

## Standing Order

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No.	Issue Date	Issued By	Issuing Unit	Issuing Branch
330/2007	08/11/2007	Commissioner of Police	Police Head Quarters	C&T (Ac-5)

**Subject : GUIDELINES FOR ARREST**

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Standing Order No 330/2007

#### GUIDELINES FOR ARREST

The Hon'ble Supreme Court of India in the matter of Joginder Kumar Vs. State of UP (Crl.WP No 9 of 1994) made the following observation :-

1. No arrest can be made because it is lawful for the Police Officer to do so. The existence of the power to arrest is one thing. The justification for the exercise of it is quite another. The Police Officer must be able to justify the arrest a part from his power to do so.
2. No arrest can be made in a routine manner on a mere allegation of commission of an offence made against a person .....no arrest should be made with out a reasonable satisfaction reached after some investigation as to the genuineness and bonafides of a complaint and a reasonable belief both as to the person's complicity and even so as to the need to effect arrest.
3. A person is not liable to arrest merely on the suspicion of complicity in an offence. There must be some reasonable justification in the opinion of the Officer effecting the arrest that such arrest is necessary and justified.

The following requirements also prescribed in the judgment:-

1. An arrest person being held in custody is entitled , if he so requests to have one friend relative or other person who is knowing to him or likely to take an interest in his welfare told as far as is practicable that he has been arrested and where is being detained.
2. The police Officer shall inform the arrested person when he is brought to the police station of this right.
3. An entry shall be required to be made in the Diary as to who was informed of the arrest. These protections from power must be held to flow from Article 21 and 22 (1) and enforced strictly.

The Hon'ble Supreme Court of India in the case of D.K. Basu Vs. State of West Bengal issued the following requirement to be followed in all cases of arrest or detention.

1. The police personal carrying out the arrest and handling the interrogation of the arrestee should bear accurate, visible and clear identification and name tags with their designation of the arrestee must be recorded in a register and the case diary.
2. 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 centre or other lock-up, shall be entitled to have one friend or relative or other person known to him or having interest in his welfare being detained at the particular place unless the arresting 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 of District or town through the legal Aid Organization in the District and the police station of the area concerned telephonically within a period of 8 to 12 hours after the arrest.
5. The person arrested must be made aware of his 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 the time. The Inspection Memo must be signed both by the arrestee and police officer affecting the arrest and its copy provided to the arrestee.
8. The arrestee should be subjected to medical examination by a trained doctor after every 48 hours during his detention in custody by a doctor on the panel of approved doctors appointed by 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 Illaqa Magistrate for his record.
10. The arrestee may be permitted to meet his lawyer during interrogation though not through out 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 a conspicuous notice board.

The Supreme Court of India also directed that failure to comply with the said requirement shall apart from rendering the concerned official, liable for departmental action; also render him liable to be punished for contempt of Court and the proceedings for contempt of Court may be instituted in any High Court of the country, having territorial jurisdiction over the matter. These instructions are to be notified at every police station at a conspicuous place.

The Delhi High Court in CrI. M (M) 3875/2003 in 'Court On its Own Motion Vs CBI' made the following observations /directions regarding arrests under section 498A/406 IPC. The Court observed that Sections 498A/406 IPC which "are much abused provisions and exploited by the police and the victims to the level of absurdity.....every relative of the husband, close or distant old or minor is arrested by the police .....unless the allegations are very serious nature and highest magnitude arrest should always be avoided".

In a recent judgment in criminal appeal Nos 696/2004,748/2004,787/2004 and 749/2004 pronounced on 1/11/2007, the Delhi High Court observed that ".....In all these cases in the name of investigation , except recording statement of complainant and her few relatives nothing is done by police. The police does not verify any circumstantial evidence nor collect any other evidence about the claims made by the complainant's family claiming spending of huge amounts is collected by the police. This all is resulting into gross misuse of the provision of law.....".

Arrest of accused should be an exception and not a rule /routine from the allegations set out on FIR and other subsequent allegation or material collected during investigation ,

if necessary , only the prime /main accused whose primary role on commission of the offence has been established , should be arested , and that too after the prior written approval of the DCP.

In a nutsheel , the IOs/SHOs shall mandatorily comply the above directions in dealing with cases u/s 498A/406 IPC.

The earlier Standing Order issued vide No. 72967-730/C&T (AC-5)/PHQ dated 8/11/2007 is hereby withdrawn.

(Yudhbir Singh Dadwal)  
Commissioner of Police,  
Delhi

No.80033-132/C&T (Ac-5)/PHQ Dated New Delhi, the 21/12/2007

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