

**“CHANGING SCENARIO OF DEALINGS OF POLICE
ADMINISTRATION IN INDIA”**

DISSERTATION

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LIST OF ABBREVIATION

AIR	:	All India Reporters
SCC	:	supreme Court cases
HCC	:	High court cases
SC	:	supreme Court
HC	:	High court
V	:	Versus
e.g.	:	Example
h.m.	:	Home ministry
gov.	:	Government
P.A.	:	Police Administration
i.e.	:	That is
COVID 19	:	corona virus disease 2019
Etc.	:	Et cetera

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CHAPTER 1

INTRODUCTION

In the field of administration, police have an important role to play. In India, Police is the coercive arm of the State, which is entrusted to perform the basic duty of the State that is maintenance of law and order. Therefore, law and order administration has acquired significance at the Central, State, Range, District and Sub-District level in rural and urban areas. Rapid growth of population, industrialization, urbanization, growing political consciousness. led to law and order problems. Agrarian and tribal . revolts, political caste and communal violence, labour and student unrest and terrorism are indications of law and order problems. In all societies, particularly in developing societies, these conflicts and tensions are inevitable and many manifest in different forms. Freedom and independence will not have meaning unless these basic issues are properly attended. In this Unit, an attempt will be made to study the organization of police at various levels; and critical issues that confront the Police Administration.

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.

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1. Role of police in criminal justice system (by S.K.Chaturvedi) (7th edition)

The general dealings of police administration in India can be considered in the following ways:

- (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.

OBJECTIVE OF STUDY

- To study the concept dealings of police administration in India.
- To study the police dealings in early society.
- To study the police dealings in the modern society.
- Police administration reforms to improve its dealings in the changing scenario.
- For understanding the emerging trend of dealings of police administration in India.

SCOPE OF STUDY

This study includes changing scenario of dealings of police administration in India.

It also includes its reforms according to the need of time in society in India to improve its dealings with society.

HYPOTHESIS

The present study has the following hypothesis:

- The government must update the police administration according to the need of time in society.
- The dealings of police administration in India are changing in nature.

RESEARCH METHODOLOGY

The methodology adopted is largely analytical and descriptive. Reliance has been placed largely on secondary sources like books, articles, the lectures and classroom discussions. The study is based on both primary and secondary sources of data.

CHAPTER 2

DEALINGS OF POLICE ADMINISTRATION IN INDIA

2.1 Social Responsibilities of the Police

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 organized 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.

2.2 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.

Senior Police Officer Performing Duties of a Subordinate Officer

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.

2.3 The Inventory of Police Duties, Functions & Jobs

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
Sec (60), Model Police Act 2006
- (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) gash 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 goond and anti-social elements

2.4 Functions, Roles and Duties of Superior Police Officers

The hierarchy of the police organization 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 assist 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

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 advise 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

2. police administration in India (B.P.Saha) (2019)

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.

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. 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

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

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

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.

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.

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.

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.

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.

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

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.

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

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.

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.

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. 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.

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. 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. 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. 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. 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.

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

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 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

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

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.

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.

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

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

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

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.

2.5 Functions, Roles and Duties of Junior Police Officers

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

Officer or as part of some unit of the police organization. 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 coordination 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)

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.

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. 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 without doing the work cannot be treated as a visit. 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. 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.

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. 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.

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.

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.

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.

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.

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.

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.

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.

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

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

4. 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.

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 behavior 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.

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.

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.

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.

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. 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.

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

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 thereby 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 behavior 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.

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 3

POLICE ADMINISTRATION DEALINGS IN INDIA WITH CRIMINAL JUSTICE **SYSTEM**

3.1 Powers & Duties of Investigation

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

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

5 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

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

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

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

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

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

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

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

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

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

6 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.

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.

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.

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. Color drawing will be helpful to distinguish various objects or the features of an object.

Methods of Sketching

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.

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

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.

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

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 invariably 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.

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.

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.

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.

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

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

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.

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.

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.

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.

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 subzones 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 thorough search of all nooks and corners.

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 form 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.

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, woollen 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, fibres, 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 endeavor to bring out the right information from the scientific studies.

3.2 Collection of Evidence

Investigation is a process of connecting the offender to the offence. This is 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

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

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

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.

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.

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.

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

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 defense 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

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

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

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 police officer, it will be treated as a statement u/s 161 Cr.P.C.

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 declaring 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.

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

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

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.

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.

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

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. 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

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 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.

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. 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 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 Articles 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.

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. 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.

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:

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.

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.

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 then 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 facet of evidence by experts and admissibility thereof.

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.

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.

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.

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.

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.

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.

3.3 Identification

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

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.

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

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

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

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

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

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.

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.

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.

CHAPTER 4

POLICE ADMINISTRATION REFORMS TO IMPROVE ITS DEALINGS WITH THE CHANGING SCENARIO

History of Police Reforms in India

This is not to say that this aspect has not been given attention. Both pre and post independence, a number of committees and commissions have been appointed and have deliberated upon various aspects of streamlining the effectiveness of police governance in the country. It all commenced with the 1st Police Commission which was set up soon after the 1857 Mutiny to deliberate upon the regulatory framework for police in the country. Set up in 1860, the recommendations of this Commission resulted in the enactment of the Police Act of 1861-a law that still governs police.

A review of the issues arising from the implementation of the Police Act of 1861 was done in 1902, through the setting up of the 2nd Police Commission. The Commission came out with a detailed report covering various aspects relating to the organization of police force, adequacy of training, strength, pay, the sufficiency of procedure for reporting crime, investigating offences, adequacy of supervision exercised by the Magistracy over the police, the control of the superior officers over the investigation of crime, relation between railway police and district police etc. What is interesting to note is that even way back then, it found the police far from efficient, defective in training and organization, and one which was generally regarded as "corrupt and oppressive."

Post-independence with changing economic, political and social set up in the country, the need to revisit the police governance was felt several times. Post-independence, the first Police Reforms Committee was set up by Kerala in 1959. This was followed by a succession of Police Commissions appointed by different State Governments mainly during sixties and seventies (West Bengal in 1960-61, Punjab in 1961-62, Delhi in 1968, Tamil Nadu in 1971 to name a few). At the Central Government level, a Working Group on Police by the Administrative Reforms Commission was set up in 1966.

7This was followed by the setting up of the Gore Committee on Police Training in 1971 and subsequently the National Police Commission which, between 1977-1981, submitted 8 reports suggesting wide ranging reforms in the existing police set-up and also a Model Police Act. None

7. ref from gore committee 1971

of the major recommendations by the National Police Commission were adopted by any government. This persuaded two former Director General's of Police (DGPs) in 1996 to file a Public Interest Litigation (PIL) in the Supreme Court (Parkas Singh Vs. Union of India) asking the Court to direct governments to implement the NPC recommendations. In the course of the 10 year long case, in 1998 the Court set up the Ribeiro Committee to review action taken to implement the recommendations of the.

While the matter was underway in the SC, in 2000, the Ministry of Home Affairs set up the Padmanabhaiah Committee to examine the requirements of policing in the new millennium. Subsequently, the Malimath Committee on reforms of Criminal Justice System in India was set up in 2003.

4.1 Judicial Intervention-Landmark Judgment on Police Reforms

8In 2006, the Hon^{ble} SC gave a landmark judgment in the Prakash Singh case with seven directions (six for the state government and one for the Union) for setting up of state Security Commission to lay down broad policies and give directions for preventive tasks and service and constituted the Soli Sorabjee Committee which suggested a Model Police Act. The Court directed the setting up of three institutions, namely:

a) State Security Commission which would lay down the broad policies and give directions for the performance of the preventive tasks and service oriented functions of the police;

b) Police Establishment Board comprising the Director General of Police and four other senior officers of the Department which shall decide transfers, postings, promotions and other service related matters of departmental officers and men; and

c) Police Complaints Authority at the district and state levels with a view to inquiring into allegations of serious misconduct by the police personnel.

8. ref from Prakesh Singh v Union of India AIR 2006 SCC 927

Besides, the Court ordered that the Director General of Police shall be selected by the state government from amongst the three senior-most officers of the Department who has been empanelled for promotion to that rank by the UPSC, and that he shall have a prescribed minimum tenure of two years. Police officers on operational duties in the field like the IG Zone, DIG Range, SP i/c District and SHO i/c Police Station would also have a minimum tenure of two years

The Court also ordered the separation of investigating police from the law and order police to ensure speedier investigation, better expertise and improved rapport with the people.

The Union Government was asked to set up a National Security Commission for the selection and placement of heads of Central Police Organizations, upgrading the effectiveness of these forces and improving the service conditions of its personnel.

4.2. Implementation of SC Directions

The Court directed the Union and the States to implement its orders aforesaid orders by the end of 2006. This deadline was subsequently extended till March 31, 2007. The Court opined that its directions would be operational till a model Police Act is prepared by the Central Government and / or the State Government pass the requisite legislations.

Initially, the Court itself monitored compliance of all States and Union Territories. However, in 2008 it set up a three member Monitoring Committee with a two year mandate to examine compliance state by state and report back to it periodically. The Supreme Court also appointed the Justice Thomas Committee which submitted a report in 2010. It expressed “dismay over the total indifference to the issue of reforms in the functioning of Police being exhibited by the States”. Another committee constituted under Justice Verma to examine Amendments to Criminal Law in the context of a gang rape incident in 2012 deplored the lack of implementation of the Court’s seven directions in the Prakash Singh case.

The status of Compliance of Supreme Court’s directions (As on August 1, 2016) is attached as Annexure. Annexure-I shows the states which have passed executive orders and Annexure-II shows states which have passed Acts.

A review of the status of implementation of the SC directions reveals a dismal picture. In what is considered to be bye-passing court the directions, seventeen states (Assam, Bihar, Chhattisgarh,

Gujarat, Haryana, Himachal Pradesh, Karnataka, Kerala, Maharashtra, Meghalaya, Mizoram, Punjab, Rajasthan, Sikkim, Tamilnadu, Tripura, Uttarakhand) passed new laws legitimizing status quo while other states passed merely executive orders. Even Central government has yet to pass the Delhi Police Bill. However, even these are not reflected at the ground level.

In November 2014 the Hon“ble PM unveiled his vision for SMART Police –police which should be strict and sensitive, modern and mobile, alert and accountable, reliable and responsible, techno-savvy and trained.

4.3.Reforms for SMART Police:

Broadly, reforms are needed on three fronts: first improvement in capacity and infrastructure of police forces, second revisiting the constitution of police forces in the country through legislative/ administrative changes, and third technological scaling-up. Within each of these three heads, changes are required at several levels. The section below outlines these below.

a. Boosting capacity and infrastructure:

Boosting infrastructure and capacity of the police forces includes increase in the number of police personnel in the country, improvement in recruitment, training and service conditions including up gradation on one hand and improving the infrastructure, working hours, housing facilities on the other.

Various studies on the police force in the country have revealed that while work pressure and complexities in handling law and order and investigating crime have grown at an enormous pace, manpower growth has not been commensurate. Studies have also shown that often, police personnel need to be deputed as attachments in other superior offices, further reducing manpower for policing. To tackle this problem, there is an urgent requirement to recruit more people. Experts suggest that after 18 years of service, some CAPFs could switch to the Armed Police of the state. This is one way of filling vacancies. Another reform is using technology to supplement manpower. There is a link between vacancies and lack of adequate training facilities. The latter may be one reason preventing state police forces from quickly filling up the posts. To address this, experts suggest that some trained Central Armed Police Forces personnel can be deputed in states. As per the Second Administrative Commission, training needs to be made an

attractive option for the trainers. This can be done through provision of better facilities and attractive allowances. This will attract motivated trainers.

Police, as part of their job profiles, need to constantly interact with the public. This requires the police to be sensitive which can be achieved through attitudinal training. To help the police officers upgrade their skills, refresher courses should be made compulsory and a pre-requisite for promotion. A well trained force would efficiently discharge their duties.

Next, the quality of life of the police force needs special attention. Long working hours reduce motivation to work and increase stress. Section 22 of the Police Act, 1861 states that a police officer is “always on duty”. This creates the problem. Recently, policemen in Karnataka took a mass leave calling for an hour shift. Calls for a shift system has been heard from many quarters. Appreciating this concern, there is a need to stipulate humane working hours for policemen. Some states have already done so. Kerala has introduced eight hour duty system in its Police Act, becoming the first state. Haryana has also gone for the shift system. Such a switch requires more people. It has been estimated that India would need 3, 37,500 people if eight hour shift is introduced. Taking an incremental approach, experts suggest a 12 hour shift can be introduced.

Another facet of a quality life is provision of accommodation. The National Police Commission has recommended that all gazetted and non-gazetted officers need to be provided with family accommodation. In addition, there is a need to provide them with humane living conditions. The 5th Report of the Second Administrative Reforms Commission has supported the need for undertaking major housing construction programmes for them. This would help them give their best to national service.

Next, hard infrastructure needs a total overhaul. To support the policemen, transport and communication facilities need to be expanded and upgraded. To augment forensic support, there is a need to have forensic laboratories in each district or at best at Divisional/Range levels. Experts have pointed to Gujarat as a model in this regard. Ahmadabad has the State Forensic Science Laboratory. In addition, Ahmadabad Junagadh, Rajkot, Surat and Vadodara have regional laboratories with one district laboratory in Valsad. Moreover, 47 mobile laboratories cover the entire State. This is supplemented by the Gujarat Forensic Sciences University and a Directorate of Forensic Science in Gandhinagar.

These measures will ensure adequate and quality policing

b. Legislative reforms:

The legislative changes include, enactment of the organized Crimes Act, a single police act for the country, moving Police to the Concurrent List, declaration of Federal Crimes, measures regarding registration of crimes, statutory backing for the CBI, Commissioner ate system for large areas, revival and strengthening of the beat constable system and some changes in criminal procedure and evidence systems.

With respect to Organized Crimes, India is a signatory to the UN Convention against Transnational Organized Crimes. But as on date, India does not have a central legislation to tackle such crimes. Only Maharashtra has the MCOCA Act which has been adopted by some other states. In times of rising cases of money laundering; arms, drugs and human trafficking; expanding terror networks, etc, there is an urgent need to have a Central law to regulate the same.

It is needless to reiterate that safe and secure environment is a basic need to sustain economic progress of the country. And the first step towards that direction is amending the colonial police regime in the country. The British had enacted the Police Act, 1861 for the entire country. Now, each state has come up with its own laws where basic features differ. Some of these laws have even been challenged in court on grounds of unconstitutionality. This is an anomalous situation. To have uniformity in basic features which are in tune with the present, experts suggest that Article 252 can be relied on to have a single police law if two or more states consent. Based on this, states can adopted their laws as per local situations. In this respect, the Model Police Act was prepared in 2006 which has now been revised to a Model Police Bill 2015.

Another area of concern is the growing threats to internal security, terrorism, Left Wing Extremism due to which policing only by the state without Central support will be difficult. Very often, instances like inter-state disputes, communal riots, clashes between different castes and meal duties demand the services of the Central Armed Police Force. As mentioned above, under the Constitutional framework, police and public order come within the exclusive jurisdiction of the State Government. The duty of the Union Government is to provide armed and Para-military forces when needed and to ensure that the executive power of every state be so exercised as to

ensure compliance with the laws made by Parliament and any existing laws which apply in that state. It is often argued that these challenges will be resolved well if “police” and “public order” are shifted from the State List in the VIIth Schedule of the Constitution to the Concurrent List. This can also be done by amending entry 3 in the Concurrent List formalizing what is actually happening on the ground. The need for inclusion of Public Order in Concurrent list stems from significance of public order for national security, economic development and legitimacy of the state. Generally, the Union Government is unable to intervene in cases of flouting of public order at a state level unless the state seeks assistance. This, it is has been observed, often snowball into a national crisis which then has to be addressed through the extreme emergency provisions. It is therefore argued that by including “Public Order” in the Concurrent List of the Constitution, the Union Government can play a more proactive role in curbing violation of public order at a nascent stage. Another reason supporting the shift of public order to the Concurrent List is the rapid increase in inter-state crimes. Tackling these in the present framework is slightly challenging since all states have varied legal and administrative framework. In light of the rapid growth in internet, communication and mobile technologies, organized crimes and terrorism can be best tackled through a unified legal, administrative and operational framework for the police forces across the nation. This can be accomplished only by empowering the Union Government to also regulate public order.

But this would require a Constitutional Amendment which could be difficult. Instead, the Centre can declare certain crimes as Federal Crimes. What this means is that certain offence which have inter-state or national ramifications should be governed by a new law. As per the report of the Second Administrative Reforms Committee, the State Police as well as the CBI could be given the concurrent jurisdiction over investigation of all such crimes. Their investigation can then be given to a central agency like the NIA or CBI. These crimes could be:

- i.Organized Crime
- ii.Terrorism
- iii.Acts threatening National Security
- iv.Trafficking in arms and human beings
- v.Sedition

- vi. Major crimes with inter-state ramifications
- vii. Assassination of (including attempts on) major public figures
- viii. Serious economic offences

With regard to registration of crimes, there are some concerns. There have been instances where crime figures are kept low in order to portray a crime free image. This is done through concealment of crime. There have also been instances of false and highly exaggerated complaints. Another issue is corruption in registration and non-registration of FIRs. To tide over these issues, experts suggest the introduction of a dual system. While all the complaints will be registered, FIRs will only be registered when the police find a crime has been committed after a preliminary verification. This can be done through an amendment to Section 157 (1) of the Code of Criminal Procedure, 1973 which would then read as follows: "If from information received or otherwise, an officer in charge of a police station, after such preliminary verification as he deems necessary, has reason to suspect the commission of an offence....." Recently, the Supreme Court has directed the police to upload FIRs within 48 hours to bring in more transparency to the system. Though it provides for exceptions to protect sensitive cases and extension in light of practical difficulties, the move if implemented well will bring people closer to the system.

C. Administrative Reforms:

In addition to the legislative changes, there is an urgent need for administrative reforms as well. On the administrative side, changes include separation of investigation from law and order, specialized wings for Social and Cyber Crimes, restricting the police to core functions, setting up authorities as directed by the Supreme Court, strengthening state machinery and linking prosecution with police.

As suggested by the Supreme Court in *Prakash Singh v. Union of India*, "the investigating police shall be separated from the law and order police to ensure speedier investigation, better expertise and improved rapport with the people." It also mentioned that there should be "full coordination" between the two. As per the 6th report of the National Police Commission, such a separation should be restricted to the police station level under the Station House Officer (SHO). Officers above the SHO would be responsible for both investigation and law and order. Implementing this

suggestion would need more human resources but is worth pursuing. For efficient policing, there is a need for the police force to restrict themselves to core functions. A suggested reform is that Excise, Forest, Transport and Food departments need to have their own enforcement wings to relieve the State Police from their routine functions.

5TH Report of the Second Administrative Reforms Commission further suggests that functions like serving court's summons, antecedents and addresses verification for passport applications or job verifications etc. can be outsourced to private agents or government departments. These measures will help in reducing the workload of the police.

Moreover, specialized crimes require a specialized approach and personnel to deal with them. Social crimes like offences related to beggary, prostitution, crimes against women, domestic violence, dowry offences, etc cannot be handled by the traditional daroga. Experts suggest that it needs to be handled by a separate wing with people like students who have graduated in Social Science/Social Work. Another upcoming category of crimes is cyber crimes. In light of its highly complex nature, experts feel that one can recruit students who have done MCA or passed out from an IIT as sub-inspectors/inspectors under the State CID. To prevent detection, they should work in plain clothes. The Supreme Court of India in Prakash Singh v. Union of India outlined some other administrative reforms to reform the police system. As already pointed out, very few states have taken steps to comply with the judgment. In the present times of cooperative federalism, the Centre needs to sit with the states to motivate them to follow the following SC directions:

- i. Like the National Security Guard (NSG) at the Centre, states should set up their own State Security Guard (SSG). Based on the size of the state and gravity of the threat, SSG can range between 100 to 300.
- ii. To tackle international terrorism, Unlawful Activities (Prevention) Act needs to be strengthened.
- iii. A National Counter Terrorism Centre (NCTC) needs to be established.

Presently, prosecution and police are separated at the State level and the same is favoured at the Centre. Integration and coordination of the two is in the best interest of the criminal justice system. This has been recommended by the National Police Commission and the Malimath Committee. Such an approach is not new and is followed in the US and the UK. It is suggested

that at the state level, the Director of Prosecution should be placed under administrative control of the Director General of Police.

d. Technological Scaling:

Technological reforms includes modernization of the control room, fast tracking the Crime and Criminal Tracking Network and System (CCTNS) pushing for National Intelligence Grid (NATGRID) and pushing for incorporation of new technology into policing.

The police force needs to keep pace with changing times. Modernization of the force has become inevitable especially in cyber security, counter-terrorism/insurgency and relying on technology for policing. This calls for more investment especially for modernization and technological up gradation. Further, control rooms need to be upgraded. There is a need to have a unique and integrated emergency number as is present in other parts of the world. To do this, the National Emergency Response System (NERS) of the Ministry of Home Affairs needs to be operational zed. Like Madhya Pradesh which has built DIAL 100 Call Centers for swift response to emergency calls, other states should also adopt a similar system.

To enable police stations to exchange information, they need to be connected through a seamless network. Realizing this need, an ambitious project in the form of Crime and Criminal Tracking Network and System (CCTNS) was sanctioned in 2009. Its main aim was to connect 15,000 police stations and 5000 supervisory police officers. Though the system was to be in place by 2012, the deadline has been extended to 2017. Once it is in place, data exchange would be easier.

Departmentalized investigations sometimes miss the holistic picture. To counter terrorism, a holistic analysis of different facets of the information is necessary. Keeping this in mind, there is a need to push for the NATGRID or National Intelligence Grid. It involves combining 21 sensitive databases into a single one which can be accessed by authorized Central officers from the IB, RAW, CBI, DRI, and ED. Databases included in the grid are banks, credit cards, cell phone usage, immigration records, motor vehicle registration, income tax records. Such a grid will help investigators in understanding the complete profile of a suspect. Recently, there were

news reports about Delhi Police tying up with ISRO, the Indian Space agency, for mapping crimes and predictive policing. The „Crime Mapping Analytics and Predictive System“ uses space technology to tackle internal security threats. Police officials would be equipped with Personal Digital Assistant Devices with stored crime related data for easy access. The system also has provision for converting distress calls into digital messages giving the location using GPS. If such path breaking technology is utilized by Indian police, policing will become effective. Thus, technology needs to be used in modernizing the police force to be able to meet current and future challenges.

The reforms outlined above will pave the way for a robust police system apt to deal with the ever-changing nature of challenges. But the reforms need to be undertaken on a sustained basis to keep the police relevant to the changing needs of the society. An easy starting point for states is to look at the Model Police Bill, 2015 and incorporate similar provisions, adapted to their local conditions, into their state police laws.

4.4. Strengthening the Central Bureau of Investigation:

In addition to the above discussed reforms, one critical area where reform is needed is the Central Bureau of Investigation (CBI). The CBI traces its origin to WWII. It was established in 1941 as the Special Police Establishment, tasked with domestic security. However, it was renamed as the Central Bureau of Administration on the basis of the recommendations of the Sanathanam Committee in 1963. It is interesting to note that the Central Bureau of Investigation at the Centre derives its power from the Delhi Special Police Establishment Act, 1946 and has been created through an executive resolution. Over the years much deliberation has been done on shortcomings of the CBI and the reforms needed. In 1978, a LP Singh Committee was set up which recommended the “enactment of a comprehensive Central Legislation to remove the deficiency of not having a central investigative agency with a self-sufficient statutory charter of duties and functions”. The 19th Report of the Parliamentary Standing Committee in 2007 and the 24th Report of the Parliamentary Committee in 2008 have emphasized on the same. In 2011, a Select Committee of the Rajya Sabha to look into the Lokpal Bill also made suggested drastic

reforms to the CBI in order to ensure its independence. These relate to autonomy, appointment and control over the CBI.

The matter pertaining to autonomy of CBI once again came before the Supreme Court in the Coal Block Allocation matter in 2013. The Court rapped the government for having failed to ensure functional autonomy to the Central Bureau of Investigation and asked the government to “come out with a law to insulate the agency from external influence and intrusion”. Accordingly the then Prime Minister constituted a Group of Ministers (GoM) to consider the matter relating to an appropriate law being made to provide for the independence of the Central Bureau of Investigation (CBI) and its functional autonomy. The GoM recommended that a panel of retired judges would monitor the CBI investigations to prevent external interference. In addition, it also recommended an increase in the financial powers of the CBI Director, and a new mechanism for the appointment of the Director (Prosecution) which is a Law Ministry appointee at present. However, these reforms were heavily criticized on grounds of being merely on-surface changes.

Broadly, the areas where reforms are sought in relation to CBI are as under. Foremost is revisiting the functioning of CBI as a Special Police Establishment under the Delhi Special Police Establishment Act of 1946. This has been discussed in detail by the Padmanabhaiyah Committee in its report. The Second Administrative Reforms Commission report has also expressed concern about the power of CBI to investigate criminal cases only with the consent of State Governments. The Commission has opined that a law should be enacted using the powers of the Union Government under the Constitution to define the constitution of the CBI, its structure and jurisdiction.

The Supreme Court has recently referred to the CBI as a “caged parrot speaking in a master’s voice”. The autonomy to function free from the control of the executive is the need of the hour. In this one suggestion has been to make the CBI accountable to the Lokpal.

4.5. Establishing a Police Commissionerate Setup in Urban Areas:

Urban areas in India have been witnessing rapid growth. As a result challenges for the police in cities have also become immense. In this situation, as recommended by the National Police Commission in the 6th report, a system of Police Commissionerate should be introduced in cities with population of five lakhs and above and places where special conditions like speedy urbanisation, industrialisation, etc. demand it. Here a little background on the rationale for the Commissionerate system would help. Initially, the Commissionerate system was introduced in some metropolitan areas like Calcutta, Mumbai, Hyderabad and Madras. But over the years, it has extended to fast growing cities like Delhi, Gurgaon, Bhubaneswar-Cuttack, Pune, Nagpur, Vishakhapatnam, Ahmadabad, Mysore, Kochi, Trichy to name a few. As compared to police in districts, Police in commissionerates in small areas had given better accounts of themselves as per the 6th Report of the National Police Commission. It noted that changing dynamism and growing complexities of security threats required a swift and prompt response leaving very little time for discussion and debate. It found that having a direct and not a mere supervisory role of a senior police officer in the daily functioning of the police was a great advantage. The Commissioner needs to be a senior, mature police officer with adequate expertise having full authority over the force and functional autonomy. Though resisted, this can be started in urban areas with population of 10 lakhs and above, metropolitan areas and any other notified area as mentioned in the Model Police Bill, 2015.

In the present context, with the Central Government keen on pushing the Smart Cities Mission, a professional and autonomous yet accountable police force is needed. Further, it would be helpful to take inputs related to safety, security and policing needs from the Commissioner of Police while planning any major developmental activity in an urban or metropolitan area as suggested by the Model Police Bill, 2015.

In order to introduce this system, the State or UT Police Act can be amended empowering the state governments or Central Government in a UT to create a Police Commissionerate and empower police officers to exercise powers of the District Magistrate and Executive Magistrate. This can be done on the lines of the Delhi Police Act, 1978 and the Orissa Urban Police Act, 2003.

4.6. Developing Beat Constabulary in Rural Areas:

Another neglected area is the beat constable system. At the All India Director General of Police Conference at Dhordo, Rann of Kutch in 2015, the Prime Minister said that “Police forces should establish strong links with local community and connect with people.” Further, he mentioned about reviving the beat constable system for information collection. In 2009, at the Conference of Chief Ministers on Internal Security, the then Home Minister mentioned “reactivating the beat constable system” as one of the important concerns.

These statements need to be understood in light of the rising internal security challenges as well as terrorist attacks. While there is an active police force as well as specialized agencies to deal with these threats, many feel that there is absence of grass root intelligence. It is here that the Beat Constable system becomes relevant. Under this system, the beat constables have a close association with the community making it easy to get information and also observe any suspicious activities or behavior. In the past, a close link between the police and the community in this system, helped in prevention and investigation. Even the Second Administrative Commission in its 5th Report recommended that the beat constable system be restored. Highlighting its advantages, it noted that the system apart from being an important source of information, gave citizens a sense of security.

At present specialized forces like the Anti-Terrorism Squads and rapid action forces have diluted the role of police stations, Station House Officers and even the beat constable. In present times, where even a small piece of information can help avert a major security attack, it is important to fall back on the beat constable system. Beat patrolling on foot and mobile patrol, equipped with modern equipment is the need of the hour. To be able to make contacts in the community, the beat constables need to be kept on the same beat for 2 years. This will create a powerful first line of intelligence.

The beat constable system can be revived through the legislative route. For example, in the Kerala Police Act, 2011, Section 65 clearly outlines the duties and responsibilities of the beat patrols. These include keeping contact with the Community Contact Committee (comprising of local representatives) and active participants in the community life; reviewing steps to prevent

offences in the beat area; information collection with respect to criminals, terrorists and anti-social elements in the area and communicating it to the relevant officer; observing various people like criminals under special observation in the beat area, people with criminal background and those with a bad character; having an understanding of local disputes which can involve violence in future and giving its details to the relevant officer; mentioning the grievances and complaints of the general public in respect of police, in writing, to the relevant officer and keeping a record of work done during the visit which needs to be submitted to the relevant officer.

In Kerala itself, an earlier project, namely the Janamaithri Suraksha Project had paved the way for „Community Police“ system. Launched in 2008, this project involved policing with the community, understanding the latter’s needs, special problems and prioritizing community security. At the centre of this project is the beat officer who is accessible to the public, understands their needs and interacts with the community closely. House visits by these beat officers are common. This helps them to build link with the community members. To involve the community to give inputs for policing, Community Contact Committee like in the Kerala Police Act, 2011 or Community Liaison Groups under the Model Police Bill, 2015 can be created. These committees or groups consist of local residents to advise the police in respect of their needs. In rural areas, a Village Defense Party can be formed on similar lines as suggested in the Model Police Bill, 2015. Following this model, legislative change backed with such schemes and projects can be introduced in other states.

4.7 IMPORTANT STEPS TO REFORM POLICE

The need for police reforms in India is long recognized. There has been almost three decades of discussion by government created committees and commissions. Way back in 1979 the National Police Commission (NPC) was set up to report on policing and give recommendations for reform. The Commission produced eight reports, dozens of topic specific recommendations and also a Model Police Act. None of the major recommendations were adopted by any government. This persuaded two former Director General’s of Police (DGPs) in 1996 to file a Public Interest Litigation (PIL) in the Supreme Court asking the Court to direct governments to implement the NPC recommendations. In the course of the 10 year long case, in 1998 the Court set up the Ribeiro Committee which handed in its reports in 1999. This was followed by the

Padmanabhaiah Committee report in 2000 and eventually the Police Act Drafting Committee (PADC or Soli Sorabjee Committee) that drafted a new model police bill to replace the colonial 1861 Police Act. Meanwhile very little was ever done on the ground to improve policing or implement recommendations put forth by any of these committees or commissions. It was only a decade later in 2006 that the Court delivered its verdict. In what is popularly referred to as the Prakash Singh case the Supreme Court ordered that reform must take place. The states and union territories were directed to comply with seven binding directives that would kick start reform. These directives pulled together the various strands of improvement generated since 1979. The Court required immediate implementation of its orders either through executive orders or new police legislation.

4.7.1. Why the Directives?

The seven directives provide practical mechanisms to kick-start reform. They make up a scheme which if implemented holistically will correct the common ills that create poor police performance and unaccountable law enforcement today. The scheme puts in place mechanisms to better ensure that: the police have functional responsibility while remaining under the supervision of the political executive; political control of police by the political executive is conditioned and kept within its legitimate bounds; internal management systems are fair and transparent; policing efficiencies are increased in terms of their core functions and most importantly public complaints are addressed and

4.7.2. What are the Directives?

In passing these directives the Court put on record the deep rooted problems of politicization, lack of accountability mechanisms and systemic weaknesses that have resulted in poor all round performance and fomented present public dissatisfaction with policing. The directives can be broadly divided into two categories: those seeking to achieve functional responsibility for the police and those seeking to enhance police accountability. They are as enumerated below: THE DIRECTIVES IN A NUTSHELL Directive One Constitute a State Security Commission (SSC) to:

- (i) Ensure that the state government does not exercise unwarranted influence or pressure on the police
- (ii) Lay down broad policy guideline and

(iii) Evaluate the performance of the state police Directive Two Ensure that the DGP is appointed through merit based transparent process and secure a minimum tenure of two years Directive Three Ensure that other police officers on operational duties (including Superintendents of Police in-charge of a district and Station House Officers in-charge of a police station) are also provided a minimum tenure of two years Directive Four Separate the investigation and law and order functions of the police accountability enhanced.

Directive Five Set up a Police Establishment Board (PEB) to decide transfers, postings, promotions and other service related matters of police officers of and below the rank of Deputy Superintendent of Police and make recommendations on postings and transfers above the rank of Deputy Superintendent of Police Directive Six Set up a Police Complaints Authority (PCA) at state level to inquire into public complaints against police officers of and above the rank of Deputy Superintendent of Police in cases of serious misconduct, including custodial death, grievous hurt, or rape in police custody and at district levels to inquire into public complaints against the police personnel below the rank of Deputy Superintendent of Police in cases of serious misconduct Directive Seven Set up a National Security Commission (NSC) at the union level to prepare a panel for selection and placement of Chiefs of the Central Police Organizations (CPO) with a minimum tenure of two years.

4.7.3. Salient Features of the Directives

1 The State Security Commission

The Problem No presents established meaning in law or conventions in practice that indicate the limits of political ‘supervision’ and ‘control’ over the police. This has lead to unfettered and undue interference by politicians in the everyday functioning of the police, disrupted the authority of supervisory cadres within the force and obscured command responsibility; b) No rationale system for evaluating police performance against a set of pre-determined criteria. The Solution The creation of a State Security Commission made up of both the responsible minister, the leader of the opposition, other elected representatives, experts, and credible members of civil society. Its functions are to lay down policing policy, indicate performance criteria and keep police performance, challenges and its needs under review. The Commission is a means of conditioning and defining the powers of the political executive and police and clarifying each ones sphere of responsibility and accountability. Its composition is designed to ensure

bipartisanship and shield policing from changes in political power by keeping policies more or less constant. Its functions are designed to ensure that the political executive always has ultimate responsibility for providing the public with efficient, honest, unbiased and accountable policing while retaining authority over the police. At present, there is no well-established system of performance evaluation. The commonly used parameters for assessing performance on the basis of increase or decrease in crime statistics are inadequate. This means of measuring performance has led to the practice of refusing to register cases and disguising statistics. The new system opens up the possibility of consistent and holistic evaluation of the police on the basis of pre-determined planning, provisioning and rationalized performance parameters which would pave the road to better and better policing year on year.

2. Selection and Security of Tenure for the DGP

The Problem Arbitrariness in the appointment of the highest ranking police officer, appointments made on considerations of personal preference and posts held at the caprice of the political executive leading to uncertainty of office and tenure.

The Solution the DGP must be selected from amongst the three senior-most officers empanelled by the Union Public Service Commission (UPSC) for the post. The selection will be made on the basis of the candidate's:

- (i) length of service,
- (ii) service record, and
- (iii) Range of experience.

Once recommended on the basis of transparent objective criteria the Chief Minister can choose from amongst the best of the candidates. This way the chosen DGP is assumed to enjoy the trust of the political executive, the police service and the public. It would therefore be anomalous to retain the ability of the executive to remove the head of police at will. Hence the Court has provided for a minimum tenure of two years for the DGP. The grounds for removal prior to the two year period must be in accordance with the laid down law.

3. Security of Tenure for Officers on Operational Duties

The Problem Arbitrary and frequent transfers taking place at the behest of influential third parties. These are done as means to punish and reward and outside rational administrative necessities related to policing requirements. The Solution the Supreme Court directions provide for a minimum tenure of two years for the Inspector General of Police (in charge of a

Zone), the Deputy Inspector General of Police (in charge of a Range), the Superintendent of Police (in charge of a District) and the Station House Officer (in charge of a Police Station). This ensures security of tenure for police officers on operational duties in the field, allows them withstand undue political interference. Further it gives them time to properly understand the needs of their jurisdictions and do justice to their jobs.

4. Separation of Investigation and Law and Order Police

The Problem Investigations are poorly mounted, slow, done by inadequately trained and unspecialized staff and frequently subject to manpower deflection into other pressing law and order duties. The Solution Both investigation and law and order are vital and specific police functions. In order to encourage specialization and upgrade overall performance, the Court has ordered a gradual separation of investigative and law and order wings, starting with towns and urban areas with a population of one million or more. It is felt that this will streamline policing, ensure speedier and more expert investigation and improve rapport with the people. The Court has not said how this separation is to take place in practice but clearly indicates that there must be full coordination between the two wings of the police.

5. Police Establishment Board

The Problem Subjective appointments, transfers and promotions within the police force that lead to influence peddling and patronage on the one hand and uncertainty fear and demotivation on the other. The Solution The Court has directed the setting up of a Police Establishment Board within each police force. The Police Establishment Board, made up of the DGP and four other senior officers of the department will serve the functions of

- (i) deciding all transfers, postings, promotions and other service related matters for police officers of and below the rank of Deputy Superintendent of Police;
- (ii) making recommendations to the state government on postings and transfers of officers above the rank of Deputy Superintendent of Police;
- (iii) being a forum of appeal for disposing of representations from officers of the rank of Superintendent of Police and above and

(iv) Generally, reviewing the functioning of the police in the state. In effect, the Board is intended to bring these crucial service related matters largely under police control. Notably, government's role lies in appointing and managing the senior police leadership, but service

related matters of other ranks should be internal matters. Experience in India shows that this statutory demarcation is absolutely required in order to decrease corruption and undue patronage, given the prevailing illegitimate political interference in decisions regarding police appointments, transfers and promotions.

6. Police Complaints Authority

The Problem There is an embedded public perception that there is too much wrong doing by the police and too little accountability, remedy or recompense for victims of abuse of power and criminal behavior. Internal inquiries are lengthy, opaque and do not in general command public confidence. **The Solution** the Court has directed the creation of a new mechanism - a Police Complaints Authority to be established at both state and the district levels. Their mandate is to look into public complaints against police officers in cases of serious misconduct. The state level Authority will inquire into cases of serious misconduct including incidents involving

- (i) death,
- (ii) grievous hurt, or
- (iii) Rape in police custody.

- (iv) Extortion;
- (iv) land/house grabbing; and
- (v) Any incident involving serious abuse of authority by police officers of and up to the rank of Deputy Superintendent of Police.

Membership in the authorities must be a full time occupation; the members should be provided suitable remuneration; the Authority can use the assistance of regular staff to conduct field inquiries; and the recommendations of the Authority for any action, both disciplinary and criminal, shall be binding. In practice, this implies that the inquiry conducted by the Authority replaces the internal disciplinary inquiry. Once the inquiry is completed, the Authority can recommend a suitable disciplinary punishment to the appointing authority, which will be bound by it. The Authority can also recommend the registration of a FIR against the erring police officer.

7. State Compliance: National Overview

It has been four years since the Court passed its directives. However there is not a single state that has fully complied with the directives. The Court is still hearing the matter and the Monitoring Committee still examining the state's compliance. Clearly there is little political will to bring in the much needed reform. In November 2010, as per the findings of Justice Thomas Committee on state compliance, the Court pulled up the states and sent show cause notices to the Chief Secretaries of four states- Karnataka, Maharashtra, Uttar Pradesh and West Bengal.

This overview of compliance is based on affidavits submitted by states to the Court and thereafter to the Monitoring Committee and on executive orders or legislation passed by states that have been put up on state and police websites. It does not take account of the actual situation on the ground which is very different from what governments have averred on paper. It is disappointing to note that even today states are issuing government orders and notifications in compliance with the directives on the eve of the Monitoring Committee's visit to the states. Every reform attempt is clearly to avoid the scrutiny of the Court or the Monitoring Committee. Given below is a graphic representation of the compliance status of all states based on the information in their affidavits and submissions.

7.1. Compliance with Directive 1: State Security Commission

No state has managed to fulfill all the criteria prescribed by the Supreme Court with regards to the State Security Commission. Most states have set up SSCs that do not reflect the Court's criteria with regard to composition, function and powers. States such as Andhra Pradesh, Jammu & Kashmir, Madhya Pradesh, Orissa and Tamil Nadu are in complete non compliance with this directive. After being summoned by the Supreme Court in December 2010, which took exception to the fact that none of the states had implemented its directions in both 'letter and spirit', Uttar Pradesh constituted a State Security Commission by government order. West Bengal, which had also come in for criticism by the Court for including the Health Minister of the State as the Chairman of the Commission, replaced the former with the Chief Minister. Though a commission had been constituted in Karnataka in 2009, it was not fully operational and had not conducted even a single meeting. In light of the Court's summons, the state has swung

into action and has scheduled the first meeting of the Commission on December 14, 2010 and formalized the appointment of two retired High Court Judges as members.

7.2. Compliance with Directive 2: Tenure and Selection of the DGP

Arunachal Pradesh, Meghalaya, Mizoram, and Nagaland are the only states that have adopted the Supreme Court's prescribed criteria with regard to selection, tenure and removal of the DGP. A few states have only partially incorporated these criteria, whilst several states, such as Andhra Pradesh, Haryana, Jharkhand, Karnataka and Kerala, are not compliant with this directive

7.3. Compliance with Directive 3: Tenure of Officers on Operational Duties

Andhra Pradesh, Madhya Pradesh and the north-eastern states of Arunachal Pradesh, Meghalaya, Manipur, Mizoram, and Nagaland are in full compliance with this directive which provides for a fixed tenure for officers on operational duties. While a few states have partially satisfied the criteria set by the Supreme Court, it is notable that majority are not in compliance with this directive.

7.4. Compliance with Directive 4: Separation of Investigation and Law & Order Functions

Several states – Assam, Arunachal Pradesh, Haryana, Himachal Pradesh, Karnataka, and Sikkim have complied with the Supreme Court's directive to separate the law and order police with the investigation police. However a majority of states have not fully implemented this directive.

7.5. Compliance with Directive 5: Police Establishment Board

Most states have established a Police Establishment Board, but only Arunachal Pradesh and Goa are in full compliance with all the Court's stipulated criteria in this regard. In contrast Bihar is the only state which has taken no steps towards complying with this directive.

7.6. Compliance with Directive 6: Police Complaints Authority

No state government has established Police Complaints Authorities at both district and state level that fully comply with the Supreme Court's orders. The vast majority of states have established Authorities which only partially comply with the Court's directive in terms of composition, mandate and powers. A significant minority of states – Uttar Pradesh, Tamil Nadu, Punjab, Mizoram, Madhya Pradesh, Karnataka, Jammu & Kashmir, and Andhra Pradesh have completely ignored this directive.

7.7. Compliance with Directive 6: Police Complaints Authority

Fully Compliant Partially Compliant Non Compliant No state government has established Police Complaints Authorities at both district and state level that fully comply with the Supreme Court's orders. The vast majority of states have established Authorities which only partially comply with the Court's directive in terms of composition, mandate and powers. A significant minority of states – Uttar Pradesh, Tamil Nadu, Punjab, Mizoram, Madhya Pradesh, Karnataka, Jammu & Kashmir, and Andhra Pradesh have completely ignored this directive.

7. Union Territories Compliance

In March 2010, four years after the Apex Court judgment, the Union Government finally took some steps towards implementing the Supreme Court's directives. The Ministry of Home Affairs (MHA) issued two memoranda, the first setting up a single Security Commission to cover all the Union Territories (UTs), and the second setting up Police Complaints Authorities (PCAs). The proposed model for the Security Commission suggests that there would be one SSC for all the UTs. The composition is not along the lines suggested by the Court, powers are not binding and no credible process for the selection of its members has been laid out. In fact the model is weak, defeating the entire purpose of setting it up. Regards the Complaints Authority, a single authority is envisioned for looking into the complaints from Daman & Diu, Dadra & Nagar Haveli, and Lakshadweep; another to handle Andaman & Nicobar Islands, Chandigarh and Pondicherry and a third Authority set up at the state level would look into complaints in Delhi. Unfortunately, eight months after the passage of the memorandum save in Chandigarh these authorities have nowhere been set up. Chandigarh in September 2010 set up its three- member Complaints

Authority. Unfortunately the same was done without following either the composition or selection process as laid down by the Court.

8. Compliance Watchdog: The Monitoring Committee

In May 2008 the Supreme Court set up the three- member Monitoring Committee to look at the implementation of the Court's directives by the Governments. The committee is headed by Justice K.T. Thomas- a retired judge of the Supreme Court, Mr. Kamal Kumar a retired IPS officer and Mr. Dharmendra Sharma- Joint Secretary of Police Modernization.

Every six months, the Committee was to submit compliance reports to the Court. Between October 2008 and December 2009 the Committee filed four interim reports before the Court and in August 2010, the Committee submitted its final comprehensive report to the Court. The Committee examined all the available documents, including the affidavits filed by the central and state governments before the Supreme Court. It also decided to take stock of the New Police Acts legislated by some of the states, in order to review whether or not they conformed to the Supreme Court guidelines. Unsatisfied with the level of compliance as well as the attempts of the states to comply only on paper, the Committee felt the need to look into the ground realities. However, considering that it would be impossible for it to visit all the States and UTs, it decided to visit four states of Maharashtra (West Zone), Uttar Pradesh (North Zone), Karnataka (South Zone) and West Bengal (East Zone)- all of which in the Committee's assessment were defaulters besides being populous. Based on the report of the Committee the Apex Court at its hearing on 8 November 2010, took serious note of the lack of compliance and issued notices to the four errant states of Maharashtra, Uttar Pradesh, West Bengal and Karnataka asking their Chief Secretaries to appear before the Court at the next hearing to clarify as to why the six directions given in its order of September, 2006, have not been complied with. The Court has stated that it does not want its judgment to lie in the courtroom and has also asked for a timeline from these states for the separation of investigation from law and order duties of the police.

9. In the High Courts

In several instances, High Courts have played a vital role in monitoring state compliance by ensuring that states function in accordance with the Supreme Court directives. 751 police personnel, posted in various places in Uttar Pradesh had petitioned the Allahabad High Court challenging their transfer, saying the same had not been effected by the Police Establishment Board set up by the State government in pursuance of the Supreme Court directive in the Prakash Singh case. The state government in response stated that getting approval for every transfer from the Establishment Board was not possible “looking at the strength of the police personnel in the state”. Allowing the petition, the Court in October 2010 set aside the transfers of hundreds of police personnel across the State on the grounds that they were illegal as “they were not in consonance with the judgment of the Supreme Court”.

In its October 8 judgment in 2010, the Madras High Court had similarly quashed the appointment of Letika Saran as DGP of Tamil Nadu on the grounds that the Supreme Court guidelines in the Prakash Singh judgment which lay down the process of selection of the DGP had not been followed. The Court directed the State government to forward the names of all eligible officers in the rank of DGP to the UPSC in order for them to prepare the panel of officers for selection. Once the UPSC had forwarded the panel the state government was to select the new DGP no later than December 7, 2010. The state government however chose to appeal the order of the High Court before the Apex Court. The Apex Court has refused to stay the order of the High Court thus giving the message to states that its time to start complying with the orders passed in the Prakash Singh case. In line with the ruling of the Supreme Court in the Prakash Singh case, Andhra Pradesh High Court in November 2010 ordered the state government to involve the UPSC while appointing the DGP. The court made it mandatory for the state to fill the post only after a list of all eligible DG rank officers had been sent to the UPSC which would then shortlist three for final selection by the state government, thereby making the process more transparent.

10. New Police Legislation

It is widely accepted that it is untenable to continue to police the citizens of India under the Police Act of 1861, which was drafted by the colonial authorities close on the heels of the first War of Indian Independence in 1857

The National Police Commission in its 8th and concluding report of 1981, submitted a new Police Bill for India. Thereafter in 2005 the Ministry of Home Affairs constituted the Police Act Drafting Committee (PADC) to draft a Model Police Bill for India. Very shortly after the Supreme Court delivered its judgment, the PADC submitted its draft Model Police Bill, 2006 to the Home Ministry. This draft bill was also circulated among all state governments. The Model Police Bill complements the Supreme Court judgment in that it provides the detailed nuts and bolts through which the directions of the Supreme Court can be most effectively implemented. The Union Home Minister had stated that the Union Government would enact the new law for police in union territories in the 2007 budget session of Parliament. It was hoped that state governments would enact their own police legislation whilst drawing on the best elements from the PADC's Model Police Bill, the NPC's Model Police Bill and the Supreme Court directives on police reform. This however never happened and almost four years after the Supreme Court judgment as well as the Model Police Bill being submitted to the union government and union territories still have no new Police Act.

11. Public Input into Legislative Reform

Till date, only eleven states have enacted fresh Police Acts to replace the old legislation and two states have amended their earlier laws on the subject to accommodate the new directives of the Court². The UT of Chandigarh has chosen to adopt the Punjab Police Act. Six states have completed the drafting of new police legislations or tabled bills in the assembly.³ Two states are currently in the process of drafting.

However, important to note is the complete lack of transparency, community consultation or civil society input in this process by most states. A noteworthy exception is Kerala which after tabling its Bill in the legislature referred it to a 10 member Select Committee. The Select Committee has taken upon itself the task of going to each district and inviting public feedback on the Bill. It has drafted a questionnaire on the Bill which has been put up on its website.

Responses to the questionnaire have been invited and should hopefully be considered by the Committee before placing its report in the Assembly.

Communities are the main beneficiaries of good policing and the main victims of bad policing – community and civil society participation in the process is essential if the police is going to be efficient, effective and accountable.

State governments therefore need to publicize their initiative to redraft police legislation. This will ensure that the legislation adequately reflects the needs and aspirations of the people in relation to the police service they want. This can be done by various means including:

- Inviting public and civil society participation in drafting committees
- Inviting public submissions on the type of police service communities would want
- Inviting input from police at all levels about the type of service they want to be part of.
- Ensuring that draft that go before the state assemblies and Parliament is in the public domain and made available for comment under proactive disclosure provisions in section 4(1)(c) of the Right to Information Act.

CHAPTER 5

EMERGING TREND OF DEALINGS OF POLICE ADMINISTRATION IN INDIA

In India now the dealings of police administration has been emerged to the some very crucial trends such as :

A: Dealings of police administration with security of police itself in India.

B : Dealings of police administration with pandemics e.g. COVID 19 in India.

5.1 DEALINGS OF POLICE ADMINISTRATION WITH SECURITY OF POLICE ITSELF IN INDIA

Now as the emerging trend came as to the threat to the police itself as we came across the knowledge of a group of lawyers attacked on police at saket court in Delhi in November 2019. This attack on police give rise to the question that how the police administration to deal with security of itself in India.

9Thousands of police personnel protested outside the Police Headquarters in Delhi to demand action against those involved in an attack on their colleague outside the Saket court, the unprecedented scenes of police protest leading their chief Amulya Patnaik urging them to resume duty.

The tension between police personnel and lawyers had been building up since November 2019 when a clash over a parking dispute led to at least 20 security personnel and several advocates being injured.

The original dispute -- over who had rights to a particular Delhi parking spot -- escalated in November 2019 with lawyers setting fire to a police van and other vehicles as officers ransacked lawyers' chambers.

9. ref from Times Now article

Three lawyers were shot, media reports said, as police used batons on lawyers. At least 30 people were hurt.

Video footage emerged showing a fully-robed lawyer punching and slapping a policeman on a motorbike, prompting Tuesday's protest.

"We want justice. We also have human rights, the guilty lawyers must be punished severely," one of the protesting policemen told reporters.

After seeing such a problem the home ministry as ordered for judicial inquiry in such a situation.

After the directions from the home ministry, police administration has stopped their protest and get back to their work.

The judicial inquiry has come with the report with following issues:

- (a) The security of police administration must not be threatened as it is not good for our society.
- (b) The police administration must make some important guidelines for their security purpose so that security of police cannot be threatened.
- (c) The central gov. and the state government must assure for police administration safety.
- (d) The spread of awareness for security among the police official by the police administration in India.

5.2 DEALINGS OF POLICE ADMINISTRATION WITH PANDEMICS IN INDIA

From the march 2020 we came across the new dealings of police administration in India i.e. with pandemic named COVID 19 across the country.

Corona virus disease 2019 (COVID-19) is an infectious disease caused by severe acute respiratory syndrome corona virus 2(SARS). It was first identified in December 2019 in Wuhan, China, and has since spread globally, resulting in an ongoing pandemic. As of 20 May 2020, more than 4.89 million cases have been reported across 188 countries and territories, resulting in more than 323,000 deaths. More than 1.68 million people have recovered.

Common symptoms include fever, cough, fatigue, shortness of breath, and loss of smell and taste. While the majority of cases result in mild symptoms, some progress to acute respiratory distress syndrome (ARDS) likely precipitated by cytokine storm, multi-organ failure, septic shock, and blood clots. The time from exposure to onset of symptoms is typically around five days but may range from two to fourteen days.

The virus is primarily spread between people during close contact,[a] most often via small droplets produced by coughing,[b] sneezing, and talking. The droplets usually fall to the ground or onto surfaces rather than travelling through air over long distances. Less commonly, people may become infected by touching a contaminated surface and then touching their face. It is most contagious during the first three days after the onset of symptoms, although spread is possible before symptoms appear, and from people who do not show symptoms. The standard method of diagnosis is by real-time reverse transcription polymerase chain reaction from a nasopharyngeal swab. Chest CT imaging may also be helpful for diagnosis in individuals where there is a high suspicion of infection based on symptoms and risk factors; however, guidelines do not recommend using CT imaging for routine screening.

The first case of the COVID-19 pandemic in India was reported on 30 January 2020, originating from China. As of 21 May 2020, the Ministry of Health and Family Welfare have confirmed a total of 112,359 cases, 45,300 recoveries (including 1 migration) and 3,435 deaths in the country. India currently has the fourth largest number of confirmed cases in Asia with number of cases breaching the 100,000 mark on 19 May 2020. The highest single day surge in new cases was recorded on 20 May 2020, when 5,611 cases were reported. India's case fatality rate is relatively lower at 3.09%, against the global 6.63% as of 20 May 2020. Five cities account for around half

of all reported cases in the country – Mumbai, Delhi, Ahmedabad, Chennai and Pune. As of 20 May 2020, two regions, Sikkim and Lakshadweep have not reported a case

10 The police administration in India has played a very great role in controlling the pandemic COVID 19 in India.

The police administration dealings with pandemic i.e. COVID 19 can be considered as the following:

- (a) Police administration help in controlling the pandemic.
- (b) Police helped in the enforcing the rules and regulations made by central government and state government.
- (c) Police gives security to all the warriors of COVID 19 like doctors etc.
- (d) Police administration is also dealing with crimes situation in society during this pandemic period.
- (e) Management for border seal by police administration in India.
- (f) Management for the food supplies to all the sections of the society during the lockdown period .
- (g) Many police official have given their life for the protection of the people in the society across the country.
- (h) Police administration has helped a lot for ensuring the medical assistance to all the victims of pandemic in the country.

From the senior police officials to the junior police officials all were taking in charge of their duties to fight against the pandemic to safe the society.

The dealings of police administration in India with COVID 19 has been appreciated by the all the people across the country.

This proved that the police administration must always be prepared to deal with the pandemics to safe the society in future also.

10. Home Ministry guidelines for police administration in India 2020

CHAPTER 6

CONCLUSION

From the above study we can conclude that the police administration seems to work very effectively and deal with the all the situations in our country.

Police have an important role to play. In India, Police is the coercive arm of the State, which is entrusted to perform the basic duty of the State that is maintenance of law and order. Therefore, law and order administration has acquired significance at the Central, State, Range, District and Sub-District level in rural and urban areas. Rapid growth of population, industrialization, urbanization, growing political consciousness led to law and order problems. Political caste and communal violence, labour and student unrest and terrorism are indications of law and order problems. In all societies, particularly in developing societies, these conflicts and tensions are inevitable and many manifest in different forms. Freedom and independence will not have meaning unless these basic issues are properly attended. In this Unit, an attempt will be made to study the organization of police at various levels; and critical issues that confront the Police Administration. Update in the police administration becomes necessary to deal with changing situations in the country.

Thus, we can see that in the changing scenario of dealings of police administration in India is very effective.

SUGGESTIONS

The above study has the following suggestions to improve the dealings of police administration in the changing scenario in India:

- Security of the police officials must be assured so that police administration can easily deal with all the situations in the country.

- Like equipments and instruments, the dress of the police officials should be improved according to the need of the time.

e.g. special dress to deal with pandemic situations in the country.

- Certain guidelines must be made by the government to respect towards the police administration.

- Reforms in the police administration are must from time to time.

- Proper training must be there for the police officials to deal with all problems in any situation.

- Proper study must be there for the changing scenario in the country.

- Proper vigilance is required to watch over every dealings of police administration by the governments and judiciary for their effective work.

BIBLIOGRAPHY

REFERENCES:

PRIMARY SOURECES

- Role of police in criminal justice system (by S.K.Chaturvedi) (7th edition).
- Police administration in India (B.P.Saha) (2019)
- Home ministry guidelines for police administration in India 2020.

SECONDARY SOURCES

- Times now article
- Indian express website.