

# A Critical Analysis of Crime Investigating System in India

Abrina Yaqoob

LL.M, Chandigarh University, Mohali, Punjab, India

## How to cite this paper:

Abrina Yaqoob  
"A Critical Analysis of Crime Investigating System in India" Published in International Journal of Trend in Scientific Research and Development (ijtsrd), ISSN: 2456-6470, Volume-3 | Issue-4, June 2019, pp.181-184, URL: <https://www.ijtsrd.com/papers/ijtsrd23675.pdf>



IJTSRD23675

## ABSTRACT

The police in one country are the instrument for enforcing the Rule of Law, they are the means by which civilised society maintains order that people may live safely in their homes and go freely about their lawful business. Thus police is the law enforcement agency whose fundamental duty is to serve mankind and safeguard peoples live and property, to protect the innocent against deception, the weak against oppression or intimidation, peaceful against violence and disorder and to respect constitutional rights of all men to liberty, equality and justice. A police force is constituted body of persons empowered by state to enforce the law, to protect people and property and to prevent crime and civil disorder.

Copyright © 2019 by author(s) and International Journal of Trend in Scientific Research and Development Journal. This is an Open Access article distributed under the terms of the Creative Commons Attribution License (CC BY 4.0) (<http://creativecommons.org/licenses/by/4.0>)



## INTRODUCTION

The policof the state in comprehensive sense, embraces its whole system of internal regulation by which the state seeks not only to preserve the public order and to prevent offences against the state, but also to establish for the intercourse of citizen to citizen. The word 'police' is derived from the Greek word 'Politeia' or its latin equivalent 'politia' which means "civil administration<sup>1</sup>." The term 'Police' connotes a body of servants whose primary duties are preservation of order, prevention and detection of crimes and enforcement of law. In india the great ancient law giver Manu emphasised the need of police force for maintenance of law and order. He suggested that police functions could be entrusted to only those who were well acquainted with the local people and were dedicated to the cause of protection of society against law violators.

Though it can be traced that in india police prevailed in the reigns of hindu rulers and in mughal rulers but the british government enacted the codified police law and as a result the police act, 1861 for india. This act had been prevailed for whole of india as bible for police organisation until the state police acts were prepared after the Supreme Court of India gave directivs in Prakash Singh and others v. Union of India<sup>2</sup>.

After the enactment of act v of 1861 various praposals were made at different intervals for the formation of detective wing. Therefore the recommendation was made by the police commission in the year 1902-03 to form the criminal Investigation Department (CID) for each province. The recommendation was made that there should be deputy inspector General of police who is having a duty to collect the information regarding the organised crimes. The CID would also investigate the crimes in which technical expert is used. The recommendations made by the commission was taken into serious note by the government of India and on 21 march 1905 issued instruction to start the department in every province by 1907 thus under c.w.c plowden the first CID came into existence in bengal in ist april 1906. The application of scientific methods and techniques to matter under investigation is also significant which can be traced from the history also. Therefore if we see the use of forensic science in investgating the crime it is not new here. During the 19th century the use of science was used in tackling the criminals<sup>3</sup>.

## ROLE OF POLICE IN INVESTIGATION

The primary responsibilities of police are to protect life, libert and property of citizens. It is for the protection of these rights that criminal justice system has been constitutive assigning important responsibilities to the police. They have various duties to perform the most among them being maintenance of law and order and investigation of offences. Therefore in the criminal justice system the police play the important role of investgation. "Investigation" includes all the proceedings under this code for the collection of evidence conducted by a police officer or by any person (other than a magistrate) who is authorized by a magistrate in this behalf<sup>4</sup>.

Investigation is a preliminary stage conducted by the police usually starts afte the record of first information report (F. I. R) in the police station<sup>5</sup>.when the police comes to know of the commission of the crime they will start the criminal investigation. Under section 2clause(h) of the criminal procedure code 1973,"Investigation" includes all the proceedings under the code for the collection of evidence conducted by the police officer or by any person (other than a magistrate) who is authorised by a magistrate. According to the views of supreme court the investigation of an offence mainly consists of; the proceedings on the spot of crime, facts and situation of the case, finding and arresting of the suspected offenders, search of evidences such as the search of places and things which are essential for the investigation and the interrogation of various persons along with the

accused. After that the accused is placed before a magistrate and a charge-sheet is prepared under section 173 of the criminal procedure code 1973.

The main motive of investigation is to collect evidence and apprehend the culprits. It is the duty of everyone concerned to assist the police in their work. The police can question any person supposed to be acquainted with the facts and circumstances of the case, and any such person shall be bound to answer truly all questions relating to such case. A witness may, however, avoid giving those answers which will expose him to any criminal charge<sup>6</sup>. The police may write down the answer orally given by the witness. The witness has neither to give answers in writing nor sign those recorded by the police<sup>7</sup>. In Investigation, a police officer can call in writing a person to be witness who appears to have some knowledge of the crime being investigated and who is within the Jurisdiction of such police officer or in an adjoining police station<sup>8</sup>. The witness so called has to appear before the police officer, but a woman or a child below 15 years of age cannot be required by the police officer for such investigation to go to any place other than their own residence. A witness appearing in police investigation may take help of a lawyer in answering written question put to him /her<sup>9</sup>.

In the police Act 1861, section 23 provides that it shall be duty of every police officer to collect and communicate intelligence affecting the public nuisance; to detect and bring offender to justice and to apprehend all persons whom he is legally authorised to apprehend and for whose apprehension sufficient ground exists. The criminal procedure code classified the crime as cognizable and non-cognizable. Sec 2(1) clause (c) defines the cognizable and non cognizable offences.

"cognizable offences" means an offence for which, and cognizable case means a case in which, a police officer may in accordance with the first schedule or under any other law for the time being in force, arrest without warrant defined under section 2(c) of the criminal procedure code, 1973 And according to section 2(1) "Non cognizable offences" means an offence, for which, and "Non cognizable case means a case in which, a police officer has a no authority to arrest without warrant. A cognizable offence may be investigated by an officer in charge of a police station without the order of a magistrate <sup>10</sup>. while in the case of non cognizable offences the police have no power to investigate without the order of a magistrate having power to try such cas or commit the same for trial<sup>11</sup>.

Every information relating to the commission of a cognizable offence if given orally to an officer-in-charge of a police station shall be reduced to a writing by him or under his direction, and be read over to the informant, and every such information when reduced to writing as aforesaid, shall be signed by informant, and the substance thereof shall be entered in a prescribed book known as station diary<sup>12</sup>. A copy of the information as recorded under sub section (1) shall be given forth with, free of cost, to the informan<sup>13</sup>.

### FIRST INFORMATION REPORT

Under section 154, the statement which is recorded of tge information usually mentioned in first information report (F. I. R) The principal object of first information report is to set the criminal law in motion. The first information report

means an information recorded by a police officer on duty given either by the aggrieved person or any other person to the commission of an alleged offence. The police commences it's investigation on the basis of first information report. Section 154 of the code of criminal procedure 1973 defines as to what amounts to first information

### The said section reads as under:-

Information in cognizable cases

(1) every information relating to the commission of a cognizable offence, if given orally to an officer-in-charge of a police station, shall be reduced to writing by hm or under his direction, and be read over to the informant; and ever such information, whether given in writing or reduced ti writing as aforesaid shall be signed by the person giving it, and the substance thereof shall be entered in a book to be kept by such oficer in such form as the state government may prescribe in this behalf<sup>14</sup>.

### MISCONDUCT OR ILLEGAL ACTION BY THE POLICE

Now-a-days custodial torture has become a common phenomenon and a routine police practice of interrogation these days. Though there is no specific and separate protection against torture. Accused is beaten or starved or tortured in many ways during the course of investigation by the police. Development human rights demand that this is a dangerous practice and should be eliminated. There is a huge gap between rate at which crime are committed and F. I. R's are lodged, public complaints are not addressed properly and there is always delay in FIR. Quality of investigating standards is deteriorating work load is also one of the major reason for inefficiency of police. There is delay in justice in india due to conventional meyhoda of investigation. Third degree torture is usually assumed to be a shortcut method of investigation by the police due to hierarchical pressures<sup>15</sup>.

The primary duty of police officials is to serve mankind, to prevent crime, to uphold and protect human rights and to investigate and detect and activate the prosecution of offences, to curb public disorder, to deal with major and minor crisis and help those who are in distress. But it is often seen that while discharging official duties, police officials do not undertake their responsibilities in a proper way and abuse their power for personal or official gain. They break their social contract and indulge in various unscrupulous activities. Such illegal action or inappropriate action can be defined as police misconduct. These improper actions by police officials or use of excessive power than that is reasonably necessary lead to miscarriage of justice, discrimination and involve obstruction of justice. Though the goals and objectives of police are noble but they have been criticized and condemned for committing acts which are just contrary and this is because the powers given to them to fulfill their social responsibilities are capable of being abused by them to trample the constitutional rights of the community<sup>16</sup>. If we see the misconduct of police the first thing comes in our minds are corruption and other forms of police crimes. As these issues are really very serious. Now-a-days we can see that people are more afraid of the law enforcement agencies than anyone else. As they violate tge human rights to the extent with which no other agency violated it <sup>17</sup>.

It is strange that a democratic country such as India does not trust one of the most important administration organs of its elected government – the police. The ruling elite and middle

class citizens see them as political decoys and blame politicians for not letting the police play their rightful roles in the society. The lower income classes, of course, feel intimidated by them and in constant fear of their convenient authority. It follows that there is a grim lack of understanding about the nature and functions of the police in the country. The problems of the Indian police which run as deep as the design, structure, culture and leadership remain hidden<sup>18</sup>. The case of State of UP v Ram Sagar Yadav was central to the 113th report of the Law Commission of India which discussed the issue of injuries in police custody. though there is no specific and separate protection against torture during the course of investigation by the police. However In D.K Basu v/s State of West Bengal, [(1997) 1 SCC 416; AIR 1997 SC 610] the Court has laid down detailed guidelines to be followed by the police at the time of arrest and detention.

“(1) The police personnel carrying out the arrest and handling the interrogation of the arrestee should bear accurate, visible and clear identification and name tags with their designations. The particulars of all such police personnel who handle interrogation of the arrestee must be recorded in a register.

(2) That the police officer carrying out the arrest of the arrestee shall prepare a memo of arrest at the time of arrest and such memo shall be attested by at least one witness, who may be either a member of the family of the arrestee or a respectable person of the locality from where the arrest is made. It shall also be counter signed by the arrestee and shall contain the time and date of arrest.

(3) A person who has been arrested or detained and is being held in custody in a police station or interrogation center or other lock-up, shall be entitled to have one friend or relative or other person known to him or having interest in his welfare being informed, as soon as practicable, that he has been arrested and is being detained at the particular place, unless the attesting witness of the memo of arrest is himself such a friend or a relative of the arrestee.

(4) The time, place of arrest and venue of custody of an arrestee must be notified by the police where the next friend or relative of the arrestee lives outside the district or town through the Legal Aid Organization in the District and the police station of the area concerned telegraphically within a period of 8 to 12 hours after the arrest.

(5) The person arrested must be made aware of this right to have someone informed of his arrest or detention as soon as he is put under arrest or is detained.

(6) An entry must be made in the diary at the place of detention regarding the arrest of the person which shall also disclose the name of the next friend of the person who has been informed of the arrest and the names and particulars of the, police officials in whose custody the arrestee is.

(7) The arrestee should, where he so requests, be also examined at the time of his arrest and major and minor injuries, if any present on his/her body, must be recorded at that time. The “Inspection Memo” must be signed both by the arrestee and the police officer effecting the arrest and its copy provided to the arrestee.

(8) The arrestee should be subjected to medical examination by a trained doctor every 48 hours during his detention in custody by a doctor on the panel of approved doctors appointed by Director, Health Services of the concerned state or union territory. Director, Health Services should prepare such a panel for all tehsils and districts as well.

(9) Copies of all the documents including the memo of arrest, referred to above, should be sent to the Magistrate for his record.

(10) The arrestee may be permitted to meet his lawyer during interrogation, though not throughout the interrogation.

(11) A police control room should be provided at all district and state headquarters, where information regarding the arrest and the place of custody of the arrestee shall be communicated by the officer causing the arrest, within 12 hours of effecting the arrest and at the police control room it should be displayed on conspicuous notice board<sup>19</sup>.

In Kishore Singh v State of Rajasthan, the Supreme Court showed its deep concern regarding the police atrocities in the following words “No police life style which relies more of fists than wits and on torture more than on culture can control crime because it means boomerang on ends and re-fuel the vice which it seeks to extinguish.

#### CONCLUSION

The criminal justice system and in particular, the police have remained unchanged for the last 140 years. There has been no difference in the behavioural aspect of police personnel either. Police personnel see themselves as rulers and guardians of the state, emphasizing order maintenance rather than service to the people. India is a nation where bureaucrats of every rank indulge in notorious dealings undaunted by the police, the so called enforcers of law and order, because these officials are practised in the art of bribery and influence. The criminalisation of politics has affected police performance more than that of any other State institution.

While there are numerous provisions in the Constitution of India along with other laws, most of these provisions are not implemented. It is usually the poor and deprived sections of the society who are victims of custodial crimes and police atrocities. “Poor people regard the police as agents of oppression, not protection. Over and over again, poor people said that justice and police protection are only for rich businesses, rich people and those with connections.” As the law stands at present, there is no special provision as to the burden proof where injuries were received by a person in police custody.

#### REFERENCES

- [1] N. V. Paranjape, Criminology & penology with Victimology, 39(CLP,15th edn, 2011).
- [2] (2006)8 SCC 1
- [3] Taken from [www.cid.westbengal.gov.in](http://www.cid.westbengal.gov.in) by a message from "DGP Shri V. V. Thambi, Director General of police, CID, west Bengal" as visited on April 9, 2019.
- [4] section 2(H) of the CRPC, 1973

- [5] Section 154 of CRPC, 1973
- [6] Section 161 of CRPC.
- [7] Ibid.
- [8] Section 160 of CRPC.
- [9] Section 160 Proviso.
- [10] Section 156(1) of CRPC.
- [11] Section 155 CRPC.
- [12] Section 154(15)CrPc.
- [13] Section 154(2)Crpc.
- [14] Section 154Crpc.1973
- [15] Arvind Verma, the Indian Police A Critical Evolution(Daya Books 2005).
- [16] available at <https://blog.ipleaders.in/remedies-illegal-police-action/amp/>
- [17] Policing and Society:An International Research For Journal and policy", available at [www.tangfonline.com](http://www.tangfonline.com) as visited on march 31,2019
- [18] Dr.Deepa Singh,HumN Rights And Police Predicament(The Bright Law House, Delhi, 2002)
- [19] D.K Basu v/s State of West Bengal, [(1997) 1 SCC 416; AIR 1997 SC 610].

