



ROLE OF POLICE IN INVESTIGATING CRIMES

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ABSTRACT

The police play a crucial role and are an important part of criminal justice system. They have to maintain peace and enforcement of law and order within its territorial jurisdiction. Police as a law enforcement agency has a fundamental duty to safeguard the rights of the people. The traditional function of the police was to deal with criminal in action but now they have been involved in various other functions like control of crowd, civilian defence, licensing regulations etc. Police has assumed the role of a social service organisation in the modern welfare states and has no longer remained a mere watch-dog agency. The most important function of the police is to investigate any complaint that is reported in their station. The investigation includes recording statements of witnesses and collecting all the evidences related to the case.

Criminal investigation commences when the police come to know of the commission of a crime or have suspicion that a crime may be committed if they do not act on their part to stop it at preparatory stage. With a view to perform their duties in efficient manner the police have to associate with public and seek their cooperation. One of the major difficulties that arise mainly in investigation process by police agencies is lack of social support to police agencies. The people are generally of the opinion that supporting police in crime detection would lead to harassment at the instance of police officials. Police carry a very low profile in the eyes of general public and a general distrust exist between them. The police role to curb crime depends on its investigation process. Police investigations have to be conducted in accordance with law and with full respect for human rights.

There is a need to improve the police image and credibility in the society. Further, police investigations have to be conducted in accordance with law and with full respect for human rights. The members of the society should realise that it is their social as well as moral obligation to help police in suppression of crimes.

The researcher aims to highlight the various issues as to what are the functions of the police. The emphasis would be laid down upon how investigation of crime being carried down by the police. So, the benefits and significance of study are quite obvious as to the role of police in the community and their relations with the community and how they perform as an important functionary of the justice system.

INTRODUCTION

A police force is a constituted body of persons empowered by the state to enforce the law, protect property, and limit civil disorder. The police are the officers of the state who have the task of the investigation of crime. Indeed, they see it as central to their job, even though, in reality, non-investigative work takes up most of their time.

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In criminal justice system the law enforcement role of police and the powers of the police to stop and search people describe the investigation system of the police. The object of stop and search is to find stolen goods or prohibited items (drugs or weapons) or to check for items connected with terrorism etc. Stopping and searching generates evidences of crimes sufficient to justify an arrest.

The ideal purpose of the police in a community can be best described in the following words which spell out the duties of law enforcement officers as laid down in the International Code of Enforcement Ethics:

“As a law enforcement officer, my fundamental duty is to serve mankind; to safeguard lives and property; to protect the innocent against deception, the weak against oppression or intimidation, and the peaceful against violence and disorder; and to respect constitutional rights of all men to liberty, equality and justice.”²

FUNCTIONS OF THE POLICE

The traditional function of the police which is still important is to deal with criminal in action. This function requires detection and investigation of crime, arrest of the offenders and the collection of evidence against those who are prosecuted in courts of law.

Another purpose of the police is to effect prevention of crime and enforcement of other wide variety of regulations which are not concerned directly with the criminal such as-automobile traffic, enforcement of sanitation and licensing regulations, control of crowds, civilian defense etc.³

DEVELOPMENT OF POLICE ORGANISATION IN INDIA

Police force, of some kind or the other, has always been present in civilized societies. In India it dates back to very ancient times. In old epics like Ramayana and Mahabharata there are references to police organizations. Manu, the great law-giver of India, has mentioned role of police and its administration to be entrusted to only those persons who had the knowledge of local people and the region for efficient enforcement of law and order.

In India, two distinct police systems for rural and urban areas have been observed since time immemorial. The imperial governments maintained an elaborate police system in the cities and towns where *Kotwals* used to be head of the police administration. In 1972, Lord Cornwallis introduced new police force, post of *Darogas* created in every district. Then came the *Collectorate* system where the responsibility of law and order was assumed by the collector, but the mechanics of police administration was entrusted to a specific department called the police department and it is still the basic structure of the police in the country.

The enacting of two basic criminal codes i.e. Indian Penal Code and Criminal Procedure Code in the 1860's, it was imperative to have a police code for implementation of criminal

² Andrew Sanders and Mandy Burton, Criminal Justice, Oxford University Press, 4th Edition, 2010

³ Police in a Developing Society (Osmania University Publication 1972)



law in the country. Therefore, a Police Commission was appointed in 1860 and Police Act was passed in 1861. The police organization even today rests largely on the policy laid down in the Act of 1861.⁴

PRESENT POLICE STRUCTURE AND ORGANISATION IN INDIA

Under the Constitution of India, police is a state subject and only residuary powers have been vested in the Centre. The items “police” and “public order” are specifically included in the state list. Though the centre if desires, can intervene in the law and order problems of states in certain situations. The centre has the duty to protect states from internal disturbances.⁵

Classification and Stratification

The police are classified in 2 categories - Armed and unarmed police wings. They are further divided into a number of categories according to their status in the hierarchy. At the top in every state there is the Inspector-General followed by a number of Deputy inspectors-general and other officers down to the constable.

INVESTIGATION AND PROSECUTION

Criminal investigation commences when the police come to know of the commission of a crime. The Code of Criminal Procedure classifies crime in two groups - cognizable offences and non-cognizable offences. Cognizable offences are generally heinous offences like murder, rape, kidnapping, etc. whereas non-cognizable offences are not serious offences. In case of cognizable offences the police have power to start investigation without the orders of the magistrate, while in non-cognizable offences the investigation is started on the orders of the magistrate. It is also provided by the law that the police can arrest a person for the commission of a cognizable crime without a warrant issued by the court, but cannot do so in a case of non-cognizable crime. Information given to a police officer with regard to the commission of a cognizable crime should be in writing and this report whether it is in writing or given oral is called the First Information Report. The First Information Report is a very important piece of evidence and its object is to start the investigation of a case.

Having regard to the importance of FIR, police officers tend to be extra careful in preparing it, any negligence in making out this report is the “most heinous sin a policemen can commit”. But it has been found that the policemen misuse their power while recording the FIR and even change it according to the circumstances of each individual case. The other important function of the police is the prosecution of the offender. In the conduct of prosecution the duty of the police is to place all the relevant material before the court. It is not their duty to seek conviction only, but to see that justice is done.⁶

Difficulties of the police

The work of investigation involves a visit to the location of the crime by the investigating officer, recording of the testimony, making of arrest wherever possible and desirable, with the

⁴ The Police and Political Development in India (Princeton University Press 1969)

⁵ M.A. Qadri, Police and Law - A Social Legal Analysis, (Gulshan Publications, Srinagar 1986)

⁶ Alakh K. Sinha, Thirty-two Years in the Police and After (1952)



object of launching prosecution in a court of law. The job of investigation, quite tough and challenging as such, is rendered even more difficult in Indian conditions. The difficulties are mainly due to three factors: inadequate investigating staff, lack of scientific and technical personnel and equipment and, the most important of all factors, lack of social support to police agencies.

The investigating officers have to devote time to other kinds of routine work also and, as has been seen earlier, their number is also not very large in view of the large population within their areas and the variety of problems in the set-up. This leaves the investigating officers with very little time for actual detective work. The delay in the investigation may prove fatal in quite a few cases.

Very few cities in India have been provided with forensic laboratories, with the result that sometimes the relevant objects are to be sent over long distances for expert analysis and report. In many police stations, there is no equipment to deal with fingerprints or to take photographs of various objects committed with a crime.

The problem created by a lack of cooperation with the police by the people is the most serious one and of great complexity and, therefore requires to be examined in depth⁷:

- 1) People in India are generally not willing to testify against their friends, relatives or neighbors.
- 2) The relationship between the police and the public being somewhat strained, the people are ordinarily scared of police and would like to avoid any contact with them.
- 3) There is a universal tendency among people to keep away from the problems of others.
- 4) People are scared of retaliation from those against whom they testify.
- 5) People are inhibited in coming forward with evidence before the police because a witness has to face all sorts of hardships while appearing in court.

Difficulties regarding procedure and evidence

There are some problems faced by the police flowing out of certain provisions of the Criminal Procedure Code (Cr.PC) and the Indian Evidence Act. Under the Criminal Procedure Code it is required that whenever the police enter any premises for the purpose of search and seizure, they must be accompanied by at least two respectable inhabitants of the locality. Since it is not always possible to find two respectable persons willing to associate with the police for the purpose, the police find themselves in difficult position. Then there is the provision in Cr.PC which bans the use of any statement made by a person to a police officer in the course of investigation at any inquiry or trial in respect of any offence under investigation at the time when such statement was made.

⁷ Committee on Reforms of Criminal Justice System, Govt. Of India, Ministry of Home Affairs, Report Volume 1, March 2003



The Evidence Act contains some provisions which are meant to protect persons suspected of crimes from police brutalities. A confession made to a police officer is not admissible as evidence in a court of law.

Record of police performance

There are two standards which are generally applied to test the efficiency of police. One is to see the number of arrests made by the police for the offences coming to their knowledge and the other is the rate of conviction for the cases brought by the police to the courts of law. The “clearance by arrest” test depends upon the “clearance by conviction” because the conviction of an accused person provides that the police case has been vindicated beyond any reasonable doubt under the prescribed law and procedure. Yet the efficiency of the police as manifested through arrests and convictions is not the only factor to be considered in evaluating the quality of police work.

POLICE TORTURE

The problem of police violence on suspected offenders and others is of almost universal nature. The concern regarding the problem was one of the reasons leading to provisions against torture and inhuman and degrading treatment and punishments in Magna Carta and Constitutions of USA and many other countries of the world. Article 5 of the Declaration of Human Rights incorporated the right of protection against torture and the same has been sought to be achieved through the Declaration of the Fifth United Nations Congress held in the year 1975. Though there is no specific and separate protection in the Indian Constitution against torture, the combined effect of rights against self incrimination and of life and liberty is too evident.

In *Sunil Batra v. Delhi Administration*⁸, the Supreme Court did not find itself handicapped by the absence of a special provision against torture in the Constitution and gathered support from Articles 14 and 19 in holding against the permissibility of torture vis-à-vis persons suspected and accused of crimes. In *Ragbir Singh v. State of Haryana*⁹, where the violence employed by the police to extract a confession resulted in the death of a person suspected of theft, the Court observed “that the torture and trauma is violative of citizen’s rights to the extent that function of the police is to protect the society and not to commit gruesome offences.” In *Kishore Singh Ravinder Dev v. State of Rajasthan*¹⁰, the Supreme Court expressed its unhappiness over the use of torture by police.

Misuse of powers by the police

*State of U.P. v. Ram Sagar Yadav*¹¹ is a really pathetic case indicative of the extreme limits to which police violence and high-handedness may extend. The victim made a complaint against a policeman who had demanded a bribe from him. He was arrested for his ‘audacity’ and shortly afterwards, while in police custody, was found in a serious condition with 19

⁸ AIR 1980 SC 1579

⁹ AIR 1984 SC 1796

¹⁰ AIR 1981 SC 625

¹¹ AIR 1985 SC 416



injuries on his body eventually causing his death. The respondent-policeman was convicted of culpable homicide not amounting to murder under the second part of Section 304, Indian Penal Code and was awarded seven years of rigorous imprisonment. The High Court set aside both the conviction and sentence. The Supreme Court affirmed the conviction and sentence expressing regret at the same time that the Trial judge did not find the policeman guilty of murder as the facts proved. The apex court further observed “Police officers alone, and none else, can give evidence as regards the circumstances, in which a person in their custody comes to receive injuries while in their custody. The persons on whom atrocities are perpetrated by the police in the sanctum sanctorum of the police station are left without any evidence to prove who the offenders are.”

In *Gauri Shankar Sharma v. State of U.P*¹², a police officer trying to rescue his colleague by giving evidence favourable to the accused policeman. The Supreme Court observed “the offence is of serious nature aggravated by the fact that it was committed by a person who is supposed to protect the citizens and not misuse his uniform and authority to brutally assault them while in his custody. Death in police custody must be seriously viewed for otherwise we will help take a stride in the direction of police raj. It must be curbed with a heavy hand. The punishment should be such as would deter others from indulging in such behavior. There can be no room for leniency.”

THE POLICE POINT OF VIEW

The police complain that the public and politicians see only the dark spots of police enforcement. No one bothers to understand the severe limitations within which a policeman has to operate, the hard work which he has to put in with bad service conditions and poor emoluments, and the emotional strains caused by being up against criminals and bad characters all the time without adequate public sympathy and support.¹³

One of the most serious grievances of the police in India is the political interference with their work and there is certainly a lot of substance in it. The political interference is manifested in appointments, transfers and promotions of police personnel which affect their initiative and efficiency.¹⁴

The National Police Commission in its second report pointed out that oral orders to policeman and their transfers from one place to another were the instruments of pressure exerted by the politicians and the government executives. Some typical situations or matters identified by the commission are where pressure is brought are:

- 1) The arrest or non-arrest of a person against whom investigation is carried out by the police.
- 2) Deliberately getting a person handcuffed in police custody merely to humiliate him.
- 3) Release or non-release on bail after arrest.

¹² AIR 1990 SC 709

¹³ “Emotional Hazard of Police Work”, paper presented before the Academy of Police Science (New York City 1969)

¹⁴ “What makes a policeman go wrong?” (1962) 53 No. 1 Journal of Criminal Law, Criminology and Police Science



- 4) Suppression of material evidence that becomes available during searches by police.
- 5) Inclusion or non-inclusion of various items in the charge-sheet placed in court on conclusion of investigation.
- 6) Posting or Non-posting of police force in an area of apprehended trouble to create an effect to the advantage of one party or the other.
- 7) Taking persons into preventive custody to immobilize them from legitimate political activity in opposition to the party in power.
- 8) Fostering false criminal cases against political functionaries for achieving political ends.
- 9) Discriminatory enforcement of law while dealing with public order situations with emphasis on severity and ruthlessness in regard to persons opposed to the ruling party.
- 10) Managing police intervention by exaggerating a non-cognizable offence or engineering a false complaint to gain advantage over another party in a situation which will be outside the domain of police action in the normal course.
- 11) Preparation of malicious and tendentious intelligence reports to facilitate action against an opponent.

MALIMATH COMMITTEE REPORT¹⁵

With the increase in crime in the society and the State's endeavor to control it in an effective way, the Government of India, Ministry of Home Affairs, constituted a committee on reforms of criminal justice system to examine its working and suggest ways and means to improve the whole system of criminal justice administration. The committee was headed by Justice V.S. Malimath, a former Chief Justice of Karnataka and Kerala High Court. The committee examined in detail the two main systems of criminal justice i.e. adversarial system and inquisitorial system. The committee suggested that some of the good points can be adopted in present system to make it more effective. This may include assigning a pro-active role to the judges, to give directions to the investigating officers and the prosecution. The committee has suggested certain far-reaching changes in various sections of the Code of Criminal Procedure such as:

Police Investigation

The committee has dealt with this important area of administration of criminal justice. There is a need to improve the police image and credibility. Following changes were suggested:

- a) The investigating wing should be separated from the law and other wing.
- b) There should be a Security Commission at National and State level as recommended by the National Police Commission.
- c) In each district a separate police superintendent should be made responsible for collection and dissemination of criminal intelligence.

¹⁵ Committee on Reforms of Criminal Justice System, Govt. Of India, Ministry of Home Affairs, Report Volume 1, March 2003



THE POLICE AND THE INVESTIGATION OF CRIME

A *criminal* investigation refers to the process of collecting information (or evidence) about a crime in order to: (1) determine if a crime has been committed; (2) identify the perpetrator; (3) apprehend the perpetrator; and (4) provide evidence to support a conviction in court. If the first three objectives are successfully attained, then the crime can be said to be solved. Several other outcomes such as recovering stolen property, deterring individuals from engaging in criminal behaviours, and satisfying crime victims have also been associated with the process.

Investigation is basically an art of unearthing the truth for the purpose of successful detection and prosecution. In the words of the Supreme Court (in *H.N. Rishbud v/s State of Delhi*¹⁶) the investigation generally consists of the following steps:

1. Proceeding to the spot
2. Ascertainment of the facts and circumstances of the case
3. Discovery and arrest of the suspected offender
4. Collection of evidence relating to the commission of the offence which may consist of the examination of: a) various persons (including accused) and the reduction of statements into writing, if the officer thinks fit; b) the search of places and seizure of things considered necessary for the investigation and to be produced at the trial
5. Formation of the opinion as to whether on the materials collected, there is a case to place the accused before a Magistrate for trial and, if so, taking the necessary steps for the same for the filing of a charge sheet u/s 173 Cr.PC.

When investigating crime, the main choice of strategies has been presented as between reactive and proactive policing.

The reactive approach involves the police in responding to public calls for help. It has the advantages that the police operate openly and in response to real public demand and with the consent of the public. When not answering calls, the police are expected to be patrolling openly to deter wrongdoing. The police have traditionally approached policing in this way, and it is important to realize that most crime is reported by, and detected on the basis of information from, members of the public. The police are heavily dependent on public cooperation - it is far more important than any legal powers to detect crime. But it has been pointed out that the strategy, especially patrolling, is very inefficient - the police rarely bump into criminals who are on their way home from a burglary.

The proactive approach involves building up pictures of threats to the peace and potential criminality through the targeting of potential criminals and the surveillance of them. Intelligence is vital so that threats can be identified and appropriate counter-measures taken. But this information may or may not come from the general public. Rather, this form of policing tends to involve specialist squads (e.g. drugs and fraud squads) who are reliant on the analysis of crime patterns and information from informants. The dangers with this form of

¹⁶ AIR 1955 SC 196; 1955 SCJ 283



policing are that it is secretive and so less accountable and that the targets will be selected out of prejudice.

In reality, both forms of policing are practiced at the same time and there is a compromise between them. On the one hand, patrolling and reactive policing is felt to have limited impact against serious or professional crime which must be the target of proactive policing. On the other hand, public tranquility and reassurance are important goals which can be addressed by strategies such as visible patrols.

Role of Police in India and its power to investigate

The word ‘investigation’ has been defined in section 2(b) of the Criminal Procedure Code as: All the proceedings under the Code for the collection of evidence by a police officer or by any other person (other than a Magistrate) who is authorized by the Magistrate in this behalf.

According to the preamble of Police Act, 1861, “the police officer is an instrument for the prevention and detection of crime. If any person is in trouble or he is having threat to his life he always remembers the protector of our rights i.e. police. The overall administration of the police is vested in hands of the state. Police department comes under the control of home ministry of the state. The head of the overall police department in the state is Director-General of police and in every district it vests with District-superintendent of police, whereas in cities or metropolitan areas it is the commissioner of police who takes charge of overall administration. Police department plays an important role in maintaining peace and order. They derive the power to investigate from Criminal Procedure Code.

The power of investigation by police may start:

- Where FIR is given under section 154 Cr.PC; or
- Where the police officer has otherwise reason to suspect the commission of a cognizable offence [S. 157(1) & 156(1) Cr.PC] or
- Where a competent Magistrate orders the police under Section 156(3) without taking cognizance of the offence on a complaint under section 200.
- After taking cognizance of the offence on a complaint for the purpose of deciding as to the issue of process against the accused. [S.202(1) & S.203 Cr.PC]

Power to investigate in cases of non-cognizable offences: S.155 (2) Cr.PC

A magistrate under certain circumstances can also order a police officer in charge of a police station to investigate a cognizable or even a non- cognizable case. Where a Magistrate under section 155(2) gives an order to a police officer to investigate a non-cognizable offence, the police officer receiving such order may exercise the same powers in respect of the investigation except the power to arrest without warrant which he do in a cognizable case.

Procedure to investigate in case of a cognizable offence: S. 156 Cr.PC



In case of cognizable offences, the investigation is initiated by the giving of information under section 154 Cr.PC to a police officer in charge of a police station. Police officer's power to investigate in a cognizable offence is given under section 156 Cr.PC. Any police officer without the order of a magistrate can investigate any cognizable case. According to section 156(3) Cr.PC any magistrate empowered under section 190 Cr.PC can order a police officer in charge of a police station to investigate any cognizable offence. Section 190 empowers magistrate to take cognizance upon receiving any complaint or upon police report (challan) or upon information received from any person other than police officer who is having knowledge that such offence is committed. In case of *Tula Ram v Kishore Singh*¹⁷ a magistrate can order investigation under section 156(3) only at the pre-cognizance stage.

Procedure for investigation: S. 157 Cr.PC

If a reasonable suspicion of the commission of cognizable offence exists, the Police officer shall forthwith send the copy of report to the magistrate who is empowered to take cognizance of such offence upon a police report. Herein the basis for suspension may be FIR received under S.154 or any other information of the police.

It was held in case of *State of Maharashtra v Sarangdharsingh Shivdassingh Chavan*¹⁸ that "Even without any FIR if a police officer in charge of a police station has reason to suspect the commission of cognizable offence, he can proceed to investigate the offence under section 157(1)."

Power of police to require attendance of witnesses:

According to section 160, police officer may by order in writing require attendance of witnesses. Provided that no male person under the age of 50 years or above 65 years or a woman or a mentally or physically disabled shall be required to attend at any place other than the place in which such person abovementioned resides.

Examination of witnesses by police:

As per section 161 Cr.PC statements are taken from the person who are acquainted with the facts and circumstances of the case and are reduced into writing.

By the amendment act 2013 it was stated that the statement of a woman against whom an offence under S. 354, S. 354-A, 354-B, 354-C, 354-D or section 376, 376-A, 376-B, 376-C, 376-D, 376-E or Section 509 is alleged to have been committed or attempted shall be recorded by a woman police officer.

Power to submit charge sheet after completing investigation under section 173:

Police submits charge sheet after completion of investigation. It consists of FIR copy, statement of complainant/ informant, statement of witness, panchas, panchnama, dying declaration, recovery of articles, etc.

¹⁷ AIR 1977 SC 2401

¹⁸ (2011) 1 SCC 577



Other powers of police under Cr.PC:

- Medical examination of the victim of rape
- Search by police officer
- Police seeks police custody under section 167 when investigation is not completed within 24 hours. Police custody is given maximum up to 15 days. This is called as police custody.
- The magistrate may authorize the detention of the accused person otherwise than in the custody of police beyond the period of 15 days, if he is satisfied that adequate grounds exist but the detention should not exceed 90 days where the investigation relates to an offence punishable with death, life imprisonment, or 10 years imprisonment and detention should also not exceed 60 days in case of other offences.
- On the expiry of said period of 90 days or 60 days the accused shall be released on bail if he is prepared to and does furnish bail.
- Police can release the accused when evidence is deficient as per section 169 Cr.PC.
- Police power to inquire and report on suicide is given in section 174

CRIME SCENE VISITATION

Investigation involves several stages and the crime scene visitation is one of the most important of them, excluding perhaps, white-collar crimes. Recognizing this need, the Police Manuals in most of the States have mandated immediate dispatch of an officer to the scene of crime for inspecting it, preserving the evidence and preparing the site plan etc. Such inspection of scene crimes should be done by a team consisting of forensic scientist, finger print experts, crime photographer, legal advisor etc. and not just by a single investigating officer.

In the National Seminar on “Forensic Science”: Use and Application in Investigation and Prosecution” held on 27 July, 2002, at Hyderabad held under the auspicious of this Committee, in which Judges, senior police officers, senior forensic scientists and Medical Jurists had participated, the forensic scientists lamented that their services were not being utilized for crime scene visitation as a result of which valuable forensic evidence is being lost. In this context, the Committee¹⁹ is of the opinion that:

1. The scene of crime must be visited by the investigating officer with utmost dispatch; \
2. The IO must photograph/video graphs the scene of crime from all possible angles or get it done by an expert;

¹⁹ Committee on Reforms of Criminal Justice System, Govt. Of India, Ministry of Home Affairs, Report Volume 1, March 2003



3. He should preserve the scene of crime so that no evidence is lost due to disturbance by the inmates of house or curious onlookers, including VIPs;
4. The Investigating Officer should either prepare the sketch or plan of the scene of crime himself or get it done by a Patwari or an expert, if deemed fit;
5. The investigating officer should take along-with him a Forensic Scientist and Finger Print Expert or any expert of the relevant discipline to collect physical evidence from the scene of crime. If it is, somehow, not possible due to exigencies of the situation, the Investigating Officer should preserve the scene of crime and immediately requisition the services of forensic experts for the above purpose.

USE OF EXPERTS IN INVESTIGATION

Investigation of crime is a highly specialized and complex matter, requiring a lot of expertise, patience and training. Given the complexity of crime, it is not possible for the police officers themselves to understand various facets of crime and conduct competent investigations all by themselves. They would need help of experts from various disciplines such as Auditing, Computer Sciences, Banking, Engineering, Revenue services and so on. The Committee²⁰ feels that a pool of competent officers from the above disciplines should be created at each Police Headquarters to render assistance in investigation of crimes all over the State. The State Governments may either second these officers from their parent departments to the Police Department; on a tenure basis or a cadre of such officers may be created in the Police Departments themselves.

CONCLUSION

In the Criminal Justice System the police play the role of investigating the case in the initial stage. The most important function of the police is to investigate any complaint that is reported in their station. The investigation includes recording statements of witnesses and collecting all the evidences related to the case. On the basis of the investigation, the police file a charge sheet in the court if they are convinced of the guilt of the accused person. The police do not have the authority to decide whether a person is guilty or innocent.

Police investigations have to be conducted in accordance with law and with full respect for human rights. The Supreme Court has laid down guidelines that the police must follow at the time of arrest, detention and interrogation. The police are not allowed to torture or beat or shoot anyone during investigation. They cannot inflict any form of punishment on a person even for petty offences. Article 22 of the Constitution of India guarantees certain fundamental rights to arrested persons. Supreme Court laid down guidelines in D.K. Basu case²¹:

- The police officials who carry out the arrest or interrogation should wear clear, accurate and visible identification and name tags with their designations.

²⁰ Committee on Reforms of Criminal Justice System, Govt. Of India, Ministry of Home Affairs, Report Volume 1, March 2003

²¹ D.K. Basu v. State of West Bengal, (1997) 1 SCC 416



- A memo of arrest should be prepared at the time of arrest and should include the time and date of arrest. It should also be attested by at least one witness who could include a family member of the person arrested. The arrest memo should be counter-signed by the person arrested.
- The person arrested, detained or being interrogated has a right to inform a relative, friend or well wisher.
- When a friend or relative lives outside the district, the time, place of arrest and venue of custody must be notified by police within 8 to 12 hours after arrest.
- When a crime is first reported by the victim in a police station, the police file a FIR or First Information Report

This infers that the role of police is crucial and they must exercise their power sparingly and not arbitrarily. In case of *Kalpna Kutty v State of Maharashtra*²² it was held that “ if information of cognizable offence is received by officer he should register FIR as per S. 154(1) Cr.PC. Police ultimately protect the rights of persons and maintain law and order in the state.

²² 2007 (109) Bom L R 2342