superiors for decision, his effectiveness as a police officer will be reduced. Hence it is necessary that sufficient freedom of action and power to decide is delegated to the Beat Level Officer.
- (d) One key to the success of any Community Policing Project is the ability of its 'sponsors' to 'sell' the project to its beneficiaries. It will be a mistake if one thinks that the community is the only beneficiary of such a project. The Community Police Officers at the beat level, who shall generally be in the ranks of Constable and Head-Constables, are as much its beneficiaries as anyone else.

470. **What is Community Policing and What is it not?**

I. Community Policing is :

- (a) A philosophy based on the concept that Police Officers and private citizens' work together in a creative way to help solve contemporary community problems related to crime, fear of crime, disorder and neighbourhood decay.
- (b) Developing a new relationship with law abiding people in the community, allowing them a greater say in setting local policing priorities, and involving them in efforts to improve overall quality of life in their neighbourhood.
- (c) Shifting of focus of police work from handling random calls to problem, solving
- (d) Putting the Beat Police Officer in face-to-face daily contact with people in the area so that the officer owns the Beat areas, develops rapport with the people and earns their trust.
- (e) A situation where the police serve as a catalyst and the" people accept their share of responsibility for solving local problems related to crime, disorder and security. .
- (f) Down to bottom approach where decision making is decentralised and initiatives come from the local community and the beat police officer.

II. Community Policing is not:

- (a) A technique
- (b) Public Relations
- (c) Anti-technology
- (d) Soft on crime
- (e) A cosmetic change
- (f) A top down approach
- (g) Another name for social work
- (h) Something to be displayed or dramatised

Object of Community Policing:

471. The avowed object of Community Policing should be to minimize the gap between policemen and citizens to such an extent that the policemen become an integrated part of the community they serve and they earn the acceptance and trust, of the community, leading to spontaneous cooperation from people in crime prevention and security in the local area, and resulting in a lasting partnership between the police and the community."

Mission Statement: A Prerequisite of Community Policing

472. A Mission Statement is reflective of the collective ideals and will of an organisation and provides a direction to the individual members of an organisation. It helps make the 'organisational goals' their 'own' and keeps them from straying away from the 'chosen course'. It serves as some kind of a 'beacon'. Since Community Policing is a collective effort, it is necessary to have a 'mission statement'. At the same time, it is also important such 'mission statement' is something which is evolved, developed and adopted at the local level, rather than something which is imposed from the above and looks like something alien.

Parameters of Community Policing

473. Some of the important parameters of community policing are following :

1. **Citizen input** : Community Policing redefines the relationship between the police and the community. In a free and democratic society, citizens are supposed to have a say in how they are governed. Police is required to be responsive as well as accountable. Restructuring of policing priorities according to public, expectations is an important component. This also presupposes opening of channels of communication with all law-abiding members of the society and not merely the 'community leaders', and using their goodwill and help in preventing crime and disorder.
2. **Nature of Policing** : Community Policing envisages policing as a broad function and not as a narrow law enforcement or crime fighting job. The job of the police is seen as enhancing neighbourhood security, resolving conflicts, facilitating victim assistance, reducing fear of crime, and addressing localised community concerns like neighbourhood decay etc. There has to be a realisation that police function cannot be reduced to the narrow confines of apprehending criminals, call handling and enforcing regulatory laws. The police is expected to actively intercede in respect of such broad functions as Traffic Safety (Education and awareness), Drug abuse, Absenteeism of children from school, domestic violence, rehabilitation of victims of crime, security of women and maintenance of order in public places and streets. *
3. **Personalised Service Delivery** : Community Policing emphasises quality of service,

citizen satisfaction, and police's responsiveness to the community. It requires greater flexibility of response to emerging problems. Orientation of personnel to treat citizens as real people and not merely numbers is essential. Attitude of officers heading the Police needs to be helpful and flexible rather than bureaucratic and overbearing. It also requires that citizens are approached both individually and collectively by the Beat Police .Officers.

4. **Decentralised Decision making** : Community Policing requires an institutionalized internal philosophical support to promote decision making, risk taking, creativity and innovation. It empowers employees, especially frontline policemen, by giving "them the authority, and support, to make decisions. The goal is to free officers so that they become enthusiastic about the possibilities and not to get bogged down by paper work and red tape. Such empowerment will earn the policemen the trust and support of the community and make delivery of quality service possible.
5. **Problem Solving** : Pro-active action is an important feature of Community Policing. Proactive steps taken by the police will lead to growth of co-operation from the community and development of a partnership in crime prevention and security in the local area. "**Problem-Solving Approach**" of the Police is an important facet of pro-active action.
6. **Geographic Focus** : Community Policing adopts a geographic focus to establish stronger bonds between officers and neighbourhood in order to increase mutual recognition, identification, responsibility and accountability. By its very name Community Policing implies an emphasis on places more than on functions. One of the key characteristics of Community Policing being that it should be based on a "Small Scale Approach", the basic unit of Community Policing should be geographically and demographically compact. The Beat being the smallest unit of Police work and functions, the 'Beat', is at the centre of any mode for Community Policing. It is also important that Beat Patrol officers are assigned to geographical beats for extended period of time instead of being shifted frequently.
7. **Police Community Consultation** : Every work done by a policeman in the discharge of his duties is, directly or indirectly, a device to the community, and the- policeman

cannot expect to accomplish his numerous tasks without active and positive help from the community. So, the very nature of police work is such that consultation with the community becomes a pre-requisite. Consultation with the Community can be both formal and informal. Such consultation should aim at creating an environment, which enhances public peace and ensures effective and efficient delivery of service. The Policemen must consult the community not only to find out the community's 'service needs' but also to find out the 'manner in which the community wants those services to be delivered. Such consultations should be an ongoing exchange and not an 'once in a year' affair. It should be a process of regular dialogue and it should lead to a decision.

8. **Community Participation** : Community participation is crucial in any programme of community policing. Community policing is an invitation to the people to contribute their mite to day-to-day policing. It also means the people volunteering their time for community projects. It will also mean that people will be asked to solve problems themselves, rather than to turn to the police for formal help. Community policing is a way to remind everyone that it is a mutual partnership to help make the area a safe and attractive place to live and work. Community policing is a grass-roots effort that allows the police to build new bridges with the community.
9. **Commitment to Community Empowerment** : Community policing's organizational strategy first demands that everyone in the police department, including both civilian and sworn personnel must investigate ways to translate the philosophy of power sharing into practice. This demands making a subtle but sophisticated shift so that everyone in the department understands the need to focus on solving community problems in creative, and often ways, that can include challenging and enlightening people in the process of policing themselves. Within the community, citizens must share the rights and responsibilities implicit in identifying, prioritizing, and solving problems, as full-fledged partners with the police.
10. **Ethics, Legality, Responsibility and Trust** : Community policing implies some kind of a contract between the police and the citizens they serve.. This relationship is based on mutual trust and respect. It also suggests that the police can serve as a catalyst, challenging people to accept their share of responsibility for regulating and

improving the overall quality of life in the community. Community policing means that citizens will be asked to handle more of their minor concerns themselves, but in exchange, this will free police to work with people on developing immediate as well as long term solutions for community's concerns such as crime, drugs, vice and gambling, in ways that encourage mutual accountability and respect.

11. **Expanding the Police Mandate:** Community policing adds a vital, proactive element to the traditional reactive role of the police, resulting in a full spectrum of policing services. As the only agency of social control open 24 hours a day, seven days a week, the police must maintain their ability to respond immediately to crises and crime incidents. Community Policing also broadens the " police role so that the police can make a greater impact on making changes, today that hold the promise of making communities safer and more attractive places to live tomorrow.
12. **Demonstrating the benefits:** The Model for Community Policing can work successfully only when it is owned by those who are supposed to operate it, and who are the most likely beneficiaries.
13. **Selling, the Idea :** Policemen in India, see themselves in adversarial situation vis-à-vis citizens and as a class, are resistant to change, and unless the protagonists of Community Policing, manage to sell them the idea, it is apprehended that all Community Policing initiatives will fail. And for 'selling' the idea to them, Police Leadership must demonstrate to them the tangible benefits accruing to them. Such benefits can be in the form of people's help in their day to day work, their-raised self esteem, reduction of stress, and probably lesser work-load etc.
14. **Grass-Roots Creativity and Support :** Community Policing promotes the judicious use of technology, but it also rests on the belief that nothing surpasses what dedicated human beings, talking and working together, can achieve. It invests trust in those who are on the frontlines together on the street, relying on their combined judgment, wisdom, and experience to fashion creative new approaches to contemporary community concerns and problems, and it devise innovative solutions.
15. **Internalise Change:** Community policing must be made a fully integrated approach

that involves everyone in the department, with community policing officers serving as generalists who show the way to bridge the gap between the police and the people they serve. The community policing approach plays a crucial role internally by providing information about the awareness of the community and its problems, and by enlisting broad based community support for the department's overall objectives.

16. **Building for the Future:** Community policing provides a decentralized and personalized police service to the community. It recognizes that the police cannot impose order on the community from outside, but that people must be encouraged to think of the police as a crucial resource that they can use in helping to solve contemporary community concerns. It is not a tactic to be applied and then abandoned, but a new philosophy and organizational strategy that provides the flexibility to meet local needs and priorities as they change over time, with an eye on the future.

Indian Concepts and Practices

474. Some of the institutional arrangements in India involving the people to buttress police work are Gram Rakshak Dais, Special Police Officers, Thikari Pehra, Village Defence Units, and Neighbourhood Watch Schemes. In the field of community policing various initiatives have been the Friends of Police in Tamil Nadu, the Community Policing Project in West Bengal, the Thana Level Committees, the Senior Citizens Scheme and unstructured system of holding periodical meetings with different interest groups in a police station. None of these schemes are institutionalized and none of these have endured the taste of time. The reasons identified for their inadequate success are listed below:

- i. The experiments and programmes are not always tailored to community's needs.
- ii. They work well in times of crisis. Once the emergency passes, they lose momentum.
- iii. The police interest flags after some time,
- iv. The police often consider it a diversion from their main activities.
- v. Police Community relations have mostly remain urban exercises in India to the neglect of villages,
- vi. The programmes gradually get politicized.
- vii. Suspicion and misunderstandings creep in after some time,
- viii. The programmes are sometimes weighted in favour of preventing property offences.

- ix. Some individual police officers make a difference. When they go, the programme suffers.
- x. Ad-hocism characterizes community-policing efforts in India.

Some Concrete & Practical Examples

475. Some examples of community policing in Indian contexts are following :-

- A. Joint Patrolling Committee :** Residents of a new residential colony Chandra Shekhar Azad Nagar in the Bhilwara District (Rajasthan) have come forward to help the police in jointly patrolling the area. Patrolling is done in a structured manner and a regular roaster is maintained.

- B. Meira Paibi (Torch Bearers) :** The women of Manipuri Basti, Guwahati (Assam) have taken upon themselves the responsibility of improving the law and order situations and other social problems in their Basti and tackle problems of drug-abuse by youth. The women have come together to prevent the youth, from going out of the Basti after sunset. They light their torches and go around the Basti guarding the entry and exit points.

- C. Preventing Employment of Miscreants :** In Pratap Nagar (Rajasthan) steps were taken to educate the community and industrialists to avoid employing miscreants. In some areas a form was introduced to procure information of each resident of a given locality. The Community was encouraged to fill up this form as a preventive measure of thefts. Similar kinds of forms were used for the new tenants in some area. The rickshaw pullers were given license and appropriate identity cards. The exercise has helped the police to clearly differentiate between resident and floating population and in turn has helped them keep check on criminals.

- D. Peace Committees :** Peace Committees were usually formed with initiatives of police department and were composed of some eminent citizens of the locality. In most cases department call these committees only during some communal tensions. The inability to involve the right kind of people has been a major cause of failure of such-committees. Selection of right kind of people as members and empowering them is essential for effective functioning of such Committees.

- E. Open Grievance Redressal Forums :** Open grievance redress forums like the one, which existed in Kota (Rajasthan) and which was initiated by the then SP of the district have proved to be highly effective and beneficial for the community.
- F. Village Defence Party :** In Assam there is the idea of Village Defence Party (VDP). Each household is a member of the VCP and involved in night patrolling within the village. They maintain a roster explaining who will be involved in what dates. The villagers usually select a secretary who is responsible to keep regular contact with the police station.
- G. Gaon Burah :** In Assam in each village there is usually one Gaon Burah who is traditionally selected by the village community. The government had employed these Gaon Burah to collect village revenues. During the height of insurgency police department tried to utilise them to get information regarding the militancy activities in the village. The success of this system shows that the traditional mechanism to maintain peace and harmony in society should go side by side with formal legal initiatives.
- H. Friends of Police :** Friends of Police in almost all the places are an example of who act as informers and help in prevention and detection of crime. For example, in Salem (Tamil Nadu) the youth are monitoring traffic, ensuring that the people follow traffic rules, etc.

Community Policing Scenario of the State Police Organizations

476. There are surviving examples of true community policing in the 'Panchayats' of Manipur, 'Pacha Fayda' of Nagaland, 'Kebong' of Arunachal Pradesh and 'Village Defence Courts' in Mizoram. Formal programmes such as the 'Friends of Police' in Tamil Nadu, 'Mohalla Committees' in Maharashtra including the 'Khopade' pattern in district Bhiwandi, 'Neighbourhood Watch' in Delhi and 'People Oriented Policing' in Punjab have been some initiatives launched in this direction. Quite recently, J&K and Orissa have introduced more ambitious programmes to actively involve the community in crime prevention and order management. Despite initial enthusiasm and enormous public support, many of the experiments failed to survive, probably for want of institutional support or individual commitment.

Legislation Efforts

477. Not many legislation attempted have been made in the past in this direction. The most prominent and the longest surviving effort seem to be the Karnataka Village Defence Parties Act, 1964, which introduced the institution of 'Dalpathi' as the interface between the police and the rural community. Yet another significant dimension of police-community relationship is discernible in certain institutionalized service oriented schemes started with police initiative in metropolitan cities of Delhi and Bangalore which seeks out with the help of voluntary associations, victims of social injustice to provide emergency relief as well as arrange long-term rehabilitation. Among more recent and perhaps the most systematic effort in community policing has been the promulgation of a Home Department Resolution by the Government of Orissa, providing an institutional framework to put the concept on a statutory basis. Operational since August, 1999, 'Surakhya Samiti' is the kernel of the community policing programme of the State Government which directs Superintendent of Police/Range DIGs to constitute these Samities by selecting volunteers from specified areas in the city/villages through Municipal Bodies and Gram Panchayats, in consultation with the magistracy. The objective is to "associate citizens with the police in solving neighbourhood problems, in enforcing the law of the land, in minimising crime, in restoring order and peace in the community, in reducing crimes against women and weaker sections of the community".

Jammu & Kashmir

478. A pilot project on community-oriented policing has been launched in Jammu city. The objective of the scheme is to promote citizen interaction and establish stronger bonds between police and the public and to involve the citizens in crime prevention and detection. Under the scheme, Police-public squads will be set up for each sector/colony. The public will be represented by volunteer citizens and the police by beat staff. A cluster of 10 houses will form a block and assigned to a constable. Four such blocks will be under a Sub Inspector designated as beat police officer. Weekly meetings will be organised between the beat officer and the volunteers and SHO/SDPO will chair meetings fortnightly. The block staff is expected to carry out crime prevention duties, such as surveillance of strangers/suspicious persons, verification of antecedents of hawkers/servants, collection of

information regarding drug trafficking, eye-teasing etc.

Kerala

479. In 1998, "Crime Prevention Committees" were formed at the Police station level to provide a platform for the local public and the police to discuss crime problems locality-wise to control crime. Monthly meetings are held with residents' associations and the local police in Trivandrum city to devise strategies to control crime and to foster good police-public relations. Kerala Police has also launched a Student Traffic Education Programme. The "Crime Stopper" facility is another form of community policing where the people can call the police on a non-metered telephone number and share information about crime and criminals without disclosing the caller's identity.

Maharashtra (Bombay City Police)

480. Following communal riots in Maharashtra and elsewhere and in Mumbai city in December, 1982 and January 1983, Mohalla Committees were set up to provide a platform for the people of different communities and background to meet, plan and work together to solve common problems. In Bhiwandi, the Mohalla Committees turned out to be grand success in controlling communal riots. The local police have taken initiative in holding street plays on socially significant themes, organizing cleanliness drives and medical check up camps. Libraries and study rooms have also been established in some locations to promote communal harmony. Joint patrolling with citizen participation in crime prone areas is another highlight. From May, 1998, an "Alert Citizens Programme" has been successfully in operation, enabling people to pass on information to the police in confidence.

Delhi Experiments

481. The institution of Special Police Officers has acted since 80s as a bridge between the police and the public in Delhi. Introduced some time after the November 1984 anti-Sikh riots, which brought Delhi Police a lot of criticism, the SPOs have played a very useful role in controlling property offences, educating the local people in various security measures to protect their lives and properties etc. Some time back in North District of Delhi Police, very effective Nagrik Suraksha Samities were organized for communal harmony. Organising and dovetailing the Residents' Welfare Associations (RWAs), Traders' Associations, Thana Level Committees, holding their periodical meetings with follow up action, and giving them

various responsibilities for prevention of crime in their respective areas, have become accepted features of Delhi Police.

Madhya Pradesh

482. For some time, Madhya Pradesh Police has also been experimenting on various organisations on community policing, such as, Friends of Police (Police Mitra Yojna), Village Defence Societies (Gram Raksha Samities), Neighbourhood Watch Scheme, Family Counselling Centres, Drug De-addiction Centres, Friends of Children Scheme (Bala Mitra Yojana), Special Police Officers, Traffic Safety Week Programmes, Students Traffic Education - Programmes, Sports Programmes organised for Youth, and Career Counselling Centres.

C.L.G. Concepts

Chapter 23

Human Rights and Police

Introduction

483. Human beings are endowed with some basic rights, privileges and prerogatives which provide them with dignity and honour. This makes their lives decent, sacred and sacrosanct. These rights, privileges and prerogatives are popularly known as human rights. Human rights are considered inalienable, sacrosanct and transcendental. They have also been accepted as being fundamental to dignified human life, individual growth and overall national development. Human rights thus mean the right to life, liberty, equality and dignity as guaranteed by the Indian Constitution.

484. **The Concept and Classification**

I. The concept of human rights is a compendious expression. It embraces within its fold all those rights which a human being enjoys by reason of his being human. These rights have been possessed by him since time immemorial. Human rights in the course of history and international developments have come to be equated with and considered as synonymous with various types of human freedom and liberty. Human rights are owned by men, women and children of all categories for the simple reason that they are sacred and noble creations of nature. These rights are laudable and are often treated as an end to them. They are not only the gift of the State. In fact, they had existed even before the State came into being. They are thus neither created nor can be destroyed by the State. It is imperative for the State to recognize, protect, preserve and uphold them.

II. Every human being is entitled to certain natural rights by virtue of his being a member of human society. These rights are called human rights. The supreme court while interpreting Article 21 of the Constitution of India emphasized that a human being has not only a right to live but has a fundamental right to live with dignity and it is the duty of every other human being to respect that right.

III. As a founder member of United Nations Organisation, India is a party to "the Universal declaration of Human Rights 1948". India also ratified the two international conventions on, (a) civil and political rights and (b) economic, social and cultural rights. These Universal Declarations of Rights (1948) were incorporated as fundamental rights in the Indian Constitution listed in Articles 14 to 32. Some of the important among them are:

- i. Right to every citizen, of equality before law and equal protection of laws.
- ii. Right to freedom of speech
- iii. Right to assemble peacefully and without Arms.
- iv. Right to form Unions.
- v. Right not to be prosecuted and convicted for any offence except for violation of law in force at the time of committing the offence.
- vi. Right not to be compelled to be a witness against himself.
- vii. Right not to be deprived of his life and liberty except according to procedure established by law.
- viii. Right not to be arrested with out informing the grounds and to be produced before a magistrate as early as possible but not later than 24 hours.
- ix. Right to consult any one of his choice on his arrest,
- x. Right to defend himself against any allegation, and
- xi. Right to seek redressal by way of writs for any of the above violations made against him.

IV. Our Criminal Justice system is based on "due process of law". Every act of the individual, Executive, Legislature or Judiciary should be with in the framework of law. Police as law enforcement authority are also part of this law. Police in their duties to maintain law and order or in detection, investigation, prosecution of cases directly deals with the public. Powers are given to police for effective discharge of duties and not to misuse them, either for their selfish interests or to exhibit their power and vanity. There is also a misconception that results cannot be achieved unless third degree methods are used, and that it is not possible to deal with hard core criminals and suspects with in the framework of strict law. Its however, is not correct. There is no conflict between strict law enforcement, relentless pursuit of offenders, punishment of offenders on one side, and

observance of human rights on the other. The police officer should understand that he cannot take law into his own hand and he is not expected to be over anxious to achieve results with the means that is not legally allowed.

- V. Various forms of custodial violence, torture, ill treatment of women and children, fabricating false cases against innocent persons and attempts to save real culprits, lockup deaths, custodial rapes, acts of omission or commission against weaker section, poor and less-privileged, unwarranted arrests, unlawful searches and excessive use of force are some of the manifestations of human rights violations by police. The general complaint is that police officers who are to uphold the law should not and cannot themselves indulge in illegal acts. It, undermines human dignity, brutalizes the police system, forfeits the trust of people and the judiciary and above all affects the image of the police organization as a whole. It also exposes the police officers to the risk of criminal liability and punishment. Custodial violence and tortures do not act as short cuts in any significant way to achieve the goals and objectives. In fact they are the tools of an unprofessional and unscientific police officer.
- VI. The other practices to be strongly put down are rude and discourteous behaviour, refusal to entertain complaint, over bearing attitude, minimizing the gravity of offence, delayed or poor or biased investigation, taking sides, perverse enquiries into complaints, unjustified searches and arrests. Such practices will assume complex dimensions if victims are women or belonging to other weaker sections.

Police Perspectives

485. The law enforcement agencies, police being the most important of them all, are under an obligation to protect human rights. The police, in a democratic society, are expected to play the role of a benevolent defender of free people's liberties and act as a guardian of public peace and human rights. A democratic state does not envisage the police as an instrument of force and coercion which ultimately tends to violate human rights. In a country like India, the police are expected to play the role of a catalyst to social change aimed at the amelioration of the backward, exploited, poor and illiterate masses through the instruments of human rights. The role of police leadership in this context is required to be subjected to a serious examination. The leaders of police, at various levels, should reconsider the

obligations, roles, responsibilities and duties cast on them by the law of the land in this regards.

Police Obligation

486. Commission of an offence by a person tantamount to the violation of one or another human right of an individual. Police have the primary obligation to investigate each of such cases honestly, competently and with utmost objectivity so that the wrong done to the victim with regard to the violation of his human rights is redressed as per the law of the land. While discharging this primary duty, the police should not forget that even the accused person is endowed with basic and fundamental human rights and in the discharge of their duties; they must ensure that they do not violate or make an encroachment upon his human rights. By so doing the police will be able to restore the dignity and honour of human rights and repair the loss suffered by an individual as per the due process of law. At the same time they will also save themselves from being accused of violating human rights. The requisite attitudinal change and human orientation to policing, in this context, can be ensured only when police men at all levels are made aware of their duties, commitments, obligations and responsibilities in upholding and protecting human rights. The paradoxical situation in this context is that the security forces and the police who are primarily meant to protect human rights are often accused of violating them.

Stop Violations: It is the Best Protection

487. People in authority as well as those possessing strength, money, political power and influence try to use police as an instrument of threat, awe and intimidation to realize their parochial and selfish objectives. Police powers in India are enormous. The extent of the use and application of police discretion is also quite wide. The possibility of their misuse leading to violations of human rights is a natural sequence of the nexus between unscrupulous vested interests and corrupt policemen. This nexus leads to violations of various types of human rights of citizens. Such irregularities must be stopped.

Unauthorized Calling of People by Police Must Stop

488. Discretionary powers enable police to call people to police stations and outposts on some pretext or other. Calling citizens to police stations in an unauthorized manner amounts to a violation of the human rights of freedom of movement and liberty. Unwarranted and

unauthorised manner of calling people to police stations and making them sit for long hours and using force, inhuman behaviour, awe, intimidation and coercion are serious violations of human dignity and honour. Methods must be devised to deter police from calling people to police stations in an unauthorized manner. Close monitoring of such cases should be done to avoid harassment to citizens leading to misbehaviour, use of force, recourse to third degree methods and commission of custodial crimes. New modes and methods of monitoring and supervisory techniques are required to be introduced and adopted for the protection of human rights. There should be a written requisition in the name of the person called to the PS, the way it is done by the CBI and other such agencies. For effective supervision of such instances the following Performa should be introduced at the police station level. It should be sent to senior supervisory officers and other related officials.

Performa for calling person to a police station.

Name	Time of arrival	Purpose	Time of departure and duration of stay	Name of the officer who called	Whether requisition given	Behaviour of police	Signature of the police officer and the citizen	Remarks
1	2	3	4	5	6	7	8	9

False, Unwarranted and Improper Cases Should not be Registered

489. The registration of an uncalled for and an unwarranted case against a citizen is a serious violation of his human rights, as it may impinge upon his dignity and honour. It also tends to restrict his liberty and freedom of movement. Various types of violation of human rights are caused by registering non-cognizable offences by giving them a colour of cognizable ones, registering civil and revenue cases by giving them a colour of criminal ones. Burking of cases, improper and inappropriate registration of cases and wrong application of sections of law and legal provisions all amount to misuse of police authority cutting across the very basis and foundation of human rights. Policing for human rights necessitates that a close and critical scrutiny of cases should be made by supervisory leadership to ensure that no

unwarranted cases are registered, that no manipulations are resorted to by the police station staff to convert a civil or revenue case into a criminal one and that bailable offences are not converted into non-bailable ones and vice-versa. A close and scientific scrutiny by senior and supervisory officers would ensure an appropriate action against a wrongdoer. The supervisory obligation so discharged will go a long way towards protecting human rights.

Arrests to be Made Only When These are Necessary and Needed

490. Personal liberty and freedom of movement are the basic human rights possessed by an individual. An arrest deprives him of these rights. A decision to arrest a person therefore has serious implications. It should be exercised with due caution and care. An analysis of arrest made by police would indicate that these are often made on mere suspicion, in a routine manner and even with ulterior motives and vengeance. Unwarranted, arbitrary and illegal arrests, unauthorized detentions and not presenting the arrested persons before a magistrate as per the law of the land, use of handcuffs and parading the arrested people through streets and public places are some serious types of violation of human rights committed by police in India. This of course is done through the instrument and power of arrest. The people arrested are not communicated the grounds of their arrest. They are also not allowed to obtain the assistance of an advocate. Investigations are not conducted fairly and impartially. Instead of making use of scientific aids to investigation and techniques of interrogation, people are subjected to third degree methods for obtaining confessions and collecting evidence against them. The junior-subordinate police functionaries in the field should be sensitized to this aspect of police power and it should be impressed upon them that the right to arrest a person is exercised only when it is absolutely necessary for a proper investigation of the case, in public interest or for ensuring social security. Policing for human rights necessitates that some adequate method and relational should be developed and adopted at the police station level to reduce the number of arrests. Senior police leaders should discharge their supervisory obligation to ensure that unnecessary arrests are not made and the legal provisions are adhered to. For monitoring arrests the following Performa should be introduced at the PS level.

Performa for Monitoring of Arrests

1	2	3	4	5	6	7	8	9	10	11	12	13	14
Name of the arrested person	Date and time of arrest	Evidence and reasons for arrest	Whether the grounds communicated	Whether medical examination done	Whether the arrested person intimated of his rights	Period of police remand	When presented before a magistrate	Whether handcuffed	Reasons for handcuffing	Purpose of arrest	Signature of the accused and the police officer	Remarks	Supervisory observations

Undue Searches and Seizures Should be Avoided

491. Personal and house searches and seizure of property and documents when done in an arbitrary and unjustified manner cause serious violations of human rights. Therefore police are under an obligation to conduct searches and make seizures after a careful assessment of their use and utility in each case. House searches without obtaining warrants from competent courts must be avoided. Sometimes houses are actually searched but no search memos are prepared. This is a serious violation of law and a very serious encroachment on the human rights of the people. Investigational relevance and evidentiary utility of each search should be made more than clear by the investigating officer and it should be duly monitored by his senior supervisory officer. This method of policing will reduce the instances of violation of human rights in a substantial way, and it will also improve the quality and value of investigations and their evidentiary status.

Unfair Investigations and Delayed Trials.

492. Cases of padding, fabricating and concocting evidence against innocent persons, wrong arrests, not presented. The accused before a magistrate within 24 hrs of the arrest, unreasonable and unnecessary remands in judicial and police custody etc are serious violations of human rights. It should be ensured that such irregularities at pre-investigation, investigation and post-investigation stages are stopped. People should not be denied fair pre-trial, trial and post-trial opportunities. Protection of human rights presupposes that investigations are conducted in a fair and judicious manner and that police and prosecution

agencies function without any vengeance, prejudice and preconceived notions.

Bail and not Jail

493. Whenever a person is arrested, detained or some restriction and restraint is imposed on his personal liberty, he has a right to be considered for bail. If it is aailable offence, bail is a matter of right, and if the offence is of a non-ailable nature, bail becomes a matter of discretion. But the process of releasing people on bail adopted by police is often not fair and proper. Even inailable cases, people are denied the right to be released on bail and in non-ailable ones hindrances of varied sorts are created in the way of the accused trying to obtain bail as per the due process of law. Protection of human rights by police requires that they should not be very liberal in making arrests. Persons arrested forailable offences should be immediately released on bail. For non-ailable offences police discretion should be exercised in accordance with established principles. Police may follow the practice adopted by the CBI in this context. The CBI quite often releases people on bail whereas the police arrest them.

Prevent Crimes: It Protection of Human Rights

494. Prevention of crime is one of the major obligations of police. If crimes are prevented in time, the human rights of the people in general will be protected actually and factually. It is so because the commission of an offence amounts to the violation of one or the other human right of an individual. If the police are able to prevent crime efficiently, their problems in the context of protection of human rights will reduce substantially. Not only that, their image will improve and the popular estimation of their performance will pass through a positive transformation. Prevention is better than cure. A stitch in time saves nine and the crime prevented is best investigated are some of the popular dictums signifying the importance of crime prevention and its relevance with reference to the obligation of police leadership in the protection of human rights. That crimes should and can be prevented is the basic premise on which each society legislates some provision or other for preventing crimes. By making an effective use of the provisions the police officials at various levels, inter alia, will be discharging their obligation of protecting human rights in a gainful and meaningful manner.

Investigate Crime Competently

495. Prevention of crime is the real protection of human rights in as much as the probable, possible and potential violations are prevented and the dignity and honour of the persons in question is preserved. Every offence, inter alia, it is violation of human rights; therefore

investigation of the crime in question done impartially, competently and scientifically works as a compensatory measures for protecting human rights. The dishonour, loss and violation of a specific human right of an individual will be compensated, if the offender is brought to book after taking recourse to the due process of law. The crimes, therefore, should be investigated, promptly, properly and without any delay. Justice delayed is justice denied, and delay defeats equity are the principles which should guide the police functionaries in the matter. By investigating cases completely, quickly and impartially the police provide immediate relief.

Police Behaviour to be Human

496. Inhuman behaviour, inefficiency, corruption, ulterior motives, arrogance, undue political, administrative and social influences are some of the factors responsible for the violation of human rights by police. In order to render police conduct and behaviour human, kind, compassionate and empathetic following oath should be implemented by each policeman. Police leadership at various levels must ensure that the oath is followed in letter and spirit and the violators are taken to task so as to set an example to others.

1. I will not abuse anyone.
2. I will not misbehave with people
3. I will denounce, discourage and shun the use of third degree methods.
4. I will not be inhuman, cruel and arrogant to the people coming in my contact.
5. I will not misuse my power and position
6. I will neither commit custodial crimes nor would directly or indirectly become a party to such crimes.
7. I will become a worthy member of the citizen police of a democratic and free society by being kind and helpful to the people in need and distress.

496.1 Behavioural modification is continuous process. Its pursuance and monitoring is required to be done on a day to day basis. The role and obligation of police leaders in this context is very important. They must ensure that the prescribed patterns of human behaviour are strictly followed and the defaulting members are dealt with adequately. Police leaders should also generate a climate against criminalization of police. Behavioural reforms and attitudinal changes both at individual and departmental levels can go a long way to stopping violations of human rights by police. By being professionally competent, behaviorally courageous and morally strong, the police can set an example of their acceptance by people.

496.2 Police leadership at the apex level must ensure that specialized course; in group dynamics and human behaviour are made an integral part of the various training courses. Such behavioural changes can also be brought about by associating the police with extra organizational, non-situational and informal police-community programmes. Behavioural changes like reception counters at police stations and computerization of the arrival and departure of people at police stations can be gainfully tried for protecting the human rights of the people.

Reasons for violation of Human Rights by Police

497. Some of the reasons for violation of human rights by police can be attributed to the following:-

- A. Lack of interrogation techniques.
- B. Lack of scientific temper and professionalism.
- C. Lack of knowledge of criminal law and procedures for investigation.
- D. Unrealistic public expectation for results.
- E. Political and official pressures for quick results.
- F. Misconception that laws are not sufficient to achieve results legally.
- G. Sadistic pleasure on the part of some police officers.

Expectations From Police

498. It is felt that much is desired from police and there is need to change their attitudes and age old and conventional methods. Scientific temper in investigation is required for acquiring professionalism. Police should get equipped with sufficient legal knowledge during basic training and refresher courses and should learn techniques of interrogation and investigation. A well trained police officer with an aptitude to learn interrogation techniques, acquiring professionalism, taking advantage of the latest scientific aids at his command, will be in a position to protect the human rights of the citizenry.

499. Police officer should constantly bear it in mind that he needs the assistance of the public either to maintain law and order or to gather evidence from witnesses or in obtaining clues during investigation. He can get such co-operation from the public only when he is polite and courteous in his dealings. Even, in dealing with the accused, there is no scope for all treating and misbehaving with human. He should understand that his act is with in the

framework of law and should not exceed legal limits in his undue anxiety to get results as this attitude will in same way or the other would end up in the violation of human rights.

Human Rights of Different Sections of Public

500. Every police officer must be aware of the legal rights of various individuals to enable him to respect such rights, not only statutory but also to earn the good-will of the public.

501. Human Rights of Victim

- A. When a cognizable case is presented, it should be registered forth-with by the SHO, furnishing a copy free of cost.
- B. Render immediate medical aid by moving him to hospital if he is injured.
- C. Protect him from further danger if necessary.
- D. Inform the stages of investigation from time to time as a duty.
- E. Do not make the complainant go round the police station but he feels that he is being harassed more by the police than the accused.
- F. Furnish the necessary documents to victim or his legal heirs of accident cases free of cost to enable them to claim compensation in tribunals.
- G. Do not ask the complainant to go to the jurisdictional police station if they approach the wrong police station. Register the case and transfer it.
- H. Let the complainant feel free when he represents his case and do not frighten him to give a wrong impression that police are not his friends but masters.

502. Human Rights of Witnesses

- A. Examine witnesses at their place and do not call them to police station unless it is difficult or impractical.
- B. Examine women and children at their places of residence
- C. Remember witnesses are there to help investigation. Therefore deal with them courteously.
- D. Child witnesses should be handled with special care.

503. Human Rights of Suspects or Accused

- A. While surveillance as prescribed in the police regulations, authorised by law and approved by the Supreme Court in AIR SC 1975 page 1378, is permissible

unnecessary intrusion into the privacy of persons is forbidden. Therefore a margin on the right lines should be drawn to avoid any interference with the right to privacy.

- B. Interrogation of suspect is a power vested with the police. But, interrogation should be with in the legal framework. Prolonged detention in the name of interrogation may amount to harassment and ultimately turn out as wrongful confinement.
- C. Searches of places and more so dwelling houses have to be made strictly in accordance with procedures laid down U/s 100 Cr.P.C. Police officer entering dwelling houses for searches should observe decency and decorum respecting the sentiments of women while discharging their duty. The assistance of women constable or women witness should be taken while searching the person of a woman. Any unlawful search not only vitiates the purpose but gives opportunity to the accused to use the right of private defence.
- D. Attempts to torture accused or suspects to obtain confessions are not only an offence under Section 330 or 331 IPC but it is useless as such evidence is not admissible under law. Besides there is a danger of the suspects or accused confessing falsely in order to escape physical torture, in which case, one is likely to be misled in his investigation.
- E. No accused should be forced physically or psychologically to say any thing which is likely to be self-incriminating. Such evidence is prohibited under article 20 clause (3) of the constitution but voluntary disclosures of their own free will, while in police custody and discovery of a fact in consequence to that information is not barred under Section 27 I.E. Act.
- F. There should be no arbitrary arrest. All arrests must strictly conform to the requirements of law and procedure. Arrests need not be made just because a police officer has a power to arrest. The necessity to confine is the principle behind the law. The person to be arrested is entitled to know the grounds for arrest as per Article 22 of the Constitution and Section 50 of Cr.P.C.
- G. Every person arrested should be informed that he has right to go on bail, if it is a bailable offence and he should be informed that he may arrange for sureties (Article

22 of Constitution and Section 50(2) of Cr.P.C.)

- H. The arrested person shall not be subjected to more restraint than is necessary to prevent his escape (Section 49 Cr.P.C.). Handcuffs should not be used without the orders of the court.
- I. An accused person arrested shall have the right to be examined by a medical practitioner. (Section 54 Cr.P.C.).
- J. The arrested person shall not be detained unnecessarily for a longer period than is necessary and at any cost should be produced before a magistrate within 24 hours excluding journey time. (Section 57 Cr.P.C.)
- K. The arrested person is entitled to consult any one of his choice and it shall not be denied (Article 22 of the Constitution).
- L. The accused charged of any offence has a right to be defended by an advocate of his choice. (Section 303 Cr.P.C.).
- M. During custody, the arrested person is entitled for fair treatment and no custodial torture or ill treatment is permissible.
- N. Most of the custodial deaths take place during illegal detention. Produce the accused within 24 hours of arrest and obtain police custody from court for interrogation if necessary. This will increase the responsibility of police and minimise irresponsible custodial tortures.

Human Rights of Women

504. A national policy for custodial Justice to women was recommended by an expert committee on custodial Justice to women, Government of India (1983). Following are some of the important guidelines for police officers dealing with women.

- A. Women shall be shown special treatment wherever they interfere with the system whether as complainants, victims, accused, witnesses or inmates of institution, giving respect for gender dignity and habitative concern for women.

- B. Separate prisons and police lockups, correctional centres and separate courts shall be set up exclusively to deal with women.
- C. Recognizing the children of custodialised women as innocent, the State shall conscientiously respect the rights and privileges of the children accompanying the women in custody.
- D. The police, prison, correctional, judicial personnel dealing with women shall be specially trained.
- E. Women shall be arrested only in case of absolute necessity and only between sun rise and sunset except in exceptional cases.
- F. Arrests and search of women including interrogation shall be conducted according to strict standards of decency. Women police officers shall search women and escort women prisoners.
- G. Basic amenities and privacy shall be provided to women prisoners.

Human Rights of Juveniles

505. Juvenile Justice (Care and protection of children) Act 2000 is human rights legislation and is enacted to lay down procedures while dealing with neglected and delinquent juveniles. Every police officer should be acquainted with the provisions of this Act while dealing with delinquent juveniles. The following are some of the important points relating to juveniles.

- A. When a delinquent juvenile (Juvenile in conflict with law) if arrested for committing any offence, shall not be kept in lockup nor handcuffed. He shall be released on bail whether the offence is bailable or non-bailable provided an undertaking is given by his parents or guardians to take care of him and for production in court. If any body does not offer surety, he shall be forwarded to observation home pending enquiry.
- B. Interrogate a juvenile delinquent with sympathy, care and caution.
- C. Question the juvenile in isolation and never be authoritative. Be kind but firm.
- D. Whenever a statement is to be recorded from a juvenile witness keep him at ease and make him to speak the truth away from influences.
- E. Do not launch security proceedings against a juvenile.

The Protection of Human Rights Act 1993

506. Important provisions of the Act are :-

1. It is applicable to the whole of India.
2. Human rights are, the rights relating to liberty, equality and dignity of the individual guaranteed by the Constitution.

507. The National Human Rights Commission - Constitution

1. The National Human Rights Commission has been formed comprising a Chairman and four members.
2. In addition to this, the Chairperson of National Commission for Minorities and the Chairperson of National Commission for Women will also be the members of the National Human Rights Commission.
3. The headquarters of the Commission is at Delhi and the Commission (unction3 through the Secretary General, who is also the chief executive officer of the Commission,
4. The members of the Commission will hold office for five (5) years.

Functions of the Commission

508. The National Human rights Commission can suo-moto under take enquiries information or on a petition into the components of violation of human rights 01 abetment thereon or against officials not preventing such violation.

- B. The Commission can intervene in any proceeding involving such violation pending before a court.
- C. The Commission can visit any jail or any other place for retention where persons are allegedly confined. The commission can also summon any person and examine on oath.
- D. The commission can also receive any document or affidavit, petition etc.
- E. The Commission can ask for investigation by any Central or State government agency.

- F. After enquiry the Commission has the power to direct the State or Central Government to initiate prosecution.
- G. The Commission will submit an annual report to Central Government and to State Government concerned about violation of human rights that were brought to its notice.

State Human Rights Commission

509. State Government, can constitute a State Human Rights Commission with a Chairman and four (4) members. The head quarters will be situated at a place as indicated by the State Government. The State Human Rights Commission will have the same powers as that of National Human Rights Commission. As per Section 36, the National Human Rights Commission does not enquire into a matter which is already pending with State Human Rights Commission. The National Human Rights Commission or the State Human Rights Commission does not enquire into any matter after the expiry of one year from the date of commission of violation.

510. Police Code of Conduct for the Human Rights

- A. Police are expected to work with in the framework of law and are not expected to take law into their own hands on the plea that the existing law is not sufficient. They cannot play that role of lawmakers and judiciary. It is for the other wings to take care on the point of sufficiency or insufficiency of law. Police are only expected to play the role of an enforcing agency.
- B. The police in establishing and enforcing law must as far as practicable, use the methods of persuasion, advice and warning. When use of force is inevitable, it must be as per the procedure and to be the bare minimum.
- C. The police officers must remember that they are also members of civilized society.
- D. They should remember that their efficiency depends upon the ready co-operation of the public.

- E. They should always be courteous and well mannered and they should be dependable, predictable and impartial.
- F. They should remember their own limitation and shall not usurp the functions of judiciary.

Awareness

511. The human rights awareness includes awareness about the rights of the accused, victim and the rights of the general citizens. A growing awareness will reduce these violations. This is also possible by educating the law enforcing authorities. They should be trained about the rights of the citizens. Accessibility to the public and prompt response to their grievances goes a long way in protecting the human rights. Enactment of laws or making amendments in laws may help to a certain extent but what is really needed is a change in attitude and proper understanding of human rights.

Duties of Human Rights Cell in the Office of the DGP

512. The Human Rights Cell in the Office of DGP is headed by an Officer of the rank of IGP, designated as IGP (HR/Coordination). The role and duties of this Cell should be as follows;

1. The Human Rights Cell will act as the main link between the NHRC and the State Police agencies.
2. All important cases/complaints referred by the Commission to the State Human Rights Cell wherever specifically indicated, would be got enquired into by an officer of appropriate level. Thereafter, the recommendations made by the Commission are to be followed up to ensure appropriate action against the delinquent officials is initiated and remedial measures taken, wherever required. However, in cases where the Human Rights Cell feels that an impartial enquiry may not be possible due to extraneous considerations, then it may recommend investigation by the State CID or even the CBI.
3. To keep a close watch on the alleged violations of Human Rights by police personnel

which come to light through the newspapers, publications/other sources including complaints to different functionaries.

4. All enquiries/cases relating to police atrocities/harassment/abuse of authority, being sent by the Commission to the District Supdt. of Police for ascertaining facts and verification, may be monitored by the Cell. A copy of all such references will be sent to the Cell, to enable them to monitor timely response from the SPs. They will also ensure follow up action wherever specific directions have been passed by the Commission by way of compliance.
5. Human Rights Cell to regularly interact with the District SsP on human rights petitions/complaints and issue instructions/guidelines, so as to minimize and prevent violations of human rights by the police.
6. To conduct surprise visits to Police Stations, to check cases of illegal detention and abuse of authority.
7. To take such other steps as may be necessary for preventing violations and protecting and respecting the Human Rights of the citizenry who come in contact with the police functionaries.
8. To ensure that all Police Stations in the State display the Guidelines given by the Supreme Court in WP No.539 of 1986, in the case of O.K. Babu Vs State of West Bengal. These requirements are in addition to the constitutional and statutory safeguards and directions given by the courts from time to time in connection with the safeguarding of the rights and dignity of the arrestee vis-a-vis the duties of the police. Special care has to be taken to see that women, children and the vulnerable sections of the society, are not harassed by the police by calling them to the police station in avoidable circumstances.
9. To coordinate with State Police Academy & Training Centres to ensure that their in-service training curriculum have sufficient elements of human rights jurisprudence for the trainees of all ranks. Such a module would aim at educating and sensitizing on the following matters:

- a. Constitutional provisions relating to rights of citizens.
 - b. Key provisions in the substantive law that provide explicit "do's" and "don'ts" in matters of arrest, interrogation, search and seizure etc.
 - c. Landmark judgments of the Supreme Court on human rights matters; and
 - d. The implications of fall-outs and non-observance of the human rights guidelines/instructions/laws, while discharging their duties and responsibilities.
10. Organise inter-active sessions/capsule courses of appropriate duration in all training institutions where prominent personalities, lawyers, NGOs are called for participation.
 11. Compilation of the departmental circulars and directions on the human rights mandate issued by the PHQ from time to time and see that these are recirculated for recapitulation.
 12. To identify specific areas of societal human rights violations in the State and to plan out preventive and rehabilitative schemes in conjunction with the concerned Departments for instance in the field of Child Rights-child sexual abuse, child-labour Gender Justice, Juvenile Justice, non-criminal mentally ill lodged in prisons, discrimination towards the under-privileged, Backward/SC/ST in specific areas etc.)
 13. To organize one day seminars/workshops on human rights in different cities in association with the State Human Rights Commissions (wherever they are constituted), local University or colleges, philanthropic organizations like Rotary/Lion Clubs.
 14. Personally monitor investigation of cases relating to custodial deaths, rape and torture/illegal detentions in police custody and take remedial measures/follow up departmental action.
 15. Actively promote human rights literacy and awareness through publications and media programmes.
 16. Publication of quarterly Newsletter on "Human Rights in Law Enforcement" for

circulation amongst police officers.

Chapter 24

Protection of Weaker Sections

Introduction

513. Social equality, cultural harmony and economic parity, are basic requisites for peace, prosperity and progress in a society. If certain sections of the society are in possession, of the resources of varied sorts and tend to dominate critical positions and enjoy special privileges, the other sections may suffer the deprivation and get into the situation of subjugation. The society in such a situation gets divided into weak and strong social sections. Societies often get classified into weak and strong sections on irrational, illogical and unscientific grounds like birth, sex, education, marital status. This type of paradoxical situation is more pronounced in a plural, traditional, and conservative society like India. Indian society is a typical example of such a cleavage which demark various, social segments into weak and strong ones. Social distance, economic alienation, general apathy, helpless exploitation along with eternal bondage of ignorance, disease and poverty and the consequent criminality generate a general sense of dislike and social apathy for the weaker sections. The aforesaid socio-economic and anthropological factors ultimately become responsible for unremitting atrocities of various kinds being perpetrated on the weaker sections of the society. Ill-treatment, insult, harassment and exploitation of the weaker section in any society ultimately generate a social climate where commission of atrocities on weaker sections becomes a natural phenomenon. But then a country which has adopted equality, justice and liberty as basic treats of socio-politico and economic parity cannot afford that atrocities continue to be committed on the weaker sections. Adequate and effective legislative measures have been adopted in India for ensuring prevention of atrocities on weaker sections. Weaker sections should be specially protected with the help of specified penal provisions and effective police strategies. Positive and effective police-role in the area of prevention of atrocities on the weaker sections is a vital tool for providing social security and personal protection to the affected people. A positive police approach and effective preventive measures and simultaneous developmental schemes can be instruments to reduce atrocities on the weaker section.

514. **Weaker Section : Conceptualization**

- (i) Weaker section of society in the Indian context would mean a group which is under-privileged and happens to be economically, educationally and politically backward which has been subjected to exploitation due to caste, creed and region. Economic weakness is relevant while assessing the needs of people requiring ameliorative measures of pecuniary character. Women, children, physically handicapped and mentally retarded people are categorized as physically weak. The Legal Aid Committee, headed by Justice V.R. Krishna Iyer, identified geographically deprived, handicapped, villagers, agriculture labourers, industrial workers, women, children, harijans, minorities and prisoners, as weaker sections. The untouchable, in the Indian context, are specially classified as a weaker section of the society. Article 46 of the Constitution makes a reference about the term 'weaker sections' and provides for the protection and promotion of educational and economic interests of the Scheduled Castes, Scheduled Tribes and other weaker sections. A section of society which is handicapped due to social, economic and political reasons may be termed as a weaker section. Usually this category of the Indian society consists of Scheduled Castes and Scheduled Tribes, who have been for generations being exploited on grounds of caste, birth and other such social considerations.

- (ii) In a broader sense the term 'weaker section' may include physically and socially handicapped, maladjusted and unadjusted groups like juvenile delinquents, fallen women, drug addicts, beggars and mentally retarded children from the vulnerable sections of the community in rural and backward regions, tribal areas and urban slums. The weaker sections may comprise weak or weaker individuals and the causes responsible for this weakness are : Sex, age, incapacity, money, education, power, birth and social esteem. However, as sex and age cannot be controlled by human endeavour, they are often not regarded as parameters of 'weakness'.

- (iii) A large chunk of the weaker sections normally consists of individuals, who due to birth, are deprived of reasonable opportunity and access of money, power and social esteem. Access of these situations, is generation of opportunities, so

very essential for individual security and social competition. Most of people belonging to weaker sections live below the poverty line. Politically, they are a class who suffer exploitation and miseries due to deprivations that surround them. Conservative social norms deny them the basic status of equality. Culturally they feel handicapped because certain roles and facilities necessary for human dignity are not made available to them.

Police to Prevent Atrocities on Weaker Sections

515. The police-role in the area of prevention of atrocities towards the weaker sections indicates that it is not possible to evolve specific and precise parameters for identifying any particular section of the society as Weak in absolute terms. The relative state of helplessness or defencelessness of a person or class in securing legal rights to which they are entitled under the law of the land with regard to his/her life, property and other matters should determine his/her 'weakness' for this purpose. Those who are subjected to social injustice and suffer different forms of exploitation on account of poverty and ignorance and who due to age-old traditions, customs, and beliefs along with the interplay of vested interests are denied the basic rights and facilities should constitute the weaker sections for the problem under discussion. The police should keep in mind these parameters for identifying weaker sections in any given context, for determining their own response and for defining their preventive role with regard to atrocities on the weaker sections.

The Statutory Provisions

516. Provisions in the Constitution like Fundamental Rights and Directive Principles of State Policy, guarantee protection to SC ST and other weaker and vulnerable sections. In addition, certain acts have also been enacted and rules framed to safeguard the interest of these sections. Police Officers should have a thorough understanding of these acts and rules for the protection of the best interests of the weaker sections.

The Notification

517. SCs and STs have been notified vide the articles 341 and 342 of the Constitution. Scheduled areas are covered by Articles 244 and 244A. Scheduled tribes are not only listed, even certain portions of the areas of districts or States are declared as scheduled areas. Several safeguards and protections are given to the scheduled tribes in the scheduled areas.

Police in the scheduled areas should be familiar with the laws, notifications protections available and the restrictions on those who do not belong to scheduled tribes, but living in scheduled areas.

Specific Legal Safeguards

518. The Government of India have enacted two acts viz. Protection of Civil Rights Act 1955 which prescribes punishment for enforcing and practice of Untouchability and for enforcing any disability arising there from and for matters connected there with; and the SC/ST (Prevention of Atrocities) Act 1989 which aims to prevent the commission of offences of atrocities against the members of SC and ST. and provides for special courts for the trial of such offences and for the relief and rehabilitation of the victims of such offences and for matter connected therewith or incidental thereto. Article 17 of the Constitution of India specifies that Untouchability is abolished and its practice in any form is forbidden.

Offences of Atrocities Articulated

519. The **Protection of Civil Rights Act 1955** is mainly a social welfare legislation. Under this Act the punishments are defined in Sections 3 to 10 with a provision for enhancing penalty u/s 11. The court in certain cases shall presume that an offence is committed on the ground of Untouchability unless contrary is proved. Offences are cognizable, triable summarily and Probation of Offenders Act 1958 is not applicable to persons aged above 14 years. The punishments for offences under the Act are following:

- **Section 3:** Punishment for enforcing religious disabilities on the ground of Untouchability for various offences mentioned therein like preventing entry into public places of worship or preventing worshipping etc.
- **Section 4:** Punishment for enforcing social disabilities with regard to access to any shop, public restaurants, hotel or place of public entertainment, use of utensils etc. in any public restaurant, hotel, dharmasala etc.
- **Section 5:** Punishment for refusing to admit persons to hospitals etc.
- **Section 6:** Punishment for refusing to sell goods or render services.
- **Section 7:** Punishments for other offences arising out of

"Untouchability".

- **Section 7-A:** Punishments for unlawful compulsory labour when to be deemed to be a practice of "Untouchability".
- **Section 8:** Cancellation or suspension of licences of a person when he is convicted for an offence u/s 6 of this Act.
- **Section 9:** Resumption or suspension of grant of land or money from the Government to the manager or trustee of any Educational institutions, hotel or a place of public worship who has been convicted of an offence under this Act.
- **Section 10:** Whoever abets any offence under this Act shall be punishable with the punishment provided for the offence. A public servant who willfully neglects the investigation of any offence punishable under this Act shall be deemed to have abetted an offence punishable under this Act.
- **Section 10-A:** The State Government may impose a collective fine on the inhabitants of the locality by way of notification if the inhabitant of that area are concerned in or abetting the commission of an offence etc. under this Act.
- **Section 11:** The court can enhance the punishment if a person is already convicted previously under this Act including for abetment.
- **Section 12:** Where any act constituting an offence under this Act is committed in relation to a member of a Scheduled Caste the Court shall presume, unless the contrary is proved, that such act was committed on the ground of "Untouchability".
- **Section 13:** (1) No Civil Court shall entertain or continue any suit or proceeding or shall pass any decree or order or execute wholly or partially any decree or order if the claim involved in such suit or proceeding or if the passing of such decree or order or if such execution would in any way be contrary to the provisions of this Act. (2) No Court shall, in adjudicating any matter or executing any decree or order, recognize any custom or usage imposing any disability on

any person on the ground of "Untouchability".

- **Section 14-(1):** If the person committing an offence under this Act is a company, every person who at the time the offence was committed was in charge of, and was responsible to, the company for the conduct of the business of the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly: Provided that nothing contained in this sub-section shall render any such person liable to any punishment, if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.
- **Section 14-(2):** Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed with the consent of any Director or Manager, Secretary or other officer of the company, such Director, Manager, Secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.
- **Section 15:** Notwithstanding anything contained in Cr.P.C. every offence punishable under this act shall be cognizable and every such offence, except where it is punishable with imprisonment for a minimum term exceeding three months, may be tried summarily by a Judicial Magistrate of the First Class or in a metropolitan area by a Metropolitan Magistrate in accordance with the procedure specified in the Cr.P.C. However when any public servant is alleged to have committed the offence of abetment of an offence punishable under this Act, while acting or purporting to act in the discharge of his official duty, no Court shall take cognizance of such an offence of abetment except with the previous sanction of Central/State Government by the case may be.
- **Section 15-A:** It is the duty of State Government to ensure that the rights accruing from the abolition of "Untouchability" may be availed by the concerned persons.
- **Section 16:** Act to override other laws.

- **Section 16-A:** The Probation of Offenders Act 1958 will not be applicable to any persons above the age of 14 years when he is found guilty.
- **Section 16-B:** The Central Government has got power to make rules to enforce the provisions of this Act.

520. The SC & ST (Prevention of Atrocities) Act 1989 and Rules 1995.

(i) The SC/ST Act is enacted to punish for the commission of offences committed by non SC/ST against the members of SC/ST and to provide for special Courts for the trial of such offences and for relief and rehabilitation of the victims of such offences. Atrocities under this Act are offences listed in section (3) according to which, whoever, not being a member of a Scheduled Caste or Scheduled Tribe.

- A. Forces a member of a SC or ST to drink or eat any inedible or obnoxious substance:
- B. Acts with intent to cause injury, insult or annoyance to any member of a Scheduled Caste or a Scheduled Tribe by dumping excreta, waste matter, carcasses or any other obnoxious substance in his premises or neighborhood.
- C. Forcibly removes clothes from the person of a member of a Scheduled Tribe or parades him naked or with painted face or body or commits any similar act which is derogatory to human dignity.
- D. Wrongfully occupies or cultivates any land owned by, or allotted to, or notified by any competent authority to be allotted to, a member of a Scheduled Caste or Scheduled Tribe or gets the land allotted to him transferred.
- E. Wrongfully dispossesses a member of a Scheduled Caste or a Scheduled Tribe from his land or remises or interferes with the enjoyment of his rights any land, premises or water;
- F. Compels or entices a member of a Scheduled Caste or Scheduled Tribe to do 'begging' or other similar forms of forced or bonded labour other than any, compulsory service for public purpose imposed by Government;
- G. Forces or intimidates a member of a Scheduled Caste or a Scheduled Tribe not to vote to vote to a particular candidate or to vote in a manner other than that provided by law:
- H. Institutes false, malicious or vexatious suit or criminal or other legal proceedings

- against a member of a Scheduled Caste or a Scheduled Tribe;
- I. Gives any false or frivolous information to any public servant and thereby causes such public servant to use his lawful power to the injury or annoyance of a member of a Scheduled Caste or a Scheduled Tribe;
 - J. Intentionally insults or intimidates with intent to humiliate a member of a Scheduled Caste/ Scheduled Tribe in any place with public view;
 - K. Assaults or uses force to any woman belonging to a Scheduled Caste or a Scheduled Tribe with intent to dishonour or outrage her modesty;
 - L. Being in a position to dominate the will of a woman belonging to a scheduled caste or a Scheduled Tribe and uses that position to exploit her sexually to which she would not have otherwise agreed;
 - M. Corrupts or fouls the water of any spring, reservoir or any other source ordinarily used by members of the Scheduled Castes or the Scheduled Tribes so as to render it less fit for the purpose for which it is ordinarily used;
 - N. Denies a member of a Scheduled Caste or a Scheduled tribe any customary right of passage to place of public resort or obstructs such member so as to prevent him from using or having access to a place of public resort to which other members of public or any section thereof have a right to use or access to;
 - O. Forces or causes a member of a Scheduled Caste or Scheduled Tribe to leave his house, village, or other place or residence, shall be punishable with imprisonment for a term which shall not be less than six months but which may extend to five years and with fine.

(ii) Whoever, not being a member of a Scheduled Caste or a Scheduled Tribe, -

- A. Gives or fabricates false evidence intending thereby to cause, or knowing it to be likely that he will thereby cause, any member of Scheduled Caste or a Scheduled Tribe to be convicted of an offence which is capital by the law for the time being in force shall be punished with imprisonment for life and with fine; and if an innocent member of a scheduled Caste or a Scheduled Tribe be convicted and executed in consequence of such false or fabricated evidence, the person who gives or fabricates such false evidence shall be punished with death.
- B. Gives or fabricates false evidence intending thereby to cause, or knowing it to be likely that he will thereby cause, any member of a Scheduled Caste or a Scheduled

- Tribe to be convicted of an offence which is not capital but punishable with imprisonment for a term of seven years or upwards, shall be punishable with imprisonment for a term which shall not be less than six months but which may extend to seven years or upwards and with fine;
- C. Commits mischief by fire or any explosive substance intending to cause or knowing to be likely that he will thereby cause damage to any property belonging to the member of a Scheduled Caste or a Scheduled Tribe, shall be punishable with imprisonment for a term which shall not be less than six months but which may extend to seven years and with fine;
- D. Commits mischief by fire or any explosive substance in ending to cause or knowing it to be likely that he will thereby cause destruction of any building which is ordinarily used as a place of worship or as a place for human dwelling or a place for custody " of the property by a member of a Scheduled Caste or a Scheduled Tribe, shall be punishable with imprisonment for life and with fine;
- E. Commits any offence under the Indian Penal Code, punishable with imprisonment for a term of a ten years or more against a person or property on the ground that such person is a member of a Scheduled Caste or a Scheduled Tribe or such property belongs to such member, shall be punishable with imprisonment for life and with fine;
- F. Knowingly or having reason to believe that an offence has been committed under this Chapter, causes any evidence of commission of that offence to disappear with the intention of screening the offender from legal punishment, or with that intention gives any information respecting the offence which he knows or believes to be false, shall be punishable with the punishment provided for that offence.
- G. Being a public servant, commits any offence under section (3) of the Act, shall be punishable with imprisonment for a term which shall not be less than one year but which may extend to the punishment provided for that offence.
- (iii) According to section 4 whoever, being a public servant but not being a member of a Scheduled Caste or a Scheduled Tribe, willfully neglects his duties required to be performed by him under this Act, shall be punishable with imprisonment for a term which shall not be less than six months but may extend to one year.
- (iv) According to section 5 whoever, having already been convicted of an offence

under this Chapter is convicted for the second offence or any offence subsequent to the second offence, shall be punishable with imprisonment for a term which shall not be less than one year but which may extend to the punishment provided for that offence.

- (v) According to section 6 subject to the other provisions of this Act, the provisions of Section 34, Chapter III, Chapter IV, Chapter V-A, Section 149, and Chapter XXIII of the Indian Penal Code, 1860 shall so far as may be apply for the purposes of this Act as they apply for the purposes of the IPC.
- (vi) According to section 7 where a person has been convicted of any offence punishable under this Chapter, the Special Court may, in addition to awarding any punishment, by order in writing, declare that any property, movable or immovable or both, belonging to the person, who has been used for the commission of that offence, shall stand forfeited to Government.
- (vii) Where any person is accused of any offence under this Chapter, it shall be open to the Special Court trying him to pass an order that all or any of the properties, movable or immovable or both belonging to him, shall, during the period of such trial, be attached, and where such trial ends in conviction, the property so attached shall be liable to forfeiture to the extent it is required for the purpose of realization of any fine imposed under this Chapter.

Distinguish Factors

521. Some of the distinguishing factors of these acts are following:

- A. Under SC/ST (POA) Act the accused should be non SC/ST person except abettors whereas under PCR Act any body can be an accused;
- B. In SC/ST (POA) Act victims can be either SC or ST whereas under PCR Act the victims can be only SCs;
- C. Under SC/ST (POA) Act some of the offences attract the provisions of IPC also in which case offences can be charged both under this Act as well as under IPC. However in PCR Act the offences are specifically religious or social disabilities;
- D. In SC/ST (POA) Act the offences are tribal by special courts of a level of sessions court established by the Government and special P.Ps are appointed for the purpose

- of conducting prosecutions whereas under PCR Acts the offences are triable by Judicial first class Magistrates;
- E. Under SC/ST (POA) Act the offences are cognizable and non bailable and non compoundable whereas under PCR Act the offences are cognizable and bailable;
 - F. The investigation under this Act should be done by an officer not below the rank of DSP. The 10 should complete the investigation on top priority within 30 days and submit a report to the S.P. in view of Memorandum No.508/H1/85-4 dated 14-10-1985 the Social Welfare Department laying down that Police should complete the investigation speedily and file charge sheet in the cases within the shortest possible time not exceeding 30 days.
 - G. The cases are cognizable, non bailable, non compoundable as contemplated under Cr.P.C. Apart from this a public servant (not being SC or ST) who willfully neglects his duties required to be performed by him under this Act shall be punishable with imprisonment of a term not less than six months.
 - H. Some of the offences under section 3 of the Act equally attract the provisions of corresponding sections in IPC and so a case should be registered under the relevant provisions of both the Acts for proper investigation of cases.

522. Rules Under Civil Rights Act

- i. The rules under the Civil Rights Act provide for enquiry into incidents by the Sub-Divisional Magistrate and above. The Bonded Labour System (Abolition) Act 1976, the child labour (Prohibition and Regulation Act 1986), the Forest Conservation Act 1980, Panchayats (Extension to scheduled areas) Act 1996 are some of the enactments intended for preventing exploitation of children and the rights of the poor. The responsibilities of the Police in respect of these legislation are dealt separately. It may be mentioned that since a large portion of the affected persons are from Scheduled Castes and Scheduled Tribes the protection available in the above Acts are applicable to them. Wherever relevant and necessary the police officers shall apply the provisions of these Acts as detailed above while dealing with crimes against Scheduled Tribes and the Scheduled Castes.
- ii. The SC, ST (Prevention of Atrocities) Rules 1995 under the Act specifies the preventive measures which have to be taken by the Police and Executive

Magistrates and non-Government organizations. Registration of the case by police has to be done in the manner provided under these Rules.

523. PCR Cell and its Duties

- (i) The first duty is to act directly and investigate the offences against SC/ST. The second duty is to be a nodal, monitoring, coordinating and advisory agency for the police department, in so far as the enforcement of these Acts are concerned. Being one of the wings of the CID it is in a position to have access to all data in SCRB and the DCRBs and issue suitable instructions to all concerned on preventive, investigative and prosecuting aspects. The advisory role of the PCR Cell is important, as several other departments are also charged with the responsibility of enforcement of PCR and SC, ST (Prevention of Atrocities) Act.

- (ii) The PCR Cell should be organised on the following lines.
 - A. Investigating teams each headed by a DSP/Inspector and 2 Sis and 6 HCs. for investigating on an average 25 cases per year per team. Number of teams to depend on the number of cases taken up by the Cell for investigation.
 - B. The specialist groups of one Scientific Assistant and photographer for every 2 teams.
 - C. A crime analysis group separately for this type of crimes in SCRB.
 - D. Legal consultations at every step of investigation.
 - E. Transport and other peripherals on par with Law & Order police stations.

- (iii) The PCR Cell will prepare standing instructions fixing procedures and responsibilities for district and city police on prevention and investigation and issue guidelines from time to time.

- (iv) The returns, reports and statements to be generated, periodicals to be prepared should be done in SCRB on the lines required by IGP, PCR Cell. The flow of information meant for PCR Cell in such format as necessary should be

channeled to SCRB to avoid duplication at field level and in CID.

- (v) The CID police station will register the cases to be investigated by PCR cell.
- (vi) The IGP PCR Cell will be assisted by DIGP/SsP particularly for supervision of the cases investigated by the Cell.

524. Duties of the District and City Police

- (i) The SP in the districts and CP in cities are responsible to organise both preventive measures and investigation of cases. The local Police will be responsible for preventing atrocities and investigation of cases. The more important cases have to be taken by the detective police stations for investigation.
- (ii) The preventive steps to be taken by local Police are -
 - A. Information of all incidents, even of a minor nature should be collected.
 - B. The disputes and frictions should be identified.
 - C. The areas prone to atrocities or where violations of Civil Rights Act take place should be identified from time to time with a view to focus attention.
 - D. The SDPOs should regularly monitor and review such identified areas and report to SsP in monthly crime meetings.
 - E. The build up to a major incident should be pre-empted by timely intervention and activating conflict resolution machinery.
 - F. If there is a simmering problem with underlying social causes, the matter should be brought to the notice of joint Collector designated to resolve the dispute.
 - G. If the problem is factional or political the SDPO should monitor and take action to defuse the rumblings.
 - H. Action under security provisions under Cr.P.C. should be initiated by local Police in appropriate cases.
- (iii) The instructions to beat staff in each police station should include specific guidelines on this subject and their reports should be scrutinized by the SHO.

Investigation of Cases

525. All instructions regarding prompt arrival, processing the scene, preservation of all clues, examination of witnesses, searches of places and arrest of accused should be attended to with expedition. The police station of the area should reach the spot promptly and take up investigation without delay. All information relating to crime and criminals should be fed in the DCRB for analysis in the interest of investigation as well as for preventive measures.

526. Monitoring and Review

- (i) A district vigilance and monitoring committee with District Magistrate as Chairman and a state level review committee with Chief Secretary as Chairman is formed to hold review meeting every 3 months and 6 months respectively. The SP should review the preventive actions, investigation of cases and progress of prosecution etc in every crime meeting.
- (ii) Some of the important points from the instructions given by the Government are briefly stated below.
 - A. Review of all cases of acquittals to determine whether it is due to improper investigation or lapses in prosecution. This should be done in DCRB.
 - B. All local officials from village level must educate and explain the evils of practicing the Untouchability and its consequences.
 - C. Due to lack of vigilance and special attention some gruesome incidents are not promptly noticed/reported. All incidents of torture, harassment of SC and ST should be promptly informed to Government and dealt with.
 - D. SP and Collector are responsible for strict enforcement of Civil Rights Act and should personally visit the places of incidents of violation. They shall exercise overall supervision over prosecution of cases involving the contravention of this Act. The District Magistrate may sanction monetary relief. They should send prompt report to Chief Secretary.
 - E. Refusal to wash clothes or cut hair (Saloon) of SC is an offence.
 - F. In District Police a Cell should be formed as a part of DCRB to work under the SP directly assisted by Addl. SP.
 - G. Periodical/monthly reports from intelligence, CID in prescribed format are to be

submitted to Government with a critical review by IGP in respect of atrocities, violation of civil rights and other offences.

- H. All periodical reports to Government in prescribed Performa in 8 copies are to be sent by the special cell in CID (PCR Cell) and SP and CP may send a copy of such report to Collector.
- I. District Magistrate and SP should critically review all cases eve-y quarter including prosecution.
- J. Offences of murder, violence resulting in grievous hurt, rape and serious mischief or arson on caste considerations are to be treated as cases of especially grave nature. As such all the procedure prescribed for those should be followed.
- K. SP and Collector should visit places of occurrence of all grave offences committed on caste considerations and ensure proper investigation and timely relief.
- L. The following questions are to be added to the questionnaire for inspecting officers;
 - whether any cases involving ill treatment or harassment or atrocities on SCs and STs due to caste considerations were reported at the PS?
 - If so, how many cases have been charge sheeted in the court?
 - how many cases have been reported under the PCR Act.
 - how many cases out of them have been charge sheeted inthecour⁰
 - what is the result of the court cases? If there are any acquittals, was there any deficiency in investigation?
- M. Village Secretaries should play an important constructive role in getting to reconcile differences to prevent atrocities.
- N. Free legal aid should be provided in consultation with SP and PP when SC & ST are accused.
- O. PCR Cell in CID should ensure prompt investigation, prosecution and disposal of cases under PCR Act and SC, ST, (Prevention of Atrocities) Act.
- P. The PCR Cell in CID will send half-yearly reports for the half year ending 30th June and 31st December in each year to the Government giving district-wise details of all the cases registered under the Protection of Civil Rights Act 1955. An annual report also should be sent indicating the steps taken for proper implementation of various provisions of the Act.

- (iii) The following action should be taken by the local police for giving protection to SCs & STs who are landless and poor:

- A. any attempt by others to dislodge the SC/ST unlawfully from their lands should be prevented and in cases of criminal trespass booked.
- B. the arms licences in the sensitive area should be reviewed;
- C. special striking and mobile forces should be located in strategic areas where trouble is anticipated and pickets should be posted;
- D. in the event of trouble in spite of preventive action, force must be moved to quell the disturbance and arrest the offenders;
- E. prompt registration of cases
- F. setting up of special police stations
- G. speedy investigation and charge sheets
- H. bail should be opposed in non-bailable and serious cases
- I. maximum punishment should be pressed for

526.1 The identification of villages or areas where atrocities are likely to be committed should be done and report should be in the following form.

- A. Name of the village
- B. History of conflict between Scheduled Caste and Scheduled Tribe/other caste groups
- C. History of atrocities
- D. Freed bonded labourers belonging to Scheduled Caste and Scheduled Tribe groups
- E. Skewed distribution of land, money (few rich people and mostly poor people among Scheduled Castes and Scheduled Tribes)
- F. Large extent of land taken possession under Ceiling Act or under Declaration and Litigation
- G. Having highly educated youth belonging to SC/ST
- H. Predominantly consisting of SC/ST members .who are agricultural labourers
- I. Where Government lands have been taken from ineligible Sivaijamadars and assigned to SCs/STs
- J. Members of SC/ST communities are occupying seats of power such as Sarpanch, Fair Price Shop Dealer etc.

National Commissions for SCs and STs

527. The National Commission for Scheduled Castes and the National Commission for Scheduled Tribes have the following functions and powers for monitoring and issuing suitable instructions to the concerned.

1. To visit the scene of occurrence immediately by itself or by monitoring on receipt of information;
2. Prompt registration of FIR.
3. All the persons cited by the complainant are included in the FIR
4. Investigation is taken up by a senior officer as per provisions.
5. Culprits are apprehended and booked without loss of time.
6. Proper charge sheet is tiled mentioning the relevant sections of IPC together with the PCR and SC, ST, PA Act.
7. The cases are tried by Special Courts
8. Special Public Prosecutors are appointed to handle these cases.
9. Police assists the courts in bringing witnesses and see that the culprits are successfully prosecuted by the Courts.
10. The victims are provided suitable medical assistance on time;
11. Adequate protection is arranged to the victims of such incidents by providing police protection by stationing a police party or by patrolling.
12. To see proper compensation is paid to the victims as per provisions of law.

Powers of the Commission to act as a Civil Court

528. While investigating any matter referred to in sub-clause (a) or inquiring into any complaint referred to in sub-clause (b) of the clause (5) of Article 338 of the Constitution the Commission shall have the powers of a Civil Court trying a suit and in particular in respect of the following matters:

- 1 -A. summoning and enforcing the attendance of any person from any part of India and examining him on oath;
- B. requiring the discovery and production of any document;
- C. receiving evidence on affidavits;
- D. requisitioning any public record or copy thereof from any court or office;
- E. appointing issuing commissions for the examination of witnesses and documents;
- F. any other matters which the President may, by rule, determine.
2. The State Government has set up Special Courts presided over by Session Judge in all the Districts, mobile courts and also special public prosecutors to deal with offences arising out of enforcement of these Acts. In the Government a special cell with the Chief Minister as Chairman Functions to review the efficacy of measures being taken from time to time. There are, several agencies of the Government particularly the

District Magistrates and the Social Welfare Department who have special responsibility to implement various safeguards. Police have their own important role in implementing the Acts effectively.

Crimes Against Children

529. The Constitution guarantees certain rights and opportunities to children for their development in a healthy manner under a free and conducive atmosphere. The declaration of U.N. relating to children also lies down as;

- A. Protection from economic exploitation;
- B. Protection from harmful substances including drugs and psychotropic substances;
- C. Protection from sexual exploitation;
- D. Protection from kidnapping;
- E. Protection from torture and capital punishment;
- F. Treatment of children who are accused of violation of criminal law in a manner consistent with the promotion of child's sense of dignity;
- G. To enable his reintegration and playing a constructive role in society;
- H. Protection from cruelty and exploitation.

Juvenile Justice (Care and Protection of Children) Act, 2000

530. The Juvenile Justice Act 1986 is repealed and the new Act is to be followed now. In the new Act greater attention is paid for the care and protection of Juveniles. The Juvenile under this Act means a boy or girl who has not attained the age of 18 years. This Act is a comprehensive legislation dealing with exploitation of children and treatment of children in need of care and protection and with Juveniles in conflict with law.

530.1 This Act is human rights legislation. The problems of increasing juvenile delinquency and child misbehavior have been a cause of concern to the society. This trend can mainly be attributed to the following ills of society.

- The so called present day materialistic approach to life;
- Impact of Cinemas having full of sadistic crime and lustful sex;
- Lack of parental care;
- Environmental factors and economic conditions - extremes of affluence and poverty;

530.2 Juvenile delinquency refers to the anti - social acts of children. Such acts are either found to be a deviation from normal behaviour such as incorrigibility, disobedience, running away from home, reading obscene literature and viewing obscene or crime prone movies, or doing acts forbidden by law such as committing offences (from minor to major) from pick-pocketing to rape and murder.

530.3 Juvenile Justice Act deals with the above two types. The first type of juveniles is termed as neglected juveniles and second type as delinquent juveniles. A neglected juvenile falls under 5 categories -

- A juvenile found begging;
- A juvenile having no settled place of abode and no ostensible means of living;
- Having parent or guardian but incapable of exercising control over the child:
- living in a brothel or with a prostitute or visiting a place of prostitution frequently;
- being likely to be abused or exploited for immoral purposes

530.4 Child welfare Committees are constituted by Government to inquire into children who need care and protection. The board is presided over by a chairman with two or more members one among them being a woman compulsorily. The board is vested with powers of a first class Magistrate.

530.5 Juvenile welfare boards are constituted to inquire into Juvenile in conflict with law presided over by a judicial first class Magistrate. Juvenile homes are established to house neglected juveniles and special homes are established to house delinquent juveniles after due inquiry. Observation homes are constituted to house both neglected and delinquent juveniles pending inquiry.

530.6 A police officer dealing with the child in need of care and protection has to strictly follow the following procedure;

- A. When a police officer is of the opinion that a person is a child and is in need of care and protection, he shall take charge of the person for bringing him before the juvenile welfare board of the area. Every person taken charge shall be brought before the board within 24 hours excluding the journey time. If the parents do not come forward to take him in the meanwhile, he shall be kept in observation home before he is brought before

the board but he shall never be kept in a police station or lock-up or jail.

- B. It must be noted that a child in need of care and protection is not an offender. **As** such he is not to be arrested.
- C. The board holds inquiry and examines the police officer and other witnesses produced before it. The child in need of care and protection or any one on his behalf can challenge the witnesses. If the majority members of the board are of the opinion on inquiry that he is a neglected juvenile, he will be sent to juvenile home till he ceases to be a juvenile. Instead of sending a juvenile to juvenile home the board may place the juvenile under the care of a parent, guardian of any fit person or any recognized organization by imposing conditions with or without sureties for the good behaviour and well being of the juvenile.

Duties of police Regarding the Juvenile in conflict with law.

531. A juvenile in conflict with law is one who has committed an offence as mentioned in Order 390-3 (second type). The duties of police in dealing with such type of juveniles are as follows:

- A. When a Juvenile in conflict with law has committed any cognizable offence, he may be arrested by the police officer but he shall not be handcuffed or kept in lock up.
- B. The I.O. shall release him on bail when offered whether it is bailable or non-bailable offence. But he shall not be so released if there appear reasonable grounds for believing that his release is likely to bring him in to association with any known criminal or exposing to moral danger or his release would defeat ends of justice. If he is not released on bail, he shall be removed to observation home or a place of safety till he is produced before the juvenile court and he shall continue there till the inquiry is completed.
- C. When a Juvenile in conflict with law is arrested the SHO shall inform immediately the parent or guardian and direct them to be present at a juvenile court on the day of production of juvenile. The SHO shall simultaneously inform the probationary officer to enable him to obtain information regarding his antecedents and forward it to the juvenile court.
- D. After due inquiry if the juvenile is found not guilty, he will be discharged.
- E. If the juvenile is found guilty a court may order either of the following steps -
 - allow the juvenile to go home after advice or admonition
 - direct the juvenile to be released on probation of good conduct and placed in the care of

parents or guardian after executing a bond with or without sureties for a period not exceeding 3 years;

- he may be placed in the care of a fit institution for a period not exceeding 3 years; or ordered to perform community service.
- he may be sent to special home till he ceases to be a juvenile or till the juvenile attains the age of 18 years in the case of a boy and 20 years in the case of a girl;
- fine also can be imposed if the juvenile is above 14 years.

Some Special Points

532. The following points are to be noted relating to juveniles.

1. No sentence of imprisonment shall be imposed on a juvenile even after conviction.
2. Only a juvenile welfare board inquires any offence committed by a juvenile *n* to.
3. If the juvenile welfare board finds in the preliminary inquiry that he is not a juvenile, he shall be forwarded to the ordinary court of concerned jurisdiction for his trial.
4. If he ceases to be a juvenile during inquiry in the juvenile welfare board, the inquiry will continue in the same court.
5. Inquiries are conducted by Magistrates in observation homes.
6. Inquiries are conducted in camera.
7. There shall not be a joint trial of a juvenile and non juvenile for offences committed by them jointly. Though common investigation is made against them, charge sheets should be filed separately in the respective courts.
8. No security proceedings under sections 107 to 110 Cr.P.C. shall be launched against a juvenile.
9. The Act provides punishments for offences committed against juveniles. Section 23 provides punishments for willfully neglecting a juvenile or assaulting, abandoning, exposing or causing mental suffering to a juvenile who under their control or charge but the sanction of the Government is necessary before filing a charge sheet under this section.
10. Section 24 provides punishment for those who employ or use any juvenile for the purpose of begging. Abetment is also an offence under this section. The offence under this section is cognizable.
11. Section 25 provides punishments for giving intoxicating liquor or narcotic drug or psychotropic substance to a juvenile.
12. Section 26 provides punishments against persons who procure a juvenile for the

purpose of employment and withholds his earnings.

13. The offences under sections 41 to 44 can be charged together with any other offence provided under any other law and cases are to be filed in the ordinary courts.

Other Legislations for the Children

533. There are some other legislations to protect the interest of children.

1. The Child Labour Prohibition And Regulation Act (1986) prohibits children below 14 years from employment in railway, in such other processes as beedi making, carpet weaving, cement manufacturing, cloth printing, dyeing and weaving, bagging, manufacture of matches, explosives, fire-works, mica cutting and splitting, shellac and soap manufacture, tanning, wool cleaning and building construction. In other cases where children are employed, certain precautions have to be taken in the interest of their safety and health as per section 13. Violation of provisions entails punishment of 3 months up to one year. Tie offences however are not cognizable.

- A. Section 16 empowers any person and police officer or inspectors appointed under the Act to file complaints in a competent court.
- B. Whenever violation of the Act comes to notice, the duty of the police officer should be to make a record in the General Diary and file a complaint before the Metropolitan Magistrate or first class Magistrate who is competent to try the case. For every second offence, the punishment is 6 months to 2 years of imprisonment.
- C. The main duty of enforcing this Act is that of the inspectors appointed for this specific purpose. The police officer need not therefore undertake the job of going round the factories or places of work with a view to detect and prosecute the violation.
- D. The police should make thorough inquiries where they come across organized, deliberate employment of children against the provisions of this Act, and a proper FIR should be registered under appropriate sections of IPC and the Act. The example of such racketeering is the middle men who gather children and make them work taking advantage of the poverty of the parents.
- E. Every police station should maintain missing children register and make efforts to trace them. The register should be kept up to date with details of inquiries conducted.

2. The Child Marriage Restraint Act provides for punishments against any male person above 18 years marrying a female child below 18 years. It also provides for

punishments against persons who perform, conduct or direct any child marriage and also against the parents and guardians having charge of a minor female child conducting marriage or failing to prevent the marriage of a child.

3. All these offences are cognizable for the purpose of registration and investigation of these offences but arrest can be made only on a warrant from a court.
4. Charge sheets must be filed within one year from the date of offence. Otherwise courts will not take cognizance.

Crimes against Women

534. Women have equal rights under the Constitution. Special provisions aimed at protection of women and to prevent atrocities against them have been made by various laws. Article 23 of the Constitution prohibits trafficking in women, which is recognized as a fundamental right. Trafficking in human beings covers exploitation and trading by taking advantage of the vulnerability, poverty and physical weakness of the women. The provisions in the Indian Penal Code relating to crimes against women are contained in sections 294, 304B, 354, 366, 366A, 366B, 372, 373, 374, 376, 376-A, B, C, D, 493, 494, 496, 497, 498, 498A, 509. Sections 125 to 128 of Chapter VIII of CrPC relate to maintenance of women. The investigation of some of these offences is covered in the relevant Chapters in this Manual.

- A. Organized criminal activity is known to operate in illicit trafficking subjecting the women to untold trauma, agony and suffering.
- B. Women are subjected to physical harm, molestation, and physical and mental suffering arising out of dowry system and conflicts in the family due to various reasons. Domestic violence against women and girls is yet another manifestation of sufferings of women.
- C. Adequate safeguards and protections are provided for the treatment of arrested women and women offenders by various laws and rules.
- D. Apart from the Indian Penal Code, special legislations also exist. In the matter of rehabilitation, rescue and treatment, the welfare departments of the government and recognised non-governmental organizations have an important role to play. The role of the police which is complementary to these is set forth in the concerned Acts and Rules. In respect of atrocities against women of an unorganized nature, the

governmental and non-governmental agencies and also the police have a role to play. In the matter of dealing with organised crime against women particularly trafficking and serious crimes it is entirely the responsibility of the police.

- E. The norms of conduct of the police towards women whether they are offenders or in custody or come in contact on various occasions requiring police intervention are set forth and any violation attracts action against them. Police Officers of all ranks should familiarize and assimilate in spirit and letter, the various provisions of law and rules in the discharge of their duties. The training branch of the police and all the training institutions shall cover these aspects comprehensively in the induction, in-service and on-job training courses. The syllabus of induction training for all police officers should contain a module on the manners of official conduct with women.

The Immoral Traffic (Prevention) Act, 1956

535. The Immoral Traffic (Prevention) Act 1956 prohibits trading, trafficking and exploitation of women. Under the Act prostitution is not by itself punishable but exploitation of prostitution by others is made punishable under section 3, 4, 5 and 6 of the Act. Prostitution in public places and inviting for prostitution from public places is punishable under section 7 and 8. Inducing for prostitution by persons under whose custody the women are punishable under section 9. This Act attracts offences against both males and females. The opposite party (accomplice) can be prosecuted as abettor. There are deterrent punishments if the exploitation relates to child prostitutes. A public place is one which is within 200 meters radius to any place of Worship, Hospital, School, Hotel, or any other place declared by the government as such. Section 18 provides for removal of a brothel from a public place by police by the orders of an executive magistrate. Rehabilitation measures are also provided under the Act and Rules.

Investigation Duties of Police

536. Under the Act, a special police officer who shall not be lower than the rank of an Inspector as notified by the Government is only competent to detect make searches, and effect arrests in these cases. Sub Inspector and below can only assist him, but in cases of emergency Sis can arrest and immediately report to the Inspector. Searches shall be made in the presence of two independent witnesses and one among them shall be a woman. The victims of prostitution shall be clearly differentiated from organisers and such persons

should be rescued and rehabilitated. Prompt registration of cases, investigation, and prosecution with care and caution is important. The police should collect information relating to brothels and enter the information in part IV of the village crime history in a separate sheet. Trafficking in minor girls is a heinous crime and special attention must be paid by police for prevention and for rehabilitation. Though there are several non-governmental organisations and government departments, the police must play a supportive role in rescuing the victims from the clutches of organised crime or gangs or professional traffickers.

Preventive measure for Crimes Against Women

537. The following are the preventive measures to check the illegal practices of trafficking in women and minor girls for the purpose of prostitution and illegal practices.

- A. Gathering information relating to procurers, brokers, agents, and pimps through beat constables and other police officers.
- B. Prompt recording of information and action regarding missing women and girls.
- C. Maintain a liaison with voluntary bodies and concerned departments regarding care and custody of rescued females.
- D. Keeping watch at holiday resorts.

538. **Attacks against women and their modesty**

- (i) This category of offences relate to physical assault, vulgar gestures, lewd remarks and other conduct intended to outrage or insulting the modesty of a woman and cause annoyance and put her to shame etc. The eve teasing which is rampant in many parts of the State and which sometimes leads to disastrous consequences like suicide is not uncommon. Incidents of throwing acids to disfigure a woman also occur. Section 354, 509 IPC deal with the attacks on modesty of women and their dignity as individuals. Section 354 IPC deals with criminal force and outraging the modesty of women. The ingredients of this offence are -

- there is an assault or use of criminal force;
- against a woman irrespective of age;
- intention to outrage her modesty;

- (ii) Section 509 IPC punishes uttering words, making sounds or gestures or exhibiting any object within the hearing or view of the woman or intruding on her privacy to insult her.
- (iii) Modesty of any woman relates to her sex and her body. Law has interpreted that modesty of a woman as capable of being outraged whether she is young or old, intelligent or innocent, awake or asleep. Any Act suggestive of sex is deemed to be affecting her modesty. The other ingredient necessary in such offence is guilty intention and motive.
- (iv) Obscenity arises out of the use of language gestures motions signs and eve teasing. The following factors determine obscenity of any matter.
 - A. It is so depraved as to corrupt the minds of ordinary persons;
 - B. Suggests to the mind of young persons impure thoughts;
 - C. Arouses lust and stimulate sexual impulse;
 - D. Vulgar and immodest as to affect the reader or viewer;
- (v) The police are required to collect information with regard to circulation of such literature or objects and conduct searches with or without warrant.
- (vi) The Indecent Representation of Women (Prohibition Act 1986) prohibits vulgar and indecent representation of women through advertising or in publications, writings, and paintings figures or in any other manner. The figures or writing in scientific and medical journals and books are exempted from this Act. The offences under the Act are cognizable and bailable. The powers to enter and search and seize any thing which is in contravention of the Act and examine any record, register and document and seize if necessary are conferred on any gazetted officer. A warrant is necessary for the search.
- (vii) The production and circulation of obscene articles, literature and visual media is some times a major money-spinner and often a subject of organized criminal activity. When information is obtained regarding the operation of a gang, the police should register a case under 120 (B) IPC and other relevant sections and conduct thorough investigation.

The Dowry Prohibition Act 1961

539. Dowry under this Act is defined as any property or valuable security given or agreed to be given directly or indirectly by one party of the marriage to the other party at, before or after the marriage and in connection with the marriage. Section 3 makes giving or taking or abetting dowry punishable with a minimum and maximum of 5 years. Section 4 makes demanding dowry an offence punishable with a minimum of 6 months and a maximum of 2 years. The offences are cognizable for the purpose of registration and investigation but arrest cannot be made without the orders of the Magistrate. Reports to police must be given only by the aggrieved or their parents or guardians or recognized institutions. The offences are non bailable and non compoundable. The presents given at the time of marriage either to the bride or bridegroom is exempted provided the gifts are given by persons having the financial capacity and a list of articles is made out at the time of marriage and those articles are made over to the bride or bridegroom.

Offences relating to the marriage

540. Some other categories of offences relating to marriage are following :

1. Section 493 is an offence whereby any person fraudulently co-habits with any women inducing her in a belief that she is his legally wedded wife. The man going through ceremony of the marriage, which he knows is not valid, may practice the deception contemplated under this section,
2. Section 494 to 496 IPC deal with cases of bigamy. Bigamy is defined as marrying again during the lifetime of spouse when the personal law does not permit and when the marriage takes place without the first marriage being legally made null and void. These offences are cognizable but by virtue of section 198 Cr.P.C. courts will not take cognizance unless a complaint is filed by the aggrieved or by the parents or by the guardians or by any recognized welfare organisations.
3. Section 498 IPC deals with enticing a married woman or conceals or detains her with the intention of having illicit intercourse. In this case also the complaint should be filed in the court by the husband, who is aggrieved.

The National Commission for Women Act 1990

541. This Commission has varied statutory functions which inter alia include investigation and examination of matters relating to safeguards and look into complaints of non-implementation of laws enacted to provide protection to women, inspect the place of custody where women are kept as prisoners or otherwise and take up with the authorities for remedial action. The Commission has powers to summon witnesses and production of documents receiving evidence on affidavits, requisition of public records etc.

542. Arrest of Women

- (i) Whenever any women has to be arrested under the law, the women police officers should be employed and for any reason if the services of women police could not be secured, it is necessary to secure the presence of services of women social workers or other respectable women witnesses of the area. The Police Officers making arrest shall not use force unless there are circumstances which make him believe that the prisoner is likely to escape or there is danger to her life or she is in possession of fireworks, explosives or any other dangerous weapons.
- (ii) In respect of women offenders whose custody in the police station becomes necessary, a woman police officer should be available in the police station or the prisoner shall be left under the charge of woman police in the same police station or in a women police station. The Investigation Officer or the SHO may permit her male or female relatives not exceeding two to visit her or to be in attendance near the police station until she is sent to judicial custody.
- (iii) The interrogation of women in custody in the course of investigation of a case should be done in the presence of woman police officer if the I.O. is not a woman police officer. The women prisoners should be kept in separate lock up meant for women and toilet facilities be provided with women escorts. In respect of women prisoners with a child in arms, the child should be permitted to be with the mother and arrangements made with the help of any NGO or government welfare department or the concerned department of government to provide medical aid and care of child and mother. There

should be no objection to allow an elderly female member of the family to be present near the police station for any assistance that may be required for the child.

543. **Bonded labour**

- (i) Bonded labour is forced labour under which he enters into an agreement with the employer that he would by himself or through his descendants serve him for a specified or unspecified periods with out wages or with nominal wages in consideration to the advance obtained by him from the employer earlier. Thus he is curtailed from liberty to move freely or to take other employment till the debt is discharged.

- (ii) The Bonded Labour System (Abolition) Act 1976 provides punishment for enforcement advancement, extracting bonded labour under bonded labour system. Abetment is also an offence under this Act. All the offences are cognizable and bailable and triable by executive Magistrates who are vested with the powers of judicial first class Magistrates or second class Magistrates, Police Officers have to file these cases after investigation before the concerned executive Magistrate Court.

Chapter 25

Foreigners

Introduction

544. Revolutionary developments in the areas of transport and communication coupled with the process of globalization have converted the world into a global village. The geographical distances have now reduced. Social, political, cultural, industrial, educational and economic interactions have become more frequent and more intensive than ever before. The movements of the nationals and citizens of different countries to other nations have become smooth, easy and frequent. Consequently more and more foreigners visit India now on some reason or the other. This might be a welcome phenomenon on various considerations, but this calls upon police to play their role with regard to foreigners with more vigilance, dexterity and awareness.

Foreigners Valid Passports and Visas

545. "Foreigner" means a person who is not a citizen of India. The entry of foreigners into, and their residence and movements in India are regulated by Acts made by the Parliament and rules framed by the Central Government from time to time. A foreigner cannot enter India without a valid passport issued by his Government and a valid visa issued by or on behalf of the Government of India. The period of his residence in India is determined by the period of validity of the passport and visa. All foreigners except those specifically exempted are required to report their entry into India and their subsequent movements. The extent to which this is regulated is laid down for different categories of foreigners in the relevant rules.

Foreigners' Acts and Rules

546. The following Acts, important Orders, Rules and Instructions are relevant and all police officers should be conversant with their powers and duties specified in these enactments, instructions Acts, Orders, Rules and Instructions governing the registration and stay of foreigners in India. Besides these, there are orders and rules

relating to protected and restricted areas restricting movements of specific categories of people and foreigners.

- A. Registration of Foreigners Act, 1939;
- B. Registration of Foreigners Rules 1939 including the Executive Instructions issued by the Government to supplement and facilitate the administration of these rules;
- C. The Foreigners Act, 1946;
- D. Foreigners Order, 1948;
- E. Registration of Foreigners (Exemption) Order 1957; and
- F. Foreigners (Exemption Order 1957)
- G. Passport (Entry into India) Act 1920
- H. Exemption Orders under the Passport (Entry into India) Rules 1950
- I. The Foreigners (Internment) Order 1962
- J. The Foreigners (Restriction on Chinese Nationals) Order 1962
- K. The Foreigners (Restriction on Pakistani Nationals) Order 1965
- L. The Foreigners from Uganda Order 1972
- M. The Registration of Foreigners (Bangladesh) Rules 1973
- N. The Foreigners (Report to Police) Order, 1971
- O. The Foreigners (Restriction on Pakistani Nationals) Order 1971
- P. Foreigners (Protected Areas) Order 1958
- Q. Foreigners (Restricted Areas) Order 1963 ;

Passport and Visa Related Laws

547. Following are the Acts and Rules governing the grant of passports and visas;

- A. The Passport Act 1967 and the Rules made there under;
- B. Rules relating to the issue of passports and visas between India and Pakistan, Bangladesh and Sri Lanka;
- C. Rules relating to visits to Nepal and Kashmir.

548. Emigration and Extradition Related Laws

(i) Following are the Acts & Rules relating to Emigration and Extradition

- A. The Emigration Act 1983;
- B. The Extradition Act 1962.

- (ii) The instructions contained in this Chapter are intended for assisting Officers entrusted with the administration of Laws and Rules relating to foreigners. They do not, however, relieve the officers of their responsibility to consult the concerned Acts, Notification, Orders and Rules including the additions, modifications and other amendments in their application, as declared by the Government of India and State Government from time to time. The instructions issued by State Intelligence Department from time to time should also be implemented. The SHOs should seek guidance in case of any doubt from the SDPO and the SP / CP concerned. In view of the increasing flow of foreigners and the liberal immigration policy of Government of India, it is necessary that all Police Officers fully understand their powers and obligations with regard to foreigners in this important area of their work. It should, however, be noted by all police officers that while the laws should be implemented and the rules followed, it should not cause unnecessary harassment to foreigners.

The Exemtees under Various Enactments

549. The Central Government may, by order declare that any or all of the provisions of the Passport (Entry into India) Act, 1920, Registration of Foreigners Act, 1939, and Foreigners Act, 1946 and the rules made there under shall not apply, or shall apply only with such modifications or subject to such conditions as may be laid down or in relation to any individual foreigner or any class or description of foreigners

(A) United Nations Organization

- i. Representatives of Principal and Subsidiary Organs of the UN or its Specialized Agencies, and delegates to Conferences convened by the UN or its Specialized Agencies, are entitled to certain privileges and immunities under the United Nations (Privileges and Immunities) Act, 1947. They are exempted in respect of themselves and their families from registration under the Registration of Foreigners Rules, 1939 in the State they are visiting or passing through. It is also not necessary to issue residential permits to these persons as long as they remain in India on official business. The performing missions for the United Nations or its Specialised Agencies are also exempted from registration under the Registration of Foreigners Rules, 1939.
- ii. All officers shall make themselves familiar with the provisions of the United

Nations (Privileges and Immunities) Act 1947, and see that the personnel of the United Nations, who will be in possession of United Nations Laissez Passe or other document indicating their status with the UN or its Specialized Agencies, are not put to any inconvenience.

- iii. For the purpose of visas, the UN Officials fall in two categories. The first categories are those who stay in India for an indefinite period and the second relates to those who stay in India for a short specified period. Applications for visas where required; from the holders of United Nations Laissez Passe or any other document showing that they are travelling on the business of the United Nations shall be dealt with appropriately and as speedily as possible.

(B) Foreigners of Diplomatic Status and Their Families

550. All Officers of diplomatic status, Consuls-General, Consuls and Vice-Consuls are exempt from registration under the Registration of Foreigners Act, 1939. Their wives and children are exempt from registration by the Registration of Foreigners (Exemption) Order, 1957. Registration Authorities at the seaports and airports will generally accept diplomatic passports and/or diplomatic visas produced by diplomatic and consular officers and members of their families as proof of their status entitling them to exemption from registration.

(C) Registration Officers and Civil Authorities

- (i) Certain powers are conferred by the Government on the Commissioner of Police, and Superintendents of Police under the Registration of Foreigners Rules, 1939, Foreigners Act, 1946, and Foreigners Order, 1948. These officers should study and follow the orders, rules and instructions issued by the Central and State Governments and the Addl. DG/IGP, Intelligence who is the State Registration Officer. Registration Officers are further authorized to empower in writing police officers not below the rank of Head Constable, Officers of the Customs Department and Office Superintendents of their Offices to perform any or all of their functions under the said rules.
- (ii) Under sub-paragraph (2) of paragraph 2 of the Foreigners Order, 1948, the Governments appoint the following Officers to be Civil Authorities for purposes of that order.

- i. Commissioner of Police,
- ii. Collectors of districts
- iii. Secretary to Govt.

551. Restrictions and Conditions for Foreigners

(i) Foreigners arriving in India are subject to the restrictions imposed by the Foreigners Act, 1946, the Registration of Foreigners Act, 1939, and the rules made there under, and the Foreigners Order, 1948 or any other orders passed by the competent authority under the law. Some of the important provisions of these Acts are given below:

(ii) Grant of visa does not necessarily mean that the grantee will be permitted to land in India on arrival. A competent civil authority may -

- A. refuse, in certain circumstances, permission to a foreigner to enter or leave India;
- B. attach such condition(s), as it may think fit to the grant of permission to land;
- C. impose restrictions on the movements of a foreigner; or
- D. arrest and/or detain a foreigner, if it is necessary to do so in the public interest.

(iii) A competent civil authority may prohibit a foreigner from entering or remaining in a prohibited or protected area or may impose such conditions as it may think fit on a foreigner visiting or remaining in such an area.

Formalities to be Observed by Foreigners

552. All foreigners are required to furnish full particulars in respect of themselves on arrival. They have to complete disembarkation/ embarkation cards in Form 'D' while entering or leaving India by sea or air and hand them over to the registration staff along with their passports and other travel documents. A foreigner is required to produce sufficient proof of his identity for registration, such as his passport or such other proof of his identity as may be required by any Registration Officer, Magistrate or Police Officer not below the rank of Head Constable within twenty four hours of demand being made of him. Every registered foreigner has to produce his Certificate of Registration for inspection when demanded of him by any Registration Officer,

any Magistrate or any Police Officer not below the rank of Head Constable within twenty four hours. The time limit may be extended by the Officer demanding these documents as may be necessary. When the passport or other documents of identification produced by a registered foreigner, in the opinion of the Registration Officer, Magistrate or Police Officer not below the rank of Inspector, do not provide adequate proof of identity, he may be required to produce four copies of a photograph of passport size of himself or four complete sets of his finger impressions, if his Registration Certificate does not already contain his photograph or finger impressions. If the Registration Certificate bears a set of finger impressions, the foreigner may be required to furnish a further set of finger impressions for comparison.

553. **Movements in India**

- (i) A resident foreigner who intends to be absent from his registered address for a continuous period of two weeks or more, is required to furnish, before he leaves, the Registration Officer of the district, with a report in writing, giving particulars of his itinerary including the places he proposes to visit, the address/addresses at which he proposes to stay and the date on which he proposes to return to his registered address. If any change is made in the itinerary, the Registration Officer to whom the original report was made, as well as the Registration Officer of any additional place included in the changed itinerary should be informed.

- (ii) A resident foreigner who has to travel about frequently can obtain a travel permit valid for a specified period and between specified places or within a specified area. A foreigner who obtains such a permit is not required to furnish his itinerary. A resident foreigner visiting districts other than the district in which he is registered is required to report his presence in the latter district within seven days of his arrival, if his stay there exceeds seven days. The report should be made to the Registration Officer or to the nearest Police Station either in person or in writing. When such a report is made at a police station, the SHO will immediately forward the report to the Superintendent of police simultaneously intimating the fact to the Sub-Divisional Officer. This

report is not required in the case of a person who has obtained a travel permit or who stays in a hotel. A resident foreigner changing his registered address is required to report such a change to the Registration Officer of the district in which he is registered. He has also to report to the Registration Officer of the district to which he moves within forty-eight hours of his arrival.

- (iii) Tourists who come on Tourist Visa on visits for recreational or sight-seeing purposes, are exempt from reporting changes in their address and their movements as no registration formalities are required if the stay is less than 180 days. Every registered foreigner, except a tourist, should report to the Registration Officer of the district in which he is registered within 14 days, any circumstances, which in any way affect the accuracy of any of the particulars set out in his Certificate of Registration.

Departure

554. Every registered foreigner who is about to depart finally from India shall surrender his certificate of registration either to the Registration Officer of the place where he is registered or of the place from where he intends to depart or to the Immigration Officer at the port/check post of exit from India. If the certificate is surrendered other than to the Immigration Officer of the port or check post of exit, a receipt indicating such surrender of the document may be obtained and shown to the Immigration Officer. It is no longer necessary for foreigners to seek exit/departure clearance from the Registration Officers of their place of registration and they can straight away depart from the Immigration Check post. The Registration Officer at the port or place of departure may, if he is not fully satisfied of the applicant's bonafides, make a reference by telegram/fax to the Registration Officer of the district in which the foreigner is registered.

555. Registration of Foreigners Rules, 1939

- (i) Foreigners holding visas for 180 days or less are not required to get

themselves registered. In case they wish to stay in India beyond a period of 180 days they should get themselves registered and obtain a certificate of registration before the expiry of the visa period. Foreigners coming on visas for more than 180 days are required to register within 14 days of their arrival in India.

- (ii) Under these Rules (Rule 6) a foreigner is required to inform the Registration officer of his presence in India and obtain a Certificate of Registration from that office. He is required to surrender the Certificate of Registration immediately before his departure (Rule 15) and obtain an endorsement to that effect from the Registration Officer. Foreigners holding visas for a period exceeding 180 days should report for registration within two weeks of their arrival in India. Such foreigners are called Resident Foreigners. Those who stay in India for less than 180 days are called Itinerant Foreigners. Foreigners whose destination in India is a place other than the port or place of entry will, in addition, take out a Temporary Registration Certificate in Form 'B' from the Registration Officers of the port or places of arrival. They have to surrender the Temporary Registration Certificates to the Registration Officers of their destination and get themselves registered and obtain a regular Certificate of Registration. A foreigner is required to apply for extension of stay at least 15 days prior to expiry of visa.

- (iii) It should be noted that Residential Permit as contemplated in part 7 of Foreigners Order 1948 is not the same as Certificate of Registration under Rule 6 of Registration of Foreigners Rules 1939. Registration is not required if the stay is for less than 180 days but permit is required. Certain categories are exempted from Registration as per Registration of Foreigners. (Exemption) Order 1957.

556. Categories of Foreigners

- (i) All arrivals of foreigners including tourists, at the sea or airports will fall under one or other of the following classes:
 - A. foreigners coming to India on visa for 180 days or less;

- B. foreigners holding visas for more than 180 days whose destination is the port or place of entry; and
 - C. foreigners holding visas for more than 180 days whose destination is a place other than the port or place of entry.
- (ii) Foreigners holding visas for a period exceeding 180 days will be required to report for registration within 14 days of their arrival in India at the Registration Office specified which would be at the port or place of entry. A foreigner whose destination in India is a place other than the port or place of entry will, in addition, be issued with a Temporary Registration Certificate except in case of Pakistan Nationals in Form 'B'¹ requiring him to report to the Registration Officer of his destination within a period of 14 days. A copy of this form will also be sent direct to the Registration Officer concerned on the same day. If within 14 days of the receipt of the duplicate of Form 'B' the foreigner mentioned therein does not report to the Registration Officer, the latter will inform the Officer who issued the temporary certificate and institute enquiries to ascertain the whereabouts of the foreigner.
- (iii) In respect of foreigners holding visas for more than 180 days, Registration Officers should see that such a foreigner who has been in India for more than 30 days should get himself registered wherever he happens to be at that time. This will be possible, as, in addition to the stamp on his passport the hotel arrival report (Form-C) will show the date of the foreigner's arrival in India. The Registration Officer concerned should carefully check the hotel arrival reports received by him daily to see that a foreigner who has been in India for more than 30 days has been duly registered.
- (iv) The registration staff at the ports or places of entry should send every day list of all foreigners whose destination is the port or place of entry, to the Registration Officer of the port or place if his headquarters is the town in which the port or place of entry is situated.
- (v) In the case of foreigners whose destination is a place other than the port or place of entry, the concerned Registration Officer who would have received duplicate

of Form 'B' should see that the foreigners get themselves registered within 14 days of arrival. The Registration Officers should recover the temporary certificates from the foreigners and send them to the Registration Officer who issued them.

- (vi) All foreigners will be registered in form 'A'. When a foreigner is registered, the Registration Officer concerned should give Part III of Form 'A' to him as his Certificate of Registration and Part I kept for record. Part II should be transmitted to the Central Foreigners Bureau, Ministry of Home Affairs, and New Delhi on the same day. Simultaneously, a duplicate copy of Part II should be sent to the State Registration Officer.

Children of Foreigners

557. Children of foreigners under 16 years of age residing in India need not be registered as they are exempt from such registration by clause 2 of the Registration of Foreigners (Exemption) Order, 1957, but they will be issued residential permits as required by paragraph 7 of the Foreigners Order, 1949.

Registration Certificate

558. Serial numbers of Registration Certificate: When a foreigner changes his registered address to any district other than the one of his registered address, the original serial number allotted to him when he was first registered in a district, should be retained.

Hotel Arrival Reports - Form 'C'

559. A foreigner staying in a hotel will not be required to fill in Form 'C'. It will be filled in and submitted by the hotelier within 24 hours of the foreigner's arrival in the hotel. The Officer in charge of the nearest Police Station who is authorized by the Registration Officer to receive reports in Form 'C' in the districts, should make such enquires as may appear to be necessary on receipt of such a report in respect of a foreigner. He will transmit promptly the report direct to the Superintendent of Police or Commissioner of Police i.e. Registration Officer on the same day with his remarks retaining a copy, if necessary. The term 'hotel' includes any boarding house, club, dak

bungalow, rest house, sarai or other premises of a like nature. The SHO should effectively ensure that the hotel keepers obtain and submit the reports without fail.

560. Registration of Pakistan Nationals

- i. Pakistanis holding Visitor Visas will be required to register themselves at the check-post of entry and will, within 24 hours of their reaching the specified places of stay, report their arrival in person and in writing to the prescribed authority or the nearest Police Station. They will also make a similar report 24 hours prior to their intended departure from the place of stay. In the case of families, only one member of the family will be required to appear before the registration authority for registering himself and the members of his family. All persons with valid visa for up to 14 days shall be exempted from police reporting. Any change in the residential address shall also be reported to the said registration officer within 24 hours of such change in the same manner.
- ii. Bonafide Pakistani Businessmen coming on business visits will be required to register themselves at the check post of entry. However, they may not be required to report in person to the prescribed authority or the nearest Police Station for registration. For this purpose, they may depute their authorized representatives to report their arrival in writing to the prescribed authority or the nearest Police Station within 24 hours of their reaching the specified place. The authorized representatives will also make a similar report on their behalf 24 hours prior to their intended departure from the place of stay.
- iii. Pakistanis holding Transit Visas valid for a period not exceeding 72 hours will be required to register themselves only at the check post of entry. They will not be required to report their arrival/departure to the prescribed authority or the nearest Police Station for registration.
- iv. A Head of Mission can exempt individual Pakistani Nationals from reporting to the Police in India provided he is personally satisfied about the antecedents of the Pakistani National and considers him a fit and

desirable person to be given such exemption. In such a case, the application should be stamped with a special rubber seal "Exempted from police reporting".

- v. The FRROs are to make endorsement on the residential permit at the time of registration. There will be no temporary residential permits or regular residential permits. There will be only one residential permit to be used. The diplomatic, non-diplomatic and official visa holders are not required to register. The visitor visa holders are required to register. The official visa holders who are desirous of visiting any place on personal work will have to obtain a visitor's visa in which case the registration formalities as aforesaid will have to be observed.

Bangladesh Nationals

561. Bangladesh Nationals visiting India for a continuous period of over 6 months are required to get themselves registered with the foreigners registration office within 14 days of their arrival and to obtain residential permits. Those entering on visas for short periods but seek extension so that their total stay in India exceeds 6 months are also required to get themselves registered.

562. Transit Visas of air Passengers

- (i) Transit visas need not be insisted upon in the case of air passengers proceeding through India in direct transit by the same flight or by the next regularly scheduled flight, irrespective of whether the flight is of the same or of a different airline. The entry of such persons may be regulated as follows:
 - A. In the case of passengers not leaving the precincts of the aerodrome, irrespective of the fact whether they arrive by one flight and depart by the same flight or arrive by one flight and depart by another (of the same or of a different airline), they may be allowed to land without landing permits, provided there is no security objection, • and provided the air companies concerned undertake to ensure that the passengers do not leave the precincts of the aerodrome.
 - B. Passengers who arrive by one flight and depart by another (of the same or of a

different airline) but leave the precincts of the aerodrome should obtain a landing permit in the form below:

"Sri/Srimati/Kumariwho arrived in India on (date)
from (Place) by (description)
(description) aircraft is permitted to land temporarily in India until his/ her departure
by (description) aircraft on (date) to)
final destination)"

(ii) This permit is to be surrendered to the airport police authorities on departure from India and upon its surrender, the passport, which has been, deposited with authorities shall be returned. The validity of such landing permits should not normally exceed 72 hours. Foreigners proceeding by air in transit, who arrive at one airport and leave by the next regularly scheduled flight, should be required to be in possession of transit visas for India.

563. **Residential Permits**

- i. All foreigners, except those exempted, entering India irrespective of whether they have previously been in India or not should be required to obtain residential permits under paragraph 7 of the Foreigners order, 1948. The period of validity of a residential permit issued to a foreigner is dependent on the validity of the visa granted to him. Residential permits will normally be issued to diplomatic and consular Officers and their wives and children who are in possession of diplomatic visas, with the authorized period of stay indicated by the words "on Government duty" (or, in the case of member of their family" "While husband" "father, etc. etc. remains on Government duty").
- ii. Diplomatic and consular officers and their wives and children, who are in possession of diplomatic visas which are limited to specified periods of stay in India, will be given residential permits for the periods mentioned in their visas. If, after they take up their posts, it transpires that they will be required to remain in India for a longer period, the validity of the residential permits issued to them will be extended to cover the duty period on application to the Government.

- iii. The procedure for the issue and extension of residential permits in the case of non-diplomatic personnel and staff of consulates and members of their families will be the same as that for diplomatic and consular officers. Foreigners who are exempt from registration should be issued with residential permits at the port or place of entry itself. In all other cases, the residential permit should be issued at the time of registration. No residential permits need be issued to foreigners who stay in India for 30 days or less.

564. **Extension of Stay**

- (i) The Commissioner of Police, and all Collectors, who have been appointed 'Civil Authorities' under the Foreigners Order, 1948, are authorized to exercise, in respect of the following classes of persons the powers conferred on the State Government by paragraph 7 of the Foreigners Order to extend the period specified in a permit granted under that paragraph.
 - A. foreigners who are holders of transit visa, for the period necessary to make arrangements for their onward journey;
 - B. foreigners who have been residing in India for a period of five years or more and are engaged in useful occupations, for a period of one year at a time.
 - C. foreigners in whose cases the Government of India have authorized the grant of an extension in the first instance, for period not exceeding that for which extension was initially authorised.
 - D. foreigners admitted into India for medical treatment, provided it is certified that their continued stay in India is essential for such treatment.
 - E. foreigners who are employed either by educational institutions or as technical experts in firms, whose stay in India would be definitely in the national interest, extension for a period of one year at a time; and
 - F. foreigners who have come to India on short visits of less than one year, for a period not exceeding two months.
- (ii) The grant of extension of stay in cases mentioned above should be subject to the following conditions:

- A. They entered India lawfully and for the purpose of the business at present pursued or for a cognate or authorized purpose. This excludes diplomats, consuls or their staff who entered in their official capacity and on termination of employment have remained in India.
- B. That they have not come to adverse notice. Prosecution for breach of registration or other formalities and violation of such formalities will constitute 'adverse' notice although minor breaches may be ignored in suitable cases.
- C. That they have bonafide or settled business of work in India and, in case of missionaries, necessary guarantee for their good behaviour and maintenance has been furnished.

(iii) The Civil Authorities should refer to the Government all doubtful cases, i.e., where the individual concerned is definitely, due to adverse notice or otherwise not eligible for further stay. The Civil Authorities should also submit a return in triplicate, in the form prescribed by the Government of India, on the 1st and 15th of each month of all applications for extension of stay in India disposed of by them during the preceding fortnight. These returns should reach the Government not later than 5th and 20th of each month.

(iv) While granting extension of stay in India or forwarding applications of foreigners for extension of stay in India to the Government, it should be ensured that passports or other recognized travel documents are valid for sufficiently long periods. The passports should be valid for at least 60 days beyond the date up to which extension is applied for. Should a foreigner be not in possession of a passport valid for this period, he should, as an interim measure, be granted an extension of stay for a period of 60 days less than the expiry of his passport. Further extension should be granted only when he gets his passport renewed or obtains a new passport. In no case should passports of foreigners be taken away from them for the purpose of mainly checking their validity.

"No Objection to Return to India" Endorsements

(i) The Commissioner of Police, and all Collectors, who have been appointed Civil Authorities under the Foreigners Order, 1948, are authorized to grant without reference to the Government "No Objection to return to India" endorsements to

foreigners falling within the following categories subject to their satisfying the requisite conditions.

- A. foreigners, other than missionaries, settled in India;
- B. foreign missionaries permanently settled in India;
- C. foreigners permanently settled in India but proceeding to Myanmar, Sri Lanka, Pakistan, Bangladesh etc. on short visits with the intention of returning to India; and
- D. missionaries from Commonwealth countries (other than South Africa, Pakistan and Sri Lanka) and the Republic of Ireland, who fulfill conditions of five years residence in India.

(ii) Civil Authorities should refer to the Government all doubtful cases where the individual concerned has come to adverse notice or is not otherwise eligible for the grant of a 'No objection to return to India' endorsement. They should also give intimation to the Home Department Government of the State Govt. of each endorsement granted by them.

(iii) To prevent a suspect foreigner obtaining a "No Objection" endorsement, the Civil Authorities should maintain a close liaison with the local or State Intelligence.

(iv) The fee for the grant of a 'No objection to return to India' endorsement as prescribed may be obtained in postage stamps and cancelled. Commonwealth missionaries are exempt from paying fees for the endorsement.

565. **Arrest of Foreigners**

- i. When foreign nationals are arrested on major criminal or civil charges, it is possible that the Foreign Diplomatic/Consular Missions in India may wish to assist the nationals of their countries in regard to their defence before a court of law and/or take such other action, as they may deem appropriate in accordance with diplomatic practice. Therefore as soon as a foreign national (including Pakistan national) is arrested in a major crime, the fact, with a brief description of the offence should be brought to the notice of the Ministry of External Affairs through the State Government by the DGP/CP concerned. Government of India, who decides about the

necessary action, should bring these cases to the notice of the Foreign Diplomatic/Consular missions concerned. The report of the arrest of a foreign national in a major crime, together with a brief description of the offence, should be communicated to the Director General of Police, Addl. DGP, CID and Addl. DGP Intelligence and Security.

- ii. Arrests of foreign Government officials in India, while they are on duty or on leave or otherwise, regardless of the nature of the crime committed by them, should be intimated to the Ministry of External Affairs, Government of India, through the State Government, with full particulars, e.g. name and designation of the officer arrested, circumstances under which the arrest was made and charges against him. Information regarding the arrest of Foreigner who is not registered in this State will be passed on immediately to the Registration Officer in whose jurisdiction the foreigner has his registered address under intimation to the Provincial Registration Officer to enable Registration Officer with whom the foreigner is registered to maintain a check on the movements of the foreigner.

Prosecutions

566. The orders of the Government should be obtained before prosecution is launched against foreigners for a breach of the provisions of the Registration of Foreigners Act and Rules, 1939. In view of section 8 of the Registration of Foreigners Act, 1939 the fact that a foreigner, who may have entered India in contravention of the Passport Rules 1950, has been registered, does not affect his liability to be proceeded against under the Passport (Entry into India) Act, 1920.

567. Proof of Identity of Foreigners

- i. The particular attention of all officers is drawn to the following instructions regarding the Registration of Foreigners Act, 1939, and the rules under the Foreigners Act, 1946.
- ii. **Burden of proof:** Under section 4 of the Registration of Foreigners Act, 1939, and section 9 of the Foreigners Act 1946, the burden of proving that

a person suspected of being a foreigner is not a foreigner lies upon that person, Rules 8 and 9 of the Registration of Foreigners Rules, 1939, gives power to officers of and above the rank of Head Constable to demand the production of a passport and other proof of identity and to inspect Certificates of Registration. The account given by a foreigner should be tested as far as possible and not be accepted too readily.

- iii. **Acceptance of passports:** A passport issued not more than five years before the date of production should normally be accepted as sufficient proof of identity under rule 8(1) of the Registration of Foreigners Rules, 1939. A renewed passport issued more than five years previously should also be accepted, if the Registration or other officer is satisfied that it establishes the identity of the foreigner. If, however, the photograph is faded or obsolete or the passport is in any way suspicious, further proof of identity should be demanded.

District Police to Report the Movements of Foreigners

568. The movements of foreigners, including their arrivals and departures, will be reported to the District Special Branch direct by quickest means by the SHO concerned. Upon the appearance of a foreigner, about whose identity, conduct or demeanour the SHO entertains suspicions, he should send a special report to the SP or CP with copies to ACP/SDPO. The foreigner should, under the circumstances, be kept under unobtrusive surveillance if necessary. The SP or CP should take action on such reports as instructed by the State Intelligence Department from time to time. If a foreigner is suspected of having taken part in a grave crime, the SHO or his superior should promptly inform the CID. The foreigner should not be lost sight of till orders are received on such reports. If the foreigner moves out, the SHO of the Station, whose limits he is about to enter, should be alerted by the quickest means available to expect his arrival and the SP will inform his counterpart of the district to which he moves.

Enquiries Relating to Foreigners

569. All important enquiries under the Indian Passport Act 1920, Registration of

Foreigners Act, 1939 and foreigners Act, 1946, and the Rules, and Instructions issued there under will be made by an officer not below the rank of Sub-Inspector, except in cases where it is required under the rules that an officer superior to him should attend to this work. Routine enquiries may be entrusted to Head Constables who are conversant in that work. The enquiry reports should be prepared with care, based on facts and not on conjectures and guess work.

Registers and Records

570. A Registration Officer will maintain a register of registrations and other records as contemplated in the Executive Instructions under the Registration of Foreigners Rules, 1939, and any other records as are ordered from time to time by the Government and the Provincial Registration Officer.

Role of District Special Branch Relating to Foreigners

571. A special staff consisting of adequately trained officers will be posted to the District Special Branch to deal with work relating to foreigners at district headquarters. Suitable accommodation should be provided for reception of foreigners in those districts where this work is heavy. Records will be maintained in the District Special Branch in accordance with the instructions of the State Intelligence Department. These records should contain essential information like the names and particulars of foreigners, the dates of their arrival, the dates of expiry of their passports and visas, the purpose of their journey or visit, and local addresses. Suitable indices should also be maintained. The DSB will keep the State Intelligence Department promptly informed of the arrival and movements of all foreigners. Reports will also be submitted to the State Intelligence furnishing such information and statements in this connection as may be called for from time to time. To prevent undesirable foreigners from departing, the attention of the Registration Officers is specifically drawn to the fact that if they are undesirable, the District Special Branch should institute enquiries into the matter, under rule 15 of the Registration of Foreigners Rules, 1939.

Role of Central Foreigners Bureau

572. To implement the procedure under the Registration of Foreigners Rules, 1939, a

Central Foreigners Bureau is set up by the Government of India in the Ministry of Home Affairs, New Delhi. The functions of the Bureau are:

1. maintenance of all records in respect of every foreigner from the time of grant of a visa to the time of his departure from India.
2. maintenance of up-to-date and complete statistics in respect of all foreigners in India;
3. maintenance of records of movements of all foreigners visiting India;
4. coordination of the work of all Registration Officers; and
5. taking steps to ensure that foreigners leave India within the authorized periods of their stay.
6. when a foreigner leaves India by a port or place of entry other than the one through which he enters, intimation regarding such departure will be sent by the Central Foreigners Bureau to the Registration Officer of the port of place of entry.

Documents furnished by Registration Officers to the Central Foreigners Bureau and State Registration Officer

573. A Registration Officer should furnish the following documents directly to the Central Foreigners Bureau, New Delhi, with copies to the State Registration Officer.

1. Disembarkation/Embarkation Cards, completed by all foreigners entering/leaving India to be sent daily by the Port Registration Officer after keeping copies for hi reference.
2. Part (II) of Form 'A' - original copy to be sent to the Central Foreigners Bureau and duplicate copy to the State Registration Officer.
3. Copies of reports of movements/itineraries submitted by non-tourist foreigners registered in Form 'A'.
4. Copies of reports of changes of particulars in registration certificates of non-tourist foreigners.
5. Return of extension of stay granted by the Commissioner of Police.
6. Warning Circulars.

574. Report of Death of Foreigners

(i) The death of all foreigners shall be reported to the DGP for onward

communication to the Government. The following particulars should be given in the report.

- A. Name of the deceased
- B. place of birth and nationality
- C. particulars as to family connections
- D. approximate age at the time of death
- E. particulars as to property (if any)
- F. profession at the time of death
- G. place and date of death
- H. cause of death
- I. dependents or relations, friends, if any, in India, if so, whether they are aware of the event
- J. address of any relatives in the country of the deceased, if known
- K. length of service (if employed in the Government service) and
- L. remarks

(ii) The report should not be held up for want of any of the particulars not readily available. Whatever information is readily available should be sent as soon as possible. The report should be furnished in respect of all aliens as well as non-Indians. Death of minors of foreign nationals also should be reported in the same manner.

Chapter 26

Economic Offences and White Collar Crimes

Introduction

575. Indian economy has witnessed epochal changes, during past two decades in various spheres. Bureaucratic controls have either been dismantled or substantially reduced. Changes have also taken place in trade and exchange rate policies, foreign investment policy, tax structure, financial sector and the public sector. Even in the changed scenario, economic offences would continue to exist, in all these areas as long as controls remain and decision making processes lack transparency. The foreign exchange coming into the country as foreign direct investment may generate black money through import and export frauds and crimes. Clandestine foreign exchange routed back into the country through investment and banking channels may initiate laundering operations. Similarly most of the legal gold and silver import into the country is also being widely done by conversion of black money into hard currency through hawala channels. The integration of Indian economy with the global economy may spin global crimes. The flow of money from international narcoracketeering, illegal arms sales and funding of terrorist outfits gets laundered through various 'shells' companies. The only way in which integration with the world economy and the increasing threat of international crimes can be reconciled is by formulating increased international co-operation and strict enforcement of existing enactments.

Economic Offences and White Collar Crimes : Conceptualization

576. A Crime, with sole objective to accumulate money, wealth or illicit profit, at the cost of others by exploiting the loopholes in the system, by misusing the opportunities extended by the State to its citizens for their economic prosperity, in violation of established regulations and fiscal laws can be broadly categorised as Economic Offences. Such crimes have the potential of damaging socio-economic fabric of the society, crippling the democratic development and derailing the industrial progress of the country.

An economic offence may appear victimless on the face of it but in fact it victimises the whole society. These crimes are also popularly known as 'White Collar Crimes' by virtue of the fact that perpetrator of such crimes are normally persons of responsibility, holding high offices and in the course of their occupation, either they themselves commit the crime or facilitate the perpetration of crime by others.

576.1 White-collar crime is a Crime committed by a person of responsibility and high social status in the course of occupation. White Collar/Economic Crimes cover offences of cheating or fraud, criminal misappropriation and embezzlement, criminal breach of trust, even corruption and counterfeiting etc. With the economic liberalization and as a result of revolution in the fields of communication and technology, many more new type of crimes ranging from misappropriation of money raised as equity capital by companies or as deposits by Non-Banking Finance Companies, money laundering from simple frauds to floating fictitious companies, making false representations to the public for raising money by way of public issues, fraudulent manipulations of banking transactions with clever attempt to exploit the loopholes, over invoicing. of-exports with an objective of claiming various export related benefits, encashment of cheques/drafts, through fictitious Bank accounts are adding to the rising number of economic crimes. The economic offences have assumed the proportions of **trans-border/International crimes** committed in a pre-planned and well-organised manner by a syndicate of ill meaning, well educated and well connected criminals. Such criminals operate in a way as if they are in a borderless world, while the Law Enforcers of a country are confined to operate within the borders of their country. It gives a distinct advantage to the Economic offenders to take the country's economy to ransom, yet remain beyond the arms of Law.

Corporate and Bank Frauds

577. Corporate frauds have emerged as a major economic offence in recent times. This term includes a large number of activities such as frauds by business people against each other, against investors, consumers, tax authorities, by directors and employees against their companies. Different forms and modus operandi are adopted. The broad categories are embezzlement by employees, management frauds, investment scams and customer frauds. Stock market frauds include sale of forged share certificates, cheating

by sub-brokers, theft of securities from share registries or theft while in transit. The range of bank frauds is also quite wide and covers fraud prone areas in the banking system like loans, advances, remittances and foreign exchange transactions. The use of plastic money has also generated offences of credit and cheque fraud. Technological developments have propelled some of the old crimes into new shape.

Classification

578. Economic offences or white collar crimes and can be broadly categorised as under :-

- ❖ Income/Corporate/Wealth/Interest Tax Evasion
- ❖ Excise/Customs duty evasion/Smuggling in contraband goods Export/Import frauds. Bank frauds/Scams Corporate frauds/offences under Companies Act/SEBI Act etc.
- ❖ Stock market manipulations/ e.g. rigging of stock prices, circulation of fake hare certificate etc.
- ❖ Insurance frauds
- ❖ Foreign Exchange Violations (Hawala)
- ❖ Money Laundering,
- ❖ Drug trafficking
- ❖ Real estate dealing in benami names
- ❖ Industrial espionage and unfair Trade Practices
- ❖ Intellectual property Right Violations,
- ❖ Credit Card frauds/Passport frauds/fake certificates
- ❖ Corruption, in Public as well as Private Sector.
- ❖ Counterfeiting of Currency / Bonds/ Shares,
- ❖ Large Scale public frauds, cheating and forgery cases
- ❖ Land and Building rackets and other mafias
- ❖ Fake placement agencies, foreign jobs and manpower agents.
- ❖ Tax exemption rackets
- ❖ Production and role of spurious goods.
- ❖ Floating fictitious companies for raising public funds e.g. raising money from public on false promises & then vanishing.

- ❖ Floating Non-Banking Financial Companies to raise deposits from public with false promises and misappropriating the same in due course.
- ❖ Collection of rangdari tax/Protection money
- ❖ Frauds relating to misuse of Govt. subsidy and breach of trust
- ❖ Misuse/abuse of foreign aid programs.
- ❖ Cyber Crimes including software piracy
- ❖ Discounting of cheques/drafts etc.
- ❖ Inflation of cost of projects for obtaining higher credit from Banks/Financial Institutions and sharing the inflated portion with the officials, who facilitate advances against inflated projects etc.

579. Major Areas of Economic Offences

(i) Public Servant orientation: Economic Offences and public servants are closely interlinked. It will not be an exaggeration to say that most economic offences can not be committed without the active connivance of the Public Servant. The unscrupulous among the entrepreneurs make the unscrupulous among the public servants their partners in crime.

(ii) Import/Export Frauds : Involvement of Public Servants is found in issuance of licence to fictitious and nonexistent parties, acceptance of faulty letters of undertaking furnished by the party, and in extending the validity of the licence. These days recourse is taken by unscrupulous operators to the value based advance licensing scheme (VABAL), to under-invoice the exports in money laundering operations, many a time only junk is exported, paid for by the exporter through hawala and duty free import licences are obtained. This has become one of the most favoured routes of money-laundering by black-marketers and those who have unaccounted wealth.

(iii) Forgery in Travel Documents : Serious/widespread Passport Act offences including those involving job-racketeering are on the increase. Passport rackets also have clear security implications as they are required primarily by trans-border criminals, smugglers and drug traffickers. The usual modus operandi in such cases is following:-

- a) Photo-substitution
- b) Page substitution and fake booklets
- c) Fake endorsement of arrivals/departure stamps, of children and alteration in respect of entries etc.
- d) Obtain passports based on false/suppressed information.
- e) Fake/forged visas and Haj permits etc.

579.1 Involvement of public servant of the Regional Passport Offices and Local Police officials is often found in these cases. Loopholes can be plugged by introducing features in the passport and visas which would make their forgery difficult e.g machine readable passports and visas, distinctive watermark, complicated printing technique, permanent inscription of biographical data, high quality of inked (wet and embossed (dry) seals and advance passenger information systems.

(iv) Bank Frauds : Bank have evolved detailed systems/procedures/rules, inter alia, taking into account the instructions issued by Reserve Bank of India from time to time on the various areas of their operations. If such rules/norms/procedures, as laid down, are strictly adhered to, the chances of malpractice's can be well avoided/restricted to great extent. An analysis of the fraud cases reported by banks to the Reserve Bank however, broadly indicates that frauds perpetrated on banks could be classified into the following :-

- (i) Misappropriation of cash tendered by the bank's constituents and misappropriation of cash in remittances.
- (ii) Withdrawals from deposit accounts through forged instruments.
- (iii) Fraudulent encashment of negotiable instruments by opening an account in fake/fictitious name.
- (iv) Misappropriation through manipulation of books of accounts.
- (v) Perpetration of frauds through clearing transactions.

- (vi) Misutilisation/over stepping of lending/discretionary power, non-observance of prescribed norms/procedures in credit dispensation etc.
- (vii) Opening/issue of letters of credit, bank guarantees, co-acceptance of bills without proper consideration and'
- (viii) Frauds in foreign exchange transactions, mainly through non-adherence to Exchange Control Manual Provisions.

(v) **Insurance Frauds** : Broadly Insurance frauds are of two types viz within the Insurance industry and outside the industry. Under the first category frauds occur with the definite connivance of public servants e.g. granting insurance cover without booking (accepting) the premium and until claim is made by party, providing after-accident/loss insurance cover, allowing inflated claim, not taking over an accounting the salvage and other recoveries to reduce the loss to the company entertaining a totally fictitious claim etc. Examples of frauds under the second category are endless and the following examples are only illustrative :-

- a) deliberately setting fire to the insured article/factory/godown when the market is low;
- b) making repeated claims on the basis of same accident.
- c) making claims based on false repair bills/invoices without conducting any repairs or without purchasing parts;
- d) utilizing bogus lorry receipts as proof of goods sent and making claim of non-delivery ;
- e) scuttling vessels where value of cargo is disproportionately higher than the value of the ship etc.

(vi) **Corporate Frauds, Embezzlements and Scams** : Corporate frauds have emerged as a major economic offence in recent times. This term includes a large number of

activities such as frauds by business people against each other, against investors, consumers, tax authorities, by directors and employees against their companies. Different forms and modus operandi are adopted. The broad categories are embezzlement by employees, management frauds, investment scams and customer frauds. Stock market frauds include sale of forged share certificates, cheating by sub-brokers, theft of securities from share registries or theft while in transit. The range of bank frauds is also quite wide and covers fraud prone areas in the banking system like loans, advances, remittances and foreign exchange transactions. The use of plastic money has also generated offences of credit and cheque fraud. Technological developments have propelled some of the old crimes into new shape. For example, the developments of the multi-colour copiers whose laser scanners can reproduce exact colour variations and other subtle nuances in the printing process have increased the forged currency notes rackets. The direct dialing facilities, computer aided dispatch system and fax message enable fraudsters to distance themselves geographically from their targets.

(vii) Forged Currency Notes : Under the Currency Department Code, forged currency notes received into Treasuries and Banks are sent to the Police Station in the jurisdiction of which the Treasury or Bank is situated for enquiry. Whenever counterfeit currency is presented or discovered by the Bank an offence may be construed to have been committed and the Police may register a case and investigate it. The same principle should be applied and followed in cases in which a member of the public reports the appearance of forged notes direct to the police station. In every instance, in addition to sending a special report to the Criminal Investigation Department, a report should be sent to the Currency Officer, immediately on the appearance of a forged note. The report should give the following particulars.

- A. series and number of notes
- B. value
- C. from whom and under what circumstances they were received and date of receipt
- D. designation of officer receiving the note
- E. reasons for not registering a case, if a case has not been registered, and
- F. any other particulars

G. The note seized should be sent to the Currency Officer along with the report, except when the note is required for investigation, in which case the note should be forwarded to the Currency Officer after the investigation is over, quoting the number and date of the original report sent to him.

(A) Methods employed for circulating counterfeit currency: The fake currency is mixed with genuine -notes and passed on in bundles to unsuspecting but avaricious victims. The forged currency notes are passed on to the agents at a reduced value providing them with the commission as an incentive. The notes are also used in shops and establishments for the purchase of valuable items.

(B) Method of identification: The-forged currency notes can be identified from the paper, colours, and sharpness of the print, watermark, security thread and serial numbers. The paper of the genuine notes is crisp and the print extremely sharp and of good quality and each note contains a separate number. The alignment of number is not proper on a forged note compared to a genuine note. All the counterfeit currency notes in circulation have to be pooled by the Investigation Unit of the CID and each series separated. An analysis and comparison of different series and areas of their circulation would provide a clue to the Investigating Officer. Each series should form a separate case for investigation unless the comparison of different series shows the same pattern. The IO should maintain close liaison with the Reserve Bank to know the circulation of the fake currency in question. The opinion of the expert on the type of paper used, colours, watermark and security thread mark would provide clue as to the source from where these materials were obtained. It is rare that a genuine security thread can ever be inserted in a fake currency note. It is shown more as a thin line whereas in a genuine currency note a metal wire is inserted as part of the paper on which note is printed.

(viii) Money Laundering : Money laundering, i.e., conversion of money secured through illegal means into white money is the main method, which helps the economic offenders. To facilitate transfer of the proceeds of crime which include narcotics trade, smuggling of arms and explosives, hawala transactions have come to surface. The total amount of money involved due to economic crimes is considerably higher compared to the traditional crimes such as dacoities, burglaries etc. Money laundering for a layman means conversion of dirty money into clean money. The Interpol as "Any act or

attempted act to conceal or disguise the identity of illegally obtained proceeds so that they appear to have originated from legitimate sources describes it". It may also be defined as "(A) engaging directly or indirectly in a transaction which involves property by utilizing proceeds of crime, or (B) receiving, possessing, concealing, disguising, transferring, converting, disposing off within the territories of India, removing from or bringing into the territory of India the property i.e., proceeds of crime". Crime refers to several IPC offences like waging war against the Government of India, murder, attempted murder, voluntarily causing hurt, kidnapping for ransom, extortion, robbery, dacoity, criminal breach of trust, cheating, forgery, counterfeit currency etc.; certain provisions of the Prevention of Corruption Act, 1983; NDPS Act, 1985; Foreign Exchange Management Act, 1999 (FEMA) and the Customs Act, 1962. The money generated through 'crime' is liable to be confiscated by the State. The existing laws relating to confiscation of proceeds of crime are found in different statutes. Till the proposed money laundering bill is enacted, the confiscation of proceeds of crime can be taken only under these laws. The important Acts in this regard are (A) Sections 102 and 452 of CrPC; (B) The Criminal Law (Amendment) Ordinance, 1994 (Ordinance XXXVIII of 1994); (C) Sections 111 to 121 of the Customs Act, 1962; (D) Section 68 of the Narcotic Drugs and Psychotropic Substances Act, 1985; (E) Foreign Exchange Management Act, 1999 (Section 63); (F) Smugglers and Foreign Exchange Manipulations (Forfeiture of Property) Act, 1976; (G) Section 20 of AP Control of Organised Crime Act 2001. The illegal currency transfers via non-banking channels are called hawala. It is an underground banking system. This medium is used for overcoming the Government regulations on foreign exchange and also to conceal the proceeds of illegal earnings.

(A) The Features : The features of money laundering are —

- A. criminals distance themselves from the crime making it more difficult to prosecute them;
- B. to prevent/delay the proceeds of crime from being confiscated, if the criminal is caught;
- C. enjoy the fruits of the proceeds without being noticed;
- D. reinvest the proceeds in future criminal activity or in legitimate business;

(B) The Stage : The process by which money is laundered has three stages.

- A. Placement - Physical disposal of cash proceeds for its placement into a financial services institution.
- B. Layering - Adding complex layers of transactions
- C. Integration - Place the laundered money back into economy in such a way that it appears as normal business earnings.

(C) The Agencies to Investigate Economic Offences : The methods of laundering take the form of currency smuggling, real estate, gold and diamonds, shell companies, tax havens, casinos, hotels, stores, wire transfer etc. There are various investigating agencies to deal with corporate frauds and other economic offences. The Customs and Central Excise, the Income Tax, the Directorate of Enforcement, the Securities and Exchange Board of India (SEBI) are some of the agencies authorised under the relevant Acts for investigation of cases. The criminal offences, which fall within the IPC as also the other cognizable offences, which the police have been, empowered to investigate, are the responsibility of the police. The investigation of these offences requires a thorough knowledge of the procedures, laws and practice prevalent in financial sector, taxes both direct and indirect, exchange regulations, functioning of stock' markets, banking, non-banking financial institutions, audit and accounting, computer technology etc. Next order contains instructions for guidance for investigation of economic crimes by the police and the Investigation Units or CID.

Role of Computers in Economic Crimes

580. The economic offences involve a multitude of transactions and entries and vast volume of information. The IO is advised to prepare a chart and load the information in a computer system to enable analysis and comparison as also not to miss out any important aspect. If for any reason, a computer system cannot be used, this may be done manually. The Investigating Officers have to remember that a computer is on the same footing as a document and as such will prove a useful and necessary piece of evidence. The matter entered in a computer whether on magnetic media like hard discs, tapes, floppy discs or optical media like compact discs, whether audio or video, come within the meaning of a document as defined in the

Indian Evidence Act. In preserving them as evidence or producing them the procedure laid down in the law for search, seizure, and forwarding should be followed as in the case of any other document or material object.

581. **Computer Crime**

- (i) In this age of Information Technology Revolution, computers and computer networks are now within the reach of citizens, businessmen and public authorities. Computer networks and stand alone computers, which have wide applications at home, in business, in industry and commercial establishments, in public offices, are being used for data processing and storing vital information. In other words, the information technology encompasses the entire gamut of human activity. While on one hand the computer and computer networks have opened new vistas for various segments of the society and business, they are also being used as tools by criminals who use them as other devices such as firearms, explosives etc. Since the extensive use of computers has made some areas of our life increasingly dependent on them, the need to protect these areas from crime has become extremely important. The financial system, transportation systems, public records, manufacturing processes and the information infrastructure is amenable to attack by cyber criminals. The number, economic cost and sophistication of such attacks at the hands of well-educated criminals will be increasing in days to come. The international communication networks and omnipresent Internet have erased the national boundaries and the computer crime is increasing becoming international both in its scope and ramifications. This poses a new challenge for the police and other law enforcement authorities that are being called upon to ensure that users of computer and computer networks do not become victims of computer/cyber crime and also to take up investigation of this new generation of offences.
- (ii) In dealing with criminal activity and also computer related crime, it is essential for the police to have the basic knowledge of computers. In the paragraphs that follow, the functions of the computers and computer networks have been briefly explained for the benefit of police officers.
- (iii) A computer is a machine that carries out logical instructions in a predetermined

manner. It is programmed to perform certain operations and store large amount of information depending upon its capacity. The computer networks consist of number of computers connected with each other by various means and are capable of sharing and transferring information between each other. The information or data stored in a computer can be retrieved or transferred, or used in an output form in number of ways.

(iv) A typical computer consists of 'input device', 'output device' 'central processing unit' and 'memory'. The input devices are used to feed the data or instructions in a computer from the user or from another computer system. The following are some of the input devices:

- a keyboard
- a mouse
- a magnetic tape drive
- a disk derive such as floppy disk derive, CD drive, DVD drive
- any kind of electric sensor
- a digital camera
- a microphone

Narcotic Drugs Cases

582. Nexus between national, international and local criminals have kicked off drug-trafficking rackets all over the country. The legal frame work is provided by the NDPS Act and the PIT-NDPS Act. Police field formations and the field officers must be conversant with provisions of the relevance Acts and must comply with them with utmost sincerity.

Counterfeit Currency Cases

583. Police have to deal with cases of counterfeit currency cases and the rackets involved. Counterfeit Indian Currency, US Dollars, The Bangladeshi Taka as well as counterfeit stamps, judicial and non-judicial stamp papers. National Saving Certificates and certificates of Examination Board are on the increase and the police should enquire themselves for dealing with cases in an efficient manner.

Art and Antiquity Smuggler

584. The rich cultural heritage of our country is under a serious threat due to onslaught unscrupulous criminals. The nexus between local and international smugglers has created a congenial ...where in smuggling of the art.. has acted serious threat to the men existence of our rich heritage culture in . The police have an serious role of work and vigilance to stop the trend. It has taken up a number of cases relating to the smuggling of priceless antique idols, manuscripts, paintings and artifacts stolen from various museums, temples, monuments and private collections. While there is no instance yet of any public servant's involvement in the act of smuggling antiquities, there is one case of a senior IAS Officer and his wife, also a public servant, who were charge sheeted by the branch of possessing an antique which was not registered or declared.

Impact on National Economy

585. Economic Crimes or the white collar crimes cause significant damage to the economy of a country. It has the effect of eroding the confidence of the world in the financial credibility and financial stability of the nation. These crimes further weaken global competitiveness and making the economy unattractive to investments and effect in the infrastructural development of the country adversely. Some of the major adverse impacts of economic offences on the economy of the country can be summarized as under:

- Marginalization of tax base due to parallel economy thriving on tainted money generated by way of White Collar Crimes, thus depriving the Government of revenue required for development work.
- Increase of inflationary pressure due to availability of tainted money in the market in abundance.
- (Uneven distribution of resources and creation of elitism.
- Generation of abundant black money and Creation of parallel economy.
- It becomes a breeding ground for corruption as the booty is shared by the criminal and facilitators of economic offences.
- Illicit businesses thrive by adversely affecting licit businesses.
- Resources of financial and commercial institutions are diverted, distorted and misappropriated making them sick and unviable.

- Weakens moral fabric of society and commitment of citizens.
- Poor/weak continue to be poor and at risk whereas white collar criminals continue to become richer. Countries' economic equilibrium is put at stake.
- Making the Industry sick thus leading to unemployment.
- Availability of tainted money in plenty also leads to increase in other criminal activities e.g. financing drug trafficking, arms smuggling etc. Money accumulated by way of white collar crimes is again used in furthering and facilitating such crimes on a larger scale which ultimately poses a threat to the socio-economic security of a country.

The Criminal Nexus

586. Economic offences of various types such as, drug trafficking, smuggling of contraband goods, arms and ammunition, explosives, transfer of money through Hawala etc. are **interdependent** and have close nexus by being **complementary** to each other. The tainted money generated in one type of activity is used to make investment in other criminal activities depending on the availability of demand and supply in a particular region of the world. In fact, of late, most of the terrorist organisations have been indulging in drug trafficking to make millions, which are required by them for procurement of arms, ammunitions, explosives, training of their cadres for subversive activities etc. In the past, the Government of Taliban in Afghanistan was believed to have been tacitly supporting large scale cultivation of cannabis for manufacture of charas, ganja etc. which found its ways to various parts of the world. Thus the economic offences perpetrated in one part of the world have a potential to adversely affect the economy of other parts of the world as well.

Tackling Economic Offences

587. Tackling the Economic Offences in effective way is a challenging task. All such crimes, which have attained alarming proportions with the Economic liberalization pose challenges of different kinds to the Law Enforcing Agencies, some of which may be of the following type :

- ✚ The dividing line between the Economic offences and default / violation of

fiscal nature is at times exceptionally fine. This fineness at times leads to the perspective that unless there is a fraud, forgery and/or misrepresentation of facts, it does not exactly fit into the ingredients of a criminal offence punishable under the provisions of Indian Penal Code or other criminal Laws but needs to be dealt with only under specific Laws of civil nature e.g. misuse of telephone lines attracts a measure fine of Rs.1,000/- only under Telegraph Act whereas it may result in loss of Crores of Rupees to Telecom Department by dishonest use of such lines.

- ✚ To prove mens-rea or criminal intention or malafides or dishonesty / on the part of white collar criminal may be difficult to establish and the criminal can effectively try to absolve himself of criminal larges by claiming procedural irregularities, lack of knowledge, shifting responsibility on others etc. Cyber Crimes would be the challenge of the future mainly due to lack of knowledge and technical know-how to tackle such crimes, by the Investigating Agencies.
- ✚ As the economic offence is normally an outcome of execution of a well-organised pre-planned collective initiative, fixing liability for a crime on an individual becomes difficult. Such infirmities more often than not benefit only the white collar criminals. Most of the offences of criminal nature provide for fines, penalties/confiscation of the crime proceeds, etc. by way of adjudication proceedings and very rarely the fines, penalties or confiscations are followed by criminal prosecution, specifically by Revenue Dept., whose main focus is on generation of revenue and not criminal prosecution of the offender. This mind set hardly acts as disincentive and deterrence for criminals to repeat the crime.
- ✚ The Public perspective of an Economic offence and a get rich quick syndrome of majority of the public does not rob an offender of his prestige, social status etc. e.g., an offender of Govt. Tax/Duties, a fraudster claiming higher duty drawbacks by indulging in over invoicing of exports, an importer diverting funds abroad by over invoicing of imports and receiving the

difference in foreign accounts, a willful defaulter of banks' dues of Crores of Rupees is not looked down upon by the society with contempt in the same way as a thief or a dacoit responsible for theft or dacoity of property of even few hundred or thousands worth of rupees. Lack of professional competence in the investigating agencies and Law enforcing agencies also acts as silent promoter of Economic Crimes by not creating any deterrence or fear psychosis in the minds of perpetrators of Economic crimes.

- ✚ Multi facet agencies dealing with regulations, enforcement and investigation of various fiscal laws and lack of effective co-ordination among them with a mind set of one upmanship also ' poses a challenge in effective control of Economic crimes.
- ✚ The legal doctrine of establishing the involvement of the criminal in the crime beyond all reasonable doubts also makes the task of / bringing the white collar criminal to book much onerous. Considering the nature of crime, the conduct of the criminal prior to commission of crime as well as afterwards and shifting the burden of proof on the criminal after his involvement is prima facie established by the prosecution, can go a long way in effectively tackling the crimes of Economic nature
- ✚ Simplifying the law relating to attachment and confiscation of property of a criminal as against existing cumbersome provisions, which make it almost impossible to effectively deprive the criminal of the crime proceeds, would reduce the incidences of Economic crimes in a significant way.
- ✚ Inordinate delays in trial proceedings allowing the criminals enough time to win over the witnesses or witnesses themselves losing interest in the case or fading memory due to lapse of time works to the distinct advantage of criminals.
- ✚ Inadmissibility of a statement made before a Police Officer by a criminal is a major handicap in effectively tackling the 'white collar crimes' specifically

in view of the fact that statements made before the officers dealing with administration of various fiscal laws such as Customs Act FERA/FEMA, Income Tax Act, NDPS Act, Central Excise and Salt Act etc. , the violation of which is normally the objective of Economic Crimes or the means to commit a financial fraud, are admissible as evidence. Thus, suitable amendment in Cr.P.C is the need of the hour.

Aggravating Factors

588. In India, **the multiplicity of agencies, lack of co-ordination** amongst them, **lack of faith** in each other, **lack of expertise** and commitment on the part of Law Enforcement Agencies coupled with sudden spurt in opportunities for frauds on opening up of economy, has resulted in virtual explosion in number of economic crimes. Lack of permanent centralised data base of criminals accessible by all investigating agencies concerned with investigation of economic offences has made India very vulnerable for perpetration of Economic crimes of varied nature. A Finger-print data Bank of all the citizens, while issuing the citizens ID Cards (As is being contemplated by the Govt.) or while issuing election ID cards for citizens of 18 yrs of age and above, which should be connected through computer to all the districts and offices of investigating agencies all over the country. This would make the identification of the criminals very easy.

589. Prevention of Economic Offences

(i) Regular up gradation and updating of Laws commensurate with the technological changes and in exceptional cases enactment of special laws to deal with emerging crimes of a special nature should receive attention of Law makers. Attempts would also be made to reduce number of agencies with overlapping jurisdiction to deal with Economic crimes as well as to set up special Courts to deal with speedy trial of Economic offences. Training of Personnel, who are required to detect and investigate Economic offences as well as training of Judges, who try economic offences cases, is also essential to equip them with required expertise.

(ii) In containing economic offences there has been an overbearing approach for

introduction of fresh regulations and for enactment of new / laws Regulations are good provided they are religiously implemented and laws are good provided they are effectively enforced. Therefore emphasis should be on effective enforcement of existing laws and implementing existing regulations, instead of adding to large number of legislations and regulations without any political/ bureaucratic will to enforce their implementation. As has been highlighted earlier various innovations have helped contain incidences of economic crimes in certain sectors e.g. counterfeit proofing measures have proved very effective to prevent counterfeiting of currencies, shares travel documents, etc. Similar measures in economic operations are likely to result in prevention of economic crimes e.g.

- i. Shares can be counterfeit proofed to prevent use of forged shares for transactions. Steps are being taken by various-companies in this direction.
- ii. The Depository System can be adopted where shares are held in trust by the depository and their trading is done only fictionally with out physical exchange / transaction in shares. It is picking up gradually with setting up of various depositories.
- iii. Floating of fictitious companies in the name of non-existing persons can be frustrated by obtaining photographs of the constituent members, by verifying their addresses, by subjecting the cases for physical inspections and obtaining introduction of directors of a company having a good track record of certain years on the lines of system of introductions of bank accounts. It will facilitate tracing of directors of vanishing companies and preventing incorporation of fictitious companies.
- iv. Operation of Non-Banking Financial Institutions can be subjected to tighter regulations, regular monitoring, their members made accountable and by simply generating public awareness campaigns. RBI is already working on this.
- v. Unauthorised taking of deposits should also be made a

cognizable offence.

- vi. Discounting of cheques - It has been observed that in respect of most of the frauds of economic nature, the funds are siphoned off through Bank a/cs by resorting to discounting of cheques through Cheque Discounting Agents who deposit the cheques in their A/cs, withdraw the cash and return the same to the Issuer. Discounting of cheques is done on a very large scale. In Mumbai alone, as per the market sources, it is believed to be of the order of approximately Rs. 100 Crores per day. Restricting the ; withdrawal of cash of higher amounts from the Bank a/cs, and putting a cap on withdrawals on single occasions by any party from the Bank A/c, making the discounting of cheque per se or encashment of A/c payee cheques through the A/c of third parties as cognizable offence would improve the situation. Also reporting of transaction of large amounts, say in excess of Rs.50, 000/- per transaction to Income Tax Authorities on a regular basis, would reduce the activities of cheque discounting, which apart from facilitating siphoning off of Bank funds, encashment of forged drafts etc. also cause heavy loss to the State and Central Government by way of concealment of Sales Tax and Income Tax.

Legal Remedies

590. Legally it is becoming more and more difficult to deal with economic offences as the specialisation in commission of Economic Offences is on increase with advancement in technology. The traditional provisions of Laws to deal with such offences are often found inadequate to bring the crimes within their ambit e.g., if a company which is a legal entity in itself commits a crime, attempts are required to be made to fix the liability of the individual Directors, which, at times becomes impossible considering the fact that various acts of omission or commission on the part of the company are done by assorted employees of the company at various stages under express/implied/oral instructions of the Directors, who try to absolve

themselves by putting the blame on poor employees, who do not in any way gain due to the crime committed by the company, but more often than not lose their livelihood. It would be worthwhile to amend the Law to make each and every functional Director of the company liable for criminal prosecution in the eventuality of the commission of an offence by the company, even though various steps in commission of crime may have been taken knowingly or unknowingly by other employees, who otherwise do not have any interest in such wrongdoings. Also the requirement to prove the existence of mens-rea or criminal and dishonest intention needs to be done away with as far as Economic offences are concerned. Once preponderance of probabilities and predominance of adverse circumstances indicate involvement of an individual in an Economic Crime the burden of proof should be shifted on him to prove his innocence. Along with these measures, the legislation to provide for forfeiture of the amount together with the market rate of interest on such amount from the date of commission of Offence, resulting in deprivation of property, irrespective of whether the victim is an individual, institution or the State, out of the properties owned by Criminal, either in his own name, in benami names or in the names of his minor children, whether acquired out of crime proceeds of the crime under question or from other sources would definitely reduce incidence of economic offences. It will act as an effective deterrent for the white collar criminals in case the criminal has already misappropriated the proceeds and does not have any tangible assets, of which the prosecution is aware, the law should provide for a life term for such criminal unless the loss is made good by him.

Infrastructure Development

591. To prevent Economic Crimes, it is also essential to develop a sound infrastructure, which would deal with Economic Offences in systematic and logical manner. Most of the Economic Offences are committed in very well-organised manner and thus requires a very well-organised, systematic and professional approach to deal with them. Some of the steps which can make the things improve can be summarised as under :-

- I. Organized/Standardized collection and collation of information and close monitoring of its dissemination to respective agencies.

- II. Setting up of common database with a view to exchange information on regular basis.
- III. Establishment of proper infrastructure to discharge crime prevention responsibilities
- IV. Informal measures, such as personnel exchange and regular coordination at operational levels amongst officers of various agencies.
- V. A transparent information sharing mechanism among various agencies.
- VI. Networking of all agencies through innovative technological solutions.
- VII. Hosting the set-up with officers of proven integrity and competence.
- VIII. Incentives to effective enforcement of crime prevention detection and recovery measures.
- IX. As the Economic Crimes have crossed the borders of the country and are committed with the help of Transnational set ups, it is absolutely essential to also evolve an institutional mechanism, which may ensure easy access to the information/records available with the member countries for each other and evolving a strategy to combat the crime. Mutual co-operation of very high order among various countries will help in effectively combating the trans-border white collar crime.

592. **Investigation of Economic Crimes**

(i) **Preliminary Enquiry** : In financial crimes the report generally lists out certain details with a request for investigation. The report may not clearly disclose a cognizable offence and at the same time the information cannot also be ignored. The newspapers also publish information on some frauds. The documents to support allegations may not be available immediately. Some of the information received may not be clear about the period and the exact offence committed but it may very often contain general information. The place of the offence in some cases is spread over a vast area. On the face of it, sometimes the information may only disclose a civil liability. In such situations it is necessary to take up a preliminary enquiry. The IOs should have the full knowledge about the way these crimes are committed and its ramifications besides possessing minimum knowledge in Computer applications, foreign exchange

transactions, import and export, excise and customs, share market transactions etc.

(ii) Registration of FIR: A preliminary enquiry into the information is permissible before registering an FIR and taking up investigation. As and when the enquiry discloses a cognizable offence, it should be registered and investigated. Sometimes departmental authorities conduct enquiries and lodge a complaint for registration of a case and investigation. In such cases the facts will be clear and the case should be registered and investigation taken up. If, even such report does not disclose an offence, the authorities should be informed in writing and requested to make further enquiries or clarify and send a report.

(iii) Role of Documents : The investigation into economic crime is mostly based on documents and instruments. The IO has to secure all the relevant files and documents as per the procedure and processes prescribed in law. The location and tracing of the documents is a matter of utmost importance. In cases involving official agencies no time should be lost in getting hold of the connected files. The documents and files include those stored in computers. Presently computers of various sizes are used to store information files or notes instead of paper files or notebooks or in addition to them. The courts have to be provided with best available evidence.

(iv) Examination of Witnesses : The examination of witnesses particularly those who are connected with the documents are the other steps that an IO has to take. A questionnaire should be prepared with reference to the records and the statements of the witnesses recorded. It will be difficult for the witnesses to deny or mislead if the documents are in possession of the Investigating authorities.

(v) Examination of Accused : The examination of the accused person in great detail is required to know the significance of various entries in the registers as also other documents seized if the course of investigation. As in the case of witnesses the IO covering a-; the points that require to be elicited should prepare a detailed questionnaire. It is in framing the questionnaire the skill of the IO is exhibited. The question should not be framed in such a manner that the accused comes to know the nature of evidence available with the investigating authorities. As investigation

in economic frauds is a lengthy process, it will be necessary to fully utilize the provisions of remand of the accused to police custody. Lie detector tests wherever necessary would be useful in such cases.

(vi) Co-operative and Coordination : Mutual cooperation with different agencies and other institutions is extremely important in the investigation of these cases. After locating the witnesses or documents it would be very necessary to enlist the cooperation of the concerned authorities in securing the documents and the presence of the witnesses. The personnel either posted in the department or working elsewhere who have the expert knowledge should be identified and their help obtained. Mostly the accounts, banking, stock markets, excise and other tax departments and chartered accountants would be useful for consultation and scrutiny of documents in such cases.

(vii) The most effective method of dealing with economic offences is to obtain information relating to location of the money involved in the form of cash or bank deposits or fixed assets or in any other form and taking measures for its seizure. It will be necessary to collect evidence to link the money or the assets to the accused. It is in this area that painstaking enquiries are required. The first action to be taken on the information should be to safeguard the property or the assets movable or immovable either by having the bank account frozen or seizing the property or entrusting the property to the concerned Revenue authorities under the provisions of section 452 Cr.P.C. After this action is taken it would be necessary to collect evidence so that its forfeiture and confiscation can be done. In the event of the assets being in another jurisdiction within India the help of concerned police should be taken in the manner provided in CrPC. A 10 has powers to search and seize the property concerned in a case anywhere in the country. It is advisable however to take the assistance of the local police at a proper level. If the property or money is abroad, the investigative assistance may be requested under 166-A CrPC.

593. **Investigation Difficulties**

- i. The investigation of economic offences is primarily document based and involves laborious scrutiny of a large number of financial transactions spread over a vast territory. The skill of understanding, interpreting and connecting

documents with another have to develop in the IOs.

- ii. Scientific examination of the documentary evidence is an important aspect of the investigation and opinions are delayed because of huge work-load at the GEQD and documents Division of the CFSL and the Security Printing Press and the Bank Note Press and the investigation work consequently held up.
- iii. Difficulty in obtaining documents from foreign countries and the testimony of the person who has to prove the document necessitates recourse to the time-consuming process of issuing of letters rogatory and awaiting their replies.
- iv. Part investigation conducted through Interpol many at time do not give any concrete results as a large number of economic offences in India are not an offense at all under the laws of many foreign countries and they are not keen to part with any information in such cases.
- v. Many a time a Govt. agency involved is not too keen to give a complaint. Complaints let apart the investigation; even a case/crime is not registered.
- vi. Prosecution in most economic offences is also delayed because the trial is under complaint procedure where pre charge evidence has to be brought in u/s 244 Cr.PC only after the completion of which the charge is framed u/s 246 Cr.PC and in fact witnesses are examined and cross examined twice.
- vii. Since most economic offenders are extremely rich and powerful, the legal loopholes are fully exploited and sometimes, even investigation is stayed due to courts orders.

Chapter 27

Organized Crimes and Police

Introduction

594. "Organised crime" means any continuing unlawful activity by an individual, singly or jointly, either as a member of an organised crime syndicate or on behalf of such syndicate, by use of violence or threat of violence or intimidation or coercion, or other unlawful means, with the objective of gaining pecuniary benefits, or gaining undue economic or other advantage for himself or any other person, "Organised crime syndicate" means a group of two or more persons who, acting either singly or collectively, as a syndicate or gang indulge in activities of organised crime. Organised crime is committed against property, persons or human welfare, engineered by a leader with members professing fierce loyalty. Organised crime in a large measure affects law and order and public order. The terms mafia crime or mafia gangs are used in common parlance to mean organised crime and criminal gangs. The collaborative criminal activities by cohesive groupings in the underworld are known as organised crime. This has assumed menacing proportions in large cities, more particularly the metropolitan ones. These bands of criminals are continuously increasing their spheres of activity territorially and functionally. This has enabled them to spread their tentacles to lesser urban conglomerates on the one hand and conducive foreign countries on the other. Escalation of organised crime is global in the sense that there is immense mushrooming of organised criminal gangs all over the global landscape. Organised crime has now become truly transnational and should no longer be taken lightly as a localized minor disturbance.

Characteristics

595. Some of the groups are so well organized that they are able to perpetrate crimes without being caught or punished. It means they must have certain code of conduct, abilities, equipment, arms, and intelligence within the group and power to have their way. Some times, they resort to elimination or threatening to the persons who come in their way including witnesses, informers, police officials, lawyers or judge or

politicians or alternately try to buy their support by bribery and collusion. They infiltrate into political parties and use muscle power to manipulate elections and even occupy positions of political power. Therefore at the one end of spectrum there are small criminal organisations operating in a limited sphere quietly and at the other end, more sophisticated outfits with all attributes of a mafia gang. The purpose of organised crime is mainly to make illegal money. These organised groups have a complex network with well-defined structure and command and control and use force or violence in perpetration of crimes.

Investigation Approach

596. Investigation into organised crime therefore calls for a highly professional approach, intelligence and investigative skills and well knit coordination at inter-district, inter-state and international levels. There are several laws to deal with each one of these activities. It is necessary that the IO is familiar with those provisions of law.

Legal Provisions

597. The legal provisions relating to confiscation of proceeds of crime are contained in sections 102, 452 of CrPC, 111 to 121 of Customs Act, Section 68 of NDPS Act and section 20 of AP Control of Organized Crime Act 2001. The Criminal Law (Amendment Order 1944), Foreign exchange Management Act 1999 (FEMA) and the Smugglers and Foreign Exchange Manipulation (Forfeiture of Property) Act 1976 also relate to forfeiture of proceeds of crime.

Organized Criminal Gangs

598. Criminal gangs have been operating in India since ancient times. They usually preyed on travelers and wayfarers whom they waylaid while traversing lonely routes that passed through thick jungles. Occasionally they invaded villages and towns and freely indulged in reckless plunder and murder of innocent inhabitants. Today, however, the organized criminal gangs' activities have proliferated in diverse directions and have become more complex and potent. Organized crime has become a nightmare for the law enforcement agencies more particularly the police who are the frontline forces when it comes to accountability to people, because there is no easy

way of handling this menaces that will yield quick results.

The Special Features of Criminal Gangs

599. An extremely high degree of consensus exists among professional organized criminals, who develop common attitudes towards themselves, towards their crimes, and towards the police who are seen as common enemy. There is quite definitely a code of honour among them and highly specialized vocabulary peculiar to a group of the underworld developed and transmitted from one generation to another. They also develop a common approach to problems such as

- i. the decision as to which crime shall be committed
- ii. the geographical area of operation
- iii. the initiation of new members
- iv. how to dispose to the stolen property
- v. how to protect a member of the gang if caught and,
- vi. securing cooperation of powerful people.
- vii. the group has a common culture, a common bond and a common code.

600. Criminal Gang and Organized Crime

- I. An organized crime group is defined as any group having some manner of formalized structure whose primary objective is to obtain money through illegal activities and maintains its position through the use of violence or the threat of violence, corrupt public officials, graft or extortion and has an adverse effect on the people in its locale or region or the country as a whole.
- II. Organized crime as a phenomenon seeks to operate outside the control of the people and their government. It involves thousands of criminals working within structures as complex as those of any large corporation, subject to laws of their own making more rigidly enforced than those of the legitimate government. Its actions are not impulsive but rather the result of intricate conspiracies carried on over years and aimed at gaining control over whole fields of activity in order to amass huge profits.

- III. The criminal group involved in organized crime as continuing structured collectivity of persons who utilize criminality, violence and a willingness to corrupt in order to gain and maintain power and profit. Any enterprise or group of persons engaged in a continuing illegal activity which has as its primary purpose the generation of profits irrespective of national boundaries can be termed as organized crime.
- IV. Organized crime as an integral part of a nation's social political, and economic life and as one of the major social ills, grows with urban living. The practitioners of organized crime often are society's economically poor young people who have lost faith in the capacity of the society to work on their behalf. Because of this perception many young people have organized and created counter-cultural structures that they believe are capable of delivering the kinds of emotional support and material goods the large society promises but does not make available to youngsters like themselves.
- V. Organized crime like any other enterprise, it supplied goods and service declared illegal by government illicit sex, illegal alcohol and drugs and usurious wares to voluntary customers in a supply and demand model. At the same time, however, organized criminals use the proceeds from these illegal activities to finance such related crimes as hijacking, extortion, the resale of stolen goods, and the use of criminal tactics to monopolize business and labour unions. The profits are also used to corrupt public officials who in turn promote and protect the criminal activities.

Nature of Organized Crime

601. There are certain basic assumptions about the nature of organized crime.

- i. The organized crime is indeed organized. It possesses some form of regularized interaction, roles and structure. It differs from street crime which is more incident centered and does not involve the degree of planning or the inter-connected network of legal and illegal activities which are a

- characteristic of organized crime.
- ii. Organized crime has goals and objectives, strategies and tactics to attain these ends and to minimize risk.
 - iii. Organized crime is protected, in as much as, it uses violence or the threat of violence and to an extent depends for its existence on some degree of corruption and influence in the political and enforcement sectors and
 - iv. Organized crime encompasses a wide range of illegal and illicit activities whose major purpose is to provide goods and service to an accepting public.
 - v. Organized crime is a group activity
 - vi. It has continuity over time
 - vii. Organized criminal groups:
 - a) ensure that they can survive the death of imprisonment of their leaders and
 - b) can vary the nature of their activities to take advantage of changing criminal opportunities.
 - viii. All organized groups are headed by a single charismatic leader or a syndicate and is structured into a series of subordinate ranks, although they may vary in the rigidity of their hierarchy.
 - ix. Large and widespread organizations may be composed of multiple separate groups or units, each unit generally headed by its own leader who is supported by the groups hierarchy of command.
 - x. Inter-group disputes, joint ventures and new membership are generally reviewed by a syndicate or Board composed of leaders of the groups.
 - xi. Key members are protected, insulated and buffered by forms of organization structuring and by the use of fronts and non-members associates.
 - xii. Members are formally accepted by the group after a demonstration of loyalty and a willingness to commit criminal acts. Membership may be limited by language, region, religion, ethnicity or common background and generally involves a life time of commitment to the group which can be enforced through violent group activities.
 - xiii. Wealth, power and control are key goals of organised crime and may be achieved through criminal activity of one or several types.
 - xiv. Criminal activity may be designed directly to generate income or to support

the group's power through bribery, violence, and intimidation. Violence is used to maintain group loyalty and to intimidate outsiders, and is a threat underlying all group activity. Specific violent acts include, murder, kidnapping arson, robbery and bombings.

- xv. Organized crime possesses capital for complex, long term, planned enterprises and operations.
- xvi. Long term goals stress the maximization of profit and power through the cartelization or monopolization of criminal enterprises and markets, as well as control over legitimate business and sectors of economy.
- xvii. Legitimate businesses are used to launder illegal funds or stolen goods. Legitimate business involvement also elevates the social status of organized crime figures.

Police Perspectives

602. Organised crime is neither created nor sustained by the police though they may perhaps derive certain benefit both legitimate as well as illegitimate from its existence. They simply have no control over the causative factors that give rise to organised crime or its growth. They can at best control and contain organised crime which exists in every large city in a lesser or greater degree. It can be justifiably said that organised crime grows with the growth of a city.

602.1 Neutralization of the law enforcement machinery is a vital objective of organised crime because only by doing so it can expand its multifarious criminal and other antisocial activities. It tries to accomplish this important objective basically by bribery. It tries to bribe police officers involved in the enforcement of laws that hamper criminal activities of organised gangs so that they look the other way when the gangsters are engaged in their criminal trade. In the alternative or in addition they try to put pressure on the officers by bribing and in several ways obliging politicians especially those in power. This subterfuge is taken recourse to more particularly when a dutiful police officer resists their attempts to corrupt him.

602.2 During the course of their duties as busters of crime the police do come in contact with criminals either as suspects and accused or as informers. The total effect

on the personality of a police officer of these encounters with baser elements of society, one must admit, is negative which slowly almost imperceptibly in the beginning erodes his personality. Therefore, unless he is a man of strong character and is aware of the malefic influence of the criminals he deals with; it is highly possible that he comes under their influence especially if they are affluent criminals who can offer heavy bribes and good things of life one may aspire for. With the erosion of values in the society and less of professionalism in younger police officers, it is inevitable that their resistance collapses like a domino before the high allurements held out by the organised criminals for the "small" and not easily detectable favour of not doing one's duty sincerely and diligently. Every police officer, the senior police leaders and supervisors must ward themselves off these influences for fighting organised crimes in an effective way.

Action Plan for Handling Organised Crimes

603. Following action plan and strategy should be adopted for dealing with organised crimes:

(A) Structuring and Equipping Police : Organised crime's versatility, flexibility of operational techniques, abundant resources with the criminals, their easy access to modern technological innovations, operational ruthlessness, ability to corrupt and neutralize political, bureaucratic as well as enforcement agencies of the government and above all the obsession with money and the power etc., all make it imperative that the police entrusted with the task of grappling with it should be properly equipped to handle the situations of organised crimes. Organised criminal gangs transgress police jurisdictional limits and even the international boundaries, therefore, police forces must of necessity be geared to face the menace with mutual support and cooperation to one another.

(B) Special Task Force (STF) : A Special Task Force (STF) with whole time and sole responsibility should be constituted to tackle organised crimes.

(C) Coordination and Cooperation : Organized crime operates across jurisdictions of police stations, across states and even across the national boundaries, therefore, it needs to be treated as a problem of national priority. It would require a high degree of

intra-police force and inter-police forces coordination and cooperation.

(D) Comprehensive Approach : Instead of targeting only individual gang members who have committed an offence, the entire criminal gang which has backed the effort must be targeted. The investigation should have for its objective the prosecution of gang members at all levels of its hierarchy more particularly the top leadership.

(E) Efficiency and Effectiveness : Efficient and effective handling of organised crime calls for a high degree of sophistication in the techniques of investigation and sound knowledge of law and procedure. The Special task Force should have, as its main component, a professional investigating team comprising experienced police officers known for their knowledge of criminal law and procedure and a penchant for meticulously and painstakingly carrying out an investigation. They should have the necessary flair for writing, as in this kind of investigation preparation of case papers in a methodical and systematic manner is absolutely necessary. These police officers should be duly assisted by trained financial personnel like Chartered Accountants, Financial Analysts etc. The Special Task Force should have strong investigative ability, in addition to having ready availability of Forensic Science laboratory assistance and aid of photographic and technical personnel as well as handwriting experts.

(F) Legal Aid and Assistance : It is necessary to associate a prosecutor or legal advisor with the investigative wing so that from the very beginning the investigating team will have the benefit of legal advice in the light of the latest rulings of the superior courts, past experiences in the trial courts etc. The prosecutor or legal advisor should also assist the investigating officers in preparing charge sheets and choosing witnesses and evidence to be cited. What is more, when the case comes up for hearing he will be able to competently and confidently brief the special government counsel who will be actually conducting the case or when bail applications come up for consideration.

(G) Criminal Intelligence: General Context : Reliable, accurate, complete and timely criminal intelligence is the basis of any sustained campaign against organised crime. A sound system need to be developed, for collecting strategic as well as

tactical intelligence. Collection of criminal intelligence is the responsibility of every policeman. A policeman on beat or patrol duty, a traffic policeman at a fixed point, an officer going to a crime infested locality to investigate a reportedly minor complaint, and an investigating officer interrogating an accused in a seemingly unrelated crime can all make useful contribution, if they are made aware of the requirement and sensitized to recognize their responsibility in the war against criminal gangs.

(H) Intelligence Collection by STF :

(i) The Special Task Force should have a Criminal Intelligence Wing. The wing should have the following functions:

- (a) Responsibility of this wing should be to act as store house for all reliable information on criminal gangs and gangsters. A system should be developed whereby all relevant information received from any quarters would automatically flow to it. IT should get information on gang related crimes.
- (b) Information on arrested gangsters and persons suspected to be involved in some capacity in gang activities.
- (c) Information on victims and property that is subject of gang crime
- (d) Information about vehicles, weapons, houses, hotels, business place, telephones etc. used by gangsters for their activities.
- (e) Persons, establishments, enterprises, who are known or suspected to be helping gang activities and,
- (f) Particulars of the complaints received against them.
- (g) A complete background files on gangsters and gangs to be used at some stage in investigation and prosecution.

(ii) The STF intelligence wing should work out an integrated computer records system which will, apart from storing vast information will bring speed to data verification and would also help the investigator to quickly check a complaint in hand against past complaints of related nature so as to get a picture of the criminal's or gang's past criminal activities.

(iii) Another important responsibility of the Criminal Intelligence Wing of STF

should be the collection of sensitive and reliable intelligence about the clandestine and covert activities of organised criminal gangs more importantly their operational plans, their front organisations and enterprises, auxiliary members and associates who lend support and facilitate gang survival and activities.

- (iv) The information required by the police regarding the activities of the gangs fall in two categories, First, information that can be gleaned from open sources such as newspaper reports, articles and interviews appearing in news-magazines and journals, business records pertaining to gang connected business enterprises and so on. Second, information that is not openly available. Apart from the information and knowledge culled out from interrogation reports, statements of witness such information can be fruitfully collected through running sources or paid informers.
- (v) Important information about daily activities of the gangs can be likewise collected by winning over persons living in localities where gang activities abound and where a gang's headquarters is located. Such sources can be recruited from the residents who had become victims of gang atrocities in the past or are sympathetic to a rival gang. As a matter of fact most gangs collect information about the gangs they are on inimical terms with in this manner. Itinerant sources, that is to say, sources who visit such localities on the pretext of selling wares or services can also collect information by observation or listening to chance unguarded conversations.
- (vi) As a long term measure, which can reap rich dividends, some budding young criminals with promise can be persuaded to join the gangs. This can be done with ease in jails where most new recruitments take place. When these persons reach positions of vantage in a gang they can provide very valuable information. It is a risky operation that requires professional handling.
- (vii) It is, therefore, necessary to explore the possibility of using technological sources especially because gangsters do make frequent use of technological innovations the simplest and the most commonly used being the telephone. The police have

been for decades tapping telephones to collect information clandestinely. Cellular and digital phones are all set to invade not only metropolitan cities but even the country side. The gangsters who have no dirth of money are sure to make use of these innovations in a big way because of the versatility and relative safety of communication they offer. As it is the gangsters are using telephones installed in secret safe houses, in the flats of friends and associates and the public call offices several of them are now owned by gang affiliates.

- (viii) Short-range transmitters or bugs can be used with considerable advantage in such situations provided the requisite homework is done to find out the places of rendezvous and taking the owners in confidence or even otherwise. Similarly a decoy or in the alternative a gang member who has been won over, or a victim of crime can be persuaded to carry a miniature transmitter on his person and his conversation recorded. As a cruder and more risky proposition he can carry a mini-tape recorder in his pocket. Mini cameras concealed in cigarette cases and the like can also be used to take photographs. Such technical evidence coupled with actual deposition of the person who collected the evidence can go a long way in establishing the complicity or criminality of the gangsters.
- (ix) Actual physical surveillance can also be mounted either by using trained policemen in plane clothes or hired auxiliary agents on gangsters when they are on the move or in their known hideouts. Many hideouts, hitherto unknown members and associates and rendezvous joints can thus be discovered. Photographic evidence obtained during these surveillance errands can later be used in a court of law to establish relationships.
- (x) Intelligence information should also be obtained as a standing arrangement on a give and take basis from other enforcement and interested agencies such as State CID, police forces of other States, CBI, IB, R&AW, Enforcement Directorate, Central Excise and Customs Department, Income Tax Department and Narcotics Control Bureau. The list is not exhaustive.
- (xi) The sources and informers who collect sensitive information, often risking their lives, collect sensitive information, often risking their lives, invariably want to be

properly treated by the officers, who liaise with them and of course most of them wants to be well paid the exception occasionally being those who want to seek revenge through police. The police officers should keep all these points in mind while handling informers.

- (xii) The criminal intelligence wing should form the backbone of the anti-organized crime campaign that the Special Task Force would be expected to launch and pursue relentlessly.

(I) Awareness and Training Needs : It is important for the police personnel to understand and appreciated the nature of the problem of the organized crimes vis-à-vis their own roles in tackling that problem. The right step in this context is to educate the whole police force about the true nature of the scourge of organized crime. Such education should start as part of the basic police training to be imparted to police men of all rank at various training schools. It should be made part of the syllabus. This should be followed with periodic in-service short term courses that would update the knowledge of the participants about the reality of the organized crimes and gangs and the method/techniques for tracking the problems. Such training on organized crime and its impact on policing may include following topics:

- i. What constitutes organized crime? i.e. essential features of organized crime
- ii. A brief survey of growth of organized crime (a) in important countries in the world (b) in big cities in our country (c) its trans-national aspect
- iii. Traditional crimes committed by organized criminal gang both violent and white collar.
- iv. Entry of organized crime in legitimate business and its methods of doing so.
- v. How organized crime affects general crime scenario and its impact on society in various fields, social, political and economic.
- vi. Laws relating to organized crime
- vii. How police fight organized crime
- viii. Citizen's role and obligation in fighting organized crime and the imperative need for enlisting their involvement by the police.

603.1 Police officer in the Special Task Force should be given more intensive and ho-to-o it kind of training in order to develop in acute insight and confidence to take

actual steps on the ground. Therefore, whenever officers are posted to the Special Task Force they should be given an intensive orientation course preferably on the following lines;

- i. An overview of organized crime activities - national as well as global.
- ii. A survey of the international movement to coordinate law enforcement efforts.
- iii. Similar efforts among various police forces within the country.
- iv. Important gangs operating indigenous as well as outside gangs (a) structures and methods of operation of these gangs (b) their important leaders (c) fields of operation (d) their resources and capabilities and (d) associate organizations and outfits.
- v. Laws and rulings relating to organized criminal activities
- vi. Methods of collection of criminal intelligence and its use in investigations, gang case preparation etc.
- vii. Modern technical devices and their practical use in intelligence and evidence collection.
- viii. Organisation and functioning of the Task Force
- ix. Some typical case studies.

603.2 Some Special task Force Officers will have to be frequently apprised of the latest techniques of commission of crime that have come to notice locally and elsewhere, the countermeasures that have been found useful by actually examining cases. They must also be made aware of the latest pronouncements of superior courts that are relevant to organized crime investigation. A detailed critical analysis of the cases that have ended in acquittal must also form part of regular briefings.

603.3 The staff posted in STF should be made to go through an intensive course in firing with revolvers, pistols and automatic weapons. Familiarization with improvised explosive devices should also form part of this course which may be held simultaneously with or in succession to the orientation course. Regular firing practice thereafter would be necessary in order to keep the officers in good trim.

603.4 The Special Task Force should apprise itself with the methods of operation of professional kidnapers for ransom and the methods of tackling them. Apart from the skills for rescuing a hostage from the clutches of armed gangsters without any harm

coming to him, the team would require ability to effectively intercept all forms of communication which is an indispensable concomitant of this form of crime. Some suitable officers should also be trained in the craft of persuasive negotiations or arrangements made on standing basis to obtain service of experienced psychologists. The rescue operation will also require the assistance of the commando unit.

(J) Administrative and Operational Modalities :

- I. It should be emphasized on all officers particularly of the Special Task Force that enforcement of law in relation to gang activities should be strictly done every time a violation is reported or noticed, and this should be regarded as the imperative duty of all.
- II. All enforcement techniques, whatever the seeming compulsions of a given situation, should be strictly within the circumscription laid down by law. The temptation to take law into one's own hands and inflict spot justice should be tenaciously suppressed. No supervisory officer should sanction or connive at violations of this dictum no matter what the expediency of a situation suggests. Once the seniors turn a blind eye to this kind of unethical behaviour there is no knowing to what depths of degradation it would sink the force.
- III. It should be repeatedly emphasizes that the campaign against organized crime should be regarded as corporate venture in which all policemen must sincerely contribute their bit whatever their posting.
- IV. Nobody, whatever his individual contribution, should be allowed to stay on in the Special Task Force for a longer period than his normal tenure. Period rotations of personnel are the best guarantee against vested interest.
- V. No cliques or groups should be allowed to be formed within the Special Task Force. This can be best ensured by the Head of the Unit by discussing on-going investigations in group meetings and by not allowing a particular team to keep the whole of its information and work secret from others. This is not to say that the principle of restrictive security should be given a go bye but that it should be adhered to more in respect of people who are not part of the Special Task Force.
- VI. A small cell comprising officers of known integrity and dedication should be created within the Special Task Force for internal security. The unit should function directly under the Head of the STF. The main brief of this cell will be

to see that the officers posted in the Special Task Force do not get contaminated by corrupting influences from outside and that they do not blabber away sensitive information to unauthorized persons least it reaches the gangsters. The cell should have the authority to conduct internal audits of investigations, operations and other activities after obtaining clearance from the Head of the STF. It should also have the authority to conduct an enquiry to find out the kind of contacts and friends the STF personnel have or how they spend their off duty time.

(K) Sensitizing Prosecution and Judiciary : An effective control on organized criminal activity is possible only when it is regarded as the joint and corroborative of the criminal justice system. All components of the criminal justice system must be sensitized to the need for active cooperation in curbing this kind of crime which has assumed international proportions with monstrous possibilities for the future. Orientation courses should be designed for all limbs of the criminal justice system. Perhaps special courses for judges and government prosecutors can be run by apex training schools or the State level every National Institute for Criminology and Forensics Science at the National Level. In addition seminars conference, symposia for police, prosecutors, judges and prison authorities both serving and retired, should be periodically organized. Even social scientists and other researchers who have taken interest in studying organized crime should be invited to contribute their ideas about possible solution and make an input about people's perceptions. These seminars will educate the participants about the current trends in organized crime and the damage it is causing to the social fabric, the difficulties faced by each limb of the criminal justice system in playing its respective part more effectively, and thereby work out ways for greater cooperation. They may also throw up new ideas about more effective methods and techniques of combating organized crime. Above all, it will on the one hand enhance sensitivity of the whole criminal justice system and attract attention of the public whose cooperation also is indispensable on the other.

(L) Special Enactments and Legal Provisions : Proactive intelligence and a well trained special team will not be effective enough to crush organized criminal gangs unless there is a special law or laws that would enable the police achieve their goals. It is indisputable that the stringent provisions governing granting of bail are most

desirable in dealing with gangsters who cannot be easily arrested and who invariably go underground when released on bail. In order to put the gangsters out of circulation they must in the first instance not be released on bail and secondly, must be expeditiously tried. This is possible only if there is special provision in the law for the purpose. Organized crime can be effectively curbed when the gangs are hit at several levels simultaneously. It would be necessary for the police to make out a case or cases against most gang members especially those at the top for being members of an outfit that is engaged in illegal activities. An organized criminal gang can really be broken if the most important source of power, i.e. the ill-gotten money is attacked. Therefore, legal provisions must exist that will enable the law enforcement agency to investigate all benami assets of a gang and taken appropriate measures to seize and ultimately confiscate such assets. Once a gang runs short of money several field operators who risk their lives for the money they get in return will desert the gang. The greatest difficulty in proving a case is in the prosecution not being able to produce convincing evidence. This is one of the reasons for the poor rate of convictions in TADA Act cases too. Witnesses do not generally come forward to give evidence before the police and if they do it is only when they cannot avoid it or in rare case they do so in the heat of the moment. Such witnesses invariably do not support the prosecution at the time of the trial.

(M) The three Fold Approach to Seek Conviction : A three-fold approach is called for obtaining conviction for criminals in viewed in organized crimes.

- i. Making a confession made to a police officer admissible in law creates one great impediment which no professional police officer would like. It invariably inducts a sense of complacency as, the investigating officer tends to feel that he had thus established the case. The case falls flat when the confession is retracted, shown as suffering from some infirmity or is not adequately corroborated. A confession should be regarded only as a reliable beacon light that shows in which direction the investigation should be carried out and what all needs to be established to prove the case. Therefore, in order to permit every kind of evidence available to come before the trial court confession made to a police officer should be made admissible but the police themselves should not totally rely upon it to prove the case.
- ii. The effort should be that natural witnesses to a crime or criminal activity

should depose sincerest treats and honesty in a court of trial. They therefore, need to be given adequate protection which need not be only physical. Secondly, those witnesses who resile should be legally made accountable for it in a manner that would deter others from following the same path.

- iii. The third most important thing that needs to be done is to increasing reliance on scientific investigation that makes use of modern technology. There should be adequate enabling in the law itself so that police are able to tap these and produce the evidence thus available before the trial.

(N) Justice not to be Delayed : Delays in court to take up a case for trial and disposed off expeditiously by not holding hearings in quick succession belittle efforts of the law enforcement agencies. The court procedures, therefore, have to be streamlined and it should be ensured that a criminal does most merrily go on committing crimes, intimidating and even killing witnesses. A criminal when gets convicted promptly goes in appeal and when the appeal is admitted he is released on bail. This practically nullifies the conviction. The appeal takes its own time to get listed for hearing. At times even leniency is shown in awarding punishment. It is necessary, therefore, that a minimum punishment that would by itself act as a deterrent is laid down in law. Even prescribing minimum amount of punishment in the body of the Act itself has not brought about any improvement due to disconcerting lack of sensitivity towards social ills and over concern for human liberty to antisocial elements and the criminals. It is emphatically stressed that a new law covering all aspects of organized crime's multi-faceted and multi-dimensional activities, is the crying need of the day. No attempt has been made here to submit a draft bill. Some legal luminaries in the Govt. of India would surely undertake that task once the need is accepted. It has to be realized, however, that a legislation that is intended to effectively grapple with a social malady should not be left to the legal experts alone to formulate. A comprehensive and holistic endeavour is required in the matter.

(O) People Participation for Effective Control on Organized Crime : If citizens are unaware of the true nature and dimensions of organized crime, and how it eventually affects even a law abiding citizen, there is little hope that the relentless

growth of organized crime will be halted. It has to be realized that the ultimate prevention and control of any crime depends the citizen awareness and public cooperation. The common public should be made aware of the danger that organized crime poses to them. This will build public pressure that will ultimately squeeze out organized crime. Similarly public spirited voluntary bodies should be enthused to take p uprooting of organized crime as their primary task. These organizations in the first instance should take up the responsibility of educating people about the sinister nature of organized crime. Further, they can in conjunction with the police launch campaigns to see that young men do not join these gangs. The public bodies can also serve as eyes and ears of the law enforcement machinery. In other words they can serve as intelligence sources and thus render yeoman's service to the cause of organized crime suppression. As a corollary they should encourage witnesses to come forward and help police. Later, they can help keep up the courage of these witnesses so that they also truthfully depose during trial. These organizations should truly launch a citizen's war on organized crime in which risky endeavour they must get whole hearted support from the police. In order to institutionalize this arrangement it would be a good idea for the city police chief to constitute an inter-action committee of activist voluntary organizations and a few dedicated individuals. The Committee can discuss action taken against organized crime, exchange views on what needs to be done and formulate future police thrusts.

New Horizons of Overall Cooperation

604. It would be naive on the part of any police organization to believe that it can contain much less eradicate the menace of organized crime on its own. Organized crime and related gang activities are now spreading from metropolitan cities to not only the remote suburbs and satellite townships but also to other large urban conglomerates. In such a situation, no single police force can fight any of these gangs single handed. Frequent interaction, exchange of information among affected police forces and an understanding that will allow them to operate in one another's jurisdiction either on their own or in conjunction and occasional joint planning of operations are indispensable for giving worthwhile fight to these highly mobile, well armed are resource rich gangs. Therefore, the preferable line of action would be that,

- i. The Commissioner of Police or DGP or the senior most officer in charge of the Crime Branch should organize frequent exchange of information between

the Special Task Force and other units of police and Crime Branch so that the Special Task Force gets the necessary support from other Units.

- ii. It is desirable to convene periodic meetings among various units of police. These meetings should be attended by executive police crime branch official, STF personnel of investigation, Intelligence Bureau and perhaps Research and Analyzing Wing.
- iii. In all round attack has to be launched against organized in order to subdue them. Considering the kinds of criminal activities they indulge in, it will be highly desirable to associate with any police action plan such other enforcement agencies as the Central Excise and Customs Department, the Income Tax Department, the Enforcement Directorate and Narcotics Control Bureau so that each agency would initiate action under its own authority and power to debilitate a gang that has been earmarked for action. A collaboration of this nature will also greatly facilitate a thorough investigation in a crime committed by a gang.
- iv. The Crime branch should have a small cell devoted exclusively to the task of organizing these meetings and to ensure prompt follow up action. Since gang activities are spread over more than one States a similar arrangement for exchange of information must exist among all the affected States. The Central Bureau of Investigation should act as the nodal agency for organizing such interactions.
- v. Since organized crime has crossed national frontiers it would be necessary to establish close links with countries which seem to show similar concern for control of organized crime, more so with those countries where the Indian gangsters appear to be operating or taking shelter. The objective should be to enhance understanding of one another's problems, thereby increasing chances of cooperation in respect of sharing gang related criminal intelligence. Organized crime is not only deeply entrenched in several other countries including developed countries but is increasingly taking advantage of the readily available new technologies. It would be of considerable benefit to know the methods of operation adopted by organized gangs in those countries and how they are being effectively countered so that tomorrow when the indigenous gangs bring those technologies in use the police would know how to deal with them.

The Expanding Horizons

605. It should be evident that Organized Crime is a growth industry not only in India but also in several other countries. In India, Organised Crime initially got roots in big cities like Bombay and Delhi, but now other metropolitan cities like Calcutta, Madras and Bangalore and even the other cities particularly the capital headquarters of the States cannot be immune from this scourge, for the incubation factors are available there too in abundant measure. It is axiomatic that so long as these cities continue to produce educationally deficient, socially misfit because of lack of family care, and economically unemployable youths who have no credible notion of economic opportunity ahead; youths who have nothing to look forward to that will give them a sense of belonging and achievement, the ranks of organised criminal gangs are bound to swell. From purely criminal acts like extortion with all its variants, trafficking in illicit services and goods, it is bound to step into in fact in several instances it has already done so legitimate business and allied forms of financial activities where it is sure to give free rein to its fondness for using violence, to amass huge profits and in the process establish its own stranglehold and monopoly over these commercial activities.

606. The Basic Components of the new Strategy

(i) Organised gang activity has not remained a localised urban phenomenon alone but has spread its tentacles into country side as well as can be easily gleaned from what is happening in Utttar Pradesh, Bihar and elsewhere. What is worse, it has become trans-national which has opened vast avenues for it to generate easy money. International cooperation in the field of countering organised crime is gaining momentum elsewhere because the problem has assumed frightening proportions. Therefore, it is imperative for police and other law enforcement agencies that they develop a sound strategy to combat organised criminal activities at home and a conscious policy to join the international cooperative efforts by governments, so that a synergistic multi-pronged attack could be launched with a view to eradicating organised gangs and their concerted criminal activities.

(ii) Further, the police and the other law enforcement agencies in the country which have a vital role to play and without whose willingness to support and cooperate the police would be considerably handicapped, must launch a concerted attack on the organised criminal gangs with a view to incapacitating the top leadership as well as the lower echelons down to the foot soldier. More specifically it should be their endeavour to secure for the leaders and the second line leadership as well long sentences of imprisonment. Putting one or two top leaders of the gang behind bars causes them only minor inconvenience, if at all.

(iii) The second front should be opened against their money power. Financially these gangs must be crippled then only their back would be broken. This in fact holds the key to success in the war against organized crime. A gang will collapse the moment money and the ability to earn it cheap is taken away from it.

(iv) These important objectives cannot be achieved unless the police re-structure themselves to create special units of dedicated professionals who are good at systematic and painstaking investigations and at fighting it out in the streets when it comes to that. Of course their hands will have to be reinforced with a legislation that takes into account the special problems created by the organised crime in launching prosecutions and aims at destroying the menace, and by creating a socially sensitive judiciary that would realise the need of the hour and contribute its share which cannot be mean by any reckoning.

(v) People's cooperation, support and involvement are equally indispensable. No social malignancy has ever been eradicated without people's active support which in this case will come only when people are made aware of the true nature of organised crime and how it affects them in the long term too, and then encouraged to rise against it together.

(vi) However, before any such grand national strategy is worked out it would be necessary to study this phenomenon of organised criminal gangs formation and activities in its various manifestations in other metropolitan cities as well as in rural areas.

Chapter 28

Cyber Crimes and Police

Introduction

607. Due to information technology revolution; computers and the computer networks are now within the reach of citizens, businessmen and public authorities. Computer technology has wide applications at home, in business, in industry, commercial establishments and in public offices for data processing and storing vital information. The information technology now encompasses the entire gamut of human activity. The computer and computer networks have opened new vistas for various segments of the society and business, and they are also being used as tools by criminals. An extensive use of computers has made our life increasingly dependent on them. The need to protect the areas of computer use from crime has become extremely important. The financial system, transportation systems, public records, manufacturing processes and the information infrastructure are amenable to attack by cyber criminals. The number, economic cost and sophistication of such attacks at the hands of educated criminals will be on increase in the days to come. The international communication networks and omnipresent Internet have erased the national boundaries and the computer crimes are increasingly becoming international, both in their scope and ramifications. This poses a new challenge for the police and other law enforcement authorities to ensure that users of computer and computer networks do not become victims of computer/cyber crime and also to take up investigation of this new generation of offences with the requisite competence and professional vision.

Computer Basics

608. For dealing with computer related crime, it is essential for the police to have the basic knowledge of computers. A computer is a machine that carries out logical instructions in a predetermined manner. It is programmed to perform certain operations and store large amount of information depending upon its capacity. The computer networks consist of number of computers connected with each other by various means and is capable of sharing and transferring information between one

other. The information or data stored in a computer can be retrieved or transferred, or used in an output form in number of ways.

Components of Computer System

609. A typical computer consists of 'input device', 'output device', 'central processing unit' and 'memory'. The input devices are used to feed the data or instruction in a computer from the user or from another computer system. A keyboard, a mouse, a magnetic tape drive, a disk drive such as floppy disk drive, CD drive, DVD drive, any kind of electric sensor, a digital camera, a microphone, a bar coding reading machine and scanners etc. are input devices.

The Output Devices

610. The output devices receive processed data for the user or another computer system. Some of the output devices are: a visual display unit also known as monitor, a printer which produces 'hard copies' of the output, magnetic tapes, cassettes, disks such as floppy disks, CDs, DVDs etc.,

The CPU

611. The central processing unit (CPU) can be described as mind of the computer. It carries out the instructions that have been pre-programmed into it either by the user or by software. In a typical personal computer, the central processing unit may consist of one or more microprocessors - also called chips. It generally has memory store, which is measured in units known as Kilobytes (Kb), Megabyte; (Mb), Gigabytes, (Gb) and Terabyte (Tb). It also has unit which processes the information. Central processing systems use "operating systems", which govern the way the computer operates. Some of the popular operating systems are MS DOS, Windows, UNIX, Linux etc. The memory is important component to the investigator- for this is where evidence is likely to be obtained. The memory is generally classified as temporary memory and permanent memory. Temporary memory is known as Random Access Memory (RAM) or read/write memory, which can be altered or erased. The information contained in RAM is not saved or transferred to other storage media and it is lost the moment power source is disconnected. The permanent memory, known as Read Only Memory (ROM) cannot be altered or erased.

Computer Hardware

612. The mechanical devices that constitute the computer are called hardware. The hardware can be seen and felt. The hardware consists of various inter-connected electronic devices such as processors, video screens, printers and several other peripherals such as disk drives, CD writers etc.

Computer Software

613. The hardware by itself cannot do any data processing. It requires electronic instructions that drive a computer or any other hardware component to perform specific tasks. Any computer software, information / data are organised in a structure of files, software in programme files and information in data files. Though there are number' of software programme, these can be broadly categorized into 'system software' and 'application software'

Classification of Computers

614. The descriptions of various types of computers are given in the following paragraphs:

- A. **Super Computers:** Super Computers are generally the largest and most powerful computers made to process huge amount of data and carry out large number of calculations per second. The scientists and engineers generally use the Super Computers. Due to their size and cost, Super Computers are very rare and only used by large corporations, universities and government agencies.

- B. **Main Frame Computers:** The largest of a computer, which is commonly used for processing huge volume of data, are called Main Frame Computers. These are normally used in large organizations like insurance companies, banks and airlines, where same data need to be accessed by several people. Main Frame Computers are also used for providing services on the internet. Retrieving evidence from a Main Frame Computer may require a high degree of expertise.

- C. **Mini Computers:** Mini Computer systems are smaller computers but have large capacity for processing the data. These are normally used as servers and provide network to number of users and are capable of data sharing with the linked computer systems.
- D. **Work Stations:** Work Stations are normally used for specialized purpose by single user. These normally have processing power of a mini computer and are used by scientists, engineers, graphic artists, programmers etc.
- E. **Microcomputers / Personal Computers:** These are generally used by individuals for various applications. These days, with advanced technology, processing power of microcomputers often drives that of workstations or mini computers. These computers may also be used with network interface card to connect to the network of an organization or to the Internet,
- F. **Note Book / Laptop computers:** Note Book / Laptop computers, as the name suggests, are smaller portable versions of micro computers and can perform any function of a micro computer. These computers can be carried anywhere and can be connected to the network through physical or wireless interface.
- G. **Hand held computers:** The past few years have seen introduction of many hand held personal computers, which are also called on Palmtop Computers or Personal Digital Assistants (PDAs). These are small portable computers less powerful than microcomputers providing services on the internet.

Computers Networks

615. A network of computers can be defined as several computers connected with each other through cables or wireless, so as to capable of sharing various kinds of information / data. Generally, main types of networks i.e. Local Area Network (LAN) and Wind Area Network (WAN) are in use these days.

- A. **A Local Area Network (LAN)** can be defined as a network of computers located in vicinity. These are normally connected by cable, an Infra red link or through a radio transmitter. The data is normally shared by these computers through certain software protocols, which are a set of rules and forms for sending and receiving data. TCP / IP is one of the most popular protocol, which is in use these days for exchange of data.
- B. **Wide Area Network (WAN)** can be defined as network of two or more LANs connected together covering a wide geographical area. A WAN may link computers situated in one country or across various countries. The computers in WAN may be connected through high speed telephone lines, fibre optics, under sea cables or through satellites,

Storage Devices

616. The data / information is often stored on what is known as storage media. The hardware component, on which, data can be written and read from it, is also known as storage device. There are two main categories of storage technology, which exist today i.e. magnetic storage and optical storage. Certain storage devices / media may employ both kind of technology. For detailed description, any standard book on storage devices may be referred to.

A. Primary Storage Devices

617. The primary type of magnetic storage devices are as follows:

- Diskette
- Hard Disk (could be fixed or removable)
- High capacity floppy disks
- Disk cartridges
- Magnetic tape
- Cards (credit and debit cards etc.)

B. Optical Storage Devices

618. The various types of Optical Storage devices are as follows:

- Compact Disk Read-Only Memory (CD-ROM)
- Digital Video Disk Read-Only Memory (DVD-ROM)
- CD-Re-cordable (CD-R)
- CD-Re-Writable (CD-RW)
- Photo CD

Computer Crimes

619. Given the dynamic nature of information technology, communication infrastructure and ever changing legal measures towards better effort to prevent computer / cyber offences, the paragraphs that follow are not a comprehensive description of computer crime. The police officers should consult computer/cyber crime manual and also to refer to the latest legal provisions on the subject.

Cyber/Computer Crime : Conceptualization

620. There is no universal accepted definition of computer / cyber crime but broadly in general parlance, the computer crime is any illegal or unauthorized activity involving computers. The crime can be against an individual or organization or against the nation endangering or threatening to endanger its integrity and security. Such an illegal or unauthorized act may manifest in, preventing the computer to perform its duties as designed, or slow down its operations, or corrupting or copying the data or software. A computer crime can thus broadly define as commission, or attempt or abetment to the commission of any one or any combination of the following illegal/unauthorized activities.

- A. unauthorized access, alteration, addition, deletion or hiding data;
- B. unauthorized access, alteration, addition, deletion or hiding programme or information;
- C. stealing of data, programme in any manner;
- D. unauthorized (physical/logical) entry into computer work environment;
- E. change or alter the defined system.

Modus Operandi of the Cyber Crimes

621. Digital or electronic tress-passing requires very few tools such as home computer, or a note book computer or a desk top personal computer, a modem and a telephone line. The criminal first identifies and breaks into the communication channel to which the computer is connected. This may be a dial up line connected to telephone line or a leased line connected to a telephone line or to the public data system network. He then tries to log into the system by trying out various passwords or stolen password. For an insider to gain unauthorized access to the system becomes all the easier. In the case of stand-alone systems, his job becomes easy once he gets physical access to the system.

Computer Hacking

622. This is, also known as intruding or cracking, a practice of gaining unauthorized access to a networked computer from a remote source. It involves decoding of password, breaking into the system and unauthorized use of system. Electronic eves dropping could also be used as a method by hackers for interception of computer services. This is a serious problem as most major computer systems in the world are on the computer network. By this method the offences that can be committed are forgery, sabotage and unauthorized access for interception. Hacking is defined under section 66 of I.T. Act 2000. In cracking, normally the perpetrator makes minor changes in the programme, in violation of the copyright restrictions with the objective of extracting information, illegally.

Other Type of Computer Crimes

623. Software Piracy and other Copyright Violations, Cyber Pornography, Cyber Terrorism and introducing deliberately the virus etc. are the other type of Computer Crimes. This list will keep on growing with the growth of the computers and the Information Technology. Virus is the latest and the most destructive type of identified computer crime. It has the capacity of instantaneously multiplying and attaching themselves to programme under certain circumstances. They can damage computer systems, programs and data. A programmer writes a virus which is nothing

more than a few lines of numbers or letters that instruct the computer to change or destroy information inside another computer. The virus instructions are hidden inside a legitimate program - one that might contain a spreadsheet or a word processing programme. It can in fact be through a disc or even through phone lines. The computer reads the virus along with the real software program. The computer reacts to the hidden virus instruction. It might tell the computer to destroy information on a certain date or simply flash a harmless message on screen. It might also tell computer to put a copy of the infected software on every other disc inserted into the machine. A virus can spread from computer to computer system over a telephone line and electronic bulletin boards and floppies / discs. It can damage the computer memory and knock out the total system.

624. Investigation of Computer Crime : Some Precautions

- i.** Unlike collection of evidence in normal crime, the collection of computer evidence on any scene of crime requires specialist care. Serious problems could arise if the computer evidence is not collected properly and with necessary specialist care. Therefore, the investigators are advised that they may call for specialist of computer crime unit of Crime Investigating Department or computer forensic scientist from the Forensic Science Laboratory.

- ii.** Whenever the investigators comes across a computer during investigation of any crime, he should remember that it could be a valuable piece of equipment and could contain quantity of data, which could lead to valuable evidence for the crime being investigated. Therefore, preservation of the same becomes important from the point of view of evidence. Any mistake in preserving the evidence could result in loss of valuable evidence. On the other hand, any mishandling could also result in huge economic loss to the owner of such computer, which must be avoided at every cost. The investigator must remember that computers could frequently be connected in a network and the vital necessary evidence might have been transmitted or stored at a location different from the site of the search. The information could be stored even

across the boundaries of the country. The investigating officer must therefore be extremely careful whenever he comes across a network of computers. It may also be necessary to involve a computer expert at the earliest as investigator may not be equipped to collect various kinds of data storage on magnetic or optical media.

- iii.** If the investigator has prior knowledge that the scene of crime which is going to be searched would have computer systems or computer network in place, it is advisable to contact the specialist computer crime unit of Crime Investigation Department or computer forensic scientist of Forensic Science Laboratory. In case it is possible, advanced information may be collected regarding the make, model, operating system, network connections etc. being used by the organization or individual, whose premises is being searched, as this information could prove valuable. The information so collected must be passed on to the expert, who can make necessary preparation that may be required to collect evidence. This is necessary, as many a times, it may not be possible to remove the computer systems physically and the data or programme may have to be copied as per provision of Indian Evidence Act on the crime scene itself. The investigator or the expert, who may accompany the police personnel going for search should carry necessary media in the form of disk, floppy disks, optical disks, tapes, tools, software, labels and other specialized items and should carry necessary packing material, which can prevent loss of evidence collected as offered on such media as data on magnetic media can be destroyed by media, dust and electrostatic environment.
- iv.** In case computer equipment is to be removed, necessary care would have to be taken to pack it properly and if necessary the material which will prevent any damage, as sometimes read write heads could malfunction if subjected to sudden jerk or force should be arrange for packing. If the computer system at crime scene happens to be large, special attention may be required for proper transport and storage arrangements, so that, data contained therein is preserved for the purpose of evidence. If necessary and possible, the place

which contains such computers could be sealed and guarded properly till arrangement is made to collect the evidence.

- v.** During the course of the search, the investigator must not, under any circumstances, allow a suspect or accused to touch any part of the computer system. It must be remembered that even a press of a key could erase the entire data. These days, it is even possible to enter or delete data with the help of remote keyboards and mouse. Hence care should be taken that suspect or accused does not have possibility of passing any instructions to the computer through any of such devices. Sometimes, it may be desirable / necessary for suspect or accused to be present during the search to collect valuable information especially if data is protected by user identities or passwords. In such situations, the investigator must be careful to keep the suspect / accused out of reach of computer system and must not try to recover data by using the identities or passwords told by such person. He should invariably take help of an expert under such circumstances.

- vi.** Now-a-days, most of the computers are part of the network, which may be connected through cables, radio links, telephone, fibre optics etc. In a network individual computer systems may function as stand alone machines also may contain significant data / programmes. On the other hand, the information could be found elsewhere in a physically remote area as server connected in the network. Therefore, it is important that help of an expert is taken to identify where the storage is located. The type of storage arrangement in use in a network would determine the search and seizure procedures. It is, therefore, necessary that when a network environment is to be searched, adequate technical personnel along with general investigator must be assigned for the job. In case, it is found that the server or data storage is located outside the boundaries of India, prompt necessary action has to be taken through a competent court to issue a "letters rogatory" under the provisions of section 166(A) CrPC. The assistance of National Crime Bureau (N.C.B.) represented by Central Bureau of Investigation may be taken in this regard.

- vii.** It may therefore be necessary to ensure that the suspect / accused is not able to temper with the information contained in the computers at the time of the search. The investigator is well advised to take help of an expert to ensure that all such connections are removed and data communication facilities disabled at the earliest.

Search and Seizure of Evidence Contained in Computer Systems

625. The actual collection / seizure of evidence should take place after all necessary steps have been taken. It may be necessary to associate an expert or a forensic specialist before carrying out the search and seizure procedure. Few precautions and steps taken during the search are detailed below :

- I.** The system should be observed carefully and the name and the model number of the system should be noted. It is necessary to prevent loss or corruption of evidence and to ensure preservation of quality of evidence.
- II.** Under no circumstances, crime suspect / accused should be allowed to touch a computer system or use remote control devices, which can manipulate the data / programmes contained in the computer systems.
- III.** The suspect / accused or anybody else must not be allowed to remove anything from the scene or carry out any activities on the computers. It must be remembered the computers/ video screens, printers and other peripheral devices may also contain valuable evidence, which could be destroyed, if anybody is permitted to handle these equipments. In case, no technical / expert assistance is available, and the investigator is not trained to handle such computer systems, it may be advisable to leave computers on the scene as it is, till technical assistance arrives.

- IV.** In case, computer systems are found working, it may be necessary to power down these with the help of experts depending upon the operating system in use. Care should be taken to use the shut down system of the operating system and not shut off power as that could result in loss of data / programme, which may make recovery of evidence extremely difficult and even impossible.
- V.** Before disconnecting and dismantling any computer component, even/thing must be labeled, initiated with date along with the signatures of witnesses as per provisions of law. Special care should be taken to label and document all the cables. The corresponding labels must be placed on the devices, which are connected with particular cables and if necessary a descriptive labeling system i.e. LPT1, Serial Port etc. may be used.
- VI.** It may be extremely useful and necessary to take close up photography both still and video of all the individual pieces of hardware and connections. The investigator may also draw a diagram of the location of the various computer systems.
- VII.** The equipment available at the scene must not be dismantled by the investigator and the job shall be best left to a specialist, who may disable a network/remove the peripherals first and then the computer system.
- VIII.** Any documentation or notes or scratch paper etc. found at the scene must be scrutinized properly and seized. Many a times, these could give important clues regarding passwords and other information.

- IX.** In case, the scene of crime contains multiple computer systems, care must be taken to keep one system separate from the other and the peripherals attached to such system must be marked and packed separately, so that they do not get mixed-up.

- X.** The investigator is cautioned that when no expert is available, he should not try to handle the system as due to any improper handling, there is a risk of tempering the evidence available therein. Switching or disconnection of power may result in loss of temporary memory (RAM), which will create difficulties in re-gaining access to the system and collection of evidence by the expert. Even if the investigator is conversant with computer, keying in instructions could overwrite data and can be construed as interfering with the evidence. Therefore, care should be taken to have expert assistance available also for preserving the evidence.

- XI.** The investigator should remember that sometimes the computer may appear no: to be working but actually it could be in hibernation / sleep mode and it might no: have been turned off. Some computer especially laptops work with the help of batteries and therefore care should be taken for handling such systems for collecting the evidence.

626. Analysis of Computer Evidence

- i. The evidence collected from scene of a crime from computer system(s) must be sent to forensic laboratory for examination by computer forensic experts or any other designated expert as per the provisions of Indian Evidence Act Forensic laboratory may make a copy of the data seized analysis and should not work on the original as the data on re media seized is required to be produced in the court as an evidence, and it may get destroyed or altered if the process of analysis is done on the original

stored data.

- ii. The investigator must ensure that all equipment tapes, disks, peripherals etc. must be stored in a dust free environment under regulated temperature. The investigator is well advised to consult an expert for properly storing the equipment and other seized material. The investigation into computer crimes should be done by police officers who have the necessary experience and training in the field.

The Legal Penal Provisions

627. The various types of computer crimes may fall within the ambit of existing provisions of Indian Penal Code or **Chapter-XI of Information Technology Act, 2000**. These offences and their nature are not being discussed here and the investigators may consult some of the books published on the subject and manual on Computer Crime published by International Criminal Police Organisations (Interpol). The relevant definitions and sections in **Chapter - XI** entitled "Offences" of **Information Technology Act, 2000** should be thoroughly understood by an IO doing investigation of cyber crime.

Important Provision of the Act

628. **Section 43: Penalty for damage to computer, computer system, etc.** If any person without permission of the owner or any other person who is in charge of a computer, computer system or computer network -

- (a) accesses or secures access to such computer, computer system or computer network.
- (b) downloads, copies or extracts any data, computer data base or information from such computer, computer system or computer network including information or data held or stored in any removable storage medium;
- (c) introduces or causes to be introduced any computer contaminant or computer virus into any computer, computer system or computer network;
- (d) damages or causes to be damaged any computer, computer system or computer network, data, computer data base or any other programmes residing in such computer, computer system or computer network;

- (e) disrupts or causes disruption of any computer, computer system or computer network;
- (f) denies or causes the denial of access to any person authorized to access any computer, computer system or computer network by any means;
- (g) provides any assistance to any person to facilitate access to a computer, computer system or computer network in contravention of the provisions of this Act, rules or regulations made there under.
- (h) Charges the services availed of by a person to the account of another person by tampering with or manipulating any computer, computer system, or computer network, he shall be liable to pay damages by way of compensation not exceeding one crore rupees to the person so affected.

629. **Explanation** - for the purposes of this section -

(i) "Computer Contaminant" means any set of computer instructions that are designed -

(a) to modify, destroy, record, transmit data or programme residing within a computer, computer system or computer network; or

(b) by any means to usurp the normal operation of the computer, computer system, or computer network;

(ii) "Computer Database" means a representation of information, knowledge, facts, concepts or instructions in text, image, audio, video that are being prepared or have been prepared in a formalized manner or have been produced by a computer, computer system or computer network and are intended for use in a computer, computer system or computer network;

(iii) "Computer Virus" means any computer instruction, information, data or programme that destroys, damages, degrades or adversely affects the performance of a computer resource or attaches itself to another computer resource and operates when a programme, data or instruction is executed or some other event takes place in that computer resource;

(iv) "Damage" means to destroy, alter, delete, add, modify or re-arrange any computer resource by any means.

630. **Section 44: Penalty for failure to furnish information, return, etc.** If any person who is required under this Act or any rules or regulations made there under to

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- (a) furnish any document, return or report to the Controller or the Certifying Authority, fails to furnish the same, he shall be liable to a penalty not exceeding one lakh and fifty thousand rupees for each such failure;
- (b) file any return or furnish any information, books or other documents within the time specified therefore in the regulations, fails to file return or furnish the same within the time specified therefore in the regulations, he shall be liable to a penalty not exceeding five thousand rupees for every day during which such failure continues;
- (c) maintain books of account or records, fails to maintain the same, he shall be liable to a penalty not exceeding ten thousand rupees for every day during which the failure continues.

631. **Section 45: Residuary Penalty.** Whoever contravenes any rules or regulations made under this Act, for the contravention of which no penalty has been separately provided, shall be liable to pay a compensation not exceeding twenty-five thousand rupees to the person affected by such contravention or a penalty not exceeding twenty-five thousand rupees.

632. **Section 46: Power to Adjudicate.** (1) For the purpose of adjudging under this Chapter whether any person has committed a contravention of any of the provisions of this Act or of any rule, regulation, direction or order made there under, the Central Government shall, subject to the provisions of sub-section (3), appoint any officer not below the rank of a Director to the Government of India or an equivalent officer of a State Government to be an adjudicating officer for holding an inquiry in the manner prescribed by the Central Government.

- (2) The adjudicating officer shall, after giving the person referred to in sub-section (1) a reasonable opportunity for making representation in the matter and if, on such inquiry, he is satisfied that the person has committed the contravention, he

may impose such penalty as he thinks fit in accordance with the provisions of that section.

- (3) No person shall be appointed as an adjudicating officer unless he possesses such experience in the field of Information Technology and Legal or Judicial experience as may be prescribed by the Central Government.
- (4) Where more than one adjudicating officers are appointed, the Central Government shall specify by order the matters and places with respect to which such officers shall exercise their jurisdiction.
- (5) Every adjudicating officer shall have the powers of a civil court which are conferred on the Cyber Appellate Tribunal under sub-section 58, and -
 - (a) all proceedings before it shall be deemed to be judicial proceedings within the meaning of sections 193 and 228 of the Indian Penal Code;
 - (b) shall be deemed to be a civil court for the purposes of sections 345 and 346 of the Code of Criminal Procedure, 1973.

633. **Section 65: Tampering with Computer Source Documents.** Whoever knowingly or intentionally conceals, destroys or alters or intentionally or knowingly causes another to conceal, destroy or alter any computer source code used for a computer, computer programme, computer system or computer network, when the computer source code is required to be kept or maintained by law for the time being in force, shall be punishable with imprisonment up to three years, or with fine which may extend up to two lakh rupees, or with both.

634. **Explanation -** For the purposes of this section, "Computer Source Code" means the listing of programmes, Computer Commands, Design and layout and programme analysis of computer resource in any form.

635. **Section 66: Hacking with Computer System.** (1) Whoever with the intent to cause or knowing that he is likely to cause wrongful loss or damage to the public or any person, destroys or deletes or alters any information residing in a computer resource or diminishes its value or utility or affects it injuriously by any means, commits hacking. (2) Whoever commits hacking shall be punished with

imprisonment up to three years, or with fine which may extend up to two lakh rupees, or with both.

636. Section 67: Publishing of information which is obscene in electronic form.

Whoever publishes or transmits or causes to be published in the electronic form, any material which is lascivious or appeals to the prurient interest or if its effect is such as to tend to deprave and corrupt persons who are likely, having regard to all relevant circumstances, to read, see or hear the matter contained or embodied in it, shall be punished on first conviction with imprisonment of either description for a term which may extend to two years and with fine which may extend to one lakh rupees and in the event of a second or subsequent conviction with imprisonment of either description for a term which may extend to ten years and also with fine which may extend to two lakh rupees.

637. Section 68: Power of Controller to give directions. (1) The Controller may, by order, direct a Certifying Authority or any employee of such Authority to take such measures or cease carrying on such activities as specified in the order if those are necessary to ensure compliance with the provisions of this Act, rules or any regulations made there under.

(2) Any person who fails to comply with any order under sub-section (1) shall be guilty of an offence and shall be liable on conviction to imprisonment for a term not exceeding three years or to a fine not exceeding two lakh rupees or to both.

638. Section 69: Directions of Controller to a subscriber to extend facilities to decrypt information. (1) If the Controller is satisfied that it is necessary or expedient so to do in the interest of the sovereignty or integrity of India, the security of the State, friendly relations with foreign States or public order or for preventing incitement to the commission of any cognizable offence, for reasons to be recorded in writing, by order, direct any agency of the Government to intercept any information transmitted through any computer resource.

(2) The subscriber or any person in charge of the computer resource shall, when called upon by any agency, which has been directed under sub-section (1), extend all facilities and technical assistance to decrypt the information.

(3) The subscriber or any person who fails to assist the agency referred to in sub-section (2) shall be punished with an imprisonment for a term which may extend to seven years.

639. **Section 70: Protected system.** (1) The appropriate Government may, by notification in the Official Gazette, declare that any computer, computer system or computer network to be a protected system.

(2) The appropriate Government may, by order in writing, authorise the persons who are authorised to access protected systems notified under sub-section (1)

(3) Any person who secures access or attempts to secure access to a protected system in contravention of the provisions of this section shall be punished with imprisonment of either description for a term, which may extend to ten years and shall also be liable to fine.

640. **Section 71: Penalty for misrepresentation.** Whoever makes any misrepresentation to, or suppresses any material fact from, the Controller or the Certifying Authority for obtaining any licence or Digital Signature Certificate, as the case may be, shall be punished with imprisonment for a term which may extend to two years, or with fine which may extend to one lakh rupees, or both.

641. **Section 72: Breach of confidentiality and privacy.** Save as otherwise provided in this Act or any other law for the time being in force, any person who, in pursuance of any of the powers conferred under this Act, rules or regulations made there under, has secured access to any electronic record, book, register, correspondence, information, document or other material without the consent of the person concerned discloses such electronic record, book, register, correspondence, information, document or other material to any other person shall be punished with imprisonment for a term which may extend to two years, or with fine which may extend to one lakh rupees, or with both.

642. **Section 73: Penalty for publishing Digital Signature Certificate false in certain particulars.** (1) No person shall publish a Digital Signature Certificate or otherwise make it available to any other person with the knowledge that -

- (a) the Certifying Authority listed in the certificate has not issued it; or
- (b) the subscriber listed in the certificate has not accepted it; or
- (c) the certificate has been revoked or suspended, unless such publication is for the purpose of verifying a digital signature created prior to such suspension or revocation

(2) Any person who contravenes the provisions of sub-section (1) shall be punished with imprisonment for a term, which may extend to two years, or with fine, which may extend to one lakh rupees, or with both.

643. **Section 74: Publication for fraudulent purpose.** Whoever knowingly creates publishes or otherwise makes available a Digital Signature Certificate for any fraudulent or unlawful purpose shall be punished with imprisonment for a term which may extend to two years, or with fine which may extend to one lakh rupees, or with both

644. **Section 75: Act to apply for offence or contraventions committed outside India.** (1) Subject to the provisions of sub-section (2), the provisions of this Act shall apply also to any offence or contravention committed outside India by any person irrespective of his nationality.

(2) For the purposes of sub-section (1), this Act shall apply to an offence or contravention committed outside India by any person if the act or conduct constituting the offence or contravention involves a computer, computer system or computer network located in India.

645. **Section 76: Confiscation.** Any computer, computer system, floppies, compact disks, tape drives or any other accessories related thereto, in respect of which any provision of this Act, rules, orders or regulations made there under has been or is being contravened, shall be liable to confiscation:

645.1 Provided that where it is established to the satisfaction of the court adjudicating the confiscation that the person in whose possession, power or control of any such computer, computer system, floppies, compact disks, tape drives or any other accessories relating thereto is found is not responsible for the contravention of

the provisions of this Act, rules, orders or regulations made there under, the court may, instead of making an order for confiscation of such computer, computer system, floppies, compact disks, tape drives or any other accessories related thereto, make such other order authorised by this Act against the person contravening of the provisions of this Act, rules, orders or regulations made there under as it may think fit.

646. **Section 77: Penalties and confiscation not to interfere with other punishments.** No penalty imposed or confiscation made under this Act shall prevent the imposition of any other punishment to which the person affected thereby is liable under any other law for the time being in force.

647. **Section 78: Power to investigate offences.** Notwithstanding anything contained in the Code of Criminal Procedure, 1973, a police officer not below the rank of Deputy Superintendent of Police shall investigate any offence under this Act.

Crime Against Women

Introduction

648. Women are quiet important and vital part of any community, because in addition to their quality contribution in the social, familial, political and economic spheres, quantitatively also they occupy significant position in any society, in as much as, almost 50% of the total population consists of them. Their contribution to the overall social progress, family cohesiveness and in the overall national development has always been quite significant. The unfortunate part of their destiny is that they become victims of various types of crimes, despite the fact that a number of legislations providing protection to women exist. Although women may be victim of any of the crimes such as murder, robbery, cheating etc., only the crimes, which are directed specifically against women, are characterized as crime against women. These are broadly classified under two categories.

(A) The crimes under the Indian Penal Code (IPC)

- i. Rape (Sec. 376 IPC)
- ii. Kidnapping & Abduction for different purposes (Sec. 363 - 373 IPC)
- iii. Homicide for Dowry, Dowry Deaths or their attempts (Sec. 302/304-B IPC)
- iv. Torture, both mental and physical (Sec. 498-A IPC)
- v. Molestation (Sec. 354 IPC)
- vi. Sexual Harassment (Sec. 509 IPC)
- vii. Important of girls (upto 21 years of age) (Sec. 366-B IPC)

(B) The Crimes under the Special & Local Laws (SLL)

649. Although all laws are not gender specific, the provisions of law affecting women significantly have been reviewed periodically and amendments carried out to keep pace with the emerging requirements. The gender specific laws for which crime statistics are recorded in the country are :

- i. Immoral Traffic (Prevention) Act, 1956
- ii. Dowry Prohibition Act, 1961
- iii. The Child Marriage Restraint (Amendment) Act, 1979

- iv. Indecent Representation of Women (Prohibition) Act, 1986
- v. Commission of Sati (Prevention) Act, 1987

Some Basic Issues

650. Some of the basic issues which are important in relation to crime against women are following :

- Women are an easy target of violence
- Major part of domestic violence consists of violence against women.
- Violence against women has a direct and indirect bearing on the phenomena of domestic violence.
- Violence against women may or may not form part of crime against women but this definitely is violence of Human Rights.
- This signifies the role of H.R. in violence against women.
- Enormity and seriousness of atrocities committed against women are a matter of serious concern for every right thinking person.
- The battle of crime against women has to be waged by
 1. Various sections of the society
 2. Various campaigns and various programmes
 3. With social support, legal protection, safeguards and reforms in CJS

The Causes

651. Some of the important causes for crime against women are following :

- Lack of awareness
- Illiteracy and backwardness
- Oppressive practices and customs
- Male chauvinism and ego
- Economic, emotional and social dependence.

The Consequences

652. Crimes against women have serious consequences for the family, community, society and the nation. Some of these consequences are following:

- Lop sided development
- Fall in sex ratio

- High infant mortality rate
- Low literacy rate
- High drop out of girls
- Low wages
- Inadequate socio-politico and economic progress

Rape: The Worst Form of Crime Against Woman

653. Rape is a heinous offence that destroys the dignity, self esteem and honour of a woman. Society looks upon a rape victim with apathy, hatred and disgrace. It is a blot on her matrimonial prospects, if un-married, and a disruption in her matrimonial life, if married. The rapist deserves the highest condemnation socially and legally. According to the definition in section 375 I PC, a man is said to commit 'rape' who has sexual intercourse with a woman under any of the six circumstances described under section 375 of the IPC.

Aggravated Forms of Rape

654. The more aggravated forms of rape have been defined under section 376 (2) of IPC as mentioned below with enhanced punishments.

- A. If a police officer commits rape within his police station limits or in the premises of any police station or on a woman in his custody or in the custody of his subordinate;
- B. If any other public servant taking advantage of his official position commits rape on any woman in his custody or in the custody of his sub-ordinate;
- C. Wherever being on the management or on the staff of a jail, remand home, or other place of custody established under/by law or of a woman or children's institution takes advantage of his official position and commits rape on any inmate;
- D. Wherever being on the management or on the staff of a hospital, takes advantage of his official position and commits rape on a woman in that hospital;
- E. Wherever commits rape on a woman knowing her to be pregnant;

- F Wherever commits rape on a woman under 12 years of age; and
- G. Wherever commits gang rape;

The Parameter of Consent

655. Submission without resistance does not necessarily amount consent. Consent of the victim girl obtained by giving false promise of marriage and her age being 16 years at the time of occurrence is no consent under law. The consent must be free and be given prior to the act. Helpless resignation in the face of inevitable compulsion or passive submission when the volitional faculty is either clouded by fear or vitiated by duress can not be deemed to be consent.

656. Investigation of Rape Case : Some Precautions

- i. The investigating officer must make careful enquiries to find out if other evidence corroborates the statement of the victim. Corroboration may be by direct or circumstantial evidence, which should, in addition to confirming that the offence was committed, establish that the accused committed it. Courts have generally found no reason to disbelieve the statement of victim unless circumstances exist that prove her to be false. Facilities are afforded during trial or other proceedings that enable the victim to depose fearlessly and to overcome natural and societal inhibitions, by in camera proceedings.
- ii. Immediately after the case of rape is reported, the FIR should be lodged and the victim should be sent to the medical examination at the earliest accompanied by a woman police officer. IO should remember that as per the definition of the rape, it is not always necessary that rape is clinically proved. Mere penetration is sufficient to constitute the offence of rape. Hence absence of semen or injuries on the victim does not mean that rape is not committed. When a woman submits to the commission of rape out of fear or threat, obviously there will be no injuries or marks of resistance. I.O. should also request the medical officer to whom the victim is sent for medical examination, to examine the private parts of victim and for the removal of semen or any hair from the vagina and pubic region. The

examination of private parts of both victim and accused for injuries, presence of blood, semen or hair and evidence of a venereal disease should be done by a medical officer. Under no circumstances IO himself at the place of occurrence or in police station or at any other place should attempt this examination.

- iii. The scene of offence should be visited, photographed, video graphed and thoroughly examined by IO for any material incidence. The accused should be arrested and sent with his wearing apparel for medical examination if the apprehension is immediately after the commission of offence. If there is delay in arrest, the clothes, which he was wearing at the time of the commission of offence, should be seized and sent for medical examination.

Points for Consideration With Regard to Victims

657. In the case of the victim of a rape case following points should be noted :

- A. The exact time and duration of the incident
- B. Age
- C. the character of the woman;
- D. the place where the offence was committed, and whether her cries could reach some one in the vicinity;
- E. whether she was drugged, if so, by whom;
- F. injuries to the body, their nature and position particularly nail or teeth marks on the cheeks or the other parts of the victim's body, injuries around the wrist, forearms or other parts caused by broken bangle pieces;
- G. presence of marks on external clothing when the offence is alleged to have been committed outside a house including torn portions of clothing
- H. presence of semen or blood stains on her person or on the clothes;
- I. injuries to private parts and presence of blood or semen or any foreign hair in or near the vagina or other parts of the body or on the clothes

- J. in the case of young and unmarried girls ruptures of hymen and whether the rupture is recent;
- K. whether the victim has been infected with any venereal diseases, and
- L. the condition of pubic hair, whether mixed with semen or blood,

The Accused

658. In the case of accused, following points should be noted :

- A. age and physical development;
- B. injuries to his person, face, neck, and in the neighbourhood of genitals;
- C. tearing of clothes;
- D. presence of blood or semen stains on his person or clothes or pubic hair. Blood and saliva should be collected for DNA if necessary.
- E. injuries to the male organ ;
- F. presence of foreign hair on the body/clothes of the accused;

The Place of Occurrence

659. At the place of occurrence, following points should be noted:

- A. marks of struggle like trampling of the ground if it is grassy or marshy.
- B. broken bangle pieces etc.
- C. Examine the scene of offence and satisfy as to whether the place is a secluded one affording privacy for the accused to indulge in sex against her will at the time when the offence is alleged to have occurred. The scene of offence is photographed and video graphed to convince the court as to how the scene of offence is secluded one, affording privacy for the accused to indulge in the rapacious attack on the victim.

Identity of the Victim & Other Precautions

660. Precautions should be taken to ensure that the identity of victim is not revealed in any publication. Violations in this regard are liable for penal action u/s 228 A IPC. Do not subject the victim to too many embarrassing questions. Examine and

record her statement in the presence of a female attendant. The victim should be asked to show the exact scene of offence. This should be done in such a way that she is least exposed to the public gaze. Collect the wearing apparel of the victim at the time of commission of offence under panchnama and send immediately for medical examination. Collect evidence regarding the prior illicit relation between the accused and the victim if any. Protect the victim and her parents from the possible intimidation, threats, coercion and reprisals by the accused or their supporters. Also render the help that is possible to the victim in her rehabilitation. The determination of blood groups may prove to be of invaluable help in the detection of rape cases. The DNA finger printing provides convincing scientific proof in cases of rape. Wherever necessary the samples should be sent for DNA analysis and opinion should be taken in the manner prescribed in this regard.

Offences of Sexual Intercourse

661. There are four types of sexual intercourse by a man with a woman, which are made offences though not amounting to rape under section 376-A to 376-D.

They are;

- A. a man having sexual intercourse with his own wife who is living separately from him under a decree of separation or under any custom or usage, without her consent;
- B. any public servant taking advantage of his official position induces or seduces any woman in his or in his subordinate's custody, to have sexual intercourse with him;
- C. any superintendent or manager of a jail, remand home or other place of custody or a woman's or children's institution takes advantage of his position induces or seduces any woman in his custody to have sexual intercourse with him; and
- D. any person on the management or staff of a hospital taking advantage of his position induces or seduces any woman in that hospital to have sexual intercourse with him.

661.1 All the above "four types of sexual intercourse except the first one are cognizable offences but no arrest shall be made by a police official without the orders of a court.

662. **Unnatural Sexual Offences**

- (i) Unnatural offence, as defined in section 377 of the IPC, is carnal intercourse against the order of nature with a man, woman or animal. Sodomy is anal intercourse between two males, or between a man and a woman. Mostly, young boys are victims of such unnatural carnal connection. These offences are common but are rarely brought to notice. There are also a few eunuchs who are fond of appearing in a woman's costume, and ostensibly, live by singing, but habitually indulge in sodomy as passive agents.
- (ii) A case under section 376/377 of the IPC can be charged on the basis of the evidence of the victim, if it is not of a doubtful nature. It is not unsafe to act on the uncorroborated testimony of the victim alone, if the victims' evidence is found to be truthful. More so if the victim is a child whether male or female. Corroboration through circumstantial or other evidence would be of immense value as ultimately the guilt has to be established beyond doubt. For instance, stains of semen may constitute important circumstantial evidence in these cases. Evidence of the medical officer, who has examined the victim soon after the offence is committed, is important. The skilful and sympathetic questioning and ascertaining of details from victims would itself provide clues for further evidence and the Investigating Officer must therefore make painstaking efforts to collect the same. Apart from other circumstantial evidence, DNA Finger printing is the most reliable evidence, which the IO should utilize in cases where it is necessary and where other circumstantial evidence is not forthcoming. Trafficking in children and child prostitution is a reprehensible but flourishing activity of organized criminal gangs. Investigation of such cases should comprehensively aim at the organization and individual members thereof so that Police can deal them with in the specific case or under other laws apart from enabling preventive action.
- (iii) The following are some of the points to be ascertained while investigating these

cases:

- A. injuries to the body, such as scratches and bruises on face, neck and hands;
- B. stains of semen on person or clothing;
- C. presence of semen in the anus, particularly in young children;
- D. injuries to, or in the neighbourhood of anus;
- E. laceration of rectal mucus membrane,
- F. infection of venereal disease present in the accused, and
- G. presence of hair of the victim on the offender and vice versa.
- H. In respect of child victims of either sex the procurer or persons who arranged the transaction, the place of birth, parentage, sex and age of the child; recovery of money or valuables from persons who are benefited; enquires and evidence of parents and others at his/her native place as to the procurement etc.

(iv) It is very important that the investigating officer should, in cases of rape and unnatural offences, send the victim and the accused to the medical officer for examination as early as possible. Clothing and other articles with semen or blood stains in their possession must be seized, carefully packed and despatched to the Forensic Science Laboratory (FSL) for analysis and report.

663. **Dowry Deaths**

- I. Dowry deaths are defined in section 304-B IPC, It provides for cases of death under suspicious circumstances within 7 years of marriage due to cruelty and harassment of husband or his relations in matters connected with dowry. Section 306 IPC deals with suicides of women due to harassment of the husband or the in-laws. Section 498-A IPC deals with cruelty and harassment to a woman by her husband or relations of the husband, which causes mental or physical harm to her. Sections 113-A and 113-B of Indian Evidence Act provide for a presumption to be raised against the accused in these cases, thereby shifting the onus of proof of innocence, to the accused from the prosecution. Section 174 (3) CrPC provides for inquest by Magistrate in cases of death of women under suspicious circumstances within 7 years of her marriage. Section 2 of the

Dowry Prohibition Act defines the word 'Dowry'. These are some of the legal provisions, which should be thoroughly understood for investigation into the cases of dowry deaths.

- II. The main ingredients to be proved by the prosecution in a case under section 304-B are the death of a woman within 7 years of marriage and secondly that it was occasioned by cruelty on account of demand for dowry. The cruelty is defined in explanations A & B of section 498 A. While both explanations apply to 498 A and 306 IPC, explanation B only applies to 304 B. The presumption available under section 113 A I.E. Act is applicable to cases of 498 A and 306 IPC where as the presumption under 113 B I.E. Act is applicable to 304 B IPC. The IO should be thorough with these important provisions of law for correct and legally sound investigation of cases u/s 498-A, 306 and 304-B IPC.
- III. If the complaint discloses a dowry death it should be registered under section 304-B and 498-A IPC may be added. Where it is a suicide due to cruelty or harassment, a case under section 498 A and 306 IPC should be registered. The inquest of the dead body should be held in these cases, only by an executive magistrate according to 174(3) CrPC. Prompt intimation should be sent to the concerned Executive Magistrate to visit the scene and hold the inquest. The police should associate with the inquest/enquiry conducted by the executive magistrate. As soon as the inquest is completed the body should be sent for postmortem examination. The procedure for inquests and postmortem examinations would be the same as for any case of murder. The Government has issued instructions as to the manner of conducting inquest by executive Magistrates in the States on different occasions.
- IV. The investigating Officer should visit the scene of occurrence promptly, inspect it, collect all relevant material and evidence, record the statements of witnesses and take all necessary steps regarding the processing of the scene of offence for processing of crime scene. The IO should particularly look for evidence in the form of letters and other communications or

documents and all other material, which show evidence of harassment and cruelty. He should also collect evidence relating to the receipt or agreement regarding the dowry. Evidence in proof of marriage should also be collected.

- V. While examining the relatives of the victim care should be taken to inspire confidence in them to disclose all details and evidence of cruelty or harassment and details concerning dowry. Some times the bereaved parents overwhelmed by emotions may also make wild allegations.
- VI. Independent evidence has to be collected by examining the neighbours of the area particularly near the victim's residence and other persons known to the deceased. It may not be entirely safe to rely only on the evidence of the close kith and kin of the victim, particularly in the absence of some other circumstances. In such cases the friends and other acquaintances than to the parents will know instances of harassment more. It is also possible that the victim might not have disclosed all the instances to her parents.
- VII. The offences are non-bailable and non-compoundable. The arrests of the accused should be made as soon as the initial investigation is completed and culpability is established. If there is any risk of the accused absconding, action should be taken to keep them under surveillance if necessary till the initial investigation is completed. The initial investigation means inquest and postmortem and examination of important witnesses. When the prima facie case is established against any accused, there should be no delay in arrest.
- VIII. The evidence of cruelty is the vital factor in the cases of dowry deaths. Closest examination of independent witnesses apart from the relatives, letters indicating the state of relationship between the victim and her husband, the transfer of money through banks to the husband or his relatives and their accounts, the purchases and assets acquired after the marriage and their source would be necessary to establish not only the transactions relating to dowry but also the cruelty exhibited by the

husband and his relatives.

- IX. In investigation of dowry deaths by burning, the remnants and all evidence relating to the burning of the victim should be carefully collected. The investigation should be conducted on a day-to-day basis without any delay and completed promptly. During the trial it is necessary that the witnesses are produced and their evidence recorded in the court as early as possible.

664. **Matrimonial Cruelty and Harassment**

- (I) Cruelty is defined in section 498 - A IPC. Cruelty means;
- A. any willful conduct which is of such a nature as likely to drive the woman to commit suicide or to cause grave injury or danger to life, limb or health (whether mental or physical) of the woman; or
 - B. harassment of the woman to coerce her or any person related to her to meet any unlawful demand for any property or valuable security or is on account of failure by her or any person related to her to meet such demand.
 - C. Cruelty may be either by the husband or the relative of husband of the woman subjected to such cruelty.
 - D. The stipulation of 'within 7 years of marriage' is applicable to section 304 - B and not to 498-A and 306 IPC.
- (II) Section 113A of Evidence Act raises presumption against her husband and his relatives of abetment of suicide by a married woman. If there is cruelty as defined in this section prior to the woman committing suicide within seven years of marriage is established, the presumption is raised against her husband and other accused.
- (III) In the investigation of cases of this nature the IO should pay attention to the following points.
- A. The complaint from the affected woman or her parents or brothers or recognised women forum or sisters should be registered promptly.

- B. The prosecution should establish that she is a married woman, that she is subjected to cruelty and that it was by her husband or his relatives.
- C. The evidence collected particularly the letters, notes, diaries, bank accounts and other material objects should be examined and properly appreciated. All witnesses who are likely to testify to the acts of harassment or cruelty should be promptly examined.
- D. The husband and his relatives should be examined.
- E. The orders governing the arrest and search etc. contained in the Chapter 25 should be scrupulously followed.
- F. Where there are injuries, the procedure prescribed for medical examination and certificate should be complied.
- G. Very often allegation of persistent demands for money or property is made. Normally oral assertions are made and the IO should skillfully, by examining as many witnesses as possible ascertain the correct situation. Such circumstances as the woman being sent away or going away to her parents' place, her disclosures to relatives and friends would be useful evidence.
- H. The cases under this section are cognizable, non-bailable and of warrant procedure triable by a First Class Magistrate and also non-compoundable.
- I. Where reconciliation takes place between wife and husband and the application is made, the High Court u/s 482 CrPC, in exceptional cases, may permit them to compound. But the wife is not permitted to withdraw the charge sheet filed by police.

665. **Immoral Traffic in Women**

- (I) The trafficking in women and abuse of children is a very heinous crime. The prevention of Immoral Traffic Act (PITA), 1956 as modified in 1988 contain various new provisions to effectively deal with the menace of this problem. The very definition of prostitution has been altered and the status of the prostitute more as a victim has been recognised in the modified Act. This Act is more of a human rights legislation intended to protect the interest of the weaker sections such as women and children from abuse. Stringent penal provisions are provided to deal with the exploiters of these people. The modus operandi adopted by the offenders generally consists of tempting young girls from the villages and towns,

promising affluent life, glamour of cities, career in cinema and subsequently landing them in brothel houses. The victims include poor and illiterate persons, those who have domestic and marital problems, widows etc. The other M.O. is recruiting girls on grounds of marriage with rich persons abroad and ultimately their being exploited sexually and used as domestic servants after the formality of a marriage or otherwise. Procuring minor girls and boys has also become serious form of crime. The following instructions should be observed in the investigation of such cases. Wrongful confinement, kidnapping and abduction are some times the accompanying offences along with the offences under PITA.

- (II) In PITA, prostitution is defined as sexual exploitation or abuse of persons for commercial purposes. As per this definition, the prostitution is not confined to only women. Homosexuality is also brought under this definition. Further it includes not only exploitation of one person by another but also abuse of one's own self for commercial purposes. Exploitation or abuse for purposes other than commercial is not covered under this definition.

- (III) Brothel is defined as a place where sexual exploitation for abuse is carried on for the gain of another person or for the mutual gain of two or more prostitutes. Prostitution is not an offence by itself. Section 3 to 9 contains the penal provisions in the Act. In the offences covered by sections 3 to 6 and 9 of PITA, prostitute is a victim and not an accused where as in the offences covered by section 7 and 8, prostitute is an accused. The IO should appreciate these provisions of law clearly in order to ensure correct investigation of cases. Running a brothel or letting premises to a brothel is offence under section 3. Living on the earnings of the prostitute being above the age of 18 years is an offence under section 4. Even husband or adult children can also be accused under this section. Procuring or inducing or taking any person for the sake of prostitution whether the victim accompanies willingly or unwillingly is an offence under section 5.

- (IV) Detaining a person in premises where prostitution is carried on is an offence under section 6. Certain important presumptions are provided in this section for the benefit of prosecution in proving the cases under this section. It shall be presumed that she is detained in place of prostitution if;

- A. a child of the victim is found in a brothel; or
 - B. a minor victim is medically examined and found with sexually transmitted diseases; or
 - C. The jewellery of a victim is in the custody of the management of the brothel.
- (V) Prostitution in the vicinity of a public place is an offence against the prostitute under section 7. A public place is one that is accessible to the public in general. Seducing or soliciting for the purpose of prostitution from any public place or within the site of or to the hearing of any person in any public place, whether from within a building or house, by means of words, gestures or any exposures is an offence under section 8. Seduction of any person when in custody or charge or care of any person in authority is an offence under section 9. The special police officers not below the rank of inspectors appointed by the State Government under this Act are only competent to investigate the offences under this Act falling in their jurisdiction.
- (VI) Searches, for rescue of persons from brothels or to detect offences under this Act, can be carried out only by special police officers without warrant, in the presence of two independent witnesses and one among them shall be woman. Any other officer not below the rank of a Sub-inspector can also- conduct a search for rescue of persons only under the warrant from a competent magistrate. Arrest without warrant may be made by a special police officer or under his direction or subject to his prior approval; a police officer not below the rank of an S.I. may arrest the accused and immediately report to the special police officer.
- (VII) When an offender was prosecuted and convicted for an offence under this Act and again convicted for the second time within a period of 5 years, the IO can file a memo at the time of passing the sentence to the Court requesting the court to notify the address of the convict. At the time of conviction of female offenders found guilty for the offences under section 7 and 8, a trial court may, instead of sentencing them to imprisonment, send them to corrective homes taking in to consideration the character, state of health and mental condition of the offender and other circumstances. The victims of offences under sections 3,

4, 5, 6 and 9 may also make an application to the concerned magistrate for sending them to protective home or a correctional institution. If the magistrate is satisfied, he may make such an order to send them to such places.

(VIII) The area executive magistrate, on information from the police or otherwise that prostitution is being carried on in a house or brothel within 200 meters of any public place as defined in section 7 (1) of the Act, may issue notice to the owner, lessee or occupier of the place to show cause within 7 days as to why that place shall not be attached for improper use and after making due enquiry and after giving opportunity to be heard, may pass an order; A) Directing the eviction of the occupier within 7 days from the date of order and B) also directing the owner to obtain previous approval of the magistrate if the owner wants to let out the premises within one year from the date of order. Similarly a prostitute may also be evicted under section 20.

(IX) The IO should keep in mind the following guidelines in the investigation of cases under this Act.

- A. The rescued women should be examined in great detail, with sympathy and not with derision and hostility. The grip of the procurers would be so strong and possibility of their acceptance in society or family being bleak, they tend not to disclose any details. Hence the IO should first take all steps in coordination with the Advisory Bodies, voluntary Social Welfare Organisations in the field, the Governmental agencies in charge of correctional and Protection homes to give confidence to the women to be able to tell the details of persons who exploited them.
- B. The law is intended to punish those who exploit the women and trade on them and not the victims. The evidence of victims is therefore extremely important.
- C. The names and identity of women is often changed, and hence, the correct identity should be established by gathering information about their native village/town.
- D. The persons doing odd jobs in the brothel or place where the women are kept and used as sex workers would be a useful corroboration.

- E. The chits, papers or bank transactions if any, house owner's title, the rental documents true or false, municipal records, details of previous cases in which the accused may be involved should be collected.
- F. The means of livelihood of the accused should be thoroughly investigated including the adequacy or otherwise of such means to the style of life being led by him.
- G. The circumstances under which the girl has disappeared or left should be brought out clearly.
- H. Medical examination of persons found whether women or minors, male or female should be got conducted.
- I. Where offences under this Act or the Indian Penal Code are part of organised crime, 120B I PC should be added.
- J. Photographic or video graphic evidence whenever possible should be secured during investigation of the cases. The IO should take special care to produce the witnesses and in consultation with the APP/PP ensure the posting of case on a day-to-day basis. It should be remembered that a sense of shame, reluctance and even fear very often prevents the witnesses from deposing either during investigation or trial. Necessary precautions should be taken to prevent undue publicity. For necessary publicity, permission of the concerned court should be taken.

Chapter 30

Drug Trafficking

Introduction

666. Narcotic drugs and psychotropic substances are essential for human being and animals. These are used as basic components in the manufacture of various types of medicines. Different types of medicines whether sedatives, amphetamines or hallucinogens have some form of narcotics or psychotropic substances as their basic component. Narcotic drugs and psychotropic substances, thus, are used for the diagnosis, cure and treatment of various diseases and their prevention in man and animals both. However, the unscrupulous and criminals misuse and abuse of the narcotics and psychotropic substances have created varied health hazards and health problems, and have also triggered off a chain of activities leading to misuse, abuse and smuggling of these substances locally, nationally and internationally. Police as a chief of law enforcement agency are expected to play an effective and efficient role in the area of prevention and detection of misuse, abuse and trafficking of the drugs.

The NDPS Act, Other Acts & Efforts

667. The offences under the Narcotic Drugs and Psychotropic Substances (NDPS) Act 1985 are heinous in nature and directly or indirectly amount to poisoning large number of people to ultimate death. This crime is a serious threat to the life of the victims and poses a danger to society at large. The Police all over the world are fighting this crime. The NDPS Act has replaced the Opium Act and the Dangerous Drugs Act. The Act has provided for deterrent punishment by providing for imprisonment up to 20 years and fine up to Rs. 2 lakhs. Several departments are empowered to deal with these cases including the police. The offences under this Act are cognizable and non-bailable.

668. **Powers, Procedures and the Authorities**

- A. All first class Magistrates and all Gazetted officers of departments empowered to deal with these cases are competent to search any suspected premises either by themselves or issue warrants to persons above the rank of an attender or a constable for search.
- B. In cases of emergency, the persons who are entitled to search by virtue of warrant issued by those Gazetted officers are competent to search even without a warrant but should report searches and seizure if any immediately to such officers competent to issue warrants.
- C. But for the special procedure for investigation provided in the Act, the police have to adopt the same procedure as laid down in Chapter 12 of CrPC.
- D. There are two different procedures for searches and seizures. While the search of premises is to be carried out as laid down above, different procedure is prescribed for search of persons, When a person is to be searched, he must be informed in writing whether he would like to be searched by the police officer conducting the search or in the presence of a Gazetted officer or a Magistrate (section 50). If he opts for taking him to a Gazetted officer or a Magistrate, the person conducting the search can detain him till such time.
- E. Any Gazetted officer or any person entrusted with the warrant by a Gazetted officer or when such person in case of emergency conducts search without warrants, if the above persons are not SHOs, they shall forward the arrested person and the material seized without un-necessary delay to the officer in charge of the nearest police station (section 52) and the officer in charge shall take charge of and keep in safe custody such articles pending the orders of a magistrate (section 55). The arrested person shall be re-arrested and forwarded to the nearest magistrate for remand (section 43 CrPC).
- F. The failure on the part of the officer in charge of the police station to follow the above procedure (order 680-1-5) or refusal to take charge of such person or material will render him liable for punishment up to one year or fine or both (section 59 NDPS Act)

669. Other Important Provisions

- i. Sections 15 to 32 of the NDPS Act lay down the punishments for various offences. Most offences except possession of small quantity for personal consumption are punishable with minimum of 10 years and a maximum of 20 years of imprisonment. Section 27, which deal with possession of small quantity for personal consumption has lesser punishment. The thrust of the Act is on trafficking, which include cultivation, manufacture, transport, export and import of the drugs and their distribution. The Act also provides for forfeiture of property derived from, used in illicit traffic in narcotics for which detailed procedure has been laid down in sections 68-A to 68-Y. Section 52-A permits disposal of seized property after taking an inventor/ and photographs which can be accepted as evidence as they are certified by the concerned Magistrate.

- ii. The most important point to be proved in all cases of narcotic drugs and psychotropic substances is possession of the drug. Any omission or non-compliance with the legal requirements laid down in the search or seizure will vitiate the proceedings and may result in acquittal of the accused. Whether it is transport, distribution or cultivation or manufacture, it is the possession of the drug that has to be proved by the prosecution. Even preparation, attempt, abetment and conspiracy relating to these drugs are also punishable. The Act also provides for enhanced punishments for subsequent offences.

Guidelines of the Narcotics Control Bureau

670. Some of the mandatory provisions and points to be remembered are indicated below:

- I.** A gist of information received should be incorporated in the Police Station records and the same should be intimated to the immediate superior officer and also entered in the Station House general diary. The accused should be informed about the grounds of his arrest as in all other cases of arrest (section 52 CrPC). Report of arrest and seizure should be forwarded to

the immediate superior officer within 48 hours under acknowledgement. All these records are required to be produced in court before trial.

- II.** Since the prosecution has to prove possession of the drugs beyond doubt before any presumption can be raised, it is necessary to follow the guidelines given below in the matter relating to raid or search by the Police Officers.
- III.** All officers deployed for search should carry their Identity Card.
- IV.** There should be a prior planning including survey of the place where the search has to be undertaken. The officer-in-charge of the search should deploy his officers in such a manner that all the entrances/exits are properly guarded.
- V.** All incoming telephone calls should be received by the searching officers only. No person within the premises should be allowed to talk on phone with any person outside.
- VI.** Immediately on entering the premises, the occupants should be instructed not to converse with each other.
- VII.** The searching officers should examine every document and record and decide its worth for purposes of recovery and seizure.
- VIII.** Samples should be drawn as per the procedure prescribed.
- IX.** The documents/records to be seized should be numbered serially and a brief description of the file/records and the period to which it belongs should be mentioned in the Panchnama.
- X.** The statements of the persons concerned should be recorded on the date of search itself lest the party tutor them. For this purpose, a brief and immediate scrutiny of the

records/documents should be done.

- XI. Soon after the commencement of the search the contact telephone number of the party should be given to the officer who is monitoring the search/raid. He should be apprised of the commencement of the search and its progress from time to time and the important material that has come to notice till then. Before withdrawal from the search, as far as possible, clearance from the same officer should be taken unless the search party has already briefed him in this regard.
- XII. All papers including search warrant (executed) and the Panchnama, the initial intelligence and other papers given before proceeding on search should be returned to the person who issued the warrant.
- XIII. Search / Raid party should invariably carry with them a drug identification / testing kit and should also have kit bag containing certain essentials like, screw driver, torch, flash light, mirror, walkie-talkie, binocular, night vision devices, hand cuff, seal, sealing materials, emergency medical kit etc.

Preparation of Panchanama

671. Following points should be noted while recording Panchanama

1. Name, occupation, age and address of Ranch.
2. Time, date and place of proceedings.
3. Reason for search
4. Authority for search
5. Identify yourself by showing Identity Card, mention the same in Panchnama.
6. Mention names of a few other officers included in the search party.
7. Offer personal search of each member
8. Mention presence of the occupants of the premises/person to be searched.
9. Mention description of place to be searched.

10. Give graphic description of the search operation e.g., who opened the suitcase, who had the key, from where the incriminating documents or contraband was recovered, how it was concealed etc.
11. Test drugs with field testing kit and mention results.
12. Mention where and how the weighment of contraband goods was done. Give gross weight, net weight.
13. Mention value of contraband to be seized.
14. Mention number of samples drawn and their weight, what identification marks were given to contraband samples and documents proposed to be seized/taken over.
15. Mention time of conclusion of Panchanama.
16. Offer personal search on conclusion of search before leaving the place of search.
17. Take photographs, finger prints wherever possible.
18. Mention money and valuables given back to the person searched or seal them for handing over later in the court.
19. Seal contraband and exhibits mentioning seal no.
20. Take signature of Panchas, officer writing the Panchanama and the person being searched on tables pasted on contraband, exhibits and documents.
21. Mention provisions of law under which the seizure was done.
22. Mention any important event taking place during search e.g., arrival of more officers or persons etc.
23. Give a copy of Panchnama to the persons searched and obtains receipt from him.

Procedure with Regard to Samples

672. Procedure of drawal, storage, testing and disposal of samples from seized narcotic drugs and psychotropic substances.

1. All illicit narcotic drugs or psychotropic substances recovered from a person, place, conveyance etc. are liable to confiscation (sections 60 to 63 NDPS Act). Further, they constitute important evidence for any act, omission or commission on the part of a person rendering him liable for punishment under Chapter IV of the NDPS Act, 1985. Most of the narcotic drugs and psychotropic substances cannot be conclusively proved to be such drug or substance merely by visual examination in the trial Court and hence the drugs seized should be sent for chemical examination to FSL. The disposal of the confiscated goods should be as per the orders of the court.
2. If the drugs seized are found in packages/containers the same should be serially numbered for purposes of identification. In case the drugs are found in loose form the same should be arranged to be packed in unit container of uniform size and serial numbers should be assigned to each package/container. Besides the serial number, the gross and net weight, particulars of the drug and the date of seizure should invariably be indicated on the packages. In case sufficient space is not available for recording the above information on the package, a Card Board Label, should be affixed with the seal of the seizing officer and the above details should be recorded.
3. Samples from the narcotic drugs and psychotropic substances seized must be drawn at the place of recovery, in duplicate, in the presence of search (Panch) witnesses and the person from whose possession the drug is recovered and a mention to this effect shall invariably be made in the Panchanama drawn on the spot.
4. The quantity to be drawn in each sample for chemical test should be 5 grams in respect of all narcotic drugs and psychotropic substances except in the cases of Opium, Ganja and Charas/Hashish where a quantity of 24 grains in each case is required for chemical test. The same quantities should be taken for the duplicate sample also. The seized drugs in the package/containers should be mixed well to make it homogeneous and representative before the sample in duplicate is drawn.

5. In the case of seizure of a single package/container one sample in duplicate is to be drawn. It is advisable to draw one sample in duplicate from each package/container in case of seizure of more than one package/container.
6. However, when the package/containers seized together are of identical size and weight, bearing identical markings and the contents of each package give identical results on colour test by UN kit, conclusively indicating that the packages are identical in all respects, the packages/container may be carefully bunched in lots of 10 packages/containers. In case of seizure of Ganja and Hashish, the packages/containers may be bunched in lots of 40. For each lot of packages/containers, one sample in duplicate may be drawn.
7. After making such lots, in the case of Hashish and Ganja, if less than 20 packages/containers remain, and in case of other drugs less than 5 packages/containers remain, no bunching would be necessary and no samples need be drawn.
8. If it is 5 or more in case of other drugs and substances and 20 or more in case of Ganja and Hashish, one more sample in duplicate may be drawn for such remaining package/containers.
9. While drawing one sample in duplicate from a particular lot, it must be ensured that representative drug in equal quantity is taken from each package/container of that lot and mixed together to make a composite whole from which the samples are drawn for that lot.

Numbering of Packages/Containers

673. Subject to the detailed procedure of identification of packages/ containers, as indicated, each package/container should be securely sealed and an identification slip pasted/attached on each one of them at such place and in such manner as will avoid easy obliteration of the marks and numbers on the slip. Where more than one sample is drawn, each sample should also be serially numbered and marked as S-1, S-2, S-3 and so on, on both the samples. It should carry the serial number of the packages and marked as P-1, 2, 3, 4 and so on. All samples must be drawn and sealed in the

presence of the accused, search witnesses and seizing officer and all of them shall be required to put their signatures on each sample. The official seal of the seizing officer should also be affixed. If the person, from whose custody the drugs have been recovered, wants to put his own seal on the sample, the same may be allowed on both the samples.

674. **Packaging and Sealing of Samples**

- i.** The sample in duplicate should be kept in neat sealed plastic bags, as it is convenient and safe. The plastic bag container should be kept in paper envelope, properly marked as original or duplicate. Both the envelopes should also bear the S.No. of the package(s) container(s) from which the sample has been drawn. The duplicate envelope containing the sample will also have a reference of the test memo. The seals should be legible. This envelope along with test memos should be kept in another envelope, which should also be sealed and marked "Secret-Drug Sample/Test memo" to be sent to the FSL.
- ii.** All drugs should be properly classified, carefully weighed and samples drawn on the spot of seizure. After sampling, detailed inventory of such packages/containers should be prepared for being enclosed to the Panchanama, Original wrappers must also be preserved for evidentiary purposes.
- iii.** After completion of Panchanama, the drugs should be packed, in heat sealed plastic bags. For bulk quantities of ganja, instead of plastic bags, gunny bags may be utilized. Agencies of the Central and State Government, who are vested with the powers of investigation under the law, specifically designate their godowns for storage purposes.
- iv.** All drugs must invariably be stored in safes and vaults provided with double-locking system. Such godowns, as a matter of rule, be placed under the overall supervision and charge of a Gazetted Officer of the respective enforcement agency, who should exercise utmost care,

circumspection and personal supervision, as far as possible. Such officers should not be below the rank of Superintendent in the Departments of Customs, Central Excise, Directorate of Revenue Intelligence, Narcotics Control Bureau, CBI, BSF, and station house officer/officer in charge of a Police Station. Superintendent of State Excise, MRO, Drug Inspector of Drug Control Department, etc. in the states and enforcement agencies in Union Territories. They will personally be held accountable for safety and security of the drugs. Each seizing officer should deposit the drugs fully packed and sealed with his seal in the godown within 48 hours of seizure of such drugs, with a forwarding memo indicating Crime Number, name(s) of accused, test memo reference, description of drugs in the sealed packages/containers and other goods, if any, drug-wise quantity in each package/container, drug-wise number of packages/containers and total number of all packages/containers.

- v. It will be incumbent upon the Inspecting Officers of the various departments mentioned to make visit to the godowns for ensuring adequate security and safety and for taking measures for timely disposal of drugs. The Inspecting Officers should record their remarks/observations.

- vi. The Heads of respective enforcement agencies (both Central and State Governments) may prescribe such periodical reports and returns, as they may deem fit, to monitor the safe receipt, deposit, storage, accounting and disposal of seized drugs. Since the early disposal of drugs assumes utmost importance, the enforcement agencies should obtain orders for pre-trial disposal of drugs and other articles