

Police Organisation in India



Commonwealth Human Rights Initiative



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Police Organisation in India - At a Glance



Introduction

India, with an area of 32,87,782 Sq.Kms and a population of 1.02 billion, is a union of 28 states and 7 union territories¹. The powers and responsibilities of the union and states are demarcated in the Constitution of India. Article 246 of the Constitution distributes the legislative powers between the Parliament and the State Legislative Assemblies. It refers to three lists of subjects given in the Seventh Schedule of the Constitution:

- ◆ List 1: Union List - includes subjects in respect of which the Parliament has the sole power to make laws.
- ◆ List 2: State List – includes subjects in respect of which the State legislature has exclusive powers to make laws.
- ◆ List 3: Concurrent List - consisting of subjects on which both the Parliament and the State Legislatures have concurrent powers to make laws.

Article 246 of the Constitution of India places the police, public order, courts, prisons, reformatories, borstal and other allied institutions in the State List.

Understanding the criminal justice system is a prelude to understanding the police. It is important to discuss a few important *characteristics of the system* before explaining the organisation and working of the police in India.

¹ **States** are - Andhra Pradesh, Arunachal Pradesh, Assam, Bihar, Chhattisgarh, Goa, Gujarat, Haryana, Himachal Pradesh, Jammu & Kashmir, Jharkand, Karnataka, Kerala, Madhya Pradesh, Maharashtra, Manipur, Meghalaya, Mizoram, Nagaland, Orissa, Punjab, Rajasthan, Sikkim, Tamilnadu, Tripura, Uttar Pradesh, Uttaranchal and West Bengal. Union Territories are areas, which do not form part of states' jurisdiction and are under the control of the central government. These are Andaman and Nicobar Islands, Chandigarh, Dadra & Nagar Haveli, Daman & Diu, Delhi, Lakshadweep Islands and Pondichery.

Criminal Justice System

Criminal Law

The criminal law consists of the substantive law contained in the Indian Penal Code (IPC) as well as the special and local laws enacted by the central and state legislatures from time to time and the procedural law laid down mainly in the Code of Criminal Procedure, 1973 (Cr.P.C) and the Indian Evidence Act, 1872.

These three major Acts, i.e. the IPC, Cr.P.C and the Indian Evidence Act were enacted by the British during the second half of the 19th century. Of these, the only major law that has been revised since Independence is the Cr.P.C, which was revised in 1973 on the recommendations made by the Law Commission of India. The other two laws, except for some minor amendments, have remained unchanged.

Substantive Law

The IPC defines different types of crimes and prescribes appropriate punishment for offences. Offences are classified under different categories- offences against state, armed forces, public order, public justice, public health, safety, morals, human body, property and offences relating to elections, coins, government stamps, weights and measures, religion, documents and property marks, marriage and defamation. The IPC has 511 Sections, of which 330 are about punishments.

Besides IPC, the local and special laws (SLL)² also contain penal provisions. These laws have been enacted from time to time mainly to deal with new emerging forms of crime

² Local Law is applicable to a specific area/jurisdiction and Special Law is applicable to a particular subject.

“Be you ever so high, the law is above you.”

Milestones in Legislation Making (1850-1900)

Indian Penal Code, 1860
The Police Act, 1861
Indian Evidence Act, 1872
Criminal Procedure Code, 1898

In cognizable offences, the police have a direct responsibility to undertake investigation and the power to arrest a person without warrant. Non-cognizable offences cannot be investigated by the police on their own, unless directed by the courts having jurisdiction to do so.



FIR is the report of information that reaches the police first in point of time and that is why it is called the First Information Report.

and to protect the interests of the weaker sections of society. A large number of criminal offences are registered under these laws, some of which relate to possession and manufacture of arms, ammunition and explosives; drugs; gambling; immoral trafficking in women; atrocities against scheduled castes and tribes; excise and prohibition; smuggling; hoarding and profiteering in essential commodities; food adulteration; traffic offences etc.

Procedural Law

Procedural law describes the procedure to be followed in a criminal case from registration, investigation and to its final disposal after a proper trial by a court of law. The police are not empowered to take cognizance of all penal offences. Criminal law makes a distinction between two categories of offences- cognizable and non-cognizable³.

The Process of Criminal Justice

The process of criminal justice has the following main steps:

Step- 1: Registration of the First Information Report (FIR)

The process of criminal justice is initiated with the registration of the First Information Report. The FIR is a written document prepared by the police when they receive information about the commission of a cognizable offence.

Step- 2: The police officer proceeds to the scene of crime and investigates the facts of the case. Police investigation mainly includes:

³The First Schedule of Cr.P.C lists all offences in the IPC and mentions whether they are cognizable (255 of the offences) or non-cognizable (122 of the offences).

- ◆ Examination of the scene of crime
- ◆ Examination of witnesses and suspects
- ◆ Recording of statements
- ◆ Conducting searches
- ◆ Seizing property
- ◆ Collecting fingerprint, footprint and other scientific evidence
- ◆ Consulting records and making entries in the prescribed records, like case diary, daily diary, station diary etc.
- ◆ Making arrests and detentions
- ◆ Interrogation of the accused

Step-3: After completion of investigation, the officer in charge of the police station sends a report to the area magistrate. The report sent by the investigating officer is in the form of a charge sheet, if there is sufficient evidence to prosecute the accused. If sufficient evidence is not available, such a report is called the final report.

Step-4: On receiving the charge sheet, the court takes cognizance and initiates the trial of the case.

Step- 5: The charges are framed. The procedure requires the prosecution to prove the charges against the accused beyond a shadow of doubt. The accused is given a full opportunity to defend himself.

Step- 6: If the trial ends in conviction, the court may award any of the following punishments:

- ◆ Fine
- ◆ Forfeiture of property
- ◆ Simple imprisonment
- ◆ Rigorous imprisonment
- ◆ Imprisonment for life
- ◆ Death Sentence

The Death Penalty

There are only 8 offences in the IPC, which are punishable with death. In respect of seven such offences, the punishment prescribed is either death or imprisonment for life or imprisonment for 10 years. It is only in respect of one offence, i.e. murder committed by a person serving a sentence of life imprisonment, that death penalty is mandatory in case of conviction. Though death sentence has not been abolished, it is uncommon and is to be given in 'rarest of rare' cases.

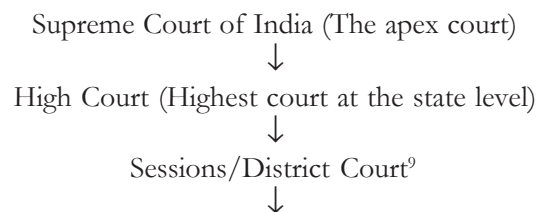
Judges per million population in different countries:

India - 10.5
Australia - 41.6
Canada - 75.2
England - 50.9
USA - 107.0

(Source: "Department-related Parliamentary Standing Committee on Home Affairs - Eighty Fifth Report on Law's Delays - Arrears in Courts", New Delhi, December 2001)

Courts

The Judiciary has the Supreme Court (S.C) at the apex having three-fold jurisdiction namely, original⁴, appellate⁵ and advisory⁶. Below the S.C are the High Courts at state level, followed by subordinate courts in the districts. The judiciary in the state functions under the supervision of the High Court⁷. The Constitution empowers the High Courts to issue directions, orders or writs for the enforcement of fundamental rights and for any other purpose.⁸



⁴ Original jurisdiction of the S.C is over disputes between the centre and states and between two or more states, provided the dispute involves any question on which the existence or extent of a legal right depends. Article 32 of the Constitution gives it the power to issue directions/ orders / writs for the enforcement of fundamental rights.

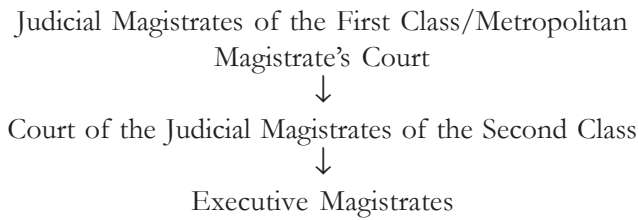
⁵ The appellate jurisdiction of the S.C. covers constitutional, civil and criminal cases. In criminal matters, an appeal lies to the Supreme Court from any judgement or order of the High Court if the latter (a) has on appeal reversed an order of acquittal and sentenced the accused to death or imprisonment for life or for a period of not less than 10 years; or (b) has withdrawn for trial before itself any case and has in such trial sentenced the accused person to death; (c) certified that the case is fit for appeal. In any case, the Supreme Court, under Article 136 of the Constitution, can grant special leave to appeal from any judgement, decree, determination, sentence or order in any matter passed or made by any court or tribunal in the territory of India.

⁶ The consultative jurisdiction of the S.C. is in respect of matters, which are referred for its opinion and advice by the President of India under Article 143 of the Constitution

⁷ Article 226 of the Constitution

⁸ Article 227 of the Constitution

⁹ The courts of session exercise both original and appellate jurisdiction. Major offences like murder, dacoity, robbery, rape etc cannot be tried in a court below the sessions.



One of the Directive Principles of the State Policy laid down in the Constitution required the State to separate judiciary from the executive.¹⁰ This separation was effected through the revised Code of Criminal Procedure in 1974 with regard to criminal justice. It also effected the separation of the prosecuting agency from the police. Prior to this the prosecuting officers at the district level used to function more or less as part and parcel of the district police set-up.

Justice Delayed is Justice Denied - Some Frightening Figures

A major failure of the judicial system in the country has been its ineffectiveness in ensuring speedy disposal of cases under trial. Though the right to speedy justice has been declared a fundamental right under Article 21 of the Constitution by the Supreme Court, the courts have failed to effectively dispose off cases and the arrears of pending cases keep on accumulating. On 1.1.1999, 13.4 million cases were pending with sessions and subordinate courts, 4,04,236 cases with the High Court and 3,674 with the Supreme Court.¹¹

¹⁰ Art.50, Constitution of India.

¹¹ Information given by the government in response to Lok Sabha Question No. 192 dated 29.11.1999

Article 50:
Separation of the judiciary from the executive: The State shall take steps to separate the judiciary from the executive in the public services of the State.
Constitution of India

The police is a state subject and its organisation and working are governed by rules and regulations framed by the state governments. These rules and regulations are outlined in the Police Manuals of the state police forces.

Each State/Union Territory has its separate police force. Despite the diversity of police forces, there is a good deal that is common amongst them. This is due to four main reasons:

- ◆ The structure and working of the State Police Forces are governed by the Police Act of 1861, which is applicable in most parts of the country, or by the State Police Acts modeled mostly on the 1861 legislation.
- ◆ Major criminal laws, like the Indian Penal Code, the Code of Criminal Procedure, the Indian Evidence Act etc are uniformly applicable to almost all parts of the country.
- ◆ The Indian Police Service (IPS) is an All India Service, which is recruited, trained and managed by the Central Government and which provides the bulk of senior officers to the State Police Forces.
- ◆ The quasi-federal character of the Indian polity, with specific provisions in the Constitution, allows a coordinating and counseling role for the Centre in police matters and even authorizes it to set up certain central police organisations.

The Organisational Structure

Superintendence over the police force in the state is exercised by the State Government.¹² The head of the

¹²Section 3, The Police Act, 1861.

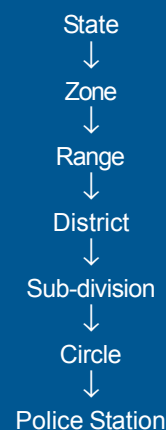
police force in the state is the Director General of Police (DGP), who is responsible to the state government for the administration of the police force in the state and for advising the government on police matters.

Field Establishment

States are divided territorially into administrative units known as districts. An officer of the rank of Superintendent of Police heads the district police force. A group of districts form a range, which is looked after by an officer of the rank of Deputy Inspector General of Police. Some states have zones comprising two or more ranges, under the charge of an officer of the rank of an Inspector General of Police.

Every district is divided into sub-divisions. A sub-division is under the charge of an officer of the rank of ASP/ Dy.S.P. Every sub-division is further divided into a number of police stations, depending on its area, population and volume of crime. Between the police station and the sub-division, there are police circles in some states - each circle headed generally by an Inspector of Police.

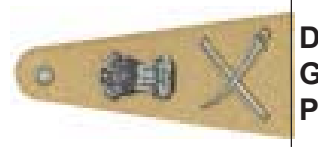
The police station is the basic unit of police administration in a district. Under the Criminal Procedure Code, all crime has to be recorded at the police station and all preventive, investigative and law and order work is done from there. A police station is divided into a number of beats, which are assigned to constables for patrolling, surveillance, collection of intelligence etc. The officer in charge of a police station is an Inspector of Police, particularly in cities and metropolitan areas. Even in other places, the bigger police stations, in terms of area, population, crime or law and order problems, are placed under the charge of an Inspector of Police. In rural areas or smaller police stations, the officer in charge is usually a Sub-Inspector of Police.



Rank of Police Officers - Badges

A police officer is required to wear his name tag with his uniform. His rank can be recognised by the badges he wears. The badges of ranks are shown below:

Director General of Police
Crossed Sword, Baton and
State Emblem



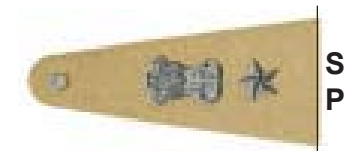
Inspector General of Police
Crossed Sword, Baton and
One Star

**Deputy Inspector General
of Police**
State Emblem and Three Stars

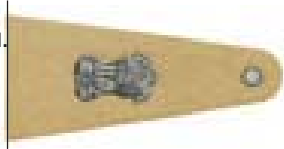


**Senior Superintendent of Police
(Selection Grade)**
State Emblem and Two Stars

Superintendent of Police
State Emblem and One Star

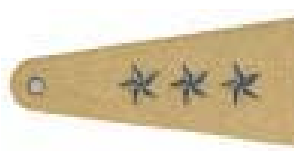


Addl.
S
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Additional Superintendent of Police
State Emblem

Assistant/Deputy Superintendent of Police
Three Stars



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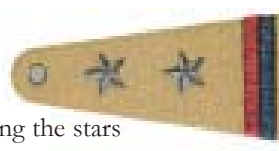


Inspector

Three Stars and a Ribbon 1/2" in width, half red and half blue worn horizontally, red colour facing the stars

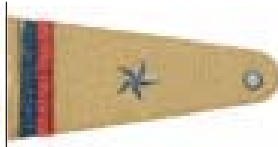
Sub Inspector

Two Stars and a Ribbon 1/2" in width, half red and half blue worn horizontally, red colour facing the stars



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Assistant Sub Inspector

One Star and a Ribbon 1/2" in width, half red and half blue worn horizontally, red colour facing the stars

Head Constable

Three Stripes on the upper part of the arm sleeve



H
C

To enable the police have greater and speedier reach and the public to gain easier access to police help, police posts have been set up under police stations, particularly where the jurisdiction of the police station, in terms of area and population, is large.

The Field Establishment of the Police Force



The Inspector General of Police

