

FIRST REPORT
of the
NATIONAL POLICE COMMISSION



Government of India

February, 1979

DHARMA VIRA

Chairman



D.O. No.10/30/79—NPC—Ch.

राष्ट्रीय पुलिस आयोग

भारत सरकार

गृह मन्त्रालय

विज्ञान भवन एनेक्सी

नई दिल्ली-110011

NATIONAL POLICE COMMISSION

GOVERNMENT OF INDIA

MINISTRY OF HOME AFFAIRS

VIGYAN BHAVAN ANNEXE

NEW DELHI—110011

7th February, 1979.

My dear Home Minister,

I have great pleasure in forwarding herewith the First Report of the National Police Commission constituted by the Government of India in Ministry of Home Affairs Resolution No. VI. 24021/36/77—GPA.I dated 15th November, 1977.

2. The Commission has been given very wide ranging terms of reference covering practically the entire gamut of the police system. We have identified a number of issues for detailed examination and we are presently in the midst of relevant studies. But from what we have seen and heard already, we felt very much distressed and deeply concerned about the increasing intensity of public complaints of oppressive behaviour and excesses by police. It was apparent to us that public were fast losing confidence in the existing arrangements for checking gross abuse of powers by police and also in the ability of the police to deal effectively with the law and order and crime situation in the country. At the same time, we felt greatly concerned to find police morale, particularly at the level of Constabulary, to be very low. We, therefore, decided to deal first with the following:—

- (i) Modalities for inquiry into complaints of police misconduct in a manner which will carry credibility and satisfaction to the public regarding their fairness and impartiality; and
- (ii) rectification of serious deficiencies in the living and working conditions, and prospects of the Constabulary which presently militate against their functioning efficiently to public satisfaction.

3. We have completed our analysis of these two important matters. Our recommendations in their regard are contained in the Report enclosed.

4. For the reasons detailed in the Report, we would strongly advise that the reforms indicated in our recommendations be expeditiously examined for immediate implementation. The recommendations are such as can be dealt with right now without waiting for our final Report regarding the remaining subjects.

5. It may be advantageous to create a special cell in the Ministry of Home Affairs for settling the modalities for examination and implementation of these recommendations. A special conference of the State Chief Secretaries and Inspectors General of Police may be called to discuss these modalities and to go ahead with further action. A conference of Chief Ministers may also be convened if any particular matter requires to be sorted out at their level. We are of the firm opinion that unless some positive business-like measures of this kind are initiated straightway by the Central Government, the impact of our recommendations may get lost in the rut of routine and nothing positive or meaningful may emerge at the end of all this exercise.

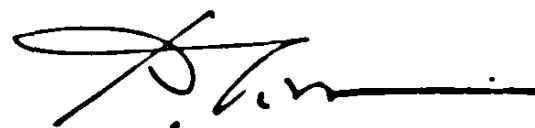
6. Implementation of these recommendations following a conference of State functionaries as suggested above would also help in bringing about a good measure of uniformity in some of the related aspects of police

(ii)

administration in different States. In the context of present situation and the likely developments in future, we consider it would be extremely desirable to achieve uniformity in regard to some basic and fundamental concepts of policing throughout the country.

With kind regards,

Yours sincerely,

A handwritten signature in black ink, appearing to be 'Dharmavira', written in a cursive style.

(DHARMA VIRA)

Shri H.M. Patel,
Home Minister,
Government of India,
New Delhi.

C O N T E N T S

<i>Chapter</i>		<i>Page</i>
	Preface	1
I	Preamble	7
II	The Constabulary	13
III	Pay Structure	21
IV	Housing	31
V	Supply of Essential Commodities	39
VI	Orderly System	41
VII	Machinery for Redressal of Grievances of Police Personnel	43
VIII	Welfare Measures for Police Families	53
IX	Recruitment, Training and Career Planning	55
X	Modalities for Inquiry into Complaints against Police	57
XI	Summary of Observations and Recommendations	67
XII	Financial Implications	85
	Appendices	89-128

First Report of the National Police Commission

ERRATA

<i>Page</i>	<i>Line</i>		<i>For</i>	<i>Read</i>
	<i>from top</i>	<i>from bottom</i>		
1	2	3	4	5
1		14	weaknesses of	weaknesses or
3		3	Besides	7 Besides
4	7		dealingwith	dealing with
14	21		Jurisdiction	jurisdiction
18		9	Promotion	promotion
22	19		expresing	expressing
23		9	minimum or standard	minimum of standard
24	2		to this	to his
24	21		about	about
24	25		genaral	general
25		23	Recruitmet	Recruitment
26	7		and constantly	and are constantly
26		11	any ground	any grounds
27	28		Leave	leave
28	14		para 22	para 3. 22
29	5		We would recommend that the maximum be increased to 180 days in all States.....	In a few States the maximum is fixed at 120 days. We would recommend that the maximum be increased to 180 days in all States.....
29		15	two motor	the motor
29		8	Proficiency	proficiency
31	10		states	state
31		10	povided	provided
34	19		witout	without
34		1	This	this
34		14	the R factor	the R factors
35	24		family/barracks both	family/barracks; but both
35		7	commecing	commencing
36		5	Consider	consider
37		5	hous rent	house rent
38		6	life	Life
38		3	pomoting	promoting
39	7		severre	severe
39	8		economic	economic
39	11		wireles	wireless
41		19	indivisual	individual
41		15	follow	fellow
41		4	in menial	on menial
43	12		and redressable	are redressable
43		16	certaid	certain
45	23		upto and above	of and above
47	1		at leat	at least
47	5		polilemen's	policemen's

(ii)

1	2	3	4	5
48	13		then	than
53		6	studey	study
55		16	trainin courses	training courses
55		15	basie	basic
55		12	Costable	Constable
55		3	Costable	Constable
58	4		Superintedent	Superintendent
58		6	The police Act	The Police Act
59	21		vasted	vested
63	25		with aforesaid	with the aforesaid
68	17		functionary	functionary
68		8	staganation	stagnation
69	5		under-standing	understanding
71		7	very low and lowest	very low, and lowest
73		10	number special	number of special
74	2		survery	survey
74		6	both-room	bath room
75	5		comment	commend
75		12	we find	We find
77	13		Indian Police	Indian Police
			Association	Service Association
77	28		referred to DPSC	referred to as DPSC
78		3	standards of works	standards of work
79	15		then	than
80		7	Judicial	judicial
81	2		as far	as fair
86		2	connction	connection
86		1	psovided	provided
97		18	inflective	ineffective
103		17	you	your
104	17		insome	in some
104	21		may be non-cognizable	may be made non-cognizable
104		6	mgistrates	magistrates
110	4		complaint	complaints
114		12	with	with
118	1		Undertaking	Undertakings
119	22		magistrte	magistrate
119		15	(UK)	(U. K.)
119		12	Lathi	lathi
123	5		States	State
123		2	in	is
124	18		Karnatak	Karnataka
125		11	Lower Subordinate	Lower Subordinates

Note : Chapter numbers and chapter headings are excluded but paragraph headings are included for counting lines.

PREFACE

Government resolution appointing the Commission

The Government of India in the Ministry of Home Affairs, by its Resolution No. VI. 24021/36/77-GPA. I dated 15th November, 1977 appointed us, the six signatories to this report, jointly to constitute the National Police Commission. The Resolution is reproduced below :

No. VI-24021/36, 77-GPA. I—Far-reaching changes have taken place in the country after the enactment of the Indian Police Act, 1861 and the setting up of the second Police Commission of 1902, particularly during the last thirty years of Independence. Though a number of States have appointed Police Commissions after Independence to study the problems of the Police in their respective States, there has been no comprehensive review at the national level of the police system after Independence despite radical changes in the political, social and economic situation in the country. A fresh examination is necessary of the role and performance of the Police—both as a law enforcement agency, and as an institution to protect the rights of the citizens enshrined in the Constitution. The Government of India have, therefore, decided to appoint a National Police Commission composed of the following:

- | | |
|--|---|
| 1. Shri Dharma Vira,
(retired Governor) | Chairman |
| 2. Shri N.K. Reddy,
(retired Judge, Madras High Court) | Member |
| 3. Shri K.F. Rustamji
(ex-IGP, Madhya Pradesh and ex-Special Secretary,
Home Ministry) | Member |
| 4. Shri N.S. Saxena,
(ex-IGP UP and ex-DG CRP and at present,
Member U.P.S.C.) | Member |
| 5. Prof. M.S. Gore.
(Professor, Tata Institute of Social Sciences, Bombay) | Member |
| 6. Shri C.V. Narasimhan,
(Presently Director, CBI) | full-time Member Secretary of
the Commission (on relief from his
present post.) |

2. The following will be the terms of reference of the Commission :—

- (1) Re-define the role, duties, powers and responsibilities of the police with special reference to prevention and control of crime and maintenance of public order.
- (2) Examine the development of the principles underlying the present policing system, including the method of magisterial supervision, evaluate the performance of the system, identify the basic weaknesses of inadequacies, and suggest appropriate changes in the system and the basic laws governing the system.
- (3) Examine, if any changes are necessary in the existing method of administration, disciplinary control and accountability.
- (4) Inquire into the system of investigation and prosecution, the reasons for delay and failure; the use of improper methods, and the extent of their prevalence; and suggest how the system may be modified or changed, and made efficient, scientific and consistent with human dignity; and how the related laws may be suitably amended.
- (5) Examine methods of maintaining crime records and statistics and suggest methods for making them uniform and systematic.
- (6) Review policing in rural areas, evaluate any new arrangements that have been made, and recommend changes that are necessary.
- (7) Examine the system of policing required in non-rural and urbanised areas including metropolitan areas, and suggest the pattern that would be the most suitable.

- (8) Examine the steps taken for modernising law enforcement, evaluate the work of police communications, the computer network, scientific laboratories and agencies for research and development, and examine whether modernisation can be speeded up; examine to what extent, as a result of the modernisation of police forces, streamlining of its functions and its re-structuring, it would be possible to economise in the manpower in the various areas of its activities.
- (9) Examine the nature and extent of the special responsibilities of the Police towards the weaker sections of the community and suggest steps to ensure prompt action on their complaints for the safeguard of their rights and interests.
- (10) Recommend measures and institutional arrangements :
- (i) to prevent misuse of powers by the police, and to examine whether police behaviour, outlook, responsiveness and impartiality are maintained at the correct level, and if not the steps such as recruitment and training which should be taken to improve them;
 - (ii) to prevent misuse of the Police by administrative or executive instructions, political or other pressure, or oral orders of any type, which are contrary to law;
 - (iii) for the quick and impartial inquiry of public complaints made against the police about any misuse of police powers;
 - (iv) for the quick redressal of grievances of police personnel and to look after their morale and welfare; and
 - (v) for a periodic objective evaluation of police performance in a metropolitan area District State in a manner which will carry credibility before the public.
- (11) Examine the manner and extent to which police can enlist ready and willing co-operation of the public in the discharge of their social defence and law enforcement duties and suggest measures regarding the institutional arrangements to secure such co-operation and measures for the growth of healthy and friendly public-police relationship.
- (12) Examine the methods of police training, development, and career-planning of officers and recommend any changes that are required at any time in their service, to modernise the outlook, and to make the leadership of the force effective and morally strong.
- (13) Examine the nature of the problems that the police will have to face in the future, and suggest the measures necessary for dealing with them, and for keeping them under continuous study and appraisal.
- (14) Consider and make recommendations and suggestions regarding any other matter which the Government may refer to the Commission; and
- (15) Any other matter of relevance or importance having an impact on the subject.

3. The Headquarters of the Commission will be at Delhi.

4. The Commission will devise its own procedure and may consult such advisers as it may consider necessary for any particular purpose. It may call for such information and take such evidence as it may consider necessary. Ministries and Departments of the Government of India will furnish such information and documents and other assistance as may be required by the Commission. The Government of India trust that the State Governments, Union Territories Administrations, Service Associations and others concerned will extend to the Commission their fullest co-operation and assistance.

5. The Commission will make its recommendations as soon as practicable.

ORDER

ORDERED that a copy of the Resolution be communicated to all State Governments, Administrations of Union Territories and Ministries Departments of the Government of India, Planning Commission, Cabinet Secretariat, Prime Minister's Office, Lok Sabha and Rajya Sabha Secretariats.

2. ORDERED also that the Resolution be published in the Gazette of India for general information.

Sd/-T.C.A. SRINIVASAVARADAN)
Secretary to the Government of India

Staff

- 2 Shri C.V. Narasimhan took charge as the Member Secretary of the Commission on 26th November, 1977. Immediately thereafter, discussions were held with the Ministry of Home Affairs to settle the component of the secretariat staff, vehicles and accommodation for the Commission. Staff sanctions were issued in two instalments on 2nd December, 1977 and 13th January, 1978. The ministerial and executive staff joined the Commission from March-April, 1978 onwards. Some additional staff were sanctioned on 18th August, 1978. The Commission's staff now comprise :

Principal Director of Research	...	1
Officer on Special Duty	...	1
Directors of Research	...	5
Assistant Directors of Research	...	8
Deputy Superintendents of Police	...	2
Under Secretary	...	1
Section Officer	...	1

with supporting ministerial staff.

Accommodation

- 3 Arrangement of accommodation for the Commission took some time since it was allotted a wing of the first floor of Vigyan Bhavan Annexe which it could occupy only after it was vacated by the previous occupant. This was completed only in April, 1978 and the Commission started functioning with its complement of staff and office from then.

Study Groups in States

- 4 The Commission called on the Home Minister for a brief introductory discussion and held its first sitting in the Ministry of Home Affairs on 22nd December, 1978, when the mechanics for proceeding with its task and methodology of its work were formulated. It was considered desirable to elicit views and suggestions from a wide cross section of persons in different States, as police practices differed from State to State depending on the field situations and the experience of the State Administrations. The Commission accordingly requested the State Governments on 28th December, 1977, to set up Study Groups consisting of prominent publicmen, senior administrators, police officers and eminent academicians for examining some important issues arising from the Commission's terms of reference and evolving their views and recommendations thereon.

Seminars

- 5 It was also felt desirable that seminars be arranged in different parts of the country to promote and activate thinking on police problems and elicit views and suggestions from different sections of the public like lawyers, businessmen, trade unionists, academicians, etc. The Inspectors General of Police of States were addressed on 2nd January, 1978 to organise such seminars with the co-operation of local bodies and voluntary organisations like Universities, Institutes of Training, Institutes of Public Administration, etc. Seminars were accordingly held in Karnataka, Andhra Pradesh, Kerala, Tamil Nadu, Maharashtra, Madhya Pradesh, Gujarat, Uttar Pradesh and Delhi, when useful discussions were held on several aspects of police work and some specific ideas and suggestions emerged for consideration.

Press note

- 6 A press note was issued on 16th January, 1978 indicating the issues on which the Commission would welcome ideas and suggestions from the general public. The note was published in all national dailies and also regional language newspapers in different parts of the country. The appeal was repeated through the media twice and several suggestions were received in response thereto.

Studies entrusted to research and other institutions

Besides the studies taken up by the Commission's secretariat research staff, the Bureau of Police Research and Development, the Institute of Criminology and Forensic Science, the National Police Academy and Police Research Centre, Madras, have been given certain subjects for study, relevant to the Commission's

terms of reference. Studies on some subjects requiring an objective analysis of career problems and collection of data from public as well as families of police personnel have been entrusted to the Administrative Staff College of India, Hyderabad, the Tata Institute of Social Sciences, Bombay, the National Council of Applied Economic Research, New Delhi and the Indian Institute of Public Opinion, New Delhi. Some committees of experts have also been set up to examine issues like duties of Constables, welfare measures for the police personnel, modernisation of police, problems of Railway Police, Quantum of force used for dealing with riots, police role in the enforcement of prohibition and policing in the North-East region. These committees comprise senior administrators, technicians, police and other officers who have considerable field experience and expertise in dealing with the problems under study.

Commission's visits to States

- 8 The Commission has so far visited Andhra Pradesh, Tamil Nadu, Karnataka, Maharashtra, Punjab, Haryana, Bihar, West Bengal, Himachal Pradesh, Assam, Meghalaya, Arunachal Pradesh, Nagaland and Manipur and held group discussions with the State Government officials and others who either deal with police matters or have interaction with the police in some context or the other. The Commission had a general discussion with the State Inspectors General of Police when they were in Delhi for their annual conference on 18th May, 1978. Discussions were also held with the Lieutenant Governor, Chief Secretary, Inspector General of Police and the Deputy Commissioner, Delhi. During these tours and discussions the Commission took the opportunity to visit police training institutions, police stations, staff quarters, etc., and acquaint itself with actual field conditions. It also heard the views of policemen of different ranks, including a large number of Constables and Head Constables. Apart from these tours undertaken by the Commission as a whole, individual Members of the Commission also visited different places in the country and held discussions with the State Government officials, police personnel and others. Shri Dharma Vira, Chairman and Shri K. F. Rustamji, Member, who were recently on a private tour abroad took the opportunity to observe the police systems in Japan, Hong Kong, USA, Canada and UK and had brief general discussions with the local functionaries to get an idea of the improvements/innovations made in those countries to deal with new problems of policing.
- 9 Reports have so far been received from the Study Groups set up at the instance of the Commission in the States of Tamil Nadu, Kerala, Uttar Pradesh, Orissa, Maharashtra, Madhya Pradesh, Andhra Pradesh, Jammu & Kashmir, Gujarat and West Bengal and the Union Territory of Andaman and Nicobar Islands. Reports from the other Study Groups are awaited. The Union Territories of Delhi, Chandigarh, Mizoram, Goa, Daman & Diu, Dadra and Nagar Haveli, Lakshadweep and Pondicherry have informed that they have not set up Study Groups, in view of the limited nature of their local problems and the fact of a few local committees already examining some of them presently.

Questionnaire

- 10 On the basis of group discussions held in different States and the reports and suggestions received from the State Study Groups besides other organisations and individuals, a comprehensive questionnaire has been prepared posing specific ideas and suggestions regarding a remodelled police system. Copies of this questionnaire have been distributed in December, 1978, among a wide cross section of public services as well as representative sections of the general public including Members of Parliament, Members of State Legislatures, Judges of the Supreme Court and High Courts, Bar Councils and Bar Associations, Vice-Chancellors, Chambers of Commerce and Industries, Editors of widely circulated newspapers and periodicals, political parties, senior members of public services in the States, recognised Service Associations, senior officers in the Central Government and some retired senior Administrators. A copy of this questionnaire is furnished as Appendix—I. The feed-back we get on this questionnaire will help us to finalise our recommendations on some of the connected issues.

Commission's Sitzings

- 11 We have so far held fourteen sittings of the Commission and discussed some issues in depth. From what we have seen and heard already, we feel very much distressed and deeply concerned about the increasing intensity of public complaints of police oppression and atrocities. The picture of the police which emerges

from the reports of various Inquiry Commissions is far from flattering. Reports and reviews frequently featured in the Press are highly critical of police efficiency, behaviour and integrity. Public appear to be fast losing confidence in the existing arrangements for checking gross abuse of powers by police and also in the ability of the police to deal with the law and order and crime situation in the country. At the same time, we feel greatly concerned to find police morale, particularly at the level of the Constabulary to be very low, in fact, dangerously low. The Constable feels dejected and frustrated and cut off from the mainstream of police administration as well as public life. He feels whether he acts well or badly his lot is only to receive brick-bats and never a bouquet.

12 While continuing our examination of the different issues concerning the police system as a whole, we strongly feel, for reasons detailed in the following chapters, that there is immediate need to—

- (i) rectify serious deficiencies in the living and working conditions of the Constabulary which presently militate against their functioning efficiently to public satisfaction; and
- (ii) evolve modalities for inquiry into complaints of police misconduct which will carry credibility and satisfaction to the public regarding their fairness and impartiality.

We accordingly submit this first report of our analysis and recommendations in regard to these two important matters and trust the Central and State Governments would expeditiously deal with these recommendations with the utmost urgency that is demanded by the present situation.

Chapter-I

PREAMBLE

Present Situation

- 1.1 Police performance in India today is under close review and critical assessment by a demanding public in far greater measure than at any time in the past. Increasing crime, rising population, growing pressure of living accommodation, particularly in urban areas, violent outbursts in the wake of demonstrations and agitations arising from labour disputes, agrarian unrest, problems and difficulties of students, political activities including the cult of extremists, enforcement of economic and social legislation, etc., have all added new dimensions to police tasks in the country and tended to bring the police in confrontation with the public much more frequently than ever before. Functioning under the constraints and handicaps of an outmoded system, police performance has undoubtedly fallen short of public expectation. It will be relevant to recall here that the Police Commission of 1860 had observed that the organised police as proposed by them would be "politically more useful!"—para 19 of the forwarding letter in September, 1860. The present culture of the police system appears a continuation of what obtained under the British regime when the police functioned ruthlessly as an agent for sustaining the Government in power. In public estimate the police appears as an agency more to implement and enforce the objectives of the Government in power as distinct from enforcing law as such as an independent and impartial agency. The dividing line between the objectives of Government as such on one side and the interests and expectations of the ruling political party as such on the other side gets blurred in actual practice, and the image of police as an impartial law enforcement agency suffers in consequence. In this situation police find it difficult to play their lawful role and make their performance acceptable to the people at large. In the perception of the people, the egregious features of police are—politically oriented partisan performance of duties, brutality, corruption and inefficiency, degrees of which vary from place to place and person to person. The basic and fundamental problem regarding the police today is how to make them function as an efficient and impartial law enforcement agency fully motivated and guided by the objectives of service to the public at large, upholding the Constitutional rights and liberty of the people. It would be useful at this stage to look back over the pages of the history of the Indian Police and trace the sequence of events and policies that have led to the present situation.

History

- 1.2 The Indian Police system and structure as presently organised are essentially based on an Act 118 years old—Police Act, 1861. The working of police was last gone into at the all India level 77 years back by the Indian Police Commission of 1902-3. They found the police far from efficient, defective in training and organisation, and one which was generally regarded as "corrupt and oppressive." The Commission concluded that "the police force throughout the country is in a most unsatisfactory condition, that abuses are common everywhere, that this involves great injury to the people and discredit to the Government, and that radical reforms are urgently necessary. These reforms will cost much; because the department has hitherto been starved; but they must be effected." (Para 30) What the Police Commission said in 1903 appears more or less equally applicable to the conditions obtaining in the police force today !
- 1.3 The primary problem that faced the police in those years was crime, not the type of public order crimes that get committed today in the wake of demonstrations and agitations, but crimes against persons and property

committed by individuals or groups (such as Thuggi) and prompted by motives of pilfering, plundering, enmity or dispute. Maintenance of public order was not much of a problem then. An authoritarian police under an imperialist regime enforced draconian laws ruthlessly to deal with any public order situation with relatively small number of police personnel. But the task of investigating professional crimes required personnel of a better calibre and perception. The 1902 Commission was primarily concerned with reorganising the police structure for evolving such a cadre of investigating officers of the rank of Sub-Inspector to secure efficient and honest investigation of crimes. The reforms proposed by that Commission were not aimed at improving the quality of performance at the level of the Constables who were relegated to the background in field work. The following remarks of the that Commission give an indication of their approach to the Constabulary :

“In regard to Constables, the Commission are of the opinion that the proposals made by some witnesses to double or treble their pay are due to forgetfulness of the principle that the more important and responsible duties of the police ought not to be entrusted to this class of officers. Escort, guard, and patrol work, limited powers of arrest, the suppression of disturbances (under orders), the regulation of traffic and the like, are the duties they should be called on to perform. They should never be themselves entrusted with the investigation of offences or the performance of other duties of a similarly responsible character, though the investigating officer may avail himself of their assistance under his direct supervision and orders. The worst abuses have arisen from permitting Constables and Head Constables to conduct the investigation of offences. No abuse calls more urgently for reform. Constables are not a suitable agency even for the performance of the beat duties ordinarily entrusted to them. The great principle to be borne in mind is that duties requiring the exercise of discretion and judgment should not be entrusted to the lowest class of officers, from whom such qualifications cannot reasonably be expected : the duties of a Constable should not be above his class.” (Para 53)

The Commission summed up that “the duties of a Constable should be of a mechanical character.”

[Summary of Recommendations (14)]

- 1.4 Between 1903 and 1977—the period of 74 years between the submission of its report by the last Indian Police Commission and the appointment of the present one—many important changes have taken place in the social, economic and political life of the country. Some of these changes have a direct bearing on the role of the police. By far the most important single event that has occurred since 1903 is the fact that India emerged free from foreign rule and is today over 31 years old as an independent nation. The freedom movement was preceded by a long period of almost 25 years of social reform based on a new liberal philosophy which the educated Indians had largely borrowed from the West. This liberal philosophy emphasised democracy in political life, a measure of equality in social life and a belief in rationality. This liberal basis for the organisation of the freedom movement was very important because in its absence, it would not have been possible to mobilise the various segments of Indian society into the nationalist movement. Secularism and the promise of equality were important in getting different religious and caste groups to work together toward a common goal. After 1930 the egalitarian message of liberalism was further underlined by socialism. In the socialist doctrine it became much more militant and this appealed to the young people who were drawn into the nationalist movement after the 1930s.
- 1.5 The freedom movement held out certain promises and raised the aspirations of the poor. One of the major causes of tensions that we see in our society today appears to be our failure to redeem the promises that were made, prior to independence and were incorporated in the constitution in the form of Directive Principles and the Preamble. The Preamble, the Directive Principles and the Fundamental Rights between them promise an egalitarian, secular, democratic society. The reality that we experience around us does not wholly correspond to this promise.
- 1.6 There are also other changes that have been taking place which have made the fulfilment of these promises more and more difficult. The most important of these is the rapid and phenomenal growth of population between 1903 and 1947 and more particularly between 1947 and 1977. The population of our country has doubled since 1941 and nearly trebled since 1911. This has increased the acuteness of the problems that arise out of scarcity in a developing society.

- 1.7 It is common knowledge that while our population has grown, our gross national product has not kept pace with it. This has meant increasing poverty for the mass of the people. While we speak of a society which promises increasing equality among people, the economic reality is that the inequalities have actually grown. We have got rid of foreign rule and we have established a liberal democracy, but we are still a poor society divided by many languages and religions as also by caste and class distinctions. The increasing acuteness of the economic problems makes it difficult for us to develop any measure of political consensus on the path that we should follow to attain the kind of a society that we have promised ourselves.
- 1.8 Undoubtedly, there are many things that have been achieved even in the economic realm. We have laid down the infrastructure of a major industrial development. We have also witnessed what has been referred to as the green revolution and we have more than doubled our annual food crop to attain a plausible self-sufficiency in terms of food.
- 1.9 However, poverty surrounds us on all sides and the condition of the poor seems to be getting worse instead of getting better with every passing year. Recent estimates by economists seem to indicate that about 50% of the population both in the rural as well as in the urban areas live below the poverty line, the poverty being calculated on the basis of minimum food requirements. Increasing population, increasing poverty, increasing inequality have, therefore, nullified in a sense our achievements during the last three decades of independence. They have given rise to a sense of frustration.
- 1.10 There are also other factors which have aggravated the difficult situation from the social and political points of view. One of these is that though we now have our own elected representatives ruling the country, the relationship between the government and the people has not basically changed. The attitudes of the elected representatives as well as the government servants towards the common man appear to the latter as the attitude of the ruler towards the ruled. This is probably because of the great gap that divides the mass of people from the elite that occupy offices. Since the common man is inarticulate, at least in terms of reading and writing, and he is not organised, except in the urban areas, in any effective form, he finds that an attitude of outward submissiveness is his best strategy for survival.
- 1.11 But, even in the rural areas, the spirit of conflict and confrontation is gradually growing. While the formal statements of Governments still support the special compensatory facilities that are to be provided to the Scheduled Castes and Scheduled Tribes as envisaged in the Constitution, the executive actions of Governments do not always vigorously follow these policy pronouncements. Besides the Scheduled Castes and the Scheduled Tribes specified in a Presidential Notification, we have the category of "Backward Classes", notified and amplified by the State Governments from time to time. The consensus that seems to have existed at the time of independence about the identity of backward classes based on their socially, economically or educationally backward condition, has gradually diminished since then. Increasing pressures of certain castes and communities to get listed as 'backward' and their asking for privileges comparable to those that have been granted to Scheduled Castes and Scheduled Tribes are creating a new area of tension in some States.
- 1.12 The landless agricultural labourer is not yet an organised political force, but in some pockets the extreme leftist groups are providing leadership to this segment of the community. This has led to revolts, confrontations on the part of the landless and to concerted action on the part of governments, which in many cases appear to represent the land-owning upper castes, to put down the least signs of protest.
- 1.13 In the urban areas the problems are of a different category. Gradually India has built up one of the most extensive industrial infrastructures among the developing countries. However, the conditions of the industrial workers are not very much better than they were prior to independence. In terms of real wages their incomes have not registered any substantial rise. In fact, in some cases, economists argue that the real incomes of industrial workers have fallen. It is true that despite this situation the industrial worker in the organised sectors of industries is in a somewhat privileged position as compared with the rural agricultural worker or workers in the unorganised sectors of industries. But the industrial worker compares himself not with the agricultural labourer but rather with the white-collared individual who sits in the offices of Government and of business firms and with the worker in more privileged areas such as banks, insurance companies

and others. The industrial workers have attained considerable organised strength. Since they constitute important voting banks for any political party, they command considerable political leverage and their increasing demands for a better share in the economic product is one of the important causes of unrest in the urban scene.

- 1.14 Another area of strife in the urban area is around universities. Our system of education at one time admirably served the purpose for which it was created, namely, to prepare people for jobs in Governments. But the number of students in the universities has increased to a point that no Government can possibly provide jobs for all of them within the governmental bureaucracy. Except for those who are equipped as engineers, doctors, architects and other professionals, the rest of the students who graduate from universities are not capable of doing any work other than desk work and there is a limited demand for this category of people. The net result is that more and more students find that their education does not lead them to any jobs. The sense of economic insecurity and the sense of irrelevance of what they do in the class room is at the root of the crisis in the university system and the law and order problems arising therefrom.
- 1.15 There is a decreasing political consensus and an increasing sense of loss of direction about how to achieve the kind of society that we have envisaged in our Constitution. The absence of a consensus on the rules of the game is at the root of all our problems of law and order. When people lose faith in the possibility of seeking solutions to their problems through democratic and constitutional means, they inevitably tend to resort to means of mass protests and mass agitations. So long as people register their protests through normal constitutional and peaceful action, the police do not come into the picture, but the moment people begin to deviate from constitutional methods and act violently in defiance of law, the police are required to act. The increasing number of riots, whether in the universities, in industries or between religious groups or more recently between caste groups in the rural areas, are indicative of the growing sense of impatience on the part of the people and the increased and deeper involvement of the police for containing the situation.
- 1.16 Agitationist politics have now become a prominent feature of the country's public life and agitations are becoming more coercive than communicative in their approach. Public order incidents arising from labour agitations were 2776 in 1968, 2889 in 1970, 3243 in 1972, 2938 in 1974 and 2653 in 1977. The number of workers involved in such incidents has increased. While 3243 incidents of 1972 had involved 1,736,737 workers, 2653 incidents of 1977 involved 1,874,710 workers. Number of incidents arising from student unrest were 2665 in 1968, 3861 in 1970, 6365 in 1972 and 7520 in 1977. Incidents arising from communal clashes were 321 in 1971, 240 in 1972, 242 in 1973, 248 in 1974, 205 in 1975, 169 in 1976 and 188 in 1977.

Quantitative and qualitative changes in the duties of Constables

- 1.17 With the transition from foreign rule to independent, socialist, democratic and welfare State, the style of police handling of public order situations has had to change from an aggressive and mailed fist attitude to peaceful and persuasive handling of agitating groups. This change in police methodology has meant the involvement of a much larger number of police personnel to handle a given public order situation as compared to pre-Independence situation. This has, in turn, meant the deployment of a larger number of *Constables* for interacting with the public and securing their cooperation by persuasion and appeal for maintaining public order. This is a job which the Constabulary visualised by the 1902 Police Commission were not expected to perform in the old days.
- 1.18 Besides crimes arising from public order situations, other professional crimes relating to property have also increased enormously. Though we have good reasons to believe that a good deal of reported crime is not recorded in police stations, even the total recorded crimes cognisable by the police under the Indian Penal Code which stood at 5.56 lakhs in 1954 rose to 13.54 lakhs in 1977. Coupled with the increase of crimes there has also been increase in the number of cases pending in courts year after year. Compared to 1.9 lakh cases which were pending disposal in courts in 1962 there were 19.7 lakh cases pending in courts in 1975. Phenomenal increase in crimes for investigation coupled with increasing demands on the time of the

investigating officers by the cases pending in courts has necessitated the employment of Constabulary on inquiry and investigative work in a much larger measure than visualised by the 1902 Commission.

1.19

Apart from the tremendous increase in the sheer volume of crime work as such, there has also been a distinct change in the quality of police tasks under the compulsions of the fast developing society. In its efforts to bring about the social changes envisaged in the constitution, Government has been systematically adding new laws, rules and regulations through social legislation year after year. A variety of legal measures have also been adopted to deal with economic offenders who evade the requirements of fiscal laws which are meant to protect the nation's economy and preserve its financial health. Increased urbanisation and phenomenal growth of vehicular traffic in urban areas, have naturally given rise to violations of traffic laws, and connected regulations, by increasing number of people who are otherwise law-abiding. Police involvement in the handling of social and economic offences as also traffic violations has meant increased confrontation with a wholly different class of offenders—different from the normal professional property criminal or the rustic, violent goonda. A police force which is used to rough and tough methods has to change its style while dealing with this new class of offenders and every situation connected with them has to be handled with tact and finesse, with due regard to the requirements of law. On the side of police it is the Constabulary who come into contact with a large number of offenders of this category, particularly the traffic offenders, and to that extent the Constable's style of functioning has had to change substantially.

1.20

It is thus seen that the Constable of the present day has moved far from the predominantly mechanical role assigned to him by the 1902 Commission and has now to interact with the public in larger numbers in a variety of situations where he has to apply his mind, exercise his judgment, use his powers of persuasion and appeal and enforce law with public understanding and cooperation. It is the constabulary who form the cutting edge of police administration and face the public most during their visits to police stations and movement on roads. It is the Constable's behaviour and response which create the first and foremost impact on the public mind. The police image in the country is largely determined by the staff who function at the police station level. The Constabulary constitute a large majority of this staff and form the foundation and base for the entire police structure. Any attempt at a meaningful police reform has necessarily to start at their level only, since no restructuring of the system will be practicable or enduring unless the mass base of the system is rendered healthy and efficient. We have, therefore, taken up the Constable's personality, status and role in police as the subject of our first study. Our analysis in this regard is furnished in the following chapters.

Chapter-II

THE CONSTABULARY

Head Constable And Constable As Viewed By The 1902 Commission

- 2.1 The Police Commission of 1902-3 entrusted the charge of police stations to the cadre of Sub-Inspectors and held them responsible to handle investigational work with the Head Constable and Constables under them playing a supporting role only. The Head Constables' duties, according to that Commission, were to—
- (i) Command a police party detailed for guard, escort or similar duty;
 - (ii) hold charge of an outpost established for the protection of the public, but not as an investigating centre;
 - (iii) attend to clerical work in the police station;
 - (iv) conduct simple investigations;
 - (v) hold charge of the police station in the absence of the Sub-Inspector; and
 - (vi) generally assist the Sub-Inspector in police matters.
- The duties of the Constable, as propounded by that Commission, were limited to
- (i) escort, guard and patrol work;
 - (ii) making arrests (under limited powers);
 - (iii) suppression of disturbances (under orders); and
 - (iv) regulation of traffic and the like.
- 2.2 As quoted in the previous chapter, the 1902-3 Commission had categorically stated that the Constables "should never be themselves entrusted with the investigation of offences or the performance of other duties of a similar responsible character, though the investigating officer may avail himself of their assistance under his direct supervision and orders". Even the Head Constable was not to be entrusted with investigational work except "simple investigation". The thrust of the recommendations of that Commission was that the Head Constables and Constables should not be utilised for duties requiring the exercise of discretion and judgment; such duties were expected to be handled only at the Sub-Inspector's level or above.
- 2.3 The principle that investigational duties shall invariably be handled above the level of Constable, was also reflected in the then Code of Criminal Procedure in which it was specifically laid down that the duties of an officer in charge of a police station—which include investigational duties enjoined on him by law—can be performed in his absence by a police officer next in rank to him present at the station provided he is above the rank of Constable. The same principle is repeated in the present Code—Code of Criminal Procedure, 1973.
- 2.4 Police manuals in different States have also embodied the same principle while detailing the duties of Head Constables and Constables. For example, the Andhra Pradesh Police Manual mentions the primary duties of Head Constables as below :
- (i) Supervise the work of the Constables and see to their instructions, catechism and drill;
 - (ii) Perform any duties allotted to him by the station house officer whom he will accompany on investigation when required;
 - (iii) Be in charge of the guard or escort when deputed on such duty including treasury and sub-jail guard;

- (iv) Visit all the villages in the station jurisdiction at least once a quarter;
- (v) Check all beats, particularly night beats twice a week;
- (vi) Attend to court work under the orders of the Station House Officer;
- (vii) Investigate simple cases when deputed by the Station House Officer under Section 157 Cr.P.C.;
- (viii) Conduct enquiries into beat complaints;
- (ix) Perform clerical work of the police station;
- (x) Assume charge of the police station in the absence of Sub-Inspector and be in charge of an outpost, but not to record the FIR of cognisable offences; and
- (xi) Maintain order in sessions court during a criminal trial.

2.5 The duties of a Constable, according to the same manual, are to—

- (i) carry out the instructions given by the Station House Officers and other superiors in regard to the duties assigned to these ranks;
- (ii) be in charge of the guard at the police station in the absence of the Head Constable;
- (iii) perform beat duty in both urban and rural areas;
- (iv) save human life and protect property during outbreak of fire;
- (v) evacuate people from the affected area during an epidemic;
- (vi) be courteous and considerate to the public; and
- (vii) maintain a note book in which should be noted the details of properties lost, descriptive particulars of wanted persons and other important matters which they have to remember.

2.6 The emphasis in the police manuals of most of the States is on the fact that the Constable should not be allowed to go about his Jurisdiction without specific instructions and whatever is to be done by him should be limited to the type of duties already mentioned and he should always be covered by specific instructions in doing any particular act. In other words, these manuals do not visualise an independent, positive role for a Constable to show his initiative or react to a situation on his own assessment and judgment thereof. He has been groomed in the existing police system to be an obedient, mechanical functionary, mostly acting in compliance of a specific order from his superior officer and not doing anything positive on his own initiative and judgement.

2.7 With enormous changes in police tasks, both qualitative and quantitative, as described earlier, the police system cannot afford to continue the same policy regarding its Constabulary, who form about 90 per cent of the strength of the police force in sheer numbers, and whose quality in performance really determines the over-all impact of the police system on the public. The growing compulsions and pressure of police work will continue to make a large number of police personnel, particularly at the level of Head Constables and Constables, interact face to face with the public in a variety of situations. Head Constables and Constables can no longer afford to function as mere automatons, recruited, trained and developed mostly to perform duties of a mechanical character.

Analysis of Duties Currently Done by Constables

2.8 We set up a small study group in the Commission to determine the quantum of different types of work currently being done by the Constables in police stations. The group made a sample survey of a few police stations in the States of Uttar Pradesh, Punjab and Haryana and the Union Territory of Delhi and prepared a detailed analysis of duties being actually performed by the Constables. Statistical data for analysis were collected after a detailed discussion with the Constables to ensure accuracy of the basic material collected. This study group's report shows that the duties now performed by Constables can be itemised under 24 different headings, some of which are mostly mechanical in character, some are a combination of mechanical duties with duties requiring application of mind and exercise of judgment and

the rest are duties which require considerable initiative and exercise of discretion and judgment, besides interaction with public. The categorisation of different duties is indicated below :

<ul style="list-style-type: none"> (1) sentry duty (2) escort duty (3) dak duty (4) drill and parade (5) orderly duty (6) messenger duty (7) arms cleaning 	}	<p>These duties are mostly mechanical in nature and may be referred to 'C' type duties.</p>
<ul style="list-style-type: none"> (1) night patrol (2) surveillance (3) licence check (4) conducting raid (5) attending court (6) imparting training (7) service of summons/execution of warrants (8) motor vehicle driving and wireless set operation (9) miscellaneous other duties 	}	<p>These duties involve a combination of mechanical duties with duties that require application of mind and exercise of judgment. They may be referred to as 'B' type duties.</p>
<ul style="list-style-type: none"> (1) day patrol (2) traffic control and regulation (3) inquiry into complaints (4) collection of intelligence (5) assisting investigating officer (6) bandobust during VIP visits (7) bandobust on other occasions like fairs, festivals, etc. (8) clerical work in police station. 	}	<p>These duties involve initiative, exercise of discretion and judgment and also interaction with public with due regard to the need for extreme courtesy, politeness and proper attitude towards them. They may be called 'A' type duties.</p>

2.9 Analysis of the data collected by the study group shows that, excluding the time spent on travelling and brief rest at intervals while waiting at the police station during change of duties, the average percentage of a constable's time spent on the three types of duties is—

'A' type	...	49%
'B' type	...	37%
'C' type	...	14%

It is significant that 'A' and 'B' types of duties which require exercise of discretion and judgment form as much as 86% of the duties currently being done by the Constables. Even among them, 'A' type, which requires interaction with the public, claims 49% of the Constable's time.

Bihar Police Commission's view

2.10 The Bihar Police Commission of 1961 had observed :

"A constable should be expected to exercise his discretion and assume responsibility. In all progressive police forces, every constable is a live unit of the force, and thus the constabulary forms a solid corps. It has been stated by many that constables who are recruited and trained to work like automatons generally act as a drag on their officers and the force. The Commission desire that a constable on the beat should be responsible for maintaining the public peace, for protecting the life and property of the citizen, for preventing crime, for arresting offenders and for properly enforcing all laws of which the police have to take cognizance. He should perform his duties intelligently and efficiently and should hold himself in readiness at all times to answer to the calls that are made on him. He should know every one living in his beat and he should always be readily available to give help whenever any legitimate assistance is needed. Above all, he should work, behave and act like an officer. The force and the people should also be ready to show him the necessary courtesy and consideration due to an officer. The Commission visualises that a few amongst them may rise to

senior posts and they have now given them the necessary avenue of promotion which may even take them to the highest ranks." (Para 208)

We are in entire agreement with the Bihar Police Commission in their assessment of the Constable's role as it ought to be in our system.

Study Groups' reports

- 2.11 Reports of the State Study Groups which have gone into this matter at our instance also show awareness of this situation. We would like to quote from the report of Madhya Pradesh State Study Group in particular, which has observed that the cadre of Head Constable and Constable is "most frequently seen by the public in beats, bandobust duties, fairs and festivals and in courts and police stations. Unfortunately the wage scale of this cadre has been equated with unskilled labour for historical reasons. The police, therefore, attract only a very unsatisfactory kind of candidate who has not been able to get any other job. A police force composed of such poor specimens of humanity cannot rise very much above the lowest common denominator of its constituents and the effect on the quality of police service provided to the people is disastrous, to say the least". The Maharashtra State Study Group has stated that "almost every body whom the Study Group had met were emphatic that unless the emoluments and service conditions of the subordinate staff were improved and better personnel recruited, no improvement in the police system would be possible". During our tours in States we found unanimity of view among different cross sections of the public that the emoluments and other service conditions of the lower ranks in the police, particularly the constabulary, require immediate and substantial improvement for achieving efficient police performance.

Law and the Constable

- 2.12 The basic criminal laws of the country make no distinction between Head Constable/Constable and the higher ranks in regard to the exercise of police powers in many situations, excepting investigations. The Police Act of 1861 on which the present police system is based prescribes the duties of all police officers as under :

"It shall be the duty of every police officer promptly to obey and execute all orders and warrants lawfully issued to him by any competent authority; to collect and communicate intelligence affecting the public peace; to prevent the commission of offences and public nuisances; to detect and bring offenders to justice and to apprehend all persons whom he is legally authorized to apprehend, and for whose apprehension sufficient ground exists; and it shall be lawful for every police-officer, for any of the purposes mentioned in this section, without a warrant, to enter and inspect any drinking-shop, gaming-house or other place of resort of loose and disorderly characters". (Section 23)

"It shall be the duty of the police to keep order on the public roads and in the public streets, thoroughfares, ghats and landing-places, and at other places of public resort, and to prevent obstructions on the occasions of assemblies and processions on the public roads and in the public streets, or in the neighbourhood of places of worship, during the time of public worship, and in any case when any road, street, thoroughfare, ghat or landing-place may be thronged or may be liable to be obstructed". (Section 31)

According to section 25 of the same Act, "It is the duty of every police officer to take charge of all unclaimed property, and to furnish an inventory thereof to the Magistrate of the district". Under section 34 of the same Act, it is lawful for any police officer to take into custody, without a warrant, any person who within his view commits eight different types of offences which are described in that section. Under section 41 of the Code of Criminal Procedure, any police officer may, without an order from the Magistrate and without a warrant, arrest any person who falls under any of the nine categories mentioned in that section. Under section 151 (1) of the same Code "a police officer knowing of design to commit any cognizable offence may arrest, without orders from a Magistrate and without a warrant, the person so designing, if it appears to such officer that the commission of the offence cannot be otherwise prevented." Head Cons-

tables and Constables derive their powers of search, seizure, arrest etc. under the above provisions of law in common with all police officers. These powers cannot be fairly and justly exercised by a functionary if he is recruited, trained and oriented for performance of duties of a mechanical character only. They require a mature mind which is capable of analysing the merits of a situation and assessing the nature and quantum of executive action called for by that situation and what is more, the requirements of law and procedure. In other words, even under the existing law of the land a Constable is expected to exercise certain powers which demand the application of a mature mind and exercise of judgment.

Educational level of Constable recruits

2.13 Appreciating the changed situation and its implications for the role of Police, the Committee on Police Training (1972) concluded that—

- (i) "Police officers should acquire a high degree of professional competence and be fully aware of the means whereby science and technology can help in police work.
- (ii) They must develop a clear understanding of the social purpose of their activity and a sensitivity to the trends and forces at work in the environment in which they have to act.
- (iii) They must develop attitudes in consonance with the concepts of social justice contained in the Constitution and the development programmes with particular reference to the weaker sections of the community, including the poor, the minorities and the Scheduled Castes/tribes."

(Para 21 Chapter IV)

The Committee recommended, among other things, "that the High School examination or its equivalent should be the minimum educational qualification for the recruitment of Constables both in the unarmed and the armed branches of the police uniformly throughout the country. The effort, however, should be to attract candidates with higher educational qualifications" (para 29 Chapter VI). Consequent on this Committee's recommendations, the minimum educational qualification for recruitment to the rank of Constable has now been raised to Matriculation/SSLC in many States. Even otherwise, we noticed that in the recent years the educational level of new entrants to the Constable's work has been steadily rising. For example, among 2182 persons recruited as Constables in 1976 in Tamil Nadu, 1133 were Matriculates and 63 were graduates. In the same State there were 1395 matriculates and 973 graduates among 2883 persons recruited as Constables in 1977. In Orissa, 76 Matriculates and 4 Intermediates joined the force as Constables in the first batch of 1976. In the second batch, 116 Matriculates, 13 Intermediates and 1 graduate were recruited. In the third batch, 143 Matriculates, 20 Intermediates and 3 graduates were recruited. The number of graduates that have joined the Delhi Police as Constables in 1976, 1977 and 1978 are 36, 41 and 52 respectively. We found one Constable in Delhi Police currently doing his Ph.D!

2.14 The promotional structure within the police system is not conducive to the fulfilment of the legitimate career ambitions of the constabulary. With the system of direct recruitment at the level of Sub-Inspector and the relatively meagre number of Sub-Inspectors' posts compared to the vast numbers of the constabulary, a large majority of the Constables retire as Constables without even one rank promotion in entire career. No system can remain healthy if such a large chunk of its personnel vegetate and waste out after working for nearly 30 years in the same rank at which they entered the system.

2.15 The pay structure of the Constables puts them at a low level compared to other workers handling similar or less onerous jobs in other sectors of Public life. The constabulary, who themselves have no trade union rights, frequently stand out for long hours day after day doing bandobust and maintaining order, during a strike situation arising from trade unionism in industrial centres. Quite often the demands of the striking labourers include an upward revision of their emoluments which, the Constables know, are already much higher than what they themselves get. The grim irony of this situation has its inevitable impact on the Constables' mind and morale and makes them feel thoroughly dissatisfied and dejected with their lot.

- 2.16 The growing tendency of criminals to resort to violence in the commission of crimes has rendered the police job much more risky and hazardous than before. Quite a number of police men get killed or injured seriously in the discharge of their duties year after year. In the period from 1963 to 1969 the average number of policemen killed or injured per year were 97 and 3118 respectively. In the period 1970-77, these figures were 120 killed and 2438 injured per year. In 1978, the figures were 53 killed and 906 injured till the end of June. Most of the casualties have been from the ranks of Constable/Head Constable.

Constable in the revised set up

- 2.17 Having regard to the changed needs of policing the country and the importance of making the Constable function as a responsible functionary with due sense of values, discretion and judgment in his interaction with the public, we feel that the existing system should be immediately changed to achieve the following objectives :—

- (i) The constabulary should no longer be treated as a cadre meant only for duties of a mechanical character as visualised by the 1902 Commission. They should be so recruited and trained that they could be deployed also on duties involving exercise of discretion and judgment, with due regard to the paramount need for securing public cooperation and understanding in any situation.
- (ii) They should be able to assist the Sub-Inspectors in inquiries and investigational work in a positive and purposeful manner.
- (iii) They should pick up experience of such work over a period of 5 or 6 years and be in a position to handle investigational work independently and rise to the level of Assistant Sub-Inspector and upwards by promotion.
- (iv) The promotional structure within the police system should be radically revised to permit a smooth and quick promotional flow from the rank of Constable. It should be possible for a Constable to rise by promotion to higher ranks—even the highest—by showing his worth in the performance of police tasks.

- 2.18 In the revised set up a Constable would thus be looked upon as a potential investigating officer who could be entrusted with higher responsibilities in field jobs as he picks up experience and rises further by promotion on the basis of his performance at each level. A Constable on beat duty has to be sensitive to many things that happen around him and has to be oriented to discharge that role. He has to be watchful of the shady character while being helpful to the the needy and poor. His prompt and adequate response to any small development in a law and order matter should be effective in preventing further escalation of the situation. Timely action at his level should obviate the need for more aggressive action by the police force at a later stage. *The crux of efficient policing, in our view, is the effective and amiable street presence of a well qualified, trained and motivated Constable.*

- 2.19 However, the present position of the Constable is a far cry from the position described above. A job analysis conducted by the National Productivity Council has shown that the working hours of the subordinate police officers range from 10 to 16 hours every day of seven days in a week. A recent computerised survey conducted by Tamil Nadu Police has shown that an average Constable works for 14 hours every day without any respite. Long and arduous hours of work without facilities for rest and recreation, continuous employment on jobs under extreme conditions of stress and strain, both mental and physical, prolonged stagnation in the same rank without even one rank Promotion throughout their service for a majority of them, constant exposure to criticism and ridicule by a demanding public, a totally inadequate pay structure with no compensation for the handicaps and privations they undergo in their jobs, low status and lack of involvement in planning and executing field jobs with a full understanding of the objectives set by the police organisation, etc., have all had their telling effect on the morale of the constabulary throughout the country. The increasing educational level of the Constables—a trend noticeable in the recent years—has sharpened the edge of their frustration with their existing lot within the police system. During our visits to several police stations and discussions with the constabulary, their highly demoralised state was strikingly noticeable. They have nothing to motivate them into meaningful and positive performance of police tasks with a full understanding of the implications and

objectives of police action. They function as automatons in situations where they are required to exercise their discretion and judgment. They function rigidly in circumstances which require flexibility of approach and understanding of the opposite point of view. We are convinced that mere changes in their training schedule will not bring about the necessary improvement in their motivation or performance unless some serious deficiencies in their living and working conditions which have long been neglected are immediately taken up and remedied. We consider this exercise to be of primary importance in any attempt at police reform and we, therefore, proceed to make recommendations in their regard in the following chapters.

Chapter-III

PAY STRUCTURE

3.1

Before commencing its deliberations, the commission called on the Union Home Minister on the 22nd December, 1977 for a general discussion when the Chairman of the Commission, inter alia, observed that though the pay structure as such was not explicitly listed in the terms of reference, some reference to this aspect would necessarily have to be made while dealing with matters relating to the living and working conditions of police personnel. This issue is accordingly dealt with the Commission for evolving some general principles which should govern the determination of pay and emoluments of police personnel, particularly the constabulary, having regard to the importance of the general pay structure for sustaining the morale and efficiency of the police force in their interaction with the public as also the other public services in States.

Desborough Committee

3.2

The Desborough Committee (1919-20) of United Kingdom have admirably summed up some characteristics which distinguish members of the police from other State employees and have observed as follows :—

- “(i) A candidate for the police must not only reach certain standards of height and physical development, but must have a constitution, which is sound in every way. The duties the police have to perform are varied and exacting, they are increasingly and will probably increase in variety and complexity, and a man cannot make a good policeman unless his general intelligence, memory and powers of observations are distinctly above the average. His character should be unblemished, he should be humane and courteous and generally he should possess a combination of moral, mental and physical qualities not ordinarily required in other employment. Further when he becomes a Constable, he is entrusted with powers which may gravely affect the liberty of the subject, and he must at all times be ready to act with tact and discretion and on his own initiative and responsibility, in all sorts of contingencies. The burden of individual discretion and responsibility placed upon a Constable is much greater than that of many other public servants of subordinate rank.
- (ii) The police also stand in a special relationship to the community. Each Constable on appointment becomes one of the duly constituted guardians of law and order for and on behalf of the citizens as a whole. He undertakes special responsibilities in regard to the prevention and detection of crime, and while he does not relieve the citizen from all responsibility for the protection of his own property and for bringing offenders to justice, he claims to be and is the principal agent in the prevention and detection of crime of all kinds, and generally holds a position of trust which it is important he should be able to maintain. We consider it essential that the sense of obligation to the public should be preserved in the police, and the reason we dwell on those considerations at some length is that they are fundamental to the views we have formed as to the status of the Police and *the pay they* should receive. A Number of Police witnesses have urged that in various ways a constable is subject to social disabilities by reason of his employment. Moreover he must at all times both on and off duty maintain a standard of personal conduct befitting his position, and this does impose upon him certain restrictions which do not exist in ordinary employments and hardly apply in the same degree even in the case of other public servants. He

is liable to be called for duty at any time in an emergency, and, in order that he may be available for unexpected calls he may be restricted in his choice of a residence. The special temptations to which a Constable is exposed are obvious and, as any lapse must be severely dealt with, it is only just that his *remuneration should be such as will not add to any temptations*, the difficulties and anxieties incidental to an inadequate rate of pay.

- (iii) The Policeman is also put to certain special expenses by reason of his employment, for example, he not only requires good and sustaining food but the cost of his house keeping is increased by the irregularity of the hours at which he has to take his meals and the frequent necessity of cooking specially for him and it is generally, and quite correctly, a condition of service that he cannot be concerned directly or indirectly in any trade or business so that he is precluded from supplementing his wages by undertaking employment for profit in his spare time."

We consider that the fundamental position of the Indian Policeman remains the same as described by the Desborough Committee and the basic principles would apply equally well to the present Indian situation.

Second and Third Central Pay Commissions

3.3

The Second Central Pay Commission (1959) which went into the question of the pay structure of the police under the Central Government had fixed the pay scale of a Constable at a level equal to that of 'lower semi-skilled' worker. The Third Central Pay Commission (1973) upgraded the status of the Constabulary by taking them out of Class-IV category and fixed their pay scales at a slightly higher level, without specifically expressing an opinion whether or not a Constable should be rated as a skilled worker. The observations of the Third Pay Commission regarding the Constabulary are reproduced below :—

"From the stand-point of authority and personal responsibility, the police personnel stand apart from the other Government employees. The very nature of police work requires that considerable authority should be vested in even the lowest ranks. The Code of Criminal Procedure, the Police Act and various other special Acts clothe police officers with powers of arrest and search and these powers in certain circumstances can be exercised without a warrant or order of a Magistrate. Wide powers are also given to the police for prevention of crime and maintenance of public peace and tranquility. The personnel of armed police and security forces are subject to certain hazards and dangers which are specially marked during operations along the border and in hostile areas. The standards of discipline required of the police necessarily have to be high. This imposes certain restrictions upon the policemen and empowers superior officers to punish misconduct and offence more quickly and severely than is usual in the case of other civilian employees. There are certain other drawbacks in the life of a policeman. Generally, his social and family life is more disturbed than that of persons in other occupations. Personnel in the CRP are frequently moved to trouble spots at short notice. They, as also men of the BSF, have to remain separated from their families for long periods of time. In the civil police too, personnel are not able to participate fully in the social and other activities of the community due to the peculiar nature of their work. Uncertainty of working hours, liability to work at night and on gazetted holidays, are all inseparable features of police work. In combination, they result in a degree of social segregation, to which attention has also been drawn by the Royal Commission on the Police (U. K.)

Certain fundamental changes have taken place since Independence in the role and functions of police personnel. The public is now more vigilant about the way in which the police behave and exercise their authority. On occasions ordinary lapses on the part of the police can result in ugly situations leading to riots, lathi-charges and even firing. The tasks of the civil police have become more complex in several ways. In recent years we have witnessed widespread violence, destruction of Government property and use of firearms and explosives on a largescale against the police in various parts of the country. In the investigation of crime, there has been a significant change since Independence. Besides the increase in the volume of crime, the nature of offences has undergone a qualitative change with industrialisation, urbanisation, increase in economic activity and the proliferation of controls and licences. There is now greater need and scope for the application of scientific techniques in the detection of crime and collection of security.

It also calls for a higher degree of intelligence to comprehend the modus operandi of sophisticated criminals, to thwart their designs, or to bring them to book, specially where economic offences are involved.”

- 3.4 Having appreciated the qualitative change in the duties performed by the Constabulary, the Third Pay Commission merely expressed their views that they were “in general agreement with the views which seek to improve the level of remuneration of the Constabulary and other ranks. A reasonably well-paid and contented police force is essential to good order, internal security and stability. We feel that in the changed circumstances the remuneration of police personnel needs to be fixed after altering the internal relativities in their favour.”
- 3.5 Despite these favourable observations, the pay structure ultimately fixed for the Constabulary, did not secure for them a satisfactory relative position vis-a-vis other employees in public services as would be seen in the comparative statement in Appendix II.
- 3.6 This statement shows the comparison of emoluments (pay and D.A. only) of unskilled, semi-skilled and skilled workers of Public Sector Undertakings, with the emoluments of Constables. The unskilled, semi-skilled and skilled workers of the five Public Sector Undertakings, viz, Bharat Heavy Electricals Limited, H.S.L., H.M.T., H.A.L. & H.E.C. get much more than a Delhi Police Constable. A maximum amount of Rs. 522/- is drawn by the skilled worker of H.M.T. and H.A.L. The minimum of Rs. 421/- is drawn by an unskilled worker of B.H.E.L. against Rs. 328.70 of a Constable.
- 3.7 Another statement showing the total emoluments per month at the minimum and maximum of the scale in some organisations as in June 1977 is furnished in Appendix III. On perusal it appears that the minimum pay of a peon in Chemical/Engineering Organisations is much more than the minimum pay of a Delhi Constable. Similarly the minimum pay of a driver who happens to be a skilled worker far exceeds the minimum pay of a Police Constable. A driver of the Nationalised Bank draws Rs. 690/- per month. Again the clerk in Chemical Organisation draws a minimum salary of Rs. 730/- per month. So a police Constable gets much less than a Clerk/Driver and Peon of some organisations. The prevailing minimum wages (Basic and DA) in different industries/sectors is shown in Appendix IV. The highest minimum wage is Rs. 495/- in H.M.T. The pay and DA of Delhi Police Constable totals to Rs. 328.70 per month, which is much below the minimum wages prevalent in different industries/sectors, except EIL, Sugar Industries and Central Government employees. The minimum emoluments of employees in certain selected industries/undertakings in the organised sectors-January, 1978 are given in Appendix V. The total emoluments of Constables are much less than the minimum emoluments of an employee in Railway Workshop, Bombay, Nationalised Banks, Bombay, Public Sector enterprises at Bangalore, Engineering companies at Calcutta/Faridabad and Textile Mill at Ahmedabad. The maximum amount of Rs 723/- is drawn by an employee of Public Sector enterprises at Bangalore.
- 3.8 It may be relevant in this connection, to refer to the Royal Commission formula for fixing pay of Constables in the U.K. The Royal Commission of the United Kingdom of 1960 in its interim report presented to the British Parliament dealt with the fixation of the salary of a Constable elaborately and have evolved the following formula :—
- (i) They began with a factor which they called ‘A’ as their starting point which according to them was the minimum or standard time rate of wages paid to skilled worker in a wide range of industries representing several millions of employees.
 - (ii) To this, a second factor called ‘B’ which was 45% of factor ‘A’ was added. This was intended to take into account the hardships and privations which a policeman’s work entailed in comparison with the work of skilled industrial worker. This, the Commission thought would fully compensate the constable for his liability to work in shifts, at night during week ends or on holidays without extra payment. It was also intended to take into account the fact that a police constable is not permitted to add to his emoluments by taking up extra professional overtime work which is inseparable from police life.

- (iii) The Commission further went on to state that to the total of the two factors 'A' and 'B' they must add another factor representing the value of the constables' work to this community because of the nature of his duties and the responsibilities which he had to shoulder and also the risks in his exposure to danger, his subjection to discipline and the degree of social segregation which is forced upon him. This third factor 'C' was based on a qualitative judgement of the value of the constable's work, his responsibilities, his way of life, his knowledge, his professional skill and his physical and personal traits. This factor they assessed at 25% of the sum total of the first two factors.

The Commission considered that the total of the three factors would be an appropriate overall remuneration for the constable at the end of his incremental scale. But, as the constable received some part of his remuneration in the form of subsidiary benefits such as free housing, free uniforms etc., the overall remuneration should be reduced by the amount paid as his house-rent allowance in order to arrive at the correct figure of his pay. The present arrangement for the review of police pay in the United Kingdom is based on the Royal Commission's Report, 1960 and an agreement reached at the Police Council in 1962. Very broadly it can be said that the former determined the basis and level of pay and established a relativity with other work people; and that the latter produced an agreed formula to govern future adjustments of pay at two-yearly intervals having regard to wage fluctuations in outside industry generally.

- 3.9 The pay structure in the Japanese police system provides for extensive allowances amounting nearly to two thirds of the basic pay of a policeman. These allowances include supplements for dependents, housing, commuting, assignment to supervisory position, overtime and compensation for working at nights and on holidays. The largest item is a bonus amounting to about 40% of the basic pay and paid in three instalments during the year. The average salary of all Japanese policeman—basic pay plus bonus and allowance—is 48% above the average for all industrial workers.

- 3.10 It had been argued earlier before different pay Commissions that the Constable should be rated on par with a skilled worker for purposes of pay fixation. On the general question of categorising Government employees as 'semi-skilled', 'skilled', 'highly skilled' and 'supervisory', the first Central Pay Commission of 1946 did not lay down any rigid criteria that could be applied to all personnel. The following extract from their report is relevant in this connection :—

“.....The assignment of a particular worker to one category or another must largely be a matter of opinion based on standards recognised in industry. It seems to us that it will be convenient if each important industrial establishment will constitute a Board, say of three of its officers, to determine the class in which every worker in that establishment is to be based. The classification will of course be reviewed from time to time. In a matter of this kind, no differentiation can be made between the industrial employees of Government and those employed in private industry. The differentiation between the skilled and the highly skilled is again a matter of degree, depending to a certain extent also upon experience and purposeful training. The extent to which a man can be trusted to work by himself or required direction or guidance is also a material ingredient”.

- 3.11 The Second Central Pay Commission—1957-59, more or less endorsed the views of the First Pay Commission and did not evolve any separate criteria. The Third Central Pay Commission of 1973 dealt with this question a little more elaborately. Most of the Heads of Police Organisations had, directly or indirectly, asked for the Constable's pay to be equated to that of 'skilled' industrial worker. The Third Central Pay Commission was concerned with the pay structure of the police personnel under the Central Government and, while evolving their views in this matter, they were conscious of the possible repercussions of the pay scales adopted by the Centre for police personnel on the State Governments. They did not specifically deal with the basic question whether a Constable should be rated as 'skilled' worker, but went on to give their recommendation regarding pay structure having regard to other relevant aspects. Extracts of paragraphs 37 to 46 of Chapter 29 of Vol. II (Part-I) of the Third Central Pay Commission's report are furnished in Appendix VI.

- 3.12 We feel that the present time is appropriate for evolving a considered view whether or not a Constable

should be rated as a 'skilled worker'. This issue has not been squarely tackled so far by the Central Pay Commissions. Punjab Police Commission, 1961-62 had said that "the nearest equivalent to the constable is the 'skilled' artisan". The Delhi Police Commission of 1966-68 were of the view that the formula adopted by the Royal Commission of UK was a very reasonable and rational one. The Royal Commission had proceeded on the basis that the starting point for determining the overall pay and emoluments of a constable was the minimum standard time rate of wages paid to a skilled worker supplemented by further compensatory payments relatable to the hardships, privations, risks etc. involved in the Constable's job.

3.13 Notification No. S-32019(7)/75-WC(MW) dated 8-9-1976 issued by the Government of India in the Ministry of Labour defines the 'unskilled', 'semi-skilled', 'skilled' and 'highly skilled' categories of employees for the purpose of fixing the minimum rates of wages, as follows :—

- (a) 'Unskilled work, means work which involves simple operation requiring little or no skill or experience on the job ;
- (b) 'Semi-skilled work' means work which involves some degree of skill or competence acquired through experience on the job and which is capable of being performed under the supervision or guidance of skilled employees, and includes unskilled supervisory work ;
- (c) 'skilled work' means work which involves skill or competence acquired through experience on the job or through training as an apprentice or in a technical or vocational institute and the performance of which calls for initiative and judgement ;
- (d) 'Highly skilled work' is one which calls for a high degree of perfection and full competence in the performance of certain tasks, acquired through intensive technical or professional training, or practical work-experience for long years and also requires of a worker to assume full responsibility for the judgement or decision involved in the execution of these tasks.

Constable to be rated as skilled worker

3.14 The minimum qualification for recruitment of a Constable in many States is now fixed as matriculation. Recruitment is followed by a period of intensive training in specialised skills including a course in law which is very important for a police functionary. The duties on which a Constable is even now employed call for considerable initiative and exercise of judgment. In fact, in the revised Police set up we are visualising a role for the Constabulary which will require a lot more initiative and capacity to exercise judgment in dealing with public situations. He will also be required to perform a part of the investigational duties that devolve at the police station level. In many situations he has to function by himself, exercising his judgment of the situation and acting according to its needs under the law. A thorough knowledge of law is now required on the part of every constable and will be required in greater measure for satisfactory performance of his duties. All these requirements of the role and duties of a Constable clearly make out a case for rating him as an operative somewhere between a highly skilled worker and skilled worker, having regard to the definition mentioned in the Labour Ministry's notification of September, 1976.

3.15 We feel that full justice has not been done in the past to policemen in regard to his pay structure *vis-a-vis* other services. Despite the relatively low status accorded to him in public services, the policeman has time and again shown commendable loyalty to the call of duty and has always been principally instrumental in maintaining public order even in the most trying situations. In times of crisis brought about by strikes in important and vital sectors of Government as well as Public Undertakings like Railways, civilian employees in Central Government, etc., it is the police that stand by the side of law and maintain order despite severe handicaps and restraints. We strongly feel that the case of the policeman for a rational pay structure should not be deferred any longer but should be resolved in fair and just manner to sustain police morale which is most important in the context of growing developments in the country. The base of all progress in a country is peaceful existence of law and order and no country can afford to ignore the needs of the machinery and personnel responsible for the maintenance of law and order except at considerable peril to orderly progress.

3.16 We are aware that some authorities are inclined to draw a comparison between Army and Police personnel while considering questions of pay and other emoluments. While this comparison may be valid to some extent in regard to Army and Para-Military Forces like Border Security Force, Central Reserve Police Force and Indo-Tibetan Border Police which work in close proximity to Armed Forces in the same field of operation, we consider that there is no rational basis for such comparison between Army and the regular Police. The two services work in entirely different milieu and the styles of their functioning are quite different. Police personnel function openly very much in public view and constantly vulnerable to criticism. Whenever they act in any situation they do so with full awareness that the legal propriety and administrative correctness of every step that they take will be subject to subsequent check and scrutiny by courts and other relevant agencies. This circumstance places a far greater restraint on police action than can be said to be the case in regard to the Defence forces. Unlike Defence forces, Police personnel have always to be on duty—in fact on a twenty four hour call every day of every week during war or peace. The normal working hours of a policeman are about 13 hours a day, day in and day out. Problems of internal security get new dimensions during war time and to that extent impose additional responsibilities on the police during that period. On a careful consideration of the various factors which attend the working of the two services, we feel that there is no rational basis for comparing one with the other. The requirements of each have to be dealt with on its own merits without any comparison as such.

3.17 As for the Armed Police, the Third Pay Commission while fixing the pay of an armed police Constable had observed that—

“in arriving at these conclusions, we have kept in mind the desirability of giving a slight edge to the infantry soldier over the constable in the armed police force after taking into account the various allowances and benefits admissible to the soldiers and the personnel in the armed police and security forces. We feel that this consideration would remain valid in future also unless there is any alteration in the role assigned to any force or in the recruitment and qualifications”.

We have carefully examined the qualitative change in the role performed by the armed police in the recent years. Public order situations have increasingly drawn armed police battalions to be on duty on the roads, streets and lanes alongside the civilian police for interacting with the public and maintaining order. In the pre-Independence days, the armed police could afford to take a ruthless view of any situation and maintain order more by the use of force than by persuasion, argument and appeal. Armed police battalions in the present times have to be as much skilled as the civilian police in dealing with public in a manner which will not exacerbate or ruffle their temper or feelings on any issue. Armed policemen are put through several courses of intensified training both at the time of recruitment and later while in service to acquire the necessary skills for crowd control work. Association of armed policemen with civilian police in the present times is not so much for providing arms to the civil police but for providing greater number of police personnel, trained and equipped equally well to deal with civilian public on civilian terms. We are also separately examining a revised scheme for promotion which would facilitate internal movement from the armed police to the civilian police for their promotional career, particularly at the level of constabulary. We, therefore, feel that the basis for the observations of the Third Pay Commission regarding armed police Constable has substantially changed now. There are no longer any ground to hold that the armed police Constable should be rated lower than the civil police Constable. We feel that an armed police Constable as well as a civil police Constable should be rated at the same level with regard to their qualifications for recruitment, professional training and subsequent assesment for further promotion. Having regard to considerations analysed earlier, we recommend that the police Constable, both on the civil side as also the armed side, should be rated as ‘skilled worker’ for determining his pay structure *vis-a-vis* other public services in the States.

Compensation for the additional demands of duty on the policemen

3.18 Having expressed our views on the question of equation between the constable and the skilled worker regarding determination of pay, we would now like to deal with the following aspects of the constable's work which stand out prominently when compared with other services and would, therefore, entitle him

for some compensation for the handicaps and privations suffered by him on account of these distinctive factors :—

- (i) An obligation to work even on Sundays which is normally a day off for all workers;
- (ii) An obligation to work on all other gazetted holidays also which are notified as public holidays and are usually occasions for enjoyment and rest by the community at large. Such occasions invariably call for additional deployment of policemen for law and order duties for containing the exuberance of the holidaying public;
- (iii) Inability to avail the normal entitlement of leave every year, being called on to remain on duty to meet the ever increasing demands of manpower for incessant law and order duties;
- (iv) Long and arduous hours of work on every day of duty, very much in excess of the normal eight hours;
- (v) Physical hazards and risks involved in the performance of his duties, the enormous degree of mental stress and strain under which he functions, the nature of responsibility that devolves on his job and the manner in which he deals with the public in any given situation, the constant exposure to criticism and a very strict evaluation of his performance by the public, and the consequent social degradation which his family suffers in the estimate of people in the neighbourhood etc.

3.19 The obligation to work even on Sundays should be compensated by having a strict system of giving one day off in a week by rotation among the constabulary in any working unit. This system is in vogue in some States like Tamil Nadu, Kerala etc. The idea underlying this system is to ensure a day of compulsory rest for every constable once a week. On extraordinary occasions when this is denied to him during one-week, this should be given to him in the succeeding week, in addition to that week's rest day. In any case, denial of this off day and compensating him by paying him extra allowance for that day is to be strictly discouraged.

3.20 The obligation to work on other gazetted holidays and inability to avail normal entitlement of leave every year should be compensated by entitling a Constable to 15 days additional leave every year besides what he is normally entitled to in common with other Government servants, and further enabling him to encash the entire leave (including this additional leave) if he is denied Leave in 'public interest'.

Overtime Allowance

3.21 We have carefully examined the question of compensating the policemen for their long and arduous hours of work. The system of overtime allowance provides this compensation to employees in the industrial sector and the civilian staff under the Central Government who come under a prescribed definition of office staff. A policeman has every right to be considered for similar compensatory payment for the enormous load of overtime work he bears in the normal course of discharge of his duties. We feel it would be grossly unfair to him to hold that under the law he is on a 24 hour call of duty and therefore the matter ends there. It would be invidious to deny him the concept of overtime allowance, while large sections of his brother employees under the government are allowed this facility. We are, however, aware of the practical difficulties that are likely to crop up in working out the overtime allowance system for the police personnel on the same lines as now implemented for the civilian staff. Prior authorisation of overtime work by individual policemen on a day to day basis may not always be practicable because the extent of overtime work is often determined by the developing needs of a growing situation, particularly in the enforcement of public order, as also during investigations of serious crimes which require prolonged pursuit of clues without any let up. We are also aware of the scope for malpractices in the system of maintaining registers and computing overtime allowance on the basis of actual hours of performance of an individual's work from day-to-day. We are anxious that, as a law enforcement agency, police should be particularly guarded against such malpractices creeping into their system. We, therefore, feel that a different methodology has to be adopted for making this overtime payment to police personnel.

3.22 Rates of overtime allowance to Central Government employees in different pay scales are specified in Government of India, Ministry of Finance, Department of Expenditure O.M. No. 15011/2/E.II(B)/76 dated 11th August, 1976. The normal ceiling for the total overtime allowance payable to a Central Government Servant in terms of these orders is one-third of his monthly emoluments, including all allowances like D.A., winter allowance, hill station compensatory allowance, etc., but excluding house rent allowance. Overtime allowance is not payable for work done on Sundays and other gazetted holidays which should be compensated by the grant of compensatory leave on some other days.

3.23 A job analysis conducted by the National Productivity Council has shown that working hours of the subordinate police officers i.e. from Inspector of Police downwards, range from 10 to 16 hours every day of seven days in a week. A recent computerised survey conducted by the Tamil Nadu Police has shown that an average Constable works for about 14 hours every day without any respite. For computing the quantum of reasonable overtime allowance, we may adopt the figure of 13 hours as the normal working time put in every day by average subordinate police officer employed on public order or crime investigational duties. On this reckoning a subordinate police officer is entitled on the analogy of the orders mentioned in para 22 above to be paid overtime for 4 hours every day, deducting the first hour in excess of 8 hours, for which no payment is due. Deducting 4 sundays and 2 gazetted holidays (on an average) every month, he is entitled to be paid at this rate for 24 days. If we take the Delhi Police as a sample unit, the pay scale of a Constable is Rs. 210-4-250-5-270. His average pay may be taken as Rs. 240, taking into account the fact that most of the Constables are likely to be at different stages in the pay scale. The pay scale of a Head Constable is Rs. 260-6-326-8-350 and his average pay may therefore be taken as Rs. 305. The following table shows the total emoluments, rate of overtime allowance, the total amount payable on that account and the ceiling for payment of overtime allowance in respect of Delhi Policemen.

<i>Rank</i>	<i>Basic/average pay</i>	<i>Total emoluments including DA, ADA & CCA.</i>	<i>Rate of overtime allowance admissible per hour</i>	<i>Total OTA payable in a month (Col. 4 multiplied by 4 × 24)</i>	<i>Ceiling for payment of OTA (one-third of emoluments).</i>
1	2	3	4	5	6
Constable	Rs. 210	Rs. 343.35	Rs. 1.55	Rs. 148.80	Rs. 114.45
Constable	Rs. 240	Rs. 392.40	Rs. 1.80	Rs. 172.80	Rs. 130.80
Head constable	Rs. 260	Rs. 424.40	Rs. 1.80	Rs. 172.80	Rs. 141.47
Head constable	Rs. 305	Rs. 491.30	Rs. 2.35	Rs. 225.60	Rs. 163.77

It may be seen from the above table that if the calculations presently admissible to the civilian staff are adopted for the Constabulary—as they should rightly be—each of them would be drawing one-third of his emoluments (including D. A. and CCA) as overtime allowance every month. For the reasons already mentioned, we feel that payment of overtime allowance for Policemen need not be individually determined on the basis of registers and computation of hours of work put in day after day, but may straightway be fixed as 30% of his total emoluments, including DA and CCA. This additional payment, which may be designated as “Overtime Pay”, may be stipulated as payable to all police personnel from the rank of Constable upto and inclusive of the rank of Inspector working in police units which deal with public order situations and crime investigations. Having regard to the nature of duties and responsibilities of the different branches of the Police, the State Government may notify from time to time the police branches to which the above system of overtime pay will be admissible. Apart from such notified branches, individual posts in other branches may also be notified for this purpose if the duties attached to the post would entail appreciable overtime work by the subordinate police personnel holding that post. It may further be clarified that the ‘overtime pay’ as specified above would be in the nature of an allowance only and would not count for pension or other similar matters which are linked with regular pay.

3.24 As regards the physical hazards and risks involved in the performance of duties and the other disabilities from which the Constable and his family suffer because of his official situation, we feel that the compensatory arrangement should be through adequate provision of housing, insurance, extra family pension

and similar welfare measures. Our detailed recommendations in this regard are being made separately.

- 3.25 We further recommend that the facility for encashment of un-availed leave during a year should be extended to the Constabulary in States where the arrangement is not in force now. We notice that in most States the facility for encashment of leave on the date of retirement on superannuation already exists for all police personnel in common with the other Government servants subject to a maximum of 180 days. We would recommend that the maximum be increased to 180 days in all States and that this facility be also made available in cases of retirement on any ground, earlier than the date of superannuation.
- 3.26 We notice that the conveyance allowance and washing allowance paid to the Constabulary are very low and unrealistic in some States. We would recommend that each of these allowances to the Constabulary be raised to Rs. 10 per month.

Special Qualification pay

- 3.27 The Constabulary should also be provided with financial incentives for acquiring special qualifications as they progress in service which could be useful for bettering their professional performance. For example, knowledge of driving a motor vehicle and motor mechanism is a distinct advantage for a policeman and would help him to perform his duties more efficiently in certain situations. Even now there is a system of paying some additional allowance to policemen who are employed as drivers and cleaners in two motor vehicles branch but we find that the allowances paid are very low and disproportionate to the importance of the professional skill acquired by the policemen. Civilian drivers get paid handsomely when employed on any public duty like Election Bandobust, Festival Bandobust etc., but police personnel employed on similar duties get much less pay and allowances. We, therefore, recommend that a special qualification pay should be paid to policemen who acquire the following skills or technical/academic knowledge :—

- (i) proficiency in driving and motor mechanism ;
- (ii) Proficiency in handling wireless equipment for transmitting and receiving messages ;
- (iii) proficiency in handling computers and electronic data processing machinery ;
- (iv) acquiring a University degree higher than what he had already secured at the time of entering service in a subject which would be of professional use to him. For example, criminology, forensic sciences etc.

The quantum of special pay payable to each of these categories may be determined realistically, having regard to the pay and emoluments drawn by similarly qualified personnel working in other services or the Private Sector in the States.

Chapter-IV

HOUSING

Free housing to non gazetted police personnel—an accepted service condition

- 4.1 Ever since 1861, when the present police system was created, provision of free housing to non-gazetted police personnel has been recognised as the responsibility of the State. Proposition number 46 of the Police Commission of 1860-62, stated 'that quarters should be provided for the Police at the cost of the State; and that the accommodation of the families of the police should be discretionary with the Local Government.' The State Police Manuals/Regulations/Orders give expression to this responsibility and differ only in regard to the rank of Inspector. For example, the Bombay Police Manual lays down that "All Police Officers of and below the rank of Inspector, including all trainees at the various Police Training Institutions, are entitled to free quarters or to house rent allowance where no such quarters are available" (Volume I page 201). The Andhra Pradesh Police Manual Part I—Orders states: "In the Police department no rent shall be charged to Reserve Inspectors, Reserve Sub-Inspectors, Sub-Inspectors, Head Constables and Constables and such other officers as may be notified by Government from time to time for Government quarters occupied by them" (page 180). The Madhya Pradesh Police Regulations state: "Free quarters are provided for all police officers of and below the grade of Sub-Inspector. They are also provided for Subedar, Reserve, Cantonment and Town Inspectors and for Inspectors of the Madhya Pradesh Police College and Constable's Schools and Inspectors on the railway but not for any other Inspectors" (page 99). The office Manual of the Madras Police states: "No rent shall be charged to Sergeant-Major, Sergeants, Sub-Inspectors, Jamadars, Head Constables and Constables for Government quarters occupied by them". In Madras city, Inspectors are also entitled to rent free quarters. In Gujarat all Police Officers of and below the rank of Inspector are entitled to rent free accommodation. In Kerala this facility is available for police officers of and below the rank of Sub-Inspector.

Present situation

- 4.2 As against the general principle enunciated over 100 years ago regarding provision of 100% accommodation (barrack or family type) to the non-gazetted police personnel, the actual position in the field at present is that more than 50% of the non-gazetted police ranks all over the country have not been provided with Government accommodation of any kind whatsoever. Even among those provided with Government accommodation, a very small percentage alone have family accommodation and the rest are lodged in barracks. For example, in Bihar which has about 49,000 Head Constables/Constables, family accommodation has been provided for only 4% among them. Percentage of family accommodation in the rank of Sub-Inspector/Assistant Sub-Inspector in this State is 27.5 and in the rank of Inspectors it is 31.1. In Punjab it is only 10.3% of the constables who have family accommodation. Percentage of family accommodation for the ranks of Assistant Sub-Inspector and Sub-Inspector and Inspector in this State is 17.6, 39.3 and 48.7 respectively. In Uttar Pradesh it is only 14.9% of the constables that have family accommodation. In Delhi it is only 20.7% of the constables who have family accommodation. The overall picture that emerges is that the percentage of family accommodation provided to police personnel is very low, and lowest in the rank of constables. The position in regard to other ranks also is only marginally better but intrinsically poor. Securing private accommodation has become increasingly difficult over the years. Payment of house rent allowance operates under very restrictive rules and procedures which do not

take a realistic account of the existing high rentals. In one State we find an empirical rule that only 25% of the constabulary are entitled to be paid even this house rent allowance. When we asked in a police station how they ensured equity even in this restricted payment, we were told that they have a system of rotating this payment among all the constables periodically! The deficiency in housing and increasing hardship in paying high rents for private accommodation secured with great difficulty operate as the largest single factor responsible for grievous loss of morale in police ranks, particularly the constabulary. We, therefore, consider it a matter of great urgency that this condition of service which has remained neglected for many years be taken up for immediate fulfilment. Details of the present position of housing in the different States is furnished in Appendix VII. It may be seen therefrom that among the police personnel yet to be provided with Government accommodation of any kind, as many as 89.1% are in the ranks of Head Constable/Constable.

- 4.3 The importance of providing accommodation to the Constabulary, who have to perform long and arduous hours of work, who have to be available for taking up duties on a 24-hour-call and who, on some occasions, have literally to be on duty continuously without any relief in a 24-hour period, has also been recognised by the various State Police Commissions and is reflected in the general policy of the State Governments and the Government of India in this regard. We, however, find some serious failings in the implementation of this policy and would like to point out three necessary and urgent requirements in this respect. The first relates to some basic principles in housing programme; the second to the pace of investment; and the third to the speed of construction of houses.

Principles of Construction

- 4.4 The Indian Police Commission of 1902-3 had, while recommending provision of suitable quarters "for every police officer of and below the rank of Sub-Inspector", attached "greater importance to the provision of more married quarters". (Para 88). Various State Police Commissions have made recommendations regarding the extent to which family accommodation should be provided. Delhi Police Commission-1968 recommended 100% family accommodation for the members of the police force with the proviso that Constables should, following recruitment, stay in barracks for the first three years. The U.P. Police Commission 1960-61 recommended 60% family accommodation for constables and 100% for Head Constables in the Civil Police and 50% for Head Constables and constables in the Provincial Armed Constabulary. The Madhya Pradesh Police Commission 1965-66 stated that according to the State Police Regulations, 75% Constables are to be provided with family quarters. The actual situation also differs from State to State : In Karnataka there is no fixed percentage; in Orissa Head Constables and above are entitled to 100% family accommodation and Constables 50% family accommodation; in Punjab it is 100% for Head Constables and above and 60% for Constables; in Maharashtra it is 60% for Head Constables and 50% for Constables; in Tamil Nadu there is no fixed percentage. The Central Government has been pursuing a target of 14% family accommodation and 86% barrack accommodation for the Constabulary. With increasing urbanisation and greater pressure on land and the erosion of Joint family system, small and separate families would in future be the order of the day. The arrangement of some personnel keeping their families in their ancestral house in the village while they themselves live in barrack accommodation at their places of duty, is bound to become progressively difficult and unworkable. This situation would lead to a much greater demand for family accommodation for the personnel at their places of duty. We, therefore, recommend that in future, excepting for the requirements of trainees in a training institution or some sections of armed police units, all ranks of non-gazetted police personnel be provided with *family type accommodation*. The existing barrack accommodation may also be replaced by fresh construction of family quarters as and when the barrack accommodation is switched over for the requirements of a training institution or a similar purpose.

- 4.5 We do not find any rationale for the differences in the targets for family accommodation adopted by the States in their police housing programmes for different ranks. The general picture that emerges is that a higher percentage of family accommodation is programmed for the higher ranks among the non-gazetted police

personnel as compared to the Constabulary. We recommend that this distinction be immediately given up and the target of 100% family accommodation be uniformly applied to all ranks of non-gazetted police personnel. Having regard to the fact that the existing deficiency of family accommodation is largest in the ranks of Head Constable/Constable we would further recommend that the future police housing programme should be so evolved that the percentage of satisfaction regarding family accommodation for the Constabulary is brought to level with that which obtains for the upper subordinates.

Pace of Investment

4.6 In 1956-57, the Government of India started a Police Housing Scheme for the non-gazetted police personnel under which upto 1977-78, Rs. 71 crore had been provided by way of Central (loan) assistance to the States. Details of the assistance provided are given in Appendix VIII. The initial requirement of matching contribution from the States was given up within two years of the operation of the scheme. The States had till 1977-78 expended over Rs. 88 crore on this scheme from their own resources. With effect from 1974-75 this became a Central Plan scheme and Rs. 23 crore were provided in the Fifth Five Year Plan. In actual operation, Rs. 2 crore were released in 1974-75, Rs. 4 crore in 1975-76, Rs. 4.50 crore in 1976-77, Rs. 6.25 crore in 1977-78 and Rs. 7.25 crore in 1978-79 making a total of Rs. 24 crore. While planning this investment, the Central Government had intimated the States that the target would be 100% family accommodation for upper subordinates, i.e., non-gazetted officers of the ranks of Assistant Sub-Inspector and above, and 14% family accommodation and 86% barrack accommodation for lower subordinates, i.e. Head Constables and Constables. In spite of the additional assistance made available by the Centre from 1956-57, the shortage of accommodation at the end of 1977-78 remained in respect of 3.86 lakh out of a total of 7.4 lakh personnel. High percentage of shortage of accommodation has persisted for several years owing to low pace of investment coupled with increase in the numbers of police personnel. In fact the Ministry of Home Affairs have computed that at the present pace of investment, the numbers of police personnel remaining the same, it would, at the average cost of Rs. 25,000/per quarter, take over 100 years to provide accommodation to those members of the police force who are entitled to it.

4.7 We feel that the indifferent handling of this problem in the past and a persistent tendency to accord low priority to it on account of financial considerations have allowed this problem to assume its present formidable dimensions which now make it appear intractable. We would strongly urge that from the point of view of improving police efficiency and sustaining the sagging morale of the force, the provision of housing to the Constabulary should be given high priority in financial allocations and the pace of investment should be substantially increased so that this problem may be solved within ten years.

4.8 We are, however, gratified to see some evidence of better appreciation of the urgency of this requirement in the fact that Rs. 105 crore have been proposed for Police Housing in the draft Five Year Plan for 1978-83. The Seventh Finance Commission (1978) after concluding "that there is urgent need to provide for adequate housing in these States in the interest of discipline and morale of the police" have recommended capital outlay of Rs. 82.86 crore in the non-Plan budgets, during the period 1979-80-1984-85, of 15 States in which the housing satisfaction for the subordinate ranks of police is at low levels. These are Andhra Pradesh, Assam, Bihar, Himachal Pradesh, Jammu & Kashmir, Kerala, Madhya Pradesh, Manipur, Meghalaya, Nagaland, Rajasthan, Sikkim, Tamil Nadu, Tripura and West Bengal. Considering the magnitude of the problem, we would emphasise that the State Governments will have to give this requirement a high degree of priority and allocate more resources to it than what they have done in the past.

Ten year plan for housing

4.9 We have computed the approximate cost of construction of family accommodation for all the entitled personnel in all the States who are yet to be provided with Government accommodation of any kind. Details are furnished in Appendices IX and X. The total expenditure involved in the project to complete the entire

housing programme from the position as obtains today is about Rs. 1045 crore. If this programme were to be spread over ten years, the outlay in the first five year period will be Rs. 523 crore. The draft Five year Plan for 1978-83 provides for Rs. 105 crore for police housing within the Plan scheme. We understand that this is made up of Rs. 60 crore for the State Plans and Rs. 45 crore for the Central Plan. A part of Rs. 45 crore set apart for the Central Plan will be utilised by the Ministry of Home Affairs in the normal course to render financial aid to the States for implementing their police housing programmes under the scheme of Central aid for such programmes. Having regard to the importance of housing for sustaining police morale and efficiency in the increasingly difficult conditions in which police personnel have to perform their tasks, we would strongly recommend that the outlay on police housing under the State Plans in the Five Year Plan (1978-83) be increased to Rs. 523 crore. Of this amount, Rs. 262 crore could be the investment by the States from their own resources and the balance of Rs. 261 crore could be the financial assistance from the Centre. The quantum of Central assistance in this scheme would be inclusive of the amount recommended by the Seventh Finance Commission for allocation to the States for this purpose on the non-Plan side. (The Seventh Finance Commission has recommended capital outlay of Rs 82.86 crore in the non-Plan budget during the period 1979-84 for police housing in 15 States where the housing deficiency is comparatively large). We would not consider the total outlay of Rs. 523 crore in a Five Year Period as financially unreasonable or impracticable if the importance of this scheme is realised as it should be. In this context we would like to observe in passing that where the States are determined to make an investment in a scheme they consider important in any context, they are apparently able to find the money without great difficulty, as may be seen from the fact that in 1977-78, nine States, in which Assembly elections were due to be held, had announced several tax concessions and measures of relief to employees which amounted to an additional commitment of Rs. 326 crore from the States' resources in one single financial year, after the State Plans had earlier been finalised—*vide* statement made by the Finance Minister in the Lok Sabha on the 22nd July, 1977. Given the desire to alleviate the hardship of 3.86 lakh police personnel all over the country who have at present no Government accommodation of any kind whatsoever, family or even barrack type, and provide them with suitable accommodation to enable them discharge their heavy duties more efficiently to the satisfaction of the public, the Central Government and the State Governments should be able to find their way to make this investment in the first spell of five years, to be followed by a similar plan in the next five year period which would then see the completion of the entire programme.

Formula for Central aid

- 4.10 We have ascertained from the Ministry of Home Affairs the manner in which the quantum of Central financial assistance for the different States is determined. For each State a factor R is determined as the product of two other factors P and Q, P representing the percentage of the police strength of that State to the total police strength in all the states and Q representing the percentage of police personnel requiring accommodation in that State with reference to the total police strength of that State. Having determined This R factor for each State, the R factor of all the States are totalled up and the percentage of the R factor of each State with reference to this total is determined. The total amount available for allotment is thereafter divided among the States according to this percentage. Some further refinements are introduced in the calculation if it is found that a particular State had not fully utilised the previous year's allotment. If X is the unspent balance in a State from the previous year's allotment, and if Y is the amount to which it will be entitled for the current year according to the calculations described above, its actual entitlement for the current year is fixed as Y minus one half of X, one half of X being the penalty for the State's default in the previous year. Allowing for the amount of X which has remained with the State unspent from the previous year's allotment, the amount that is finally distributed to the State for the current year comes to $Y - \frac{X}{2} - X$, that is $Y - \frac{3X}{2}$. The amount that is left with the Ministry by this process of penalty is distributed to the other States, having regard to their comparative percentage of deficiency in police housing. The Ministry have also been adopting the principle that in all these calculations the net amount that is allocated to a State in a particular year should not be less than the previous year's allocation. The above principle of allocation is linked with the twin factors of the

total police strength in a State viewed on an all-India basis and the existing percentage of deficiency of police housing in that State. States with a larger deficiency will naturally get a higher multiplying factor and, therefore, this method of computation appears to us to be generally reasonable. We would, however, recommend that this scheme of financial aid from the Centre be limited to housing programmes in States which have not yet reached 80% satisfaction of family accommodation for the different ranks. If a higher level of satisfaction has been reached for any particular rank in a State, further outlay on police housing for that rank should not have the benefit of Central aid. This would also imply that when a State reaches 80% level of satisfaction of housing for all the non-gazetted ranks, the scheme of Central assistance to that State will terminate.

4.11 Having fixed the limiting figures of 80% of family accommodation for Central assistance, it would be necessary to ensure that the demands from the States are based on uniform criteria. We now find that even the existing targets adopted by the Ministry of Home Affairs are not correctly enforced. For example, the figures furnished by one State in response to a detailed circular from the Ministry of Home Affairs in 1976 showed that family accommodation was available to 28.8% of upper subordinates and 27.9% of lower subordinates which meant that even then that State had exceeded the Ministry of Home Affairs target of 14% family accommodation for lower subordinates. Yet, in its subsequent assessment of housing requirements that State has continued to show the deficiency of family accommodation for lower subordinates and the Ministry of Home Affairs have continued to take the demand into account. The figures furnished by another State in 1976 showed existing family accommodation for 52.3% of lower subordinates. Yet, that State has continued to show the deficiency of family accommodation for lower subordinates in its subsequent returns to the Ministry.

4.12 We have looked into some of the relevant files in the Ministry of Home Affairs and also briefly discussed the matter with the Ministry officials. The following gaps are noticed in the information and data that are being periodically obtained by the Ministry from the States :—

- (i) Existing deficiency of accommodation is not categorised separately as family/barracks both are lumped together in one number.
- (ii) Existing percentage of family accommodation/barrack accommodation available in the States is not known, excepting in a few States which happen to have furnished this figure of their own accord.

4.13 We also notice that the release of Central assistance to the States has generally taken place late in the financial year, which creates difficulties in implementing the construction programme. This delay appears to be the result of late receipt in the Ministry of Home Affairs of utilisation reports which are required to be sent by the State by the 30th of April every year. In some cases, information regarding the authorised police strength and similar matters was also received late and incomplete.

4.14 We would recommend the following corrective measures to eliminate the gaps in information and delay in release of funds :—

- (i) The Ministry of Home Affairs should indicate to the State Governments the allocation from the Central Plan outlay for police housing well before the commencement of the financial year, immediately after the Central Plan is finalised. This would enable the State Governments chalk out their police housing programme well in advance.
- (ii) The physical target in the form of specified number of dwelling units to be constructed with the investment of the proposed allocation of Central assistance should also be indicated in advance.
- (iii) Achievement of physical targets from time to time should be monitored.
- (iv) Funds may be released in instalments commencing with a provisional release at the very beginning of the year, followed by subsequent releases on receipt of progress reports from the States which shall indicate the total provision made in the State budget for police housing, the physical targets reached and the amount spent till then.
- (v) During discussions with the Planning Commission regarding their Annual Plan outlays, State Governments should clearly indicate their proposed Plan outlay for police housing. The Plan approval communicated by the Planning Commission should specifically indicate the approved

outlay on police housing separately, instead of clubbing it with general housing, as has been done in several letters of approval of the Annual Plan 1978-79 issued in 1978. A copy of the Annual Plan approval letter from the Planning Commission to the State, which is normally issued before the presentation of the State and Central budgets, should be marked to the Ministry of Home Affairs so that they could suitably plan the allocation of Central assistance well in time for implementation during the year covered by the Plan.

- (vi) If persistent failures are noticed in any State in the timely implementation of approved housing programmes, the Ministry of Home Affairs should send an official team to visit the State for identifying the difficulties and deficiencies in the field so that appropriate corrective action could be taken in time.
- (vii) A standard proforma for the periodic submission of all relevant information and data from the States to the Ministry of Home Affairs regarding police housing is indicated in Appendix XI.

Speed of Construction

4.15 We felt very disappointed to see that, even after funds had become available, construction of police quarters in certain States did not make any progress apparently for want of proper planning and adequate machinery for taking up the construction task. On 31.3.1977 two major States had surrendered Rs. 38.25 lakh and 41.30 lakh respectively, the entire quantum of Central assistance allocated to them. Unspent balances as on 1.4. 1978, in the various States amounted to 184.29 lakhs. Sadly enough, some of the States which had considerable unspent balances had as many as 54%, 48%, 53% of its personnel requiring housing.

4.16 The construction machineries available in the States are the Public Works Department, the Housing Boards and Police Housing Corporations. We would recommend the constitution of the requisite number of special divisions in the P.W.D. of each State for implementing the police housing programmes. These divisions should be earmarked for the Police housing projects only and should not be deployed on other work. While these divisions would be under the administrative and technical control of the Chief Engineer of the PWD, their outturn of work should be subject to a close quarterly review by a Committee consisting of the Inspector General of Police, the Chief Engineer, PWD, and a representative each from the Home and Finance Departments.

Police Housing Corporations

4.17 We understand that the Housing and Urban Development Corporation provides funds for employers to build houses on rental basis for their employees. This assistance is provided to private companies and public sector organisations such as the Housing Boards. It is stated that HUDCO provides 70% of the total project cost and charges interest at 12-1/2%. The loan is repayable over 7 years. We found that Maharashtra, Andhra Pradesh and Bihar have set up Police Housing Corporations to handle the construction programmes for police personnel. These Corporations in Maharashtra and Andhra Pradesh have received loan assistance from HUDCO in varying amounts. The Maharashtra Police Housing and Welfare Corporation which was set up in March, 1974, took up a scheme of construction of 304 Constabulary quarters in Bombay with a loan of Rs. 51 lakh from HUDCO in October, 1974 and completed the project by March, 1977. In June, 1978, they submitted another scheme to HUDCO for construction of 970 Constabulary quarters at a cost of Rs. 213 lakh. Repayment of these loans is ultimately the responsibility of the State Government. The Bihar Police Building Construction Corporation set up in 1956 has constructed 602 quarters for different categories of policemen and barrack accommodation for 919 Constables. Other States could consider the setting up of similar Police Housing Corporations to handle this task.

4.18 Several States have set up Housing Boards to handle the general housing schemes in the State. We found that the State Housing Board in one State was entrusted with the construction of Police quarters at certain places and they did it with loan assistance from Housing and Urban Development Corporation. The Government subsequently paid the cost of these works to the Housing Board in instalments. We would

recommend the association of State Housing Boards with Police Housing schemes wherever possible. This arrangement could conveniently secure financial assistance from HUDCO.

- 4.19 Even after specific housing projects are sanctioned, the process of actual construction is time consuming and its progress is subject to variables in the field situation. For example, an unforeseen labour situation or a shortage of building material may hold up a project. It is, therefore, necessary to strengthen the survey and planning organisations in the police and PWD to ensure that at any given time an adequate number of planned building projects with land already acquired and estimates duly approved are kept ready for commencement of work at short notice. Unless all these factors are taken care of at the planning stage, we will continue to have the paradox of paucity of resources on the one side and surrender of funds on the other. Whatever special arrangements are devised, it would be necessary for the police department to maintain close contact with the actual progress in the processing of housing schemes and the execution of sanctioned construction works. For this purpose, it would be advantageous if an officer of the appropriate rank from the P.W.D. is taken on deputation to the Police Department to function as liaison and monitoring officer. This system has been tried in one State with very useful results.
- 4.20 In some places it has been noticed that construction programmes are held up on account of non-availability of land. In this context we recommend that Nazul land and the excess land that becomes available for disposal by the Government under the provisions of Urban Land (Ceiling and Regulation) Act of 1976 could and should be utilised for police housing schemes wherever feasible. The extent to which this could be implemented in all the urban areas covered by the above mentioned Act, can be gone into by a small working group in each State consisting of representatives of the Revenue, Housing and Police Departments.
- 4.21 *Ad hoc* and piecemeal establishment of police stations and out posts resulting from sporadic responses to local demands have aggravated the problem of accommodation for the police personnel who are deputed to man these stations and out posts. It would be a good arrangement if in all future cases of sanction of police stations and out posts the provision of residential accommodation for the police staff concerned is also settled simultaneously and all sanction orders are issued together.
- 4.22 We observe that in rural areas private accommodation is not easily available for rent and even when available it may imply some measure of obligation to the landed gentry in the village which would not be desirable. In the metropolitan cities, accommodation is available but rents are prohibitively high. We would, therefore, recommend that in the future programme for construction of police housing, rural areas and metropolitan cities should be grouped together and given first priority followed by other cities and towns in that order. Availability of family accommodation in rural areas would also act as an incentive for willing acceptance of rural posting by police personnel. We would further recommend that as far as possible police quarters be built in the vicinity of police stations to facilitate group briefing and quick mustering of men as and when required.

House rent allowance

- 4.23 Until such time as the required number of quarters are built for police personnel, house rent allowance should be paid to them as is being done in many States. We notice that the present quantum of house rent allowance is unrealistic compared to the actual amount police personnel are obliged to pay for renting private houses. The norms and certificates required to be obtained from Public Works Department and Revenue authorities peg down the allowance to very low rates without regard to realities. We would strongly recommend that police personnel entitled to free accommodation should be fully reimbursed the actual house rent paid on their producing a certificate from their supervisory officer of the rank of Dy.S.P. that the accommodation occupied by them is not more than what they are entitled to under Government Rules or Regulations made in this behalf by the Inspector General of Police. This payment may be subject to a ceiling determined for each rank at the district level by the chief revenue authority in the district in consultation with PWD. These ceilings shall be notified in advance for each district and shall be reviewed every

three years. In this arrangement there shall be no need for certificates from the Rent Controller or any other similar authority for deciding individual cases so long as the ceiling limits are observed.

- 4.24 In addition to 100% family accommodation for all non-gazetted ranks in the Civil and in the Armed Police, some barrack accommodation should be available for Constables who come from the mofussil to district headquarters on various duties. This is very important because they cannot afford to stay in hotels or lodges nor can they be left to fend for themselves by finding some corner somewhere for rest and sleep. Barrack accommodation should also be available for personnel who are called for in-service training. But, in no case should this barrack accommodation be used for residential purposes by personnel posted in the district headquarters.
- 4.25 We are of the view that owing to differences in living habits, climate and varying availability of construction material, a model plan of family quarter for the policemen on a uniform basis for the entire country is not feasible. We recommend that the minimum living accommodation for Constabulary i.e. Head Constables and Police Constables should consist of two rooms, a kitchen and a bath-room. As the norms of actual floor space depend on the general housing pattern adopted in each State and the availability of land, we refrain from recommending any minimum floor-space at the all-India level.
- 4.26 Another cause of anxiety and concern for police personnel, particularly the Constabulary, that has been brought to our notice is the problem of their accommodation after retirement. Most of them have no house of their own and view with alarm their accommodation problem which they would face after they retire from service. It would be appropriate in the present context for the Government to aid police personnel in building small houses for themselves. The aid can be in the form of a housing loan repayable in convenient instalments with the condition that the loanee would either live in the house himself or hand it over to the Government in the event of his transfer to some other place, and the Government would pay him monthly rent calculated on the current percentage of return on cash investment of corresponding value. The Government could then utilise the same house for accommodating another policeman posted at that place. We understand that such a scheme is in vogue in Maharashtra and would commend its adoption in all States.

Policemen's cooperative housing society

- 4.27 Construction of such houses by the policemen themselves with aid from the Government would be further facilitated by setting up a cooperative housing society in each district for all policemen. This arrangement would help in securing financial assistance from other bodies like the Life Insurance Corporation. Successful management of such cooperative housing societies will need the whole time attention of a senior officer and we, therefore, recommend that an officer of the rank of Superintendent of Police in the welfare wing of the police department be entrusted with the responsibility for promoting these cooperative housing societies in each district. It should be deemed a legitimate charge on the welfare side of police budget to provide expert personnel for running these societies efficiently.

Chapter-V

SUPPLY OF ESSENTIAL COMMODITIES

- 5.1 Low salaried employees like the Constabulary are the worst hit by the pressures of steep inflation and sharply rising prices of essential commodities. Police personnel are specially handicapped in this regard because of the arduous nature and long hours of their duties and their special position among the public services which severely limit their seeking any alternate employment during off-hours to augment their income. Domestic situations and related economic factors, which heavily depress the Constabulary's mind and pull down their morale, ultimately affect their efficiency. We have examined in this context some possible arrangements for providing relief to the non-gazetted police personnel from the increasingly severe economic pressure. We find an arrangement in West Bengal for the supply of some essential commodities to subordinate police officers at rates which remain fixed irrespective of the rise in prices. In this scheme, which is in force from 1966, all subordinate police officers from the rank of Sub-Inspector/Sergeant downwards including wireless Supervisors, Wireless Operators, crew of police launches, Subedars and Jamadars of the Eastern Frontier Rifles etc., are supplied rice, wheat, sugar, dal and mustard/rapeseed oil at fixed concessional rates according to a prescribed scale. The supply covers the family members of each police personnel up to a maximum limit of 4 including the personnel himself. The scheme is operated through supply centres which are opened at convenient places in a district and run by internal arrangement with the existing staff under the Superintendent of Police. The scale of supply at the fixed rates is furnished below :—

<i>Item</i>	<i>Quantity per head per week.</i>	<i>Rate per Kg.</i>
Rice	1 Kg.	0.50 P.
Wheat or Wheat products	(1.50 Kg. for policemen. (1 Kg. for family member.	0.25 P.
Sugar	300 Grams	0.70 P.
Dal	750 Grams	0.60 P.
Mustard Oil	250 Grams	2.00 P.
Rapeseed Oil		

- 5.2 These concessions are not ordinarily admissible to a police officer on leave, but the Superintendents of Police may permit at their discretion an officer to continue to draw the ration from the police ration stores even while on leave, if he or his family remains at the station at which he was posted while on duty. The concession is also admissible to officers who are under suspension or are undergoing treatment in hospitals.
- 5.3 All purchases of rationed commodities are made by Superintendents of Police through the Food & Supplies Department. As regards non-rationed articles, purchases are made through contractors at the most favourable rates obtained through open tenders. Constabulary are also represented on the purchase committees which settle these contracts.
- 5.4 Advances are sanctioned by the State Government on a quarterly basis to the Superintendents of Police to finance the purchases for carrying out the schemes. Personal Ledger Accounts have been opened by the officers and the advances sanctioned by Government are deposited in the Personal Ledger Accounts. All payments are made by withdrawal from the respective Personal Ledger Account. Sale proceeds of

commodities realised each day are credited to the Treasury/Sub-Treasury the same day under a prescribed head. The net cost of the scheme is adjusted at the close of the year under the head relating to loss on sale of subsidised food.

5.5 All losses incurred by the sale of these commodities at subsidised rates are borne by the State Government. Supply centres are manned by the existing operational staff under the command of Superintendents of Police without involving extra expenditure on the staff.

5.6 Expenditure incurred by the State Government on this scheme in the last 5 years is furnished below :-

<i>Year</i>	<i>Amount</i>
1973-74	Rs. 4,08,50,000.
1974-75	Rs. 5,12,05,000.
1975-76	Rs. 9,20,01,000.
1976-77	Rs. 6,47,97,000.
1977-78	Rs. 6,32,68,000.

5.7 A copy of the Government of West Bengal, Home Department (Police) Memo No. 5734-PL/P61/66 dated 12th November, 1966, which introduced this scheme is furnished in Appendix XII.

5.8 We find this scheme has served as an excellent morale booster for the West Bengal Police and is gratefully acknowledged as a great boon by the rank and file of the force. It has sustained their morale while working under severe economic strain and increasing pressure of duties all round. We would recommend the immediate adoption of this scheme for the police in all States.

5.9 Apart from the above scheme, we would further recommend that on occasions when police personnel are required to remain on duty for more than 8 hours at a stretch without relief, arrangements should be made for the supply of food packets to them at their places of duty at Government cost. This will be in addition to any daily allowance which they may be entitled to under the normal rules for the duty done that day.

Chapter-VI

ORDERLY SYSTEM

- 6.1 There has been a system in the Police Department of attaching Constables to senior police officers to work as their orderlies in their office as also residence. The following duties are generally done by the Constable orderlies :—
- (i) Attend to petitioners, complainants and other visitors who come to see the officer.
 - (ii) Attend to telephone calls, particularly during the officer's absence, and furnish helpful replies to enable the caller to speak to some other appropriate functionary for action.
 - (iii) Pass on messages on telephone to subordinate officers.
 - (iv) Carry messages and files from the officer to the local staff stationed nearby.
 - (v) Accompany the officer on his field work and be present with him to afford security and assistance in dealing with any situation.
 - (vi) Assist the officer in keeping his uniform and arms in a neat and smart condition.
 - (vii) Maintain the officer's reception room and office premises in a neat and tidy condition for receiving visitors and transacting official business.
- 6.2 In the recent years there has been mounting criticism that the Constabulary posted as orderlies to officers are misused for doing a lot of domestic chores and unauthorised personal work relating to the officers and his family like cooking, washing clothes, fetching grocery, etc. Shri Ramanand Tiwari, M. P. from Bihar, who is an acknowledged champion of the Constabulary, has vehemently criticised this orderly system and says in his book entitled "Sipahion ki kahani ankron ki jubani" that most of the senior police officers treat such Constables as their slaves and take even lowliest work from them. It is generally said that the Constabulary are forced to perform orderly duties of this kind against their will and that they are not able to resist this exploitation in individual cases because of fear of vindictive reprisals in their regular official work.
- 6.3 On the side of the police officers, it is argued that this system provides an opportunity for the men serving in the lowest rung of the ladder to come into contact on an unofficial level with his commander and see him as a fellow human being. Such a relationship generates trust, respect and affection, apart from providing the availability of a trained Constable to receive visitors, spot suspects, question them intelligently besides attending to telephone calls and generally acting as security assistant to the officer to whom he is attached. This close relationship with a member of the Constabulary helps the officer also to have a perspective of the living and working conditions of the Constabulary in general and provides him with a very useful channel of information on several matters relevant to the Constabulary.
- 6.4 There can be no two opinions regarding the impropriety of utilising Constable orderlies on domestic chores of the kind mentioned earlier. The Constables are rightly agitated over this practice which smacks of a feudal set up and is highly derogatory to their sense of self-esteem and morale. Repeated instructions in this regard for the avoidance of this malpractice have been issued by some State Governments as also by Inspectors General of Police from time to time. In the Central Reserve Police, it has been codified in their manual that "orderlies should not be employed in menial duties in households". However, there is reason to believe that breaches of these instructions continue to occur and some members of the Constabulary continue to be exploited in the performance of these duties. We are convinced that the orderly system as is now in vogue is vulnerable to malpractices which cannot be effectively got over by mere exhortations or

instructions. Apart from the aspect of misuse, there is also the aspect of wastage of a fully trained police personnel for doing certain duties which do not require such a trained functionary to perform. After careful consideration of all aspects of the matter, we recommend that the orderly system as it exists at present be abolished.

6.5 However, we recognise the need for some kind of assistance from a trained Constable to officers to deal with certain situations in the performance of their duties. Police officers are essentially field officers and cannot possibly confine the reception of petitioners, complainants and visitors to office hours only. Quite often they have to be out on field work during the day and, therefore, are unable to deal with such visitors and also attend to files except at their residence out of office hours either in the morning or late in the evening or night. In such a situation they do need assistance at their residence for attending to visitors. Telephone calls have also to be attended to at the residence of the police officers, at all hours of the day and night during his absence and presence. The person attending the call has not only to be helpful in his response over the phone, but should also be in a position to appreciate the significance of the information and take necessary follow-up action on his own in the absence of the officer and pass on appropriate message to another functionary. On some occasions he may also have to send or carry urgent messages and documents. We, therefore, recommend that one Constable may be attached to an officer for performing these duties which are enumerated in items (i), (ii), (iii) and (v) of para 6.1. Entitlement to such assistance may be determined, not by the rank of the officer, but by the actual need for such assistance with reference to the nature of his duties and responsibilities. The Constable detailed on such duty with an officer may be called his Security Aide or by some other appropriate name.

6.6 For handling the duties mentioned in items (iv), (vi) and (vii) of para 6.1, we feel that the officers hitherto entitled to orderlies for the performance of these duties should continue to have assistance, but it should be by an arrangement of paying the officer a suitable monthly allowance for employing a private person of his choice for performing these duties. The quantum of the monthly allowance may be fixed with reference to the provisions of the Minimum Wages Act, 1948, as applicable to an unskilled worker. The Government's responsibility will be limited to the payment of the monthly allowance to the officer. Employment of the private hand and payment of wages to him will be the officer's responsibility. We feel that this arrangement would act as a further check on the misuse of the Constabulary as described earlier.

Chapter-VII

MACHINERY FOR REDRESSAL OF GRIEVANCES OF POLICE PERSONNEL

7.1 Efficient performance of any system largely depends on the morale of the personnel who constitute the system and the extent to which they feel satisfied that the system takes good care of their well-being. Morale, in turn, can be sustained only when the system has a satisfactory mechanism for identification and redressal of grievances of its personnel. This mechanism, besides being inherently satisfactory, should also appear satisfactory and carry credibility and conviction to the personnel. We have carefully examined the existing facilities in the Police for identification and redressal of policemen's grievances. Presently, there is the system of holding weekly orderly room and monthly Sammelan/Darbar/Alochana Sabha in different police units at the district and sub-divisional level. The orderly room gives an opportunity to individual policemen to represent their grievances to the commanding officer, who is usually of the rank of Superintendent of Police, and the latter is expected to take appropriate remedial measures. At the monthly Sammelans and Darbars some collective grievances get ventilated and superior officers get an opportunity to know them and initiate suitable corrective steps. Some grievances of policemen are redressable by appropriate action within the police system, but quite a number of grievances require action at the government level. We find that the system of holding orderly rooms and Sammelans is by and large useful only for halfhearted articulation of grievances but not always for their effective redressal. Moreover, the system of orderly room has, over the years, acquired a punitive character, and is now used mainly for awarding punishments for delinquencies which are announced by the intermediary officer who marches the delinquent into the orderly room. There is an urgent need for devising a satisfactory system through which grievances can be effectively voiced and, what is more, some solutions can be found with a proper understanding and assessment of the issues involved.

Policemen's Associations

7.2 At present in most States there is no machinery at the State level to articulate grievances of policemen and to seek their redress at government level except that the Inspector General of Police writes to the State Government from time to time regarding certain matters which have a bearing on the morale and welfare of the forces and they are dealt with in correspondence in a routine manner. In certain States there are associations of policemen, un-recognised as well as recognised, which enable collective presentation of grievances. In this context we have looked into the concept of associations for policemen and their recognition under our Constitution. Under Article 33 of the Constitution, the Parliament may by law determine to what extent any of the Fundamental Rights conferred by part III of the Constitution shall, in their application to the members of the Armed Forces or the Forces charged with the maintenance of public order, be restricted or abrogated so as to ensure the proper discharge of their duties and maintenance of discipline among them. In pursuance of this article, the Police Forces (Restriction of Rights) Act, 1966, was enacted by the Parliament. According to Section 1 of that Act, it extends to the whole of India and shall come into force in the States/Union Territories on such dates as may be respectively appointed by the State Governments/Central Government in that behalf. According to information available to us at present the Act has been brought into force in all the Union Territories and in all the States excepting Maharashtra, Meghalaya and Sikkim. This Act does not outright prohibit a member of a police force from being a member of or being associated in any other way with a trade union, labour union or similar association. It merely stipulates that such membership would require express sanction of the Central Government or the

prescribed authority. In other words, this Act implies the recognition of the concept of such an association for members of a police force with due sanction from a prescribed authority who, it is to be expected, would satisfy itself that the membership of the association would be accompanied by appropriate conditions to ensure the proper discharge of duties by the members of the police force and the maintenance of discipline among them.

- 7.3 According to information available to us, Associations of policemen covering the State Police Service Officers and subordinate Police ranks already exist in Uttar Pradesh, Bihar, West Bengal, Madhya Pradesh, Orissa, Tripura, Manipur and Delhi. Some of these associations have been formally recognised by the State Governments under the aforesaid Act, while some are yet to be recognised but are functioning in some form or the other. Some are defunct. Officers of the Indian Police Service have their central association and its branches in the States.
- 7.4 Police Commissions constituted from time to time in different States have also expressed some views on this subject. The Assam Police Commission (1971) was "strongly of the opinion that in a disciplined Force like the police, redressal of grievances should be an automatic process through departmental channels." But aware that collective grievances need policy decisions which are beyond the competence of departmental authorities, it recommended formation, at government level, of a High Power Committee comprising the Home Minister, the Finance Secretary and the Inspector General of Police to examine, at least once a quarter, all pending proposals relating to policemen's grievances. The Bihar Police Commission (1961) and West Bengal Police Commission (1960-61) were in favour of the Whitley Council pattern and endorsed the recommendations of the Second Central Pay Commission (1957-59). The Bihar Commission recommended that every district council composed of six members and a Chairman, three members of the council to be elected through secret ballot by all the constables of the district and three nominated by the Superintendent of Police. These six were then to elect a Chairman. The Commission added that for the time being there was no need to start an association but after the work of the council progressed satisfactorily the constables also should be given the privilege of starting their own association in due course, care being taken that only the serving personnel were entitled to be members of the association. The Delhi Police Commission (1966-68) observed that "the formation of an association or union by policemen is not a circumstance at which we may justifiably feel horrified though there can be no question of a Trade Union of policemen within the meaning of the Trade Union Act. Associations constituted for the purpose of safeguarding the interests of individuals, subject to a common body of rules, regulations and conditions of service and of redressing their grievances are wholly unobjectionable." The Tamil Nadu Police Commission (1971) thought conditions were not suitable to change the rules which prohibit these associations. The Police Commissions of Madhya Pradesh, Maharashtra, Punjab, the Uttar Pradesh Reorganisation Committee (1947) and the two Commissions of that State (1960-61 and 1971-72) did not express any view in the matter.

Guidelines

- 7.5 While the right of police personnel to form associations is already recognised in law, subject to prescribed rules and regulations, we feel it would be useful to set down some general principles which should govern the formation and working of such associations, having regard to the paramount need for guarding against factors that might prejudice the proper discharge of duties by policemen and the maintenance of discipline among them. We recommend that the following guidelines be kept in view by the prescribed authorities while granting recognition to policemen's associations :
- (i) Membership shall be restricted to serving policemen only. No outsiders, whether a government servant or not, shall be entitled to membership or function as an office bearer of the Association or be connected with it in any advisory or other capacity.
 - (ii) Members shall not have the right to strike work or withhold their services or otherwise delay the performance of their duties in any manner.
 - (iii) The Association shall not resort to any coercive method or agitation for obtaining redressal of grievances.

- (iv) The Association shall not do anything which may affect the efficiency of the force or undermine its discipline.
- (v) The Association shall be absolutely non-political in character and shall not be connected directly or indirectly with political activity of any kind.

It would be desirable to have the above stipulations embodied in the Memoranda of Association of these bodies before they are recognised.

Election of Office Bearers

7.6

We have looked into the existing practice for the election of office bearers of these associations in some States. We appreciate that unless the office bearers come up through some process of election, they will not have the representative character which is important in the entire scheme of ventilation of grievances. We are, however, equally anxious that any electoral process adopted for this purpose among the police personnel should not provide the unintended scope for political forces to operate in a manner prejudicial to the maintenance of discipline and, what is more, the impartial character of the Police as a whole. In our view a process of indirect election of the type we will be explaining in detail in the subsequent paragraphs dealing with the formation of Police Staff Councils could be adopted for the election of office bearers of police associations. State Governments may also like to consider other alternate methods of indirect election, having regard to local conditions and experience of working of police associations already existing in the State. We further recommend that policemen's associations may be of the following four categories:

- (i) One association may cover Constables and Head Constables and equivalent ranks.
- (ii) A second association may cover all Assistant Sub-Inspectors, Sub-Inspectors, and Inspectors and equivalent ranks.
- (iii) A third association may cover all officers of State Police Service upto and above the rank of Deputy Superintendent of Police.
- (iv) Existing Indian Police Service Association will cover all I.P.S. officers.

Associations covering the ranks of Constable/Head Constable, Assistant Sub-Inspector/Sub-Inspector/Inspector may be formed on district basis. Representatives of the District Associations may constitute the State level Associations for these ranks.

The Association of State Police Service Officers of and above the rank of Deputy Superintendent of Police may be organised on State basis.

Forum for Discussion

7.7

Having said all this, we would like to observe that police associations may only facilitate collective articulation of grievances but that would not by itself help in evolving practicable solutions. Our discussions with the office bearers of two important Associations of policemen in a large State brought out the admission that while they had effectively voiced the grievances of policemen, they have not always been able to get the Government to sit with them in earnest for quickly evolving remedial measures. The existing system does not provide an adequate sense of participation for all members of the police force, particularly at the lower levels, in the evolution of professional norms and techniques for handling police problems and for removal of grievances which stand in the way of efficient performance of duties. We have reasons to believe that the Constabulary in particular, are progressively getting alienated from the system and they lack a sense of belonging to the police force with well-defined inspiring objectives. There are growing indications of a developing gap between the supervisory cadre and the constabulary. We are of the view that it would greatly enhance the morale and help the police force if a system could be devised for associating the rank and file in a joint examination and discussion of important problems affecting their professional performance, morale, welfare and allied matters. We have therefore to devise a forum at which representatives of policemen's associations can sit together in a kind of federal body and discuss

the problems for evolving concrete and practicable solutions.

7.8 The Central Civil Services have the scheme for Joint Consultative Machinery and Compulsory Arbitration which provides them with such a forum, but this scheme specifically excludes police personnel from its purview.

7.9 We have ascertained that from March, 1975, the Border Security Force have a scheme of Border Security Force Staff Council of which the Director-General is the Chairman and other members are drawn from different ranks as indicated below :—

Inspector General	1
Deputy Inspector General	1
Superintendent of Police	1
Additional Superintendent of Police	3
Deputy Superintendent of Police	2
Inspector	2
Sub Inspector	4
Head Constable, Naik, Constable	6

In this scheme, the Staff Council has meetings with the Home Minister once in six months to discuss important matters pertaining to morale, welfare and other establishment problems. Home Secretary and other senior officers of the Ministry of Home Affairs are present during these discussions with the Home Minister. There is satisfaction all round that all the relevant factors connected with the issues raised at the meeting are objectively discussed and mutually understandable and acceptable decisions are taken thereon. We are told that these meetings have been a great morale booster for the force and quite a number of pending problems have been sorted out to mutual satisfaction. The most significant and satisfying element in this scheme is the facility it affords to the rank and file of the force for direct discussions with the Home Minister across the table.

Staff Councils

7.10 Some of the Study Groups set up in the States at our instance to examine various issues arising from our terms of reference have also expressed their views on this subject, more or less reiterating the need for associating the rank and file in the working of Staff Committees or Councils for redressal of grievances. Taking into account these views and recognising the urgent need for evolving a satisfactory forum for a meaningful examination and discussion of the problems articulated separately by the policemen's associations, we recommend the immediate formation of a Joint Consultative Machinery in the shape of staff councils for the police personnel and a scheme for compulsory arbitration on the lines detailed in the following paragraphs.

7.11 There shall be a Police Staff Council at the district level for every district of comparable police unit in each State Police. This shall be called the District Police Staff Council (DFSC) and shall be made up of the following :—

Superintendent of Police	1 (ex-officio Chairman)
Dy. Superintendent of Police	1 (Member-Secretary)
Inspector of Police	1 (Member)
Sub Inspector and Assistant Sub Inspector	2 (Member)
Head Constable and Constable	4 Member

Total : 9

Note : Representatives from the rank of Head Constable/Constable shall include at least 2 Constables. Representatives in the rank of Sub Inspector/Assistant Sub Inspector shall include at least one Assistant Sub-Inspector.

The four members from the rank of Head Constable/Constable shall be nominated by the recognised policemen's association in the State which covers these ranks. If no such association exists, these members shall be elected by and from an electoral college consisting of representatives drawn from each police station or comparable unit in the district police. Each such representative shall be elected in a primary election from amongst themselves by the Constables and Head Constables in each such unit. Primary elections in all such units shall be held simultaneously on a specified date that would be determined by the Superintendent of Police and communicated to all police stations and similar units with not more than three days' notice of the proposed election. Representatives thus elected from all police stations and comparable units shall thereafter be assembled in the district headquarters on a notified date and the Head Constable/Constable members shall be elected from among them. This secondary election at the district level shall be supervised either by the Superintendent of Police or by a senior Deputy Superintendent of Police nominated by him.

7.12 Members in the rank of Sub-Inspector/Assistant Sub Inspector shall be nominated by the recognised policemen's association in the State which covers these ranks. If no such association exists, they shall be elected by and from an electoral college consisting of representatives of these ranks who come up through a process of primary election conducted at the sub-divisional level covering all Sub-Inspectors/Assistant Sub-Inspectors working in the sub-division or comparable unit. Secondary election from these representatives shall be held at the district level under the supervision of the Superintendent of Police or a senior Deputy Superintendent of Police nominated by him.

7.13 Members in the rank of Inspector and Deputy Superintendent of Police shall be nominated by the respective policemen's associations which cover these ranks or, in the absence of such associations, shall be elected from all officers of the respective rank serving in the district. Elections for this purpose shall be held at the district headquarters under the supervision of Superintendent of Police.

7.14 At the State Police Headquarters there shall be constituted a State Police Staff Council (SPSC) composed of the following :

Inspector General of Police	1 (ex-officio Chairman)
Deputy Inspector General of Police in charge of Welfare Wing	1 (ex-officio Member)
Assistant Inspector General of Police in charge of Administration	1 (ex-officio Member-Secretary)
Superintendent of Police/Asstt. Superintendent of Police	2 (Member)
Deputy Superintendent of Police	2 (Member)
Inspector	2 (Member)
Sub-Inspector and Assistant Sub-Inspector	4 (Member)
Head Constable and Constable	8 (Member)
Total :	21

Note : Representatives from the rank of Head Constable/Constable shall include at least 4 Constables. Representatives in the rank of Sub-Inspector/Assistant Sub-Inspector shall include at least 2 Assistant Sub-Inspectors.

Members in the rank of Superintendent of Police and Assistant Superintendent of Police shall be nominated by the State Branch of the Indian Police Service Association. Members in the ranks of—

- (i) Deputy Superintendent of Police;
- (ii) Inspector;
- (iii) Sub Inspector and Asstt. Sub Inspector; and
- (iv) Head Constable and Constable

shall be nominated by the recognised policemen's association in the State which covers these respective ranks. If no such association exists, these members shall be elected from amongst themselves by the personnel of

the respective rank who are members of the DPSCs. Elections for the SPSC shall be held at the State headquarters under the supervision of the Assistant Inspector General of Police in charge of Administration.

7.15 A candidate has to satisfy the following conditions to be eligible for membership of these Councils either through election or nomination as described above :—

- (i) He shall have put in at least five years of service in the police force on the first day of January of the year in which the election is held;
- (ii) He shall not have received any major punishment in the previous three years.

Note : Major punishment for this purpose shall mean reduction in rank or to a lower stage in the time scale and suspension from service, if imposed as a specific punishment.

7.16 Elected members of the DPSCs and SPSC shall hold office for a term of two years at a time. On expiry of one term, a member shall be eligible for re-appointment in either of these councils if he comes up again through the same process of election as detailed above, but no such member shall hold office for more than two consecutive terms. A term of office held in either of these councils shall count for membership of the other council under this rule. Vacancies caused by death, retirement or transfer shall be filled for the unexpired term.

Note : An association may replace on the Staff Councils such of its representatives who have ceased to be its office bearers at annual elections or by exigencies such as a vote of no confidence.

7.17 DPSC shall meet once in three months and the SPSC shall meet once in six months and discuss all matters pertaining to morale, welfare and other allied establishment problems which fall within the administrative purview of the State Government. They shall, however, be precluded from discussing individual cases of disciplinary proceedings or postings or transfers or similar establishment matters. The DPSC shall dispose of all matters regarding which remedial measures are feasible at the district level. Matters requiring further consideration and decision at higher levels shall be remitted to the SPSC. Service conditions of officers of the Indian Police Service or any other related matter which will require decision at the Central Government's level, shall be beyond the purview of DPSCs and SPSCs.

7.18 There shall be a Joint Consultative Council (JCC) at the State headquarters to deal with matters which require consideration and decision at the government level. This Council shall consist of an official side and a staff side. The official side shall be appointed by the Government and may consist of upto 7 members including the Chief Secretary, Secretary in-charge of police, Finance Secretary and Personnel Secretary in the State Government. The entire body of the SPSC, as described earlier, shall constitute the staff side of the Joint Consultative Council. The Minister in-charge of Police shall be the Chairman of the Joint Consultative Council. It shall meet as often as necessary to deal with matters that arise from the deliberations of the SPSC or otherwise.

7.19 No person who is not an employee or an honourably retired employee of the State Government shall be a member of the JCC.

7.20 The scope of the JCC shall include all matters relating to conditions of service and work, welfare of the police personnel and improvement of efficiency and standards of work, provided, however, that (i) in regard to recruitment, promotion and discipline, consultation will be limited to matters of general principles and (ii) individual cases shall not be considered.

7.21 The official side shall conclude matters at meetings of the Council and shall not reserve them for later decision by the Government.

7.22 The JCC may appoint committees to study and report on any matters falling within its scope.

7.23 Subject to the final authority of the State Cabinet, agreements reached between the two sides of the JCC will become operative.

- 7.24 If there is no agreement between the two sides, the matter may be transmitted to a committee of the JCC for further examination and report. But, if a final disagreement is recorded, and the matter is one for which compulsory arbitration is provided, it shall be referred to arbitration, if so desired by either side. In other cases, the Government will take action according to its own judgment.
- 7.25 A matter disposed of by the JCC in any manner will not be placed on the agenda during the following 12 months, unless for any special reason, the Chairman of the JCC directs otherwise.
- 7.26 JCC shall frame its own rules for the conduct of its business.

Arbitration

- 7.27 Arbitration shall be limited to—
 (i) pay and allowances;
 (ii) leave; and
 (iii) any other matter that the SPSC and the State Government mutually agree to refer to arbitration.
- 7.28 Cases of individuals shall not be subject to arbitration.
- 7.29 A dispute shall not be referred to arbitration unless it has been considered by the JCC and final disagreement between the two sides has been recorded.
- 7.30 On a final disagreement being recorded as mentioned above, the State Government shall appoint a Board of Arbitration as soon as possible, in any case not later than one month from the date of recorded disagreement. The Board shall consist of three members, one drawn from a panel of 5 names submitted by the official side, one from a similar panel submitted by the staff side of the JCC and a Chairman who shall be an independent person, preferably a retired or serving Judge of the High Court or senior administrator. The members and the Chairman shall be selected by the Minister in-charge of Police.
- 7.31 In determining a dispute, the Board of Arbitration shall examine the merits of the case presented by both the official and staff sides and take into account all other relevant factors including the principles enunciated in any recent report of a Commission of Inquiry, etc.
- 7.32 Matters determined by the State Government in accordance with the recommendations of a Commission will not be subject to arbitration for a period of five years from the date of the recommendation, after which they shall become arbitrable with reference, as far as possible, to the factors referred to in para 7.31 above.
- 7.33 Subject to the overriding authority of the State Legislative Assembly, recommendations of the Board of Arbitration shall be binding on both sides.
- 7.34 If, for reasons to be recorded in writing, the State Government is of opinion that all or any of the recommendations of the Board of Arbitration should on grounds affecting national economy or social justice be modified, the State Government, shall, as soon as may be, lay before the State Legislative Assembly the report of the Board containing such recommendations together with the modification proposed and the reasons therefor, and thereupon the Legislative Assembly may make such modifications in the recommendations as it may deem fit.
- 7.35 Orders made by the State Government in pursuance of the recommendations of the Board of Arbitration shall, unless otherwise specified in those recommendations or modified by mutual agreement, remain in operation for a period of three years.
- 7.36 In making these recommendations, we have taken into account the currently growing trend of attitudes and feelings among the rank and file of the police force and the urgent need for the officer cadres

and the leadership of the force to start a joint endeavour with the rank and file for a meaningful and collective discussion of service problems and evolve solutions in a manner which would satisfy the rank and file and foster in them feelings of professional pride, dignity and sense of participation in the decision-making processes in the system. We are fully convinced that unless the steps as envisaged above are taken on hand quickly, the rank and file will soon be enveloped by growing demoralisation and the entire system would get dangerously weakened.

- 7.37 We would recommend that the Staff Councils and the Joint Consultative Council as detailed above may be brought into being in the first instance through administrative orders. After gaining practical experience in working the scheme for some time, they may be given a statutory cover by appropriate modifications and additions to the Police Forces (Restriction of Rights) Act, 1966 and the rules framed thereunder.

Amendments to the Police Forces (Restriction of Rights) Act, 1966 and the rules

- 7.38 We would like to point out at this juncture that the above mentioned Act and rules would also require to be amended immediately to set right some anomalies and deficiencies now noticed. Section 3 of the aforesaid Act merely prohibits an individual member of the police force from joining an association without sanction of the Central Government or the prescribed authority. The prohibition is not against the formation of an association itself. For example, if a non-policeman were to announce the formation of an association, it does not appear to constitute an offence under this Act. Again, for example, if the wives of policemen were to form an association, it would not appear to attract any penal provision. There is no enabling provision in the Act or the rules under which the prescribed authority may impose conditions before granting recognition.
- 7.39 Under Rule 8 of the Police Forces (Restriction of Rights) Rules, 1966, an association of policemen cannot get recognition if it covers more than one rank. In other words, the statutory rules as they stand at present, envisage a separate association for each rank. This would mean that even Head Constables and Constables cannot together remain in the same association. Under Rule 11 of the same rules, any recognition granted to any association prior to 19th December, 1970 (the date on which these rules came into force) shall automatically stand revoked on expiry of 30 days from that date if the Articles of Association are not recast to conform to the revised rules of membership. It appears to us that even the Indian Police Service Association as constituted now does not conform to the legal requirements, and therefore, its earlier recognition by the Government should be deemed to have been revoked! There is an immediate case for amending the aforesaid Act and rules to set right these anomalies and deficiencies.
- 7.40 We would, therefore, recommend that this Act be appropriately amended straightway to—
- (i) enable the Central Government or the prescribed authority impose such conditions as may be deemed fit to ensure the proper discharge of police duties and the maintenance of discipline among policemen before granting sanction to any proposed association;
 - (ii) include the guidelines for the working of the associations as detailed in paragraph 7.5;
 - (iii) enable the formation of associations to cover more than one rank, on the lines indicated in paragraph 7.6; and
 - (iv) impose the same obligations on members of the families of policemen as applicable to policemen themselves in regard to their membership or other links with such associations.
- 7.41 The arrangements detailed in the foregoing paragraphs would deal with collective grievances of police personnel. Individual grievances have to be looked into by the departmental authorities at the supervisory levels. A rigid insistence on rituals in the name of discipline before a subordinate police officer could approach the senior ranks for redressal of his grievances should be avoided. Any officer with a grievance should feel free to articulate it before his own superiors. Any attempt to stifle such articulation would only result in the affected personnel airing their grievances outside the system and that would lead to undesirable results. Supervisory officers should take the initiative and avail every opportunity to identify individual grievances in the normal course of their tours and inspections and take effective remedial measures. One of the points

for assessing the supervisory capacity of an officer should be the measure of success achieved by him in identifying and redressing the grievances of his subordinates. Expeditious sanction and payment of increments and such other allowances as fall due from time to time, prompt settlement of leave, pension, Provident fund, gratuity, etc., are matters that require close and constant attention from the supervisory officers to avoid build up of individual grievances on that account. A substantial impact can be achieved in this matter if senior officers set an example and demonstrate the quick spotting of such grievances and their prompt redressal in day to day work.

Chapter-VIII

WELFARE MEASURES FOR POLICE FAMILIES

- 8.1 Organisation of adequate welfare measures for police personnel and their families is a must for the maintenance of their morale in the midst of difficult and taxing working conditions. During our visits to States we had a look at some welfare centres and acquainted ourselves with the existing arrangements for looking after police families. We also took note of the special facilities that are available in some States to take care of the families of police personnel who die or get seriously injured and disabled while discharging their duties. While practically every State has organised welfare measures of some kind or the other, we feel there is urgent need and scope for considerable improvement. We have entrusted a study to the National Council of Applied Economic Research, Delhi and Tata Institute of Social Sciences, Bombay to examine in depth the economic profile of a police Constable's family by making a sample survey of a large number of police families in Delhi, Uttar Pradesh and Maharashtra. Their study report is expected to reveal the actual gaps and needs in the welfare requirements of police families. We have also set up a sub-committee under the Chairmanship of the Director General, Border Security Force, to examine the organisation and funding of welfare measures. Our recommendations in this regard will follow as soon as these study reports are received. Our suggestions then would also be covering medical facilities and educational facilities for police personnel and their families.

Chapter-IX

RECRUITMENT, TRAINING AND CAREER PLANNING

- 9.1 The Committee on Police Training (1972) had given an exhaustive report with several recommendations regarding recruitment and training of different ranks in police. In regard to Constables they had recommended that "the high school examination or its equivalent should be the minimum educational qualification for the recruitment of Constables both in the unarmed and the armed branches of the police uniformly throughout the country. The effort, however, should be to attract candidates with higher educational qualifications. To this end, we recommend further that suitable advance increments should be given to candidates who have passed the intermediate or higher examinations". We wholly endorse the views of the Committee on Training in this regard. We find that the educational level for recruitment of Constable has been raised to Matric/SSLC in only 9 States and one Union Territory following the Training Committee's recommendation. We would strongly advise the immediate adoption of this recommendation by the remaining States and Union Territories. This reform is fundamental and urgent for the rank of Constable, in view of the proposed restructuring of the police hierarchy on the lines indicated in para 2.17 of chapter II. Even now a Constable trainee in the civil as well as armed wing, is required to read several books of instructions pertaining to enforcement of law and the handling and maintenance of arms and other equipment given to him. The standard of lessons in these books requires a minimum academic competence on the part of the trainee to be able to absorb the essence of the instructions. We consider the educational qualification of Matric/SSLC as the very minimum for a Constable recruit to get trained properly and fit into the police system and in due course assume higher positions of responsibility as envisaged by us.
- 9.2 In the revised system as visualised by us, the Constable will have to be trained and developed as a potential investigating officer who can, with experience, handle investigational work independently. When he picks up that requisite experience, which in our view should be around five or six years, he should enter the rank of Assistant Sub Inspector/Sub Inspector by promotion. The present syllabus of his training as a Constable and further inservice training courses wherever organised, will have to be given a second look to see if they provide for adequate training in the basic principles of investigational work and allied interaction with the public. We are examining this matter separately and will be making our recommendations in our next report.
- 9.3 We have already stated that we envisage a promotional channel for the Constable to rise to higher levels—even the highest—by promotion on the basis of his performance at each level. The principle of promotion from the lower ranks is being followed even now for filling up either all the posts or a certain percentage of posts in the ranks of Assistant Sub Inspector, Sub Inspector, Inspector and Deputy Superintendent of Police. The existing scheme of promoting officers from the State Police Service to the Indian Police Service provides the opening for the rank promotee to rise to the level of Superintendent of Police and above. In actual practice, however, the number of posts in each of these ranks are so limited compared to the number in the lower ranks that even the most brilliant and exceptionally qualified Constable cannot hope to rise by promotion beyond the rank of Inspector. We have already observed that prolonged stagnation at the level of Constable for a very large number of personnel who enter the police system at this level, acts as a big depressant and demotivating factor in the performance of their duties. The hierarchical structure has to be radically revised to provide for greater numbers at the levels of Assistant Sub Inspector/Sub

Inspector Inspector for ensuring a smooth and quick promotional flow from below. While designing the revised structure, we have to take note of the functional needs of a certain number of posts at each level and balance the number suitably to take care of the promotional needs also. We have entrusted a study of this problem to the Administrative Staff College of India at Hyderabad and will be evolving our recommendations in this matter as soon as we receive their report.

Chapter-X

MODALITIES FOR INQUIRY INTO COMPLAINTS AGAINST POLICE

10.1

One of the fundamental requisites of good government in a democracy is an institutionalised arrangement for effectively guarding against excesses or omissions by the executive in the exercise of their powers or discharge of their mandatory duties which cause injury, harm, annoyance or undue hardship to any individual citizen. This arrangement has not only to include internal checks and balances to minimise the scope for such misconduct but also to ensure an effective inquiry into any specific complaint of an alleged excess or omission and expose it promptly for corrective as well as penal action. This is specially necessary in the police who have vast scope for exercise of powers by a large number of personnel affecting the rights and liberty of individual citizens in daily life. Powers of arrest, search, seizure, institution of a criminal case in court, preparation of reports on the alleged anti-social conduct of any specified individual, etc., mark several stages in executive police action which afford vast scope for misconduct by police personnel in different ranks, particularly at the operational level, causing harm and harassment to the citizens. Apart from positive acts of misconduct, policemen cause extreme annoyance to public by not performing their mandatory duties in a variety of situations. A large number of persons are affected by the malady of non-registration of complaints when crimes are reported at police stations. Even when cases are registered, slackness and indifference in follow-up action are another cause for public complaints. Police ineffectiveness, owing to the operation of extraneous influences or otherwise, in dealing with goondas and other persons believed to be responsible for crime, is another cause for public criticism against police. We are aware that a considerable number among the persons who are aggrieved on account of police inactivity or indifference belong to the weaker sections of society who do not have enough resources to pursue their complaints in higher quarters. We are also aware that the alleged partisan conduct of police on some occasions is the result of extraneous influences and pressures that operate on the system. The compulsions of a statistical evaluation of police performance which is frequently played up in public forums lead to malpractices like non-registration of crime, adoption of improper methods of investigation in a bid to solve cases somehow or other, etc., which are a source of great annoyance and harassment to the public. In our examination of the entire police system we will be dealing with the factors which induce such misconduct, and the recommendations we propose to make in that regard may reduce the scope for such misconduct. However, the need for an effective machinery to deal with public complaints that may continue to come up against the police in some form or the other in the normal course will still exist.

Statistical Analysis

10.2

We have studied in this regard some relevant statistics received from the States. Analysis of complaints against police officers received by Superintendents of Police in Haryana, Himachal Pradesh, Jammu & Kashmir, Karnataka, Madhya Pradesh, Maharashtra, Manipur, Meghalaya, Nagaland, Punjab, Rajasthan, Tamil Nadu, Uttar Pradesh and Delhi shows that in 1977 out of a total of 68,275 complaints inquired into by the departmental officers, allegations were substantiated either wholly or partly in 4797 complaints only, which amounts to about 7%. Another interesting feature is that of the total of 76,444 complaints received by Superintendents of Police, 45,953 were received by them directly from the complainants and the remaining 30,491 were received through higher officers. The percentage of complaints received from higher officers is strikingly large in certain States as compared with others. This, perhaps, may be taken as a measure of confidence with which aggrieved persons seek redress at the level of Superintendent of Police in the respective States.

- 10.3 Complaints regarding police misconduct are also sometimes laid before the District Magistrate (executive). Quite a number of such complaints are usually transmitted by him to the Superintendent of police for disposal in the normal course. Some are looked into by the District Magistrate himself or his subordinate officers. In some cases, he calls for a report from the Superintendent of police. Analysis of statistics in this regard from the States of Haryana, Himachal Pradesh, Jammu & Kashmir, Karnataka, Madhya Pradesh, Maharashtra, Meghalaya, Nagaland, Punjab, Rajasthan, Tamil Nadu and Delhi shows that in 1977 out of a total of 7960 complaints received by the District Magistrates, 5239 were transmitted to the Superintendents of police for disposal, 378 were inquired into by the District Magistrates themselves or their subordinate officers and in the remaining 2343 cases the District Magistrates called for reports from the Superintendents of Police. Among 378 cases looked into by the District Magistrates or their subordinate officers, allegations were substantiated in 45 cases only. Among 2343 cases in which reports of inquiry were obtained from the Superintendents of Police, allegations were substantiated in 437 cases only.
- 10.4 Analysis of complaints of police torture dealt with in Haryana, Madhya Pradesh, Maharashtra, Meghalaya, Punjab, Rajasthan, Tamil Nadu and Delhi in 1977 shows that 82 complaints were dealt with by magisterial inquiries, 17 by judicial inquiries and 430 by inquiries by other agencies like State C. I. D., Vigilance etc. Number of instances in which police were held to blame were 37 out of 82 magisterial inquiries, 11 out of 17 judicial inquiries and 23 out of 430 inquiries by other agencies. Percentage of inquiries which disclosed actionable material is highest in the case of judicial inquiries, lower in magisterial inquiries and lowest in inquiries conducted by other agencies.
- 10.5 In quite a few cases parties have gone to courts with private criminal complaints against police officers for their alleged misconduct. Analysis of such complaints dealt with in 1975, 1976 and 1977 in Haryana, Karnataka, Madhya Pradesh, Maharashtra, Manipur, Meghalaya, Punjab, Rajasthan, Tamil Nadu, Delhi, Goa and Pondicherry shows that a total of 2618 complaints were filed. 1131 complaints were decided in court during the same period. Among them only 54 ended in conviction of the accused police officers, while 1077 were either discharged or acquitted or otherwise disposed of.
- 10.6 From these statistical statements, it is observed that—
- (a) a sizeable percentage of complaints of police misconduct are preferred before police authorities higher than the Superintendent of police;
 - (b) the percentage of substantiated complaints is low both in regard to the inquiries held by the District Magistrates and their officers and the inquiries held by the Superintendents of police;
 - (c) percentage of substantiated complaints of police torture is highest in judicial inquiries, lower in magisterial inquiries and lowest in inquiries conducted by other agencies; and
 - (d) a very large number of private criminal complaints filed against police officers in courts have failed.
- 10.7 Statistically speaking, the position against police officers is not all that bad. Having regard to the large number of police personnel interacting with the public every day, the number of complaints received against them and the percentage of complaints held substantiated after inquiry are comparatively small. It may, however, be argued that quite a number of instances of misconduct may not have come up in the form of complaints because of ignorance or lack of facilities for the victim to make a complaint. It may also be argued that departmental inquiries do not always bring out the truth and are mostly biased in favour of the policemen. We appreciate the imperative need to ensure that the complaints that are made, irrespective of their number, are handled in a manner that affords maximum satisfaction and carries credibility to the complainant in particular and the public in general.
- 10.8 The police Act of 1976 is the special legislation in the United Kingdom to deal with complaints from the public against the members of police forces in England and Wales. This Act envisages a police Complaints Board consisting of not less than 9 members appointed by the Prime Minister. None of the members shall be a person who is or has been a Constable in any part of the United Kingdom. This Board is deemed to be a body corporate and is not to be regarded as the servant or agent of the Crown. A person appointed as a member of the Board shall not hold office for more than three years at a time. While com-

plaints against police are handled in the normal course by the police Chiefs, this Act requires the police Chief, subject to certain specified exceptions, to furnish to the Board copies of complaints and the nature of action taken thereon including the commencement of disciplinary proceedings, if any, against any police personnel following the inquiry into the complaint. The Board has powers to call for additional information from the police Chief and also direct him to initiate fresh disciplinary action if they disagree with his earlier decision not to initiate such action. Disciplinary charges shall not be withdrawn except with the leave of the Board. Disciplinary Tribunals are also set up by this Act to determine whether or not the accused is guilty of a charge on conclusion of disciplinary proceedings. The Tribunal consists of a Chairman, who shall be the Police Chief and two members of the Police Complaints Board nominated by the Board who would not have been concerned with the case earlier. The essence of the UK Scheme appears to be to preserve the responsibility of the Police Chief for initiating inquiries into complaints against police and have a non police body to over-see the disposal of inquiries into such complaints and ensure fairness.

10.9 Having regard to the structure of police as a disciplined force and the need for an effective chain of command to hold it together, it is stressed by police officers that the superior officers within the police department have to bear full responsibility for ensuring good behaviour and proper conduct on the part of their subordinates. This responsibility should not be diluted in any manner. Any complaint of police misconduct should, therefore, normally be looked into by the departmental officers themselves at the appropriate level. If anything is done to give the impression that the superior police officers cannot be trusted to discharge this responsibility, it would weaken their command of the force and this would lead to loss of morale and confidence. Having regard to the vulnerability of police for being ready targets of attack by anti-social elements and related vested interests, it is specially necessary to strengthen the position of the commanding officers in the department to act as corrective influence at their respective levels.

10.10 As against the above mentioned aspect which is important from the policemen's point of view, we have the complainant's point of view in which any inquiry conducted by the departmental officers, however high their level may be may not infuse confidence in him that they have been objective in their inquiry. This is particularly so when the alleged acts of misconduct have been committed in the course of pursuing an objective which has the overall approval of the departmental hierarchy. In all such cases, it is not enough if the inquiry is held objectively. It is equally important that it should appear to be held objectively, in the view of the complainant and other aggrieved persons. In devising a new arrangement we have, therefore, to strike a reasonable balance between these two requirements. It should be acceptable both to the police and to the public as fair and just, not favouring one at the expense of the other and not damaging the morale of the police and reducing their effectiveness in maintaining law and order.

Deficiencies in the existing system

10.11 A large number of complaints against police can legitimately and rightly be looked into and disposed of by the supervisory ranks in the police hierarchy itself. An inquiry by the supervisory rank will also have the added advantage of promptly making good an omission in the performance of a task by the lower level. However, we have to ensure that the mode of inquiries by the departmental authorities carries conviction to the aggrieved persons regarding its fairness, impartiality and objectivity. Some points of criticism against the existing system of inquiries by departmental officers are listed below :—

- (i) The Inquiry Officer is obsessed by a feeling that the exposure of the misconduct of any of his subordinates will be deemed as a stigma on his own administration and is, therefore, inclined to suppress a full exposure of the alleged misconduct.
- (ii) He also feels that too frequent exposures of this kind will make him unpopular with the rank and file and he, therefore, likes to avoid such a situation.
- (iii) If the allegations are against a police officer who is generally known for his professional competence, the Inquiry Officer prefers to softpedal the inquiry to avoid harm to his subordinate who is otherwise doing a good professional job.
- (iv) An Inquiry Officer, who is himself corrupt and dishonest, does not feel enthusiastic in exposing

the misconduct of his subordinates.

- (v) Witnesses are casually and indifferently examined in many such inquiries. Their full statements are not recorded, but a mere gist of their oral deposition is mentioned by the Inquiry Officer in his report.
- (vi) Witnesses are sometimes advised by the Inquiry Officer not to make much of certain acts of misconduct and the Inquiry Officer thereafter proceeds to write his report stating that the complainant himself does not want to press his complaint.
- (vii) The Inquiry Officer does not himself take the initiative to find out the truth but insists on the complainant himself producing all the witnesses and proving his complaint. This acts as a serious handicap to the complainant, particularly when he happens to be poor, ignorant and ill-informed.
- (viii) The tendency to suppress the alleged misconduct becomes marked when the misconduct is said to have occurred in the course of discharge of duties by the police. Examples are : allegations of torture when a person is being interrogated by police during investigation, allegations of excessive use of force when police deal with riotous mobs, etc.
- (ix) Inquiries lose their objectivity and fairness when the police officer against whom allegations are made happens to have political contacts of a nature which would influence the ultimate decision on the result of inquiry.

10.12 Some of the above points of criticism cannot be satisfactorily eliminated by the mere issue of instructions because they are linked with essential attitudes and approaches and the "administrative culture" developed in the day to day working of the police. It is, therefore, necessary to have some institutionalised arrangements to counter these deficiencies and difficulties.

Departmental inquiries

10.13 As a first principle, we propose that the inquiries into any complaint of police misconduct shall be conducted by an officer of the rank of Inspector of Police or above only, on the following pattern :

Complaints Against

Head Constables/Constables

Sub-Inspectors/Asst. Sub-Inspectors

Inspectors of Police/Deputy Superintendents of Police/Assistant Superintendents of Police.

Superintendent of Police and above.

To be Inquired into by

An officer not below the rank of Inspector of Police.

An officer not below the rank of Deputy Superintendent of Police

An officer not below the rank of Superintendent of Police.

Complaint Cells directly supervised by the Deputy Inspector General or Inspector General, as the case may be.

Complaint cells

10.14 While the above categorisation would apply to inquiries conducted by the authorities in the hierarchy in the normal course, there shall be a special complaint cell, headed by a Deputy Superintendent of Police in each district working under the Superintendent of Police to handle inquiries into allegations of police misconduct in which the normal hierarchical levels are likely to take a biased view for any local reason. The discretion to entrust special inquiries to this cell shall be exercised by the Superintendent of Police having regard to the circumstances of each case. The Deputy Superintendent of Police in charge of this cell shall have two or three Inspectors for assistance in field work. In major districts this post of Deputy Superintendent of Police shall be created exclusively for dealing with this work with supporting staff specially sanctioned for it. In smaller districts this work may be entrusted to a Deputy Superintendent of Police at headquarters who may be in charge of a district-wide unit like the District Crime Branch or the District Intelligence Bureau or any similar set up at district headquarters functioning directly under the Superintendent of Police with district

wide jurisdiction. Personnel for these cells shall be specially selected with reference to their integrity and record of service. Their postings shall have the prior approval from the Range Deputy Inspector General concerned.

10.15 There shall be a similar cell working directly under each Range DIG for handling inquiries which may involve scrutiny of the part played by the Superintendent of Police himself in any particular situation. At the State headquarters, there shall be a special cell under a Superintendent of Police with supporting staff of Deputy Superintendents of Police and Inspectors working directly under the Inspector General of Police to handle such inquiries which require attention at the State level.

10.16 All field officers from the rank of Inspector of Police upwards and all officers in charge of special cells mentioned above shall maintain registers with appropriate columns to record the receipt and disposal of every complaint handled by them. The special cell under each Superintendent of Police shall frequently check and ensure the proper maintenance of these registers by all the field officers in the district and the expeditious disposal of complaints handled by them. The special cells under the Deputy Inspector General and Inspector General shall conduct surprise checks in the districts to see if the complaints are properly and expeditiously disposed of.

Guidelines

10.17 Regarding the actual manner of conducting inquiries, we recommend the following points to be kept in mind by Inquiry Officers :

- (i) The complainant should be heard in detail and every effort must be made by the Inquiry Officer himself to ascertain the truth by examining such other witnesses as he may deem necessary, without insisting on the complainant himself to secure the presence of witnesses.
- (ii) Important witnesses shall as far as possible be examined in the presence of the complainant so that he has the satisfaction of hearing what they depose.
- (iii) Throughout the conduct of inquiry, the Inquiry Officer shall scrupulously avoid doing anything which might create a doubt in the complainant's mind about the objectivity and impartiality of the inquiry.
- (iv) The inquiry shall, as far as practicable, be conducted in an appropriate public building or place, in or near, the complainant's resident village.
- (v) If the Inquiry Officer reports that the complainant himself does not want to press his complaint in any particular case, the facts and circumstances of that case shall again be verified by either the next superior officer or the district complaint cell.

Mandatory judicial inquiries

10.18 Even if the above precautions are taken in departmentally conducted inquiries, there would still be a category of complaints of serious misconduct by police in which the aggrieved person would feel dissatisfied about the impartial and objective nature of the inquiry unless it is conducted by some independent authority outside the police. This category will cover such instances of misconduct which arise when the police are engaged in an operation under the direct control and guidance from the higher ranks for achieving a professional objective. Examples are : police operation in dealing with unruly mobs in a serious law and order situation, police encounters with dacoit gangs, interrogation of suspects in a case that has evoked a lot of sensation and for whose detection lot of pressure has built up, etc. In such cases, a magisterial inquiry also fails to carry conviction to the aggrieved persons because a Magistrate (executive) is in practice looked upon as an integral part of the Establishment. We are aware of the growing number of instances of alleged police misbehaviour in which demands for judicial inquiries, i. e. inquiries by a member of the judiciary, have been repeatedly voiced by several sections of people. In fact, the very demand for a judicial inquiry in to a specific instance, when it is not immediately conceded by the State authorities, becomes the main issue around which further tension and pressure build up and escalate the law and order situation, regard-

less of the nature of the original incident. Whether or not to concede the demand for a judicial inquiry in such situations becomes a kind of prestige issue if the demand happens to be voiced by some political groups. This aspect complicates the situation further. A judicial inquiry, if ordered considerable time after an alleged incident, gets handicapped by the intervening delay and would not have the advantage of a detailed version from witnesses based on their immediate recollection of what had happened. Having regard to all these aspects of the matter and having in view the fundamental requirement of such inquiries, namely that they should be conducted promptly in a manner that will carry conviction to the aggrieved party, we recommend that in regard to certain categories of complaints against police, a judicial inquiry shall be mandatory and be held immediately according to a set procedure as soon as the alleged incident occurs. We proceed to detail the connected arrangements in the following paragraphs.

- 10.19 The following categories of complaints shall invariably be covered by such judicial inquiries :
- (i) alleged rape of a woman in police custody;
 - (ii) death or grievous hurt caused while in police custody; and
 - (iii) death of two or more persons arising from police firing in the dispersal of an unlawful assembly as defined in Section 141 of the Indian Penal Code.

Note : "Grievous hurt" for this purpose means—

- (a) emasculation;
- (b) permanent privation of the sight of either eye or the hearing of either ear;
- (c) permanent disfiguration of the head or face;
- (d) fracture or dislocation of a bone; or
- (e) destruction or permanent impairing of the use of any limb or member thereof.

District Inquiry Authority

- 10.20 A judicial inquiry in the above cases shall be held by an Additional Sessions Judge nominated for this purpose in every district by the State Government in consultation with the High Court. He will be designated as the District Inquiry Authority—hereinafter referred to as DIA. Normally one of the existing Additional Sessions Judges in the District shall be nominated to function as DIA in addition to his other duties. But if the workload generated by such incidents/complaints in any district or group of districts happens to be too heavy to be handled expeditiously by a part-time DIA, a separate Additional Sessions Judge may be appointed to function exclusively as the DIA for a district or a group of districts as the case may be. In conducting the inquiry the DIA shall be assisted by an assessor, who shall be an Additional SP or a senior Dy. S. P. nominated for this purpose in each district or group of districts as required by the IG of Police. An officer under whose direct supervisory jurisdiction the alleged incident has taken place shall not function as an assessor in the connected inquiry. In such a contingency it may sometimes be necessary to nominate an officer of appropriate rank from a neighbouring district to perform the assessor's role.

- 10.21 Police officers in a district shall forthwith report the connected facts to the Superintendent of Police as soon as an event occurs, coming under the specified categories. The Superintendent of Police shall thereupon inform the DIA about the information received and simultaneously direct the assessor to secure all the connected departmental records in safe custody and await intimation from the DIA regarding the commencement of his inquiry. The DIA shall commence his inquiry on receipt of the report from the Superintendent of Police or a complaint about such an event received in the form of a duly sworn affidavit from the aggrieved party, whichever is earlier. The assessor shall assist the DIA in evaluating the evidence available from the departmental witnesses and records, having regard to the day to day working procedures in the department.

- 10.22 Complaints received by post by the DIA without an affidavit shall be transmitted to the Superintendent of Police for being looked into. If his inquiry discloses it to be a *prima facie* case of the specified category he shall retransmit the papers to the DIA for further action.

- 10.23 The inquiry by the DIA shall be in the nature of a fact-finding inquiry and shall, as far as possible and consistent with the provisions of this scheme, conform to the procedure prescribed in the Commissions of Inquiry Act, 1952. The inquiry shall also cover the circumstances leading to the alleged incident and any other matter which the DIA may consider relevant for the inquiry. Proceedings before the DIA shall normally be open to the public. They may, however, be held in camera at the discretion of the DIA on the application made by the complainant or the Superintendent of Police, furnishing reasons therefor. The DIA may take the assistance of an Additional Public Prosecutor or Assistant Public Prosecutor in the district for examining witnesses, but no one shall be entitled to be represented by a legal practitioner in any proceedings before the DIA.
- 10.24 Existing inquiries by executive magistrates under Section 176 Cr. P.C. shall continue for the purpose of holding an inquest, and, thereafter the papers shall be passed on to the DIA for further action.
- 10.25 An inquiry taken up by the DIA under this scheme shall be given priority in his work and shall be proceeded with expeditiously through day to day hearings and completed within four months from the date on which the DIA receives the report or complaint on which the inquiry is started. If in any exceptional case the inquiry is held up beyond the specified period of four months, the DIA shall immediately inform the Government of the reasons for the delay and the probable time for the completion of inquiry.
- 10.26 On completion of inquiry, the DIA shall send his report with his findings to the State Government, simultaneously marking a copy to the Inspector General of Police. Thereupon the State Government shall, in consultation with Inspector General of Police, decide the course of further action, whether to prosecute the accused persons in court or deal with them in departmental disciplinary proceedings or dispose of the case in any other appropriate manner. It shall be mandatory on the part of the State Government to publish the report of the DIA and the State Government's decision thereon, within two months of receipt of DIA's report by the Government. If the DIA's inquiry had commenced on a complaint, a copy of the DIA's report and the State Government's decision thereon shall be furnished to the complainant simultaneously with aforesaid publication of the report.
- 10.27 While the incidents as specified in para 10.19 shall be inquired into by the DIA in the normal course, it will be open to the State Government, having regard to the importance of an alleged incident and the public interest involved, to have the judicial inquiry conducted by a judge of the High Court. If and when such a decision is taken by the State Government in a specific case, papers of the inquiry till then conducted by the DIA under this scheme shall be transmitted to the High Court judge for further action.
- 10.28 Some advantages in the above-mentioned arrangement would be—
- (i) the induction of a judge for making the inquiry at the earliest stage which gives it the stamp and content of a judicial inquiry; and
 - (ii) the association of a senior police officer as assessor to assist the judge in securing the departmental records without delay and getting their evidence evaluated properly so that the department's view is taken into account objectively and impartially.
- 10.29 While recommending the scheme for mandatory judicial inquiries in certain cases, as detailed in paragraph 10.19, we are aware of the misgivings expressed by some police officers that the principle of a judicial inquiry in every case of death by police firing may severely inhibit the police from effectively dealing with unruly and violent mobs in a serious law and order situation. They particularly point out that with increasing proneness to violent outbursts by the agitating sections of the public in a variety of situations, this might result in police ineffectiveness on the law and order front. We would like to point out that it is not every case of police firing that is sought to be covered by a mandatory judicial inquiry. The underlying intention in the scheme as proposed by us is to guard against excesses by police. In this context we feel that any occasion in the dispersal of an unlawful assembly by Police firing, which results in the death of two or more persons is prima facie a case where public interest demands an immediate, impartial probe to make sure that police action was not on the side of excess. If police operations in any such situation have conformed to the actual needs of the situation, there should be no difficulty on the part of police to establish

the bona fides and justification of their action before a judicial authority. In fact, it would be in their interest vis-a-vis police public relationship to be willing and ready to face a judicial inquiry in such a situation. Our recommendations in this regard have to be viewed on this assessment of the matter.

- 10.30. The DIA shall also serve as an independent authority to oversee the ultimate disposal of a complaint dealt with by the departmental officers themselves in the normal course. It shall be laid down as a rule that the result of inquiry conducted by any departmental authority under this scheme shall be intimated to the complainant as soon as the inquiry is completed. Any complainant aggrieved by the disposal given on the conclusion of an inquiry by the departmental authorities into his complaint of police misconduct shall have the right of appeal to the DIA. The DIA shall be authorised to call for the connected records from the department and deal with the appeal.

Police Complaints Board

- 10.31 It has been suggested to us in another context that public confidence in the impartiality and objectivity of police functioning would be greatly enhanced if Government's control over police is exercised through a Board of which the Minister in charge of Police can be the Chairman and Members may be drawn from the judiciary, academicians, including sociologists of public standing and prominent non-political publicmen. The Inspector General of Police will function as Member-Secretary of this Board. Police performance in the State will be periodically reviewed by this Board which will be responsible for giving appropriate policy directions and guidelines from time to time. We are separately examining this suggestion and would be coming up with our recommendations in this regard in our next report. Such a Board, if constituted, can separately appoint a Police Complaints Board, to function as a kind of sub-committee of the main control Board and generally over-see the satisfactory implementation of this entire scheme throughout the State.
- 10.32 The DIA would require to be clothed with some statutory powers for summoning witnesses and securing material evidence whenever required. Appropriate powers for this purpose may be secured for the DIA by invoking the provisions of the Commissions of Inquiry Act, 1952 or any other similar statute that may be locally available.
- 10.33 If a complaint against the police prima facie discloses a specific cognizable offence, the statutory responsibility for a proper investigation thereon under Chapter XII of the Criminal Procedure Code would immediately arise. It would, therefore, be desirable that irrespective of the commencement of fact finding inquiry by any authority under the scheme envisaged above, a formal First Information Report be registered immediately in the police station having jurisdiction over the place of alleged occurrence of misconduct. This First Information Report shall be based on the complaint as made or on the information as available at that point of time. Having registered the First Information Report under Section 154 Cr. P. C., the police will take note of the result of the fact finding inquiry for proceeding with further investigation. In cases where the fact finding inquiry is to be conducted by a police agency like the departmental superior officer or one of the Complaint Cells at the district/Range/State level under the above scheme, that inquiry itself can be in the form of a regular investigation on the basis of the registered FIR.
- 10.34 Sometimes complaints against police are linked with the conduct of police in some specific case under investigation. For example, when a robbery case is under investigation, it may be alleged that the investigating officer has unauthorisedly detained some persons for interrogation. It would prejudice the course of investigation if such complaints are immediately taken up for inquiry by somebody outside the investigating hierarchy. Complaints in such cases are best looked into by the supervisory ranks at some appropriate level, unless the complaint relates to some serious misconduct of a type which would automatically involve the DIA in the scheme of inquiry as envisaged above.
- 10.35 Complaints against police which predominantly involve a corruption angle are best looked into by the State Anti-corruption Department who have the experience and expertise to deal with such complaints. Here again, if a complaint of corruption comes up when some specific case is under active investigation, it

would be desirable to process the corruption inquiry in such a manner as not to prejudice the normal course of the regular investigation of the main case. Modalities for conducting inquiries in such situations should be settled by discussion between the Police and Vigilance branch at the level of DIG/IG.

- 10.36 Arrangements for conducting inquiries into different categories of complaints against police on the lines indicated in the foregoing paragraphs may be introduced in the first instance through administrative instructions from the Government with the concurrence of the High Court. After watching its practical impact for a period of six months or a year, the arrangements could be given appropriate statutory cover through special legislation which can then include specific powers for DIA to summon witnesses and secure documentary and other material evidence.

Chapter-XI

SUMMARY OF OBSERVATIONS AND RECOMMENDATIONS

Preamble

- 11.1 Police performance in India today is under close review and critical assessment by a demanding public in far greater measure than at any time in the past. Increasing crime, rising population, growing pressure of living accommodation, particularly in urban areas, violent outbursts in the wake of demonstrations and agitations arising from labour disputes, agrarian unrest, problems and difficulties of students, political activities including the cult of extremists, enforcement of economic and social legislations, etc., have all added new dimensions to police tasks in the country and tended to bring the police in confrontation with the public much more frequently than ever before. (Para 1.1)
- 11.2 In public estimate the police appear as an agency more to implement and enforce the objectives of the Government in power as distinct from enforcing law as such as an independent and impartial agency. The dividing line between the objectives of Government as such on one side and the interests and expectations of the ruling political party as such on the other side gets blurred in actual practice and the image of police as an impartial law enforcement agency suffers in consequence. (Para 1.1)
- 11.3 The basic and fundamental problem regarding the police today is how to make them function as an efficient and impartial law enforcement agency fully motivated and guided by the objectives of service to the public at large, upholding the Constitutional rights and liberties of the people. (Para 1.1)
- 11.4 In the view of the 1902 Commission, the duties of a Constable were to be of a mechanical character and he was not to be entrusted with duties requiring the exercise of discretion and judgment. (Para 1.3)
- 11.5 With the transition from foreign rule to independent, socialist, democratic and welfare State, the style of police handling of public order situations has had to change from an aggressive and mailed fist attitude to peaceful and persuasive handling of agitating groups. This change in police methodology has meant the involvement of a much larger number of police personnel to handle a given public order situation as compared to pre-Independence situation. This has, in turn, meant the deployment of a larger number of Constables for interacting with the public and securing their cooperation by persuasion and appeal for maintaining public order. This is a job which the Constabulary visualised by the 1902 Police Commission was not expected to perform in the old days. (Para 1.17)
- 11.6 The Constable of the present day has moved far from the predominantly mechanical role assigned to him by the 1902 Commission and has now to interact with the public in larger numbers in a variety of situations where he has to apply his mind, exercise his judgment, use his powers of persuasion and appeal and enforce law with public understanding and cooperation. It is the Constabulary who form the cutting edge of police administration and face the public most during their visits to police stations and movement on roads. It is the Constable's behaviour and response which create the first and foremost impact on the public mind. The police image in the country is largely determined by the staff who function at the police station level. The Constabulary constitute a large majority of this staff and form the foundation and base for the entire police structure. Any attempt at a meaningful police reform has necessarily to start at their level only, since no restructuring of the system will be practicable or enduring unless the mass base of the system is rendered healthy and efficient. (Para 1.20)

The Constabulary

- 11.7 The Constable has been groomed in the existing police system to be an obedient, mechanical functionary, mostly acting in compliance of a specific order from his superior officer and not doing anything positive on his own initiative and judgment. (Para 2.6)
- 11.8 A sample survey of the actual work currently being done by the Constables in a few police stations in three States and one Union Territory has shown that 49% of their time is spent on duties which require initiative, exercise of discretion and judgment and also interaction with the public, 37% is spent on duties which are of a similar nature but do not involve interaction with public, and only 14% on duties which are mostly mechanical in nature. (Para 2.9)
- 11.9 The promotional structure within the police system is not conducive to the fulfilment of the legitimate career ambitions of the Constabulary. With the system of direct recruitment at the level of Sub Inspector and the relatively meagre number of Sub Inspector's posts compared to the vast numbers of the Constabulary, a large majority of the Constables retire as Constables without even one rank promotion in their entire career. No system can remain healthy if such a large chunk of its personnel vegetate and waste out after working for nearly 30 years in the same rank at which they entered the system. (Para 2.14)
- 11.10 Having regard to the changed needs of policing the country and the importance of making the Constable function as a responsible functionary with due sense of values, discretion and judgment in his interaction with the public, we feel that the existing system should be immediately changed to achieve the following objectives :—
- (i) The Constabulary should no longer be treated as a cadre meant only for duties of a mechanical character as visualised by the 1902 Commission. They should be so recruited and trained that they could be deployed also on duties involving exercise of discretion and judgment, with due regard to the paramount need for securing public cooperation and understanding in any situation.
 - (ii) They should be able to assist the Sub-Inspectors in inquiries and investigational work in a positive and purposeful manner.
 - (iii) They should pick up experience of such work over a period of 5 or 6 years and be in a position to handle investigational work independently and rise to the level of Assistant Sub-Inspector and upwards by promotion.
 - (iv) The promotional structure within the police system should be radically revised to permit a smooth and quick promotional flow from the rank of Constable. It should be possible for a Constable to rise by promotion to higher ranks—even the highest—by showing his worth in the performance of police tasks. (Para 2.17)
- 11.11 In the revised set up a Constable would thus be looked upon as a potential investigating officer who could be entrusted with higher responsibilities in field jobs as he picks up experience and rises further by promotion on the basis of his performance at each level. (Para 2.18)
- 11.12 The crux of efficient policing, in our view, is the effective and amiable street presence of a well qualified, trained and motivated Constable. (Para 2.18)
- 11.13 The present position of the Constable is a far cry from the position described above. Long and arduous hours of work without facilities for rest and recreation, continuous employment on jobs under extreme conditions of stress and strain, both mental and physical, prolonged stagnation in the same rank without even one rank promotion throughout their service for a majority of them, constant exposure to criticism and ridicule by a demanding public, a totally inadequate pay structure with no compensation for the handicaps and privations they undergo in their jobs, low status and lack of involvement in planning and executing field jobs with a full understanding of the objectives set by the police organisation, etc., have all had their telling effect on the morale of the Constabulary throughout the country. The increasing educational level of the Constables—a trend noticeable in the recent years—has sharpened the edge of their frustration with their existing lot within the police system. During our visits to several police stations

and discussions with the Constabulary, their highly demoralised state was strikingly noticeable. They have nothing to motivate them into meaningful and positive performance of police tasks with a full understanding of the implications and objectives of police action. They function as automatons in situations where they are required to exercise their discretion and judgment. They function rigidly in circumstances which require flexibility of approach and understanding of the opposite point of view. We are convinced that mere changes in their training schedule will not bring about the necessary improvement in their motivation or performance unless some serious deficiencies in their living and working conditions which have long been neglected are immediately taken up and remedied. (Para 2.19)

Pay Structure

- 11.14 The Second Central Pay Commission (1959) which went into the question of the pay structure of the police under the Central Government had fixed the pay scale of a Constable at a level equal to that of 'lower semi-skilled' worker. The Third Central Pay Commission (1973) upgraded the status of the constabulary by taking them out of Class-IV category and fixed their pay scales at a slightly higher level, without specifically expressing an opinion whether or not a constable should be rated as a skilled worker. (Para 3.3)
- 11.15 The minimum qualification for recruitment of a constable in many States is now fixed as matriculation. Recruitment is followed by a period of intensive training in specialised skills including a course in law which is very important for a police functionary. The duties on which a constable is even now employed call for considerable initiative and exercise of judgment. In fact, in the revised Police set up we are visualising a role for the Constabulary which will require a lot more initiative and capacity to exercise judgment in dealing with public situations. He will also be required to perform a part of the investigational duties that devolve at the police station level. In many situations even now he has to function by himself, exercising his judgment of the situation and acting according to its needs under the law. A through knowledge of law is now required on the part of every constable and will be required in greater measure for satisfactory performance of his duties. All these requirements of the role and duties of a Constable clearly make out a case for rating him as an operative somewhere between a highly skilled worker and skilled worker, as defined in a notification issued by the Ministry of Labour in September, 1976. (Para 3.14)
- 11.16 We feel that full justice has not been done in the past to policeman in regard to his pay structure *vis-a-vis* other services. Despite the relatively low status accorded to him in public services, the policeman has time and again shown commendable loyalty to the call of duty and has always been principally instrumental in maintaining public order even in the most trying situations. In times of crisis brought about by strikes in important and vital sectors of Government as well as Public Undertakings like Railways, civilian employees in Central Government, etc., it is the police that stand by the side of law and maintain order despite severe handicaps and restraints. We strongly feel that the case of the policeman for a rational pay structure should not be deferred any longer but should be resolved in a fair and just manner to sustain police morale which is most important in the context of growing developments in the country. The base of all progress in a country is peaceful existence of law and order and no country can afford to ignore the needs of the machinery and personnel responsible for the maintenance of law and order except at considerable peril to orderly progress. (Para 3.15)
- 11.17 On a careful consideration of the various factors which attend the working of the Defence Forces and the Police, we feel that there is no rational basis for comparing one with the other in regard to pay and other emoluments. The requirements of each have to be dealt with on its own merits without any comparison as such. (Para 3.16)
- 11.18 We feel that an armed police Constable as well as a civil police Constable should be rated at the same level with regard to their qualifications for recruitment, professional training and subsequent assessment for further promotion. Having regard to considerations analysed earlier, we recommend that the police Constable, both on the civil side as also the armed side, should be rated as 'skilled worker' for determining his pay structure *vis-a-vis* other public services in the States. (Para 3.17)

- 11.19 Policemen are obliged to work even on Sundays which are normally off days for all workers. They should be compensated for this extra requirement of duty by having a strict system of giving one day off in a week by rotation among the Constabulary in any working unit. The idea underlying this system is to ensure a day of compulsory rest for every Constable once a week. On extraordinary occasions when this is denied to him during one week, this should be given to him in the succeeding week, in addition to that week's rest day. In any case, denial of this off day and compensating him by paying him extra allowance for that day is to be strictly discouraged. (Para 3.19)
- 11.20 Policemen are also obliged to work on other gazetted holidays which are notified as public holidays and are usually occasions for enjoyment and rest by the community at large. Such occasions invariably call for additional deployment of policemen for law and order duties for containing the exuberance of the holidaying public. Many policemen are unable to avail their normal entitlement of leave every year, being called on to remain on duty to meet the ever increasing demands of manpower for incessant law and order duties. This obligation to work on other gazetted holidays and inability to avail normal entitlement of leave every year should be compensated by entitling a Constable to 15 days' additional leave very year besides what he is normally entitled to in common with other Government servants, and further enabling him to encash the entire leave (including this additional leave) if he is denied leave in 'public interest'.
(Para 3.20)
- 11.21 Policemen work for long and arduous hours on most days of duty, very much in excess of the normal eight hours. A survey has shown that the normal working time put in every day by an average subordinate police officer employed on public order or crime investigational duties is 13 hours. We have carefully examined the question of compensating the policemen for their long and arduous hours of work. The system of overtime allowance provides this compensation to employees in the industrial sector and the civilian staff under the Central Government who come under a prescribed definition of office staff. A policeman has every right to be considered for similar compensatory payment for the enormous load of overtime work he bears in the normal course of discharge of his duties. We feel it would be grossly unfair to him to hold that under the law he is on a 24 hour call of duty and therefore the matter ends there. It would be invidious to deny him the concept of overtime allowance, while large sections of his brother employees in the public sector or under the Government are allowed this facility. We are, however, aware of the practical difficulties that are likely to crop up in working out the overtime allowance system for the police personnel on the same lines as now implemented for the civilian staff. Prior authorisation of overtime work by individual policemen on a day to day basis may not always be practicable because the extent of overtime work is often determined by the developing needs of a growing situation, particularly in the enforcement of public order, as also during investigations of serious crimes which require prolonged pursuit of clues without any let up. We are also aware of the scope for malpractices in the system of maintaining registers and computing overtime allowance on the basis of actual hours of performance of an individual's work from day to day. We are anxious that, as a law enforcement agency, police should be particularly guarded against such malpractices creeping into their system. We, therefore, feel that a different methodology has to be adopted for making this overtime payment to police personnel. (Para 3.21)
- 11.22 After a careful examination of all aspects of the matter, we feel that payment of overtime allowance for policemen need not be individually determined on the basis of registers and computation of hours of work put in day after day, but may straightway be fixed as 30% of his total emoluments, including DA and CCA. This additional payment, which may be designated as "Overtime Pay", may be stipulated as payable to all police personnel from the rank of Constable upto and inclusive of the rank of Inspector working in police units which deal with public order situations and crime investigations. Having regard to the nature of duties and responsibilities of the different branches of the Police, the State Government may notify from time to time the police branches to which the above system of overtime pay will be admissible. Apart from such notified branches, individual posts in other branches may also be notified for this purpose if the duties attached to the post would entail appreciable overtime work by the subordinate police personnel holding that post. (Para 3.23)
- 11.23 The facility for encashment of un-availed leave during a year should be extended to the Consta-

bulary in States where the arrangement is not in force now. In most States the facility for encashment of leave on the date of retirement on superannuation already exists for all police personnel in common with the other Government servants subject to a maximum of 180 days. In a few States the maximum is fixed at 120 days. We would recommend that the maximum be increased to 180 days in all States and that this facility be also made available in cases of retirement on any ground, earlier than the date of superannuation. (Para 3.25)

11.24 The conveyance allowance and washing allowance paid to the Constabulary are very low and unrealistic in some States. We would recommend that each of these allowances to the Constabulary be raised to Rs. 10/- per month. (Para 3.26)

11.25 The Constabulary should also be provided with financial incentives for acquiring special qualifications as they progress in service which would be useful for bettering their professional performance. We, therefore, recommend that a special qualification pay should be paid to policemen who acquire the following skills or technical/academic knowledge :—

- (i) proficiency in driving and motor mechanism;
- (ii) proficiency in handling wireless equipment for transmitting and receiving messages;
- (iii) proficiency in handling computers and electronic data processing machinery;
- (iv) acquiring a University degree higher than what he had already secured at the time of entering service in a subject which would be of professional use to him. For example, criminology, forensic sciences etc.

The quantum of special pay payable to each of these categories may be determined realistically, having regard to the pay and emoluments drawn by similarly qualified personnel working in other services or the Private Sector in the States. (Para 3.27)

Housing

11.26 Ever since 1861, when the present police system was created, provision of free housing to non-gazetted police personnel has been recognised as the responsibility of the State. (Para 4.1)

11.27 As against the general principle enunciated over 100 years ago regarding provision of 100% accommodation (barrack or family type) to the non-gazetted police personnel, the actual position in the field at present is that more than 50% of the non-gazetted police ranks all over the country have not been provided with Government accommodation of any kind whatsoever. Even among those provided with Government accommodation, a very small percentage alone have family accommodation and the rest are lodged in barracks. For example, in Bihar which has about 49,000 Head Constables/Constables, family accommodation has been provided for only 4% among them. Percentage of family accommodation in the rank of Sub-Inspector/Assistant Sub-Inspector in this State is 27.5 and in the rank of Inspector it is 31.1. In Punjab it is only 10.3% of the constables who have family accommodation. Percentage of family accommodation for the ranks of Assistant Sub-Inspector and Sub-Inspector and Inspector in this State is 17.6, 39.3 and 48.7 respectively. In Uttar Pradesh it is only 14.9% of the constables that have family accommodation. In Delhi it is only 20.7% of the constables who have family accommodation. The overall picture that emerges is that the percentage of family accommodation provided to police personnel is very low and lowest in the rank of constables. (Para 4.2)

11.28 The deficiency in housing and increasing hardship in paying high rents for private accommodation secured with great difficulty operate as the largest single factor responsible for grievous loss of morale in police ranks, particularly the constabulary. We, therefore, consider it a matter of great urgency that this condition of service which has remained neglected for many years be taken up for immediate fulfilment. (Para 4.2)

11.29 Among the police personnel yet to be provided with Government accommodation of any kind, as

many as 89.1% are in the ranks of Head Constable/Constable. (Para 4.2)

- 11.30 We recommend that in future, excepting for the requirements of trainees in a training institution or some sections of armed police units, all ranks of non-gazetted police personnel be provided with *family type accommodation*. The existing barrack accommodation may also be replaced by fresh construction of family quarters as and when the barrack accommodation is switched over for the requirements of a training institution or a similar purpose. (Para 4.4)
- 11.31. We do not find any rationale for the difference in the targets for family accommodation adopted by the States in their police housing programmes for different ranks. The general picture that emerges is that a higher percentage of family accommodation is programmed for the higher ranks among the non-gazetted police personnel as compared to the constabulary. We recommend that this distinction be immediately given up and the target of 100% family accommodation be uniformly applied to all ranks of non-gazetted police personnel. Having regard to the fact that the existing deficiency of family accommodation is largest in the ranks of Head Constable/Constable we would further recommend that the future police housing programme should be so evolved that the percentage of satisfaction regarding family accommodation for the constabulary is brought to level with that which obtains for the upper subordinates. (Para 4.5)
- 11.32 We feel that the indifferent handling of this problem in the past and a persistent tendency to accord low priority to it on account of financial considerations have allowed this problem to assume its present formidable dimensions which now make it appear intractable. We would strongly urge that from the point of view of improving police efficiency and sustaining the sagging morale of the force, the provision of housing to the Constabulary should be given high priority in financial allocations and the pace of investment should be substantially increased so that this problem may be solved within ten years. (Para 4.7)
- 11.33. We have computed the approximate cost of construction of family accommodation for all the entitled personnel in all the States who are yet to be provided with Government accommodation of any kind. The total expenditure involved in the project to complete the entire housing programme from the position as obtains today is about Rs. 1045 crore. If this programme were to be spread over ten years, the outlay in the first five year period will be Rs. 523 crore. The draft Five Year Plan for 1978-83 provides for Rs. 105 crore for police housing within the Plan scheme. We understand that this is made up of Rs. 60 crore for the State Plans and Rs. 45 crore for the Central Plan. A part of Rs. 45 crore set apart for the Central Plan will be utilised by the Ministry of Home Affairs in the normal course to render financial aid to the States for implementing their police housing programmes under the scheme of Central aid for such programmes. Having regard to the importance of housing for sustaining police morale and efficiency in the increasingly difficult conditions in which police personnel have to perform their tasks, we would strongly recommend that the outlay on police housing under the State Plans in the Five Year Plan (1978-83) be increased to Rs. 523 crore. Of this amount, Rs. 262 crore could be the investment by the States from their own resources and the balance of Rs. 261 crore could be the financial assistance from the Centre. The quantum of Central assistance in this scheme would be inclusive of the amount recommended by the Seventh Finance Commission for allocation to the States for this purpose on the non-Plan side. (The Seventh Finance Commission has recommended capital outlay of Rs. 82.86 crore in the non-Plan budget during the period 1979-84 for police housing in 15 States where the housing deficiency is comparatively large). We would not consider the total outlay of Rs. 523 crore in a Five Year Period as financially unreasonable or impracticable if the importance of this scheme is realised as it should be. In this context, we would like to observe that where the States are determined to make an investment in a scheme they consider important in any context, they are apparently able to find the money without great difficulty, as may be seen from the fact that in 1977-78, nine States, in which Assembly elections were due to be held, had announced several tax concessions and measures of relief to employees which amounted to an additional commitment of Rs. 326 crore from the States' resources in one single financial year, after the State Plans had earlier been finalised—*vide* statement made by the Finance Minister in the Lok Sabha on the 22nd July, 1977. Given the desire to alleviate the hardship of 3.86 lakh police personnel all over the country who have at present no Government accommodation of any kind whatsoever, family or even barrack type, and provide them with suitable accommodation to enable them discharge their heavy duties more

efficiently to the satisfaction of the public, the Central Government and the State Governments should be able to find their way to make this investment in the first spell of five years, to be followed by a similar plan in the next five year period which would then see the completion of the entire programme. (Para 4.9)

- 11.34. We would recommend that the scheme of financial aid from the Centre be limited to housing programmes in States which have not yet reached 80% satisfaction of family accommodation for the different ranks. If a higher level of satisfaction has been reached for any particular rank in a State, further outlay on police housing for that rank should not have the benefit of Central aid. This would also imply that when a State reaches 80% level of satisfaction of housing for all the non-gazetted ranks, the scheme of Central assistance to that State will terminate. (Para 4.10)
- 11.35. We would recommend the following corrective measures to eliminate the gaps in information in the Ministry of Home Affairs and delay in release of funds:
- (i) The Ministry of Home Affairs should indicate to the State Governments the allocation from the Central Plan outlay for police housing well before the commencement of the financial year, immediately after the Central Plan is finalised. This would enable the State Governments to chalk out their police housing programme well in advance.
 - (ii) The physical target in the form of specified number of dwelling units to be constructed with the investment of the proposed allocation of Central assistance should also be indicated in advance.
 - (iii) Achievement of physical targets from time to time should be monitored.
 - (iv) Funds may be released in instalments commencing with a provisional release at the very beginning of the year, followed by subsequent releases on receipt of progress reports from the States which shall indicate the total provision made in the State budget for police housing, the physical targets reached and the amount spent till then.
 - (v) During discussions with the Planning Commission regarding their Annual Plan outlays, State Governments should clearly indicate their proposed Plan outlay for police housing. The Plan approval communicated by the Planning Commission should specifically indicate the approved outlay on police housing separately, instead of clubbing it with general housing, as has been done in several letters of approval of the Annual Plan 1978-79 issued in 1978. A copy of the Annual Plan approval letter from the Planning Commission to the State, which is normally issued before the presentation of the State and Central budgets, should be marked to the Ministry of Home Affairs so that they could suitably plan the allocation of Central assistance well in time for implementation during the year covered by the Plan.
 - (vi) If persistent failures are noticed in any State in the timely implementation of approved housing programmes, the Ministry of Home Affairs should send an official team to visit the State for identifying the difficulties and deficiencies in the field so that appropriate corrective action could be taken in time.
 - (vii) A standard proforma for the periodic submission of all relevant information and data from the States to the Ministry of Home Affairs regarding police housing is indicated in Appendix XI. (Para 4.14)
- 11.36. We would recommend the constitution of the requisite number of special divisions in the P.W.D. of each State for implementing the police housing programmes. These divisions should be earmarked for the Police housing projects only and should not be deployed on other work. While these divisions would be under the administrative and technical control of the Chief Engineer of the P. W. D., their outturn of work should be subject to a close quarterly review by a Committee consisting of the Inspector General of Police, the Chief Engineer, PWD, and a representative each from the Home and Finance Departments. (Para 4.16)
- 11.37. Maharashtra, Andhra Pradesh and Bihar have set up Police Housing Corporations to handle construction programmes for police personnel. These corporations get financial aid from HUDCO also to pursue their construction plans. Other States could consider the setting up of similar Police Housing Corporations. (Para 4.17)
- 11.38. We would recommend the association of State Housing Boards with Police Housing schemes wher-

ever possible. This arrangement could conveniently secure financial assistance from HUDCO. (Para 4.18)

- 11.39 It is necessary to strengthen the survey and planning organisation in the police and PWD to ensure that at any given time an adequate number of planned building projects with land already acquired and estimates duly approved are kept ready for commencement of work at short notice. Unless all these factors are taken care of at the planning stage, we will continue to have the paradox of paucity of resources on the one side and surrender of funds on the other. Whatever special arrangements are devised, it would be necessary for the police department to maintain close contact with the actual progress in the processing of housing schemes and the execution of sanctioned construction works. For this purpose, it would be advantageous if an officer of the appropriate rank from the PWD is taken on deputation to the Police Department to function as liaison and monitoring officer. This system has been tried in one State with very useful results. (Para 4.19)
- 11.40 Nazul land and the excess land that becomes available for disposal by the Government under the provisions of Urban Land (Ceiling and Regulation) Act of 1976 could and should be utilised for police housing schemes wherever feasible. The extent to which this could be implemented in all the urban areas covered by the above mentioned Act, can be gone into by a small working group in each State consisting of representatives of the Revenue, Housing and Police Departments. (Para 4.20)
- 11.41 *Ad hoc* and piecemeal establishment of police stations and outposts resulting from sporadic responses to local demands have aggravated the problem of accommodation for the police personnel who are deputed to man these stations and outposts. It would be a good arrangement if in all future cases of sanction of police stations and outposts the provision of residential accommodation for the police staff concerned is also settled simultaneously and all sanction orders are issued together. (Para 4.21)
- 11.42 We would recommend that in the future programme for construction of police housing, rural areas and metropolitan cities should be grouped together and given first priority followed by other cities and towns in that order. Availability of family accommodation in rural areas would also act as an incentive for willing acceptance of rural posting by police personnel. We would further recommend that as far as possible police quarters be built in the vicinity of police stations to facilitate group briefing and quick mustering of men as and when required. (Para 4.22)
- 11.43 We would strongly recommend that police personnel entitled to free accommodation should be fully reimbursed the actual house rent paid on their producing a certificate from their supervisory officer of the rank of Dy.S.P. that the accommodation occupied by them is not more than what they are entitled to under Government Rules or Regulation made in this behalf by the Inspector General of Police. This payment may be subject to a ceiling determined for each rank at the district level by the chief revenue authority in the district in consultation with PWD. These ceilings shall be reviewed every three years. In this arrangement there shall be no need for certificates from the Rent Controller or any other similar authority for deciding individual cases so long as the ceiling limits are observed. (Para 4.23)
- 11.44 In addition to 100% family accommodation for all non-gazetted ranks in the Civil and in the Armed Police, some barrack accommodation should be available for Constables who come from the mofussil to district headquarters on various duties. Barrack accommodation should also be available for personnel who are called for in-service training. But, in no case should this barrack accommodation be used for residential purposes by personnel posted in the district headquarters. (Para 4.24)
- 11.45 We recommend that the minimum living accommodation for Constabulary, i.e., Head Constables and Police constables should consist of two rooms, a kitchen and a bath-room. (Para. 4.25)
- 11.46 Another cause of anxiety and concern for police personnel, particularly the Constabulary, that has been brought to our notice is the problem of their accommodation after retirement. Most of them have no house of their own and view with alarm their accommodation problem which they would face after they retire from service. It would be appropriate in the present context for the Government to aid police personnel in building small houses for themselves. The aid can be in the form of a housing loan repayable in convenient

instalments with the condition that the loanee would either live in the house himself or hand it over to the Government in the event of his transfer to some other place, and the Government would pay him monthly rent calculated on the current percentage of return on cash investment of corresponding value. The Government could then utilise the same house for accommodating another policeman posted at that place. We understand that such a scheme is in vogue in Maharashtra and would comment its adoption in all States. (Para 4.26)

- 11.47 Construction of such houses by the policemen themselves with aid from the Government would be further facilitated by setting up a cooperative housing society in each district for all policemen. This arrangement would help in securing financial assistance from other bodies like the Life Insurance Corporation. Successful management of such cooperative housing societies will need the whole time attention of a senior officer and we, therefore, recommend that an officer of the rank of Superintendent of Police in the welfare wing of the police department be entrusted with the responsibility for promoting these cooperative housing societies in each district. It should be deemed a legitimate charge on the welfare side of police budget to provide expert personnel for running these societies efficiently. (Para 4.27)

Supply of essential commodities

- 11.48 We find an arrangement in West Bengal for the supply of some essential commodities to subordinate police officers at rates which remain fixed irrespective of the rise in prices. In this scheme, which is in force from 1966, all subordinate police officers from the rank of Sub Inspector/ Sergeant downwards including Wireless Supervisors, crew of police launches, Subedars and Jamadars of the Eastern Frontier Rifles etc., are supplied rice, wheat, sugar, dal and mustard/rapeseed oil at fixed concessional rates according to a prescribed scale. The supply covers the family members of each police personnel upto a maximum limit of 4 including the personnel himself. The scheme is operated through supply centres which are opened at convenient places in a district and run by internal arrangement with the existing staff under the Superintendent of Police. The scale of supply at the fixed rates is furnished below :—

<i>Item</i>	<i>Quantity per head per week</i>	<i>Rate per Kg.</i>
Rice	1 kg.	0.50 p.
Wheat or	(1.50 kg. for policemen.	0.25 p.
Wheat products	(1 kg. for family member	
Sugar	300 Grams	0.70 p.
Dal	750 Grams	0.60 p.
<u>Mustard Oil</u>	250 Grams	2.00 p.
<u>Rapeseed Oil</u>		

we find this scheme has served as an excellent morale booster for the West Bengal Police and is gratefully acknowledged as a great boon by the rank and file of the force. It has sustained their morale while working under severe economic strain and increasing pressure of duties all round. We would recommend the immediate adoption of this scheme for the police in all States. (Para 5.8)

- 11.49 Apart from the above scheme, we would further recommend that on occasions when police personnel are required to remain on duty for more than 8 hours at a stretch without relief, arrangements should be made for the supply of food packets to them at their places of duty at Government cost. This will be in addition to any daily allowance which they may be entitled to under the normal rules for the duty done that day. (Para 5.9)

Orderly system

- 11.50 We recommend that the orderly system as it exists at present be abolished. (Para 6.4)
- 11.51 In lieu of this system, one constable may be attached to an officer for attending to (i) petitioners.

complainants and other visitors who come to see the officer; (ii) attend to telephone calls particularly during the officer's absence and furnish helpful replies to enable the caller to speak to some other appropriate functionary for action; (iii) pass on messages to subordinate officers and (iv) accompany the officer on his field work and be present with him to afford security and assistance in dealing with any situation. Entitlement to such assistance may be determined, not by the rank of the officer but by the actual need for such assistance with reference to the nature of his duties and responsibilities. (Para 6.5)

- 11.52 For carrying messages and files from the officer to the local staff stationed nearby, for assisting the officer in keeping his uniform and arms in a neat and smart condition and for maintaining the officer's reception room and office premises in a neat and tidy condition for receiving visitors and transacting official business, we feel that officers hitherto entitled to orderlies for the purpose of this work should continue to have assistance, but by an arrangement of paying the officer a suitable monthly allowance for employing a private person of his choice for performing these duties. The quantum of the monthly allowance may be fixed with reference to the provisions of the Minimum Wages Act, 1948, as applicable to an unskilled worker. The Government's responsibility will be limited to the payment of the monthly allowance to the officer. Employment of the private hand and payment of wages to him will be the officer's responsibility. (Para 6.6)

Machinery for redressal of grievances

- 11.53 There is an urgent need for devising a satisfactory system through which grievances can be effectively voiced and, what is more, some solutions can be found with a proper understanding and assessment of the issues involved. (Para 7.1)
- 11.54 The Police Forces (Restriction of Rights) Act, 1966 enacted by Parliament implies the recognition of the concept of an association for members of a police force, with due sanction from a prescribed authority. (Para 7.2)
- 11.55 While the right of police personnel to form associations is already recognised in law, subject to prescribed rules and regulations, we feel it would be useful to set down some general principles which should govern the formation and working of such associations, having regard to the paramount need for guarding against factors that might prejudice the proper discharge of duties by policemen and the maintenance of discipline among them. We recommend that the following guidelines be kept in view by the prescribed authorities while granting recognition to policemen's associations :
- (i) Membership shall be restricted to serving policemen only. No outsiders, whether a government servant or not, shall be entitled to membership or function as an office bearer of the Association or be connected with it in any advisory or other capacity.
 - (ii) Members shall not have the right to strike work or withhold their services or otherwise delay the performance of their duties in any manner.
 - (iii) The Association shall not resort to any coercive method or agitation for obtaining redressal of grievances.
 - (iv) The Association shall not do anything which may affect the efficiency of the force or undermine its discipline.
 - (v) The Association shall be absolutely non-political in character and shall not be connected directly or indirectly with political activity of any kind.

It would be desirable to have the above stipulations embodied in the Memoranda of Association of these bodies before they are recognised. (Para 7.5)

- 11.56 We have looked into the existing practice for the election of office bearers of these associations in some States. We appreciate that unless the office bearers come up through some process of election, they will not have the representative character which is important in the entire scheme of ventilation of grievances. We are, however, equally anxious that any electoral process adopted for this purpose among the

police personnel should not provide the unintended scope for political forces to operate in a manner prejudicial to the maintenance of discipline and, what is more, the impartial character of the Police as a whole. In our view a process of indirect election of the type we are separately recommending in regard to Police Staff Councils could be adopted for the election of office bearers of police associations. State Governments may also like to consider other alternate methods of indirect election, having regard to local conditions and experience of working of police associations already existing in the State. (Para 7.6)

- 11.57 We further recommend that policemen's associations may be of the following four categories :—
- (i) One association may cover Constables and Head Constables and equivalent ranks.
 - (ii) A second association may cover all Assistant Sub-Inspectors, Sub-Inspectors and Inspectors and equivalent ranks.
 - (iii) A third association may cover all officers of the State Police Service of and above the rank of Deputy Superintendent of Police.
 - (iv) Existing Indian Police ^{Service} Association will cover all I.P.S. officers.

Associations covering the ranks of Constable/Head Constable, Assistant Sub-Inspector/Sub-Inspector/Inspector may be formed on district basis. Representatives of the District Associations may constitute the State level Associations for these ranks. The Association of State Police Service Officers of and above the rank of Deputy Superintendent of Police may be organised on State basis. (Para 7.6)

- 11.58 Police Associations may only facilitate collective articulation of grievances but that by itself would not help in evolving practicable solutions. The existing system does not provide an adequate sense of participation for all members of the police force particularly at the lower levels, in the evolution of professional norms and techniques for handling police problems and for removal of grievances which stand in the way of efficient performance of duties. We have, therefore, to devise a forum at which representatives of Policemen's Associations can sit together in a kind of federal body and discuss the problems for evolving concrete and practicable solutions. (Para 7.7)

- 11.59. We recommend the immediate formation of a Joint Consultative Machinery in the shape of Staff Councils for the police personnel at the district level and the State level to provide such a forum and also a scheme for compulsory arbitration. (Para 7.10)

- 11.60 The District Police Staff Council—hereinafter referred to DPSC—shall be made up of the following :—
- | | |
|---|-------------------------|
| Suprintendent of Police | 1 (ex-officio Chairman) |
| Dy. Superintendent of Police | 1 (Member Secretary) |
| Inspector of Police | 1 (Member) |
| Sub-Inspector and Assistant Sub-Inspector | 2 (Member) |
| Head Constable and Constable | 4 (Member) |
| | Total 9 |

Note : Representatives from the rank of Head Constable/Constable shall include at least 2 Constables. Representatives in the rank of Sub-Inspector/Assistant Sub-Inspector shall include at least one Assistant Sub-Inspector.

Members from the rank of Constable up to Deputy Superintendent of Police shall be nominated by the respective Service Associations. But, where no such associations exist, these members shall be elected through a process of indirect election covering all the personnel in the district. (Para 7.11)

- 11.61 At the State Police Headquarters, there shall be a State Police Staff Council—hereinafter referred to as SPSC—composed of the following :—
- | | |
|---|---------------------------|
| Inspector General of Police | 1 (ex-officio Chairman) |
| Deputy Inspector General of Police in charge of Welfare Wing. | 1 (ex-officio Member) |

Assistant Inspector General of Police in charge of Administration.	1 (ex-officio Member Secretary)
Suprintendent of Police/Asstt. Superintendent of Police.	2 (Member)
Deputy Superintendent of Police	2 (Member)
Inspector	2 (Member)
Sub-Inspector and Assistant Sub-Inspector	4 (Member)
Head Constable and Constable	8 (Member)
Total	21

Note : Representatives from the rank of Head Constable/Constable shall include at least 4 Constables. Representatives in the rank of Sub-Inspector/Assistant Sub-Inspector shall include at least 2 Assistant Sub-Inspectors.

All Members of the SPSC, excepting the ex-officio functionaries, shall either be nominated by the State level Service Associations covering the respective ranks or shall be elected through a process of indirect election. (Para 7.14)

11.62 A candidate has to satisfy the following conditions to be eligible for membership of these Councils either through election or nomination as described above : —

- (i) He shall have put in at least five years of service in the police force on the first day of January of the year in which the election is held;
- (ii) He shall not have received any major punishment in the previous three years.

Note : Major punishment for this purpose shall mean reduction in rank or to a lower stage in the time scale and suspension from service, if imposed as a specific punishment. (Para 7.15)

11.63 Elected members of the DPSCs and SPSC shall hold office for a term of two years at a time. On expiry of one term, a member shall be eligible for re-appointment in either of these Councils if he comes up again through the same process of election as detailed above, but no such member shall hold office for more than two consecutive terms. A term of office held in either of these councils shall count for membership of the other council under this rule. Vacancies caused by death, retirement or transfer shall be filled for the unexpired term. (Para 7.16)

11.64 DPSC shall meet once in three months and the SPSC shall meet once in six months and discuss all matters pertaining to morale, welfare and other allied establishment problems which fall within the administrative purview of the State Government. They shall, however, be precluded from discussing individual cases of disciplinary proceedings or postings or transfers or similar establishment matters. The DPSC shall dispose of all matters regarding which remedial measures are feasible at the district level. Matters requiring further consideration and decision at higher levels shall be remitted to the SPSC. Service conditions of officers of the Indian Police Service or any other related matter which will require decision at the Central Government's level, shall be beyond the purview of the DPSCs and SPSCs. (para 7.17)

11.65 There shall be a Joint Consultative Council (JCC) at the State headquarters to deal with matters which require consideration and decision at the government level. This Council shall consist of an official side and a staff side. The official side shall be appointed by the Government and may consist of upto 7 members including the Chief Secretary, Secretary in charge of police, Finance Secretary and Personnel Secretary in the State Government. The entire body of the SPSC, as described earlier, shall constitute the staff side of the Joint Consultative Council. The Minister in charge of Police shall be the Chairman of the Joint Consultative Council. It shall meet as often as necessary to deal with matters that arise from the deliberations of the SPSC or otherwise. (Para 7.18)

11.66 The scope of the JCC shall include all matters relating to conditions of service and work, welfare of the police personnel and improvement of efficiency and standards of works, provided, however, that (i) in regard to recruitment, promotion and discipline, consultation will be limited to matters of general principles, and (ii) individual cases shall not be considered. (Para 7.20)

- 11.67 The official side shall conclude matters at meetings of the Council and shall not reserve them for later decision by the Government. (Para 7.21)
- 11.68 If there is no agreement between the two sides, the matter may be transmitted to a committee of the JCC for further examination and report. But, if a final disagreement is recorded, and the matter is one for which compulsory arbitration is provided, it shall be referred to arbitration, if so desired by either side. In other cases, the Government will take action according to its own judgement. (Para 7.24)
- 11.69 Arbitration shall be limited to—
 (i) pay and allowances;
 (ii) leave; and
 (iii) any other matter that the SPSC and the State Government mutually agree to refer to arbitration. (Para 7.27)
- 11.70 Cases of individuals shall not be subject to arbitration. (Para 7.28)
- 11.71 A dispute shall not be referred to arbitration unless it has been considered by the JCC and final disagreement between the two sides has been recorded. (Para 7.29)
- 11.72 On a final disagreement being recorded as mentioned above, the State Government shall appoint a Board of Arbitration as soon as possible, in any case not later than one month from the date of recorded disagreement. The Board shall consist of three members, one drawn from a panel of 5 names submitted by the official side, one from a similar panel submitted by the staff side of the JCC and a Chairman who shall be an independent person, preferably a retired or serving Judge of the High Court or senior administrator. The members and the Chairman shall be selected by the Minister in charge of Police. (Para 7.30)
- 11.73 Subject to the overriding authority of the State Legislative Assembly, recommendations of the Board of Arbitration shall be binding on both sides. (Para 7.33)
- 11.74 If, for reasons to be recorded in writing, the State Government is of opinion that all or any of the recommendations of the Board of Arbitration should on grounds affecting national economy or social justice be modified, the State Government shall, as soon as may be, lay before the state Legislative Assembly the report of the Board containing such recommendations together with the modification proposed and the reasons therefor, and thereupon the Legislative Assembly may make such modifications in the recommendations as it may deem fit. (Para 7.34)
- 11.75 Orders made by the State Government in pursuance of the recommendations of the Board of Arbitration shall, unless other-wise specified in these recommendations or modified by mutual agreement, remain in operation for a period of three years. (Para 7.35)
- 11.76 In making these recommendations, we have taken into account the currently growing trend of attitudes and feelings among the rank and file of the police force and the urgent need for the officer cadres and the leadership of the force to start a joint endeavour with the rank and file for a meaningful and collective discussion of service problems and evolve solutions in a manner which would satisfy the rank and file and foster in them feelings of professional pride, dignity and sense of participation in the decision-making processes in the system. We are fully convinced that unless the steps as envisaged above are taken in hand quickly, the rank and file will soon be enveloped by growing demoralisation and the entire system would get dangerously weakened. (Para 7.36)
- 11.77 We would recommend that the Staff Councils and the Joint Consultative Council as detailed above may be brought into being in the first instance through administrative orders. After gaining practical experience in working the scheme for some time, they may be given a statutory cover by appropriate modifications and additions to the Police Forces (Restriction of Rights) Act, 1966 and the rules framed thereunder. (Para 7.37)

- 11.78 We would further recommend that this Act be appropriately amended straightway to—
- (i) enable the Central Government or the prescribed authority impose such conditions as may be deemed fit to ensure the proper discharge of police duties and the maintenance of discipline among policemen before granting sanction to any proposed association;
 - (ii) include the guidelines for the working of the associations as detailed in para 7.5;
 - (iii) enable the formation of associations to cover more than one rank, on the lines indicated in para 7.6; and
 - (iv) impose the same obligations on members of the families of policemen as applicable to policemen themselves in regard to their membership or other links with such associations. (Para 7.40)

- 11.79 Individual grievances have to be looked into by the departmental authorities at the supervisory levels. A rigid insistence on rituals in the name of discipline, before a subordinate police officer could approach the senior ranks for redressal of his grievances should be avoided. Any officer with a grievance should feel free to articulate it before his own superiors. Any attempt to stifle such articulation would only result in the affected personnel airing their grievances outside the system and that would lead to undesirable results. Supervisory officers should take the initiative and avail every opportunity to identify individual grievances in the normal course of their tours and inspections and take effective remedial measures. One of the points for assessing the supervisory capacity of an officer should be the measure of success achieved by him in identifying and redressing the grievances of his subordinates. Expeditious sanction and payment of increments and such other allowances as fall due from time to time, prompt settlement of leave, pension, provident fund, gratuity, etc., are matters that require close and constant attention from the supervisory officers to avoid build up of individual grievances on that account. (Para 7.41)

Recruitment, Training and Career Planning

- 11.80 We consider the educational qualification of Matric/SSLC as the very minimum for a Constable recruit to get trained properly and fit into the police system and in due course assume higher positions of responsibilities as envisaged by us. (Para 9.1)

Modalities for inquiry into Complaints against Police

- 11.81 One of the fundamental requisites of good government in a democracy is an institutionalised arrangement for effectively guarding against excesses or omissions by the executive in the exercise of their powers or discharge of their mandatory duties which cause injury, harm, annoyance or undue hardship to any individual citizen. This is specially necessary in the police who have vast scope for exercise of powers by a large number of personnel affecting the rights and liberty of individual citizens in daily life. (Para 10.1)
- 11.82 Statistics regarding complaints against police in many States reveal that —
- (a) a sizeable percentage of complaints of police misconduct are preferred before police authorities higher than the Superintendent of Police;
 - (b) the percentage of substantiated complaints is low both in regard to the inquiries held by the District Magistrates and their officers and the inquiries held by the Superintendents of Police;
 - (c) percentage of substantiated complaints of police torture is highest in Judicial inquiries, lower in magisterial inquiries and lowest in inquiries conducted by other agencies; and
 - (d) a very large number of private criminal complaints filed against police officers in courts have failed. (Para 10.6)
- 11.83 There is imperative need to ensure that the complaints that are made, irrespective of their number, are handled in a manner that affords maximum satisfaction and carries credibility to the complainant in particular and the public in general. (Para 10.7)

- 11.84 Any arrangement for inquiry into complaints against police should be acceptable both to the police and to the public as far and just, not favouring one at the expense of the other and not damaging the morale of the police and reducing their effectiveness in maintaining law and order. (Para 10.10)
- 11.85 A large number of complaints against police can legitimately and rightly be looked into and disposed of by the supervisory ranks in the police hierarchy itself. (Para 10.11)
- 11.86 Inquiries into any complaint of police misconduct shall be conducted by an officer of the rank of Inspector of Police or above only, on the following pattern :
- | | |
|--|--|
| <i>Complaints against</i> | <i>To be inquired into by</i> |
| Head Constables/Constables | An officer not below the rank of Inspector of Police. |
| Sub-Inspectors/Assistant Sub-Inspectors | An officer not below the rank of Deputy Superintendent of Police. |
| Inspectors of Police/Deputy Superintendents of Police/Assistant Superintendents of Police. | An officer not below the rank of Superintendent of Police. |
| Superintendents of Police and above. | Complaint Cells directly supervised by the Deputy Inspector General or Inspector General, as the case may be. (Para 10.13) |
- 11.87 While the above categorisation would apply to inquiries conducted by the authorities in the hierarchy in the normal course, there shall be a special complaint cell headed by a Deputy Superintendent of Police in each district working under the Superintendent of Police to handle inquiries into allegations of police misconduct in which the normal hierarchical levels are likely to take a biased view for any local reason. The discretion to entrust special inquiries to this cell shall be exercised by the Superintendent of Police having regard to the circumstances of each case. (Para 10.14)
- 11.88 There shall be a similar cell working directly under each Range DIG for handling inquiries which may involve scrutiny of the part played by the Superintendent of Police himself in any particular situation. At the State headquarters, there shall be a special cell under a Superintendent of Police with supporting staff of Deputy Superintendents of Police and Inspectors working directly under the Inspector General of Police to handle such inquiries which require attention at the State level. (Para 10.15)
- 11.89 Regarding the actual manner of conducting inquiries, the following points have to be kept in mind by Inquiry Officers:
- (i) The complainant should be heard in detail and every effort must be made by the Inquiry Officer himself to ascertain the truth by examining such other witnesses as he may deem necessary, without insisting on the complainant himself to secure the presence of witnesses.
 - (ii) Important witnesses shall as far as possible be examined in the presence of the complainant so that he has the satisfaction of hearing what they depose.
 - (iii) Throughout the conduct of inquiry, the Inquiry Officer shall scrupulously avoid doing anything which might create a doubt in the complainant's mind about the objectivity and impartiality of the inquiry.
 - (iv) The inquiry shall, as far as practicable, be conducted in an appropriate public building or place, in or near, the complainant's resident village.
 - (v) If the Inquiry Officer reports that the complainant himself does not want to press his complaint in any particular case, the facts and circumstances of that case shall again be verified by either the next superior officer or the district complaint cell. (Para 10.17)
- 11.90 In regard to the following categories of complaints against police, a judicial inquiry shall be mandatory and be held immediately according to a set procedure described in the Report :—
- (i) alleged rape of a woman in police custody;
 - (ii) death or grievous hurt caused while in police custody; and
 - (iii) death of two or more persons arising from police firing in the dispersal of an unlawful assembly as defined in Section 141 of the Indian Penal Code. (Para 10-19)

- 11.91 A judicial inquiry in the above cases shall be held by an Additional Sessions Judge nominated for this purpose in every district by the State Government in consultation with the High Court. He will be designated as the District Inquiry Authority—hereinafter referred to as 'DIA'. (Para 10.20)
- 11.92 In conducting the inquiry the DIA shall be assisted by an Assessor who shall be an Additional Superintendent of Police or senior Deputy Superintendent of Police nominated for this purpose in each district or group of districts as required by the Inspector General of Police. (Para 10.20)
- 11.93 The inquiry by the DIA shall be in the nature of a fact finding inquiry and shall, as far as possible and consistent with the provisions of the scheme described in the Report, conform to the procedure prescribed in the Commissions of Inquiry Act, 1952. (Para 10.23)
- 11.94 The inquiry shall also cover the circumstances leading to the alleged incident and any other matter which the DIA may consider relevant for the inquiry. (Para 10.23)
- 11.95 Proceedings before the DIA shall normally be open to the public. They may, however, be held in camera at the discretion of the DIA on the application made by the complainant or the Superintendent of Police, furnishing reasons therefor. (Para 10.23)
- 11.96 The DIA may take the assistance of an Additional Public Prosecutor or an Assistant Public Prosecutor in the district for examining witnesses, but no one shall be entitled to be represented by a legal practitioner in any proceedings before the DIA. (Para 10.23)
- 11.97 An inquiry taken up by the DIA under this scheme shall be given priority in his work and shall be proceeded with expeditiously through day to day hearings and completed within four months from the date on which the DIA receives the report or complaint on which the inquiry is started. If in any exceptional case the inquiry is held up beyond the specified period of four months, the DIA shall immediately inform the Government of the reasons for the delay and the probable time for the completion of inquiry.
- 11.98 On completion of inquiry, the DIA shall send his report with his findings to the State Government, simultaneously marking a copy to the Inspector General of Police. Thereupon the State Government shall in consultation with the Inspector General of Police, decide the course of further action, whether to prosecute the accused persons in court or deal with them in departmental disciplinary proceedings or dispose of the case in any other appropriate manner. It shall be mandatory on the part of the State Government to publish the report of the DIA and the State Government's decision thereon, within two months of receipt of DIA's report by the Government. If the DIA's inquiry had commenced on a complaint, a copy of the DIA's report and the State Government's decision thereon shall be furnished to the complainant simultaneous with the aforesaid publication of the report. (Para 10.26)
- 11.99 The DIA shall also serve as an independent authority to oversee the ultimate disposal of complaints dealt with by the administrative officers themselves in the normal course. Any complainant aggrieved by the disposal given on the conclusion of an inquiry, by the administrative authorities into his complaint of police misconduct, shall have the right of appeal to the DIA. The DIA shall be authorised to call for the connected records from the department and deal with the appeal. (Para 10.30)
- 11.100 A Police Complaints Board set up at the State level will generally oversee the satisfactory implementation of the new scheme throughout the State. (Para 10.31)
- 11.101 Complaints against police which are linked with their conduct in a specific case under active investigation, are best looked into by the supervisory ranks at some appropriate level so that the investigation of the main case is not prejudiced. Even in such instances if the complaint refers to a serious misconduct of

the type which would automatically attract the jurisdiction of the DIA for inquiry, it shall be inquired into by the DIA only. (Para 10.34)

- 11.102 Complaints against police which predominantly involve a corruption angle are best looked into by the State Anti-Corruption Department who have the experience and expertise to deal with such complaints. Modalities for conducting inquiries into such complaints when they arise in the course of active investigation of a specific case should be settled by discussion between the police and Vigilance Branch at the level of DIG/IG. (Para 10.35)

Chapter-XII

FINANCIAL IMPLICATIONS

- 12.1 The likely financial implications of the recommendations made in the different chapters of this report are briefly indicated in the following paragraphs :

Chapters I and II : Preamble and the Constabulary

- 12.2 No cost is involved because these chapters contain some fundamental and basic observations only, relating to the police structure in general and the Constabulary in particular.

Chapter III : Pay Structure

- 12.3 (i) An important recommendation having a cost factor is that a Constable should be rated as a "skilled" worker for determining his pay structure vis-a-vis other public services in the State, in view of his revised role in the new set up as visualised by us, where he will be employed on inquiry and investigational work and other duties requiring frequent interaction with the public with due exercise of discretion and judgment. We are not making any recommendations for any particular pay scale as such. The cost of implementing this recommendation will vary from State to State, depending on the existing degree of difference between the skilled worker's pay and the pay of a Constable in the State. In one State, the Constable's pay has already been revised to this level and, therefore, it will not mean any cost as far as that State is concerned. All that we are projecting in this recommendation is a recognition of a fundamental principle so that the policemen's pay structure will have a particular status in the overall pay structure of the services in the State.
- (ii) In view of the fact that several policemen are required to work even on gazetted holidays which are normally occasions for rest and holidaying by the general public and several other services, a recommendation has been made that, besides his normal entitlement to leave, a Constable/Head Constable should be entitled to additional leave for 15 days every year with facility to encash that leave if it is denied to him in public interest. The extent to which this additional leave is denied to the Constables will be a variable factor and, therefore, the cost involved in payment of equivalent cash cannot be precisely estimated.
- (iii) In view of the prolonged and arduous hours of work put in by policemen in certain branches of the police on every working day, we are recommending overtime pay at the rate of 30% of total emoluments including DA and CCA for all police personnel from the rank of Constable upto and inclusive of the rank of Inspector working in police units which deal with public order situations and crime investigations. It is for the State Governments to notify from time to time the police branches to which the above system of overtime pay will be admissible and, therefore, it will not be possible to estimate the actual cost right now.
- (iv) It is recommended that the conveyance allowance and washing allowance paid to the Constabulary which are low and unrealistic in some States should each be raised to Rs. 10/- p. m. The cost involved in this recommendation will vary from State to State. In Delhi, it will amount to about Rs. 8.6 lakh per year.
- (v) It is recommended that a special qualification pay be paid to policemen, who acquire the following

skills or technical/academic knowledge :—

- (a) proficiency in driving and motor mechanism;
- (b) proficiency in handling wireless equipment for transmitting and receiving messages;
- (c) proficiency in handling computers and electronic data processing machinery; and
- (d) acquiring a University degree higher than what he had already secured at the time of entering service in a subject which would be of professional use to him. For example, criminology, forensic sciences, etc.

We are not recommending any particular quantum of special pay but are leaving it to the State Governments to fix it realistically, having regard to the pay and emoluments drawn by similarly qualified personnel working in other services or the private sector in the States.

Chapter IV : Housing

12.4 (i) The approximate cost of construction of family accommodation for all the entitled personnel in the States who are yet to be provided with Government accommodation of any kind is Rs. 1045 crore. If this programme is spread over 10 years, the total outlay in the first 5 year period will be Rs. 523 crore, of which we are recommending Rs. 262 crore to be met by the States from their own resources and the balance of Rs. 261 crore to be the financial aid from the Centre.

(ii) For speeding up the construction programme we have recommended constitution of the requisite number of special divisions in the PWD of each State for looking after these programmes exclusively. The actual number of divisions will have to be determined in each State depending on the existing workload of their PWD set up. Cost on this account cannot possibly be calculated at this stage.

Chapter V : Supply of Essential Commodities

12.5 We have recommended a scheme similar to the one that obtains in West Bengal for supply of certain essential commodities like rice, dhal, etc., at fixed rates, which are to be maintained independent of the inflationary price rise in the market. In West Bengal the cost of this scheme is of the order of Rs. 6.5 crore per year.

Chapter VI : Orderly System

12.6 The existing system is proposed to be abolished and replaced by a system in which some officers will get a regular Constable for their assistance in the performance of certain duties and some others will get a monthly allowance to engage a civilian servant for purposes of certain other types of duties currently being done by a uniformed orderly. The number of officers to whom this monthly allowance may be paid is to be determined by the State authorities. The exact cost cannot, therefore, be calculated, but since this arrangement is in lieu of an existing orderly who gets paid more as a Constable, it is likely to result in some saving to Government.

Chapter VII : Machinery for Redressal of Grievances of Police Personnel

12.7 No cost is involved in the proposed formation of Staff Councils as such, but some small additional cost may arise on account of movement of the Members of the Councils to the District headquarters and State headquarters from time to time in connection with the Council elections and other connected work. If a Board of Arbitration is set up, some minimal secretariat assistance has to be provided for the Board.

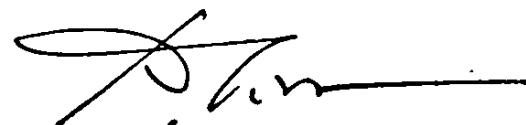
Chapter VIII : Welfare Measures for Police Families**Chapter IX : Recruitment, Training and Career Planning**

- 12.8 Our detailed recommendations are yet to be made and no cost is involved in the preliminary observations we have made in this report.

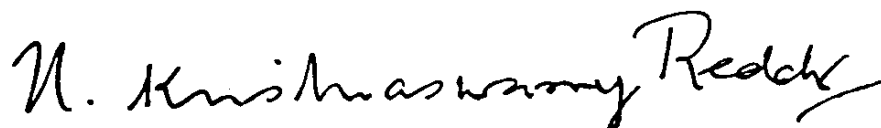
Chapter X : Modalities for Inquiry into Complaints against Police

- 12.9 Cost is involved in—
 (a) setting up Complaint Cells at the district level/range level and State level; and
 (b) setting up of the District Inquiry Authority.

As regards the Complaints Cells we are recommending that an existing functionary may be asked to look after this work and an exclusive post for this purpose may be created in major districts only. In regard to the DIA set up also, we have left it to the State authorities to nominate an existing functionary in the district judiciary as the DIA and create an exclusive post for this purpose only where the workload is heavy. The cost cannot, therefore, be precisely estimated at this stage. It will depend on the arrangements actually made on the needs of the situation.



(DHARMA VIRA)
CHAIRMAN



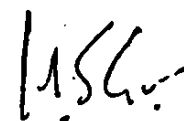
(N. KRISHNASWAMY REDDY)
MEMBER



(K. F. RUSTAMJI)
MEMBER



(N. S. SAKSENA)
MEMBER



(M. S. GORE)
MEMBER



(C. V. NARASIMHAN)
MEMBER SECRETARY

NEW DELHI,
7th February, 1979.

A P P E N D I C E S

Appendix-I
(Para 10—Preface)

NATIONAL POLICE COMMISSION

QUESTIONNAIRE



From:

Shri C. V. Narasimhan,
Member Secretary,
National Police Commission

No. 2/1/78-MS/NPC (Q)
Government of India,
Ministry of Home Affairs,
New Delhi

To

.....
.....
.....
.....

Dated : 20th December, 1978

Dear Sir/Madam,

The Government of India, Ministry of Home Affairs, in their Resolution No. VI-24021/36/77-GPA. I dated 15th November, 1977, have set up a National Police Commission to make a comprehensive review at the national level of the police system, having regard to the far-reaching changes that have taken place in the country after the enactment of the Indian Police Act, 1861 and the report of the last Police Commission of 1902, particularly during the last 30 years of Independence. The present Commission has been given wide-ranging terms of reference for a fresh examination of the role and performance of the police, both as a law enforcement agency and as an institution to protect the rights of the citizens enshrined in the Constitution. A copy of the Government Resolution setting out the terms of reference of the Commission is enclosed.

2. There has been a tremendous increase in the quantum and complexity of police tasks in the country. In the decade from 1965 to 1975 crimes (cognizable by police) have increased by 54% as compared to 25% increase in population. Crime figures have shot up to 13.54 lakhs in 1977 compared to 5.56 lakhs in 1954. Rising population, increased migration from rural to urban areas, accommodation pressure and traffic congestion in urban centres, communal tension, growing expectations of backward classes, minority groups and weaker sections and the resultant friction in their interaction with the other groups in the community, activities of extremists and agitations of different kinds arising from labour disputes, agrarian unrest, student problem and political activities have all contributed to severe demands on police resources and capacity. In an atmosphere of increasing stress and strain all round, police performance has to strike a balance between the individual rights of citizens to articulate their grievances on the one hand and the paramount need for maintenance of public order on the other. Any attempt at police reform has to take a realistic note of the new dimensions of police work arising from these factors.

3. Police are only a part of the criminal justice system and deal with offenders at the stage of investigation. The manner in which subsequent court proceedings are conducted and the nature of treatment given to prisoners in jails and the style of functioning of probation and correctional services have their overall effect on persons who pass through them and determine their subsequent conduct and behaviour towards society. The ultimate state of security and peace achieved in society is, therefore, the sum total of all these processes.

4. Pendency of cases under-trial has risen enormously in the recent years. Compared to about 2 lakhs of criminal cases pending in courts in 1962, there are about 20 lakhs of cases pending in courts now. Protracted court proceedings tend to dilute the deterrence of prosecution for containing the activities of criminals. Gross delays in the disposal of Court cases have also resulted in increase of under-trial prisoners in jails. In September, 1978 there were about 97,000 under-trial prisoners in all the jails in India compared to about 72,000 convicted prisoners. Deplorable conditions of custody in jails influence the conduct and attitude of the prisoners after their release. It is significant that the number of recidivists coming to notice in crimes has been increasing year after year. Their number has risen from about 74,000 in 1971 to over 1 lakh in 1975.

5. While seeking to reorganize the police system we have also necessarily to look at some important aspects of the other wings of the criminal justice system as mentioned above which have a substantial impact on the ultimate state of peace and order in society.

6. The Commission has gone round some States and had preliminary group discussions with local people. Recommendations have been received from some Study Groups set up in the States at the instance of the Commission. Some representations/suggestions have also been received from certain organisations and individuals. On the basis of these discussions/reports/suggestions, a questionnaire has been prepared posing some specific ideas and suggestions regarding a remodelled police system. A copy of the questionnaire is attached.

7. The Commission would be very grateful to have your views, ideas and suggestions in reply to the questionnaire. It is not necessary that all the questions should be answered in your reply. You may cover only those questions in which you are interested and those regarding which you may have relevant information. If there is any other matter not expressly included in the questionnaire which you would like the Commission to examine, you may kindly indicate it and send your opinion or suggestions thereon at the end of your reply.

8. For facilitating quick analysis and study of the replies received, it is requested that—
(i) answers to the questions may be furnished on one side of the paper only and sent in duplicate, if possible; and
(ii) answers may please be typed, if possible.

9. If you desire any part of your replies to be treated as confidential, this may please be indicated and your reply will be treated accordingly.

10. While furnishing replies, you may kindly mention your full name, address and designation/profession.

11. The Commission is anxious to conclude its work expeditiously and, therefore, would be most grateful if you could kindly send your reply to reach us by 10th February, 1979.

12. Your reply may please be sent to the following address:
Shri C.V. Narasimhan,
Member Secretary, National Police Commission,
9th Floor, XII Storey Block, N. D. M. C. Building,
Khan Market,
New Delhi—110003.

Yours faithfully,



(C. V. NARASIMHAN)

GOVERNMENT OF INDIA
MINISTRY OF HOME AFFAIRS (GRIH MANTRALAYA)

New Delhi-110001, the 15th November, 1977

RESOLUTION

No. VI-24021/36/77-GPA. I.—Far-reaching changes have taken place in the country after the enactment of the Indian Police Act, 1861 and the setting up of the second Police Commission of 1902, particularly during the last thirty years of Independence. Though a number of States have appointed Police Commissions after Independence to study the problems of the Police in their respective States, there has been no comprehensive review at the national level of the police system after Independence despite radical changes in the political, social and economic situation in the country. A fresh examination is necessary of the role and performance of the Police—both as a law enforcement agency, and as an institution to protect the rights of the citizens enshrined in the Constitution. The Government of India have, therefore, decided to appoint a National Police Commission composed of the following :—

- | | |
|--|---|
| 1. Shri Dharma Vira
(retired Governor) | Chairman |
| 2. Shri N. K. Reddy
(retired Judge Madras, High Court) | Member |
| 3. Shri K. F. Rustamji
(ex-IGP, Madhya Pradesh and ex-Special Secretary, Home Ministry) | Member |
| 4. Shri N. S. Saksena
(ex-IGP UP and ex-DG CRP and at present, Member, UPSC) | Member |
| 5. Prof. M. S. Gore.
(Professor, Tata Institute of Social Sciences, Bombay) | Member |
| 6. Shri C. V. Narasimhan
(presently Director, CBI) | full-time Member-Secretary of
the Commission (on relief from
his present post.) |

2. The following will be the terms of reference of the Commission :—

- (1) Re-define the role, duties, powers and responsibilities of the police with special reference to prevention and control of crime and maintenance of public order.
- (2) Examine the development of the principles underlying the present policing system, including the method of magisterial supervision, evaluate the performance of the system, identify the basic weaknesses of inadequacies, and suggest appropriate changes in the system and the basic laws governing the system.
- (3) Examine, if any changes are necessary in the existing method of administration, disciplinary control and accountability.
- (4) Inquire into the system of investigation and prosecution, the reasons for delay and failure; the use of improper methods, and the extent of their prevalence; and suggest how the system may be modified or changed, and made efficient, scientific and consistent with human dignity; and how the related laws may be suitably amended.
- (5) Examine methods of maintaining crime records and statistics and suggest methods for making them uniform and systematic.
- (6) Review policing in rural areas, evaluate any new arrangements that have been made, and recommend changes that are necessary.
- (7) Examine the system of policing required in non-rural and urbanised areas including metropolitan areas, and suggest the pattern that would be the most suitable.
- (8) Examine the steps taken for modernising law enforcement, evaluate the work of police communications, the computer net-work, scientific laboratories and agencies for research and development, and examine whether modernisation can be speeded up; examine to what extent, as a result of the modernisation of Police forces, streamlining of its functions and its re-structuring, it would be possible to economise in the manpower in the various areas of its activities.

- (9) Examine the nature and extent of the special responsibilities of the Police towards the weaker sections of the community and suggest steps to ensure prompt action on their complaints for the safeguard of their rights and interests.
- (10) Recommend measures and institutional arrangements :—
- (i) to prevent misuse of powers by the police, and to examine whether police behaviour, out-look, responsiveness and impartiality are maintained at the correct level, and if not the steps such as recruitment and training which should be taken to improve them;
 - (ii) to prevent misuse of the Police by administrative or executive instructions, political or other pressure, or oral orders of any type, which are contrary to law;
 - (iii) for the quick and impartial inquiry of public complaints made against the police about any misuse of police powers;
 - (iv) for the quick redressal of grievances of police personnel and to look after their morale and welfare; and
 - (v) for a periodic objective evaluation of police performance in a metropolitan area/District/State in a manner which will carry credibility before the public.
- (11) Examine the manner and extent to which police can enlist ready and willing co-operation of the public in the discharge of their social defence and law enforcement duties and suggest measures regarding the institutional arrangements to secure such co-operation and measures for the growth of healthy and friendly public-police relationship.
- (12) Examine the methods of police training, development, and career-planning of officers and recommend any changes that are required at any time in their service, to modernise the outlook, and to make the leadership of the force effective and morally strong.
- (13) Examine the nature of the problems that the police will have to face in the future, and suggest the measures necessary for dealing with them, and for keeping them under continuous study and appraisal.
- (14) Consider and make recommendations and suggestions regarding any other matter which the Government may refer to the Commission; and
- (15) Any other matter of relevance or importance having an impact on the subject.

3. The Headquarters of the Commission will be at Delhi.

4. The Commission will devise its own procedure and may consult such advisers as it may consider necessary for any particular purpose. It may call for such information and take such evidence as it may consider necessary. Ministries and Departments of the Government of India will furnish such information and documents and other assistance as may be required by the Commission. The Government of India trust that the State Governments, Union Territories Administrations, Service Associations and others concerned will extend to the Commission their fullest co-operation and assistance.

5. The Commission will make its recommendations as soon as practicable.

ORDER

ORDERED that a copy of the Resolution be communicated to all State Governments, Administrations of Union Territories and Ministries/Departments of the Government of India, Planning Commission, Cabinet Secretariat, Prime Minister's Office, Lok Sabha and Rajya Sabha Secretariats.

2. ORDERED also that the Resolution be published in the Gazette of India for general information.

Sd/- (T.C.A. SRINIVASAVARADAN)
Secretary to the Government of India

NATIONAL POLICE COMMISSION

QUESTIONNAIRE

- Sl. No. Code No. Basic role and responsibility of police*
- 1 1.1 Police are now looked upon as a department of the Government, fully subject to executive control and direction. As a law enforcement agency, police have necessarily to function as per requirements of law. It has been held forth as a fundamental proposition that in the discharge of their duties and responsibilities as required under the law, the police cannot in law and should not in practice be restrained or otherwise influenced by directions from the Government or the executive. Would you support this proposition ?
- 2 1.2 Under the existing law the superintendence of police vests in the State Government. In the normal course, the State Government is expected to exercise this power in conformity with the Constitution and the laws of the land. However, in the context of politically inspired State-wide bundhs, agitations for location of steel plants or other projects, labour agitations, industrial strikes, language agitations, etc., there have been several instances in which law enforcement had allegedly failed to be effective owing to inhibiting and discriminatory instructions and directions, mostly oral and sometimes written, emanating from political leadership in the State Governments. In a few cases courts have had to intervene on individual complaints to direct effective police action for securing life and property.
What arrangement would you suggest to prevent State Governments from issuing such illegal, improper or unjust directions, oral or written, which result in ineffective law enforcement ?
- 3 1.3 Do you think that a system of exercising control through a non-political board would achieve this objective ? (Please see question Sl. No. 105 Code No. 10.2.5 for the suggested constitution of this board).
- 4 1.4 What forum can be devised at the State level which can be moved by sections of the population (example : linguistic or religious minorities) who are aggrieved by ineffective law enforcement and remain defenceless, against the depredations of anti-social elements, who indulge in large-scale vandalism and destruction of property in the wake of politically motivated agitations ?
- 5 1.5 What arrangements would you suggest for effective penal action against those in Government who are found to have issued illegal/improper/unjust orders to law enforcement officers ?
- 6 1.6 Police Act of 1861, on which the present police system is based, visualises the role of police as a mere law enforcement agency. It is now suggested that police should assume a service-oriented role of which law enforcement will only be a part. In this context the duties of police will be to—
(i) Promote and preserve public order;
(ii) investigate crimes and, where appropriate, apprehend the offenders and participate in subsequent legal proceedings connected therewith;
(iii) identify problems and situations that are likely to result in commission of crimes;
(iv) reduce the opportunities for the commission of crimes through preventive patrol and other appropriate police measures;
(v) aid and co-operate with other relevant agencies in implementing other appropriate measures for prevention of crime;
(vi) aid individuals who are in danger of physical harm;
(vii) create and maintain a feeling of security in the community;

- Sl. No. Code No.* (viii) protect weaker sections of the community from exploitation and harassment;
 (ix) facilitate movement of people and vehicles;
 (x) aid in resolving conflict and promoting amity by appropriate measures, including mediation and counselling; and
 (xi) provide other appropriate services in an emergency to afford relief to people in a distress situation.

Do you agree with this view ? Have you any additions/deletions or modifications to suggest to the above list ?

- 7 1.7 After independence several legislative measures have been adopted in our country for securing social changes appropriate to a socialist, secular, democratic, welfare State. Police have been increasingly involved in the enforcement of such social, legislation. It is now suggested that police shall be primarily concerned with the enforcement of laws which are relatable to—
 (i) preservation of public order and peace;
 (ii) protection of life and property;
 (iii) protection of weaker sections of the community from exploitation and harassment;
 (iv) maintenance of essential services and supplies;
 (v) preservation of rectitude and integrity in public life including services;
 (vi) preservation of national integrity and security; and
 (vii) preservation of national economy and wealth;

As regards social legislation which does not fall under any of the above categories, police should have only a limited role for maintaining order, where necessary.

Do you agree with this view ? If not, please give your alternate views with reasons.

- 8 1.8 Would you agree with the view that, while detection of crime can be held as the exclusive responsibility of the police, prevention of crime has to be accepted as a joint responsibility of the police and the other wings of the criminal justice system with the active involvement of and co-operation from the community as a whole ?

- 9 1.9 What specific measures, legal as well as administrative, would you recommend for the association of the community at large as well as volunteer organisations for—
 (i) maintenance of public order; and
 (ii) prevention of crime ?

- 10 1.10 Section 23 of the Police Act, 1861, refers to the responsibility of police for collecting intelligence affecting the public peace only. In actual practice, police collect intelligence regarding political activities, corruption in public services, economic offences, etc.

What are your views in this matter ?

Policing system—Supervisory structure—Role of executive magistrates

- 11 2.1 Judiciary has been fully separated from the executive by the enactment of Criminal Procedure Code of 1973. Policing has become a highly professionalised service requiring a well-structured and unified command and control. Though the district police administration is vested in the Superintendent of Police, the administration is now subject to 'general control and direction' of the District Magistrate. A view has been expressed that this dual control at the district level from a functionary outside the police system erodes the sense of full responsibility that should be rightly borne within the system and therefore this dual control should be done away with.

What are your views in this matter ?

- 12 2.2 It has been suggested that the function of District Magistrate should be strictly limited to a co-ordinating role between the police and other Governmental agencies in the district

- Sl. No. Code No.* while the responsibility for maintenance of law and order should be fully borne by the Superintendent of Police himself.
What are your views in this matter? If you agree with the aforesaid suggestion, what specific duties would you assign to the District Magistrate as a co-ordinator?
- 13 2.3 A view has been expressed that after the separation of judiciary from the executive, the concept of 'executive magistracy' as spelt out in the Criminal Procedure Code, 1973, does not appear rational. It has been suggested that the existing powers and functions of the 'executive magistracy' as laid down in the Criminal Procedure Code, 1973, may be suitably divided among the judiciary and senior ranks in Police.
What are your views in this matter?
- 14 2.4 Constabulary form about 80% of the force and a large majority of them retire as constables without even one rank promotion in their entire career. Long and arduous hours of work, performance of duties under enormous stress and strain, exigencies of duties which deny them holidays and normal leave which are availed by other services and lack of promotional opportunities within the system are serious demotivating factors that badly affect the quality of performance at constable's level. This also seriously affects police image and fouls police-public relationship, particularly at the police station level. It has been suggested that the police hierarchy from constable to Deputy Superintendent of Police may be restructured to increase the number of personnel at the level of Sub-Inspector/Assistant Sub-Inspector with corresponding reduction in the ranks of constabulary so that there is quicker promotional flow from the constable upwards and there will be more investigating officers in the rank of Sub-Inspector/Assistant Sub-Inspector to interact with the public at the police station level and render service to greater public satisfaction. This restructuring would imply the following :
- (i) Direct recruitment will hereafter be made at the level of Constable and Sub-Inspector only, the intake at the Sub-Inspector's level being gradually reduced in a phased manner and finally eliminated to provide for increased promotional flow from Constable to higher levels.
 - (ii) Direct recruitment at the level of Assistant Sub-Inspector and Deputy Superintendent of Police will be abolished.
 - (iii) Constables with good education and aptitude for police work can hope to rise to the level of Inspector by promotion in a reasonable time. More brilliant among them can even rise to higher positions.
- What are your views on this suggestion?
- 15 2.5 It is frequently complained that most of the police personnel are now deployed on law and order and VIP Bandobust duties to the detriment of investigational work in individual crimes reported by public. It has been suggested that separate staff should be earmarked exclusively for crime investigation. Do you consider it feasible that such functional division could be effected at :—
- (i) metropolitan police stations or
 - (ii) city police stations or
 - (iii) town police stations or
 - (iv) semi-urban police stations or
 - (v) rural police stations or
 - (vi) all police stations?
- The above mentioned classification of police stations is proposed to be made on the basis of population of the cities/towns where the police stations are located.
What norms would you suggest for the above classification?
- 16 2.6 In regard to railway police it has been suggested that the responsibility for maintaining law and order, surveillance over bad characters and allied crime preventive functions may be taken over by the respective district police for the part of railway area falling in that district, while the

Sl. No. Code No. responsibility of investigation of crimes that occur within railway premises including running trains shall be retained by the existing Government Railway Police which may then be developed and maintained as an expert crime investigating wing of the State CID.

Do you agree with this view ? If not, what are your alternate suggestions ?

- 17 2.7 A suggestion has been made that the members of the Railway Protection Force may be conferred with powers and made to investigate different forms of railway crime affecting the person and property of railway passengers.
Would you support this suggestion ?
- 18 2.8 If so, would you also agree that similar powers may be conferred on members of the Central Industrial Security Force in regard to their area of operation ?
- 19 2.9 A suggestion has been made that specialist agencies should be developed within the police system for handling crimes by juveniles, economic crimes, crimes on the highways, airways, high seas, etc.
What are your views in this matter ? What other areas of crime work will require handling by specialist agencies within the police system ?

Police administration, disciplinary control and accountability

- 20 3.1 All action by police has to be within the framework of law. However, the result of police action does not always go before a court for adjudication. Several steps taken by police which affect the rights and liberties of individuals may not come to court's notice if they are not relatable to cases that come up for court trial. It is, therefore, felt that there should be some arrangement for independently monitoring the action taken by police in situations which give rise to complaints or criticism against police. While acts or omissions by individual police personnel could be looked into by either departmental or judicial inquiries, as the case may be, collective performance by the police as a whole requires to be called to account by some agency which can command the confidence of the public. It has been suggested that a Committee of the State Legislature to be called as "Public Security Committee" and constituted on the same lines as the Public Accounts Committee or Estimates Committee can be given this task. The Committee will require to be aided in its work by a small professional directorate which may be called 'Directorate of Inspection or Evaluation' which can evaluate police performance over a given period and put up a report for consideration by the Committee. While seeking clarification on issues that remain doubtful or vague, the Committee will have the power to call for and scrutinise original records, subject to limitations of preserving secrecy in matters affecting national security.
What is your reaction to this arrangement as broadly suggested ?
- 21 3.2 Do you think there should be a similar arrangement at the district level also ? If so, how should it be constituted ? Should it involve Zila Parishad functionaries, Members of Parliament/Members of Legislative Assembly/Members of Legislative Council and representatives of local bodies in the district ?
- 22 3.3 Having regard to the enormous increase in the tasks the police are required to perform in a variety of situations of increasingly complex nature, it has been suggested that the command structure of a State Police force exceeding a specified number, say 30,000 should be headed by a new functionary designated as Director General who will be assisted at headquarters by the required number of Inspectors General who will assume different functional responsibilities dealing with such matters like specialised agencies for crime investigation, intelligence, armed police battalions, general administration, transport and communications, forensic science laboratories and scientific aids for investigation, recruitment and training, etc. Supervision over the work of district police

- Sl. No. Cod No.* will be through Deputy Inspectors General as now. The new functionary called Director General of Police will be given appropriate status and rank, consistent with the need for upholding the dignity and primacy of the police as an integral part of the criminal justice system. What are your views in this matter ?
- 23 3.4 A suggestion has been made that the ministerial staff in the police department should also be encadred as police personnel. Do you agree with this view ? If not, please give reasons ?
- 24 3.5 It has further been suggested that the technical personnel attached to specialist wings like police wireless branch, computer network, etc., may also be encadred as police officers, having in view their crucial role in police operations. What are your views in this matter ?
- 25 3.6 What are your specific suggestions for reducing scriptory work in police, which at present is felt to be needlessly heavy and impedes effective field work ?
- 26 3.7 It has been suggested that adequate financial powers should be delegated to the IG and DIG/SP to enable them rectify deficiencies and afford quick relief in situations which call for repair and redress. In particular, it has been suggested that there should be far greater delegation of powers in regard to—
 (i) purchase and maintenance of motor vehicles;
 (ii) purchase of furniture, stationery and other equipment relevant to police work;
 (iii) maintenance and repairs to police buildings including residential quarters of police personnel;
 (iv) creation of posts up to the level of Deputy Superintendent of Police within the sanctioned budget.
 Have you any specific suggestions in this regard ?
- 27 3.8 It is said that officers in charge of police stations have frequently to draw from private sources for meeting several items of legitimate expenditure connected with police work for which Government funds are not allotted at all or, even if allotted, are hopelessly inadequate. Could you describe some instances of such expenditure and also indicate the required allotment of funds for such purposes in an average police station ?
- 28 3.9 What are the drawbacks and deficiencies in the existing system of disciplinary control in police ? What are the factors which contribute to delay in disciplinary proceedings and harassment to the police personnel involved ? What are the remedial measures you can suggest in this regard ?
- 29 3.10 Have you any suggestion regarding special allowances that could be recommended for police personnel, having regard to the nature of duties they are required to perform ? Suggestions have been made that they may be given allowance for maintenance of motor cars, motor cycles, typewriters for their scriptory work, performance of duties in specialist wings of the police like CID, Intelligence and training establishments. What specific allowances and to what ranks would you recommend in this regard ?
- 30 3.11 A suggestion has been made that the holding of arms by the civil police in police stations should be considerably reduced, if not eliminated altogether. It has been further suggested that any situation requiring the use of arms can be tackled by the regular armed police units in the State while the civil police may always be required to interact with the public in a helpful and friendly manner to provide relief in a distress situation. What are your views in this matter ?
- 31 3.12 Badges of rank in police bear close resemblance to those of Army ranks. A view is held that this circumstance generates needless comparison and controversy over the rank to rank equation and the rank-wise duties and responsibilities in the Army and the police, while in fact they function

Sl. No, Code No. in totally different milieu and have totally different tasks to perform. It has been suggested in this context that the police may evolve their own badges of rank of a different pattern. What are your views in this matter? If you agree with the aforesaid view, please suggest some sample badges of rank.

Investigation

- 32 4.1 Do you agree with the view that several crimes are not reported to police and, even among those reported, several crimes are either minimised or not registered at all by police?
- 33 4.2 What is your estimate of the percentage of—
 (i) unreported crimes to the number of crimes that actually occur; and
 (ii) unregistered crimes to the number of crimes that are reported to police?
- 34 4.3 What are the reasons, in your opinion, for under reporting of crime and non-registration/minimisation of reported crimes?
- 35 4.4 There is a view that our present criminal justice system extending from police to law courts, jails and the after care services is packed with excessive concern for the criminal while it operates to the harassment of the law-abiding citizen who figures as the complainant or witness. Those who see criminals taking advantage of this system advocate more powers for police, restrictions on liberal grant of bail and a general tightening up of law and procedure, even to the extent of shifting the burden of proof on the accused. Those who find the system oppressive to the general people advocate automatic bail including anticipatory bail, abolition of preventive detention and adoption of numerous procedural safeguards with as many checks on police as possible. Any reform of the police as a part of the criminal justice system has, therefore, to strike a realistic balance between the two requirements, having in view the overall objective of security of the community.
 Would you agree with this approach?
- 36 4.5 What practical steps would you suggest for co-ordinating the preventive functions of non-police agencies like courts, jails, correctional services, corporations, municipalities and other local bodies in regard to several factors which induce or facilitate the commission of crime?
- 37 4.6 A suggestion has been made that witnesses to search conducted under Section 102 Cr. P. C. may also be drawn from the category of public servants (other than police officers) having jurisdiction over the area of proposed search.
 Do you agree with this suggestion?
- 38 4.7 To overcome the growing phenomenon of prosecution witnesses turning hostile in court and disowning their earlier statements recorded by the police, it has been suggested that Section 162 Cr. P. C. may be amended to enable the police get a witness to sign and date the statement if the witness can read for himself what has been recorded. Such a signed statement would further help enforcement of the legal obligation cast by the amended form of Section 161 (2) Cr.P.C. according to which a witness is bound “to answer truly all questions” relating to the case put to him by the investigating officer.
 Would you support this amendment?
- 39 4.8 Case diaries of police investigation are to be written daily under Section 172 Cr. P.C. This causes practical difficulties when the examination of certain witness is spread over more than one day and a witness comes forth with his full statement only after a process of immediate verification of the points made out by him in the course of his examination. A suggestion has, therefore, been made that Sections 161 (3) and 172 Cr. P. C. may be suitably modified to give more time to the investi-

Sl. No. Code No. gating officer to write his diaries.

Have you any suggestions in this regard ?

- 40 4.9 A proper and full examination of the accused person is an important requisite for impartial investigation. A view is held that the existing provisions in Cr.P.C. do not give adequate time for the investigating officer to examine the accused person in detail after his arrest. This process of examination has necessarily to be combined with a process of simultaneous verification of facts as stated by the accused person to the extent it can be done expeditiously. This will be possible only if the accused person is continued to be held in police custody for reasonable time after arrest. It has, therefore, been suggested that Sections 151 and 167 Cr.P.C. may be suitably amended to enable the magistrate authorise the continued detention of the arrested person in police custody, if so required by the investigating officer, for a maximum period of fifteen days after arrest for the specific purpose of his detailed examination by police and verification of facts as stated by him. Would you support this suggestion ? What safe-guards would you further suggest to prevent abuse of this facility, if granted ?
- 41 4.10 Under the existing law, the accused person is not bound to state his defence in the course of investigation by police. The present tendency of accused is to decline to make any statement to the police and reserve his right to build up his defence at a later stage of the subsequent proceedings in court. This results in delay and distortion of the evidentiary picture as a whole. It has been suggested that even at the stage of investigation the accused should be given an opportunity to make a statement regarding his defence, after perusing the statements of witnesses recorded under Section 161 Cr.P.C., and the statement of the accused so made shall be a part of the record of investigation. The facts of this statement, if so made, or the fact of his declining to make a statement at that stage, shall be taken judicial notice of during subsequent proceedings in court. What are your views in this matter ?
- 42 4.11 There is a view that the provision in the Cr. P. C. (Section 438) regarding anticipatory bail has in practice resulted in the hampering of the normal course of investigation and has prevented the detailed examination of a suspected person by the police. What is your view in this matter and what modifications in law would you suggest in this regard ?
- 43 4.12 It has been noticed that in quite many cases professional criminals are able to secure bail release easily from courts and continue to commit further offences while on such bail. A suggestion has been made that the existing provisions regarding bail in the Cr. P. C. should be suitably tightened to avoid this situation. What are your views and specific suggestions in this regard ?
- 44 4.13 Quite a large number of complaints received at police stations involve non-cognizable offences. Some of them have the potential of aggravating the situation further, leading to the commission of more serious offences and even a breach of public peace, if the offenders involved in the first incident get the impression that the police have no power even to question them regarding what had happened. It has, therefore, been suggested that a new section after the existing Section 154 of Cr. P. C. may be introduced to enable the police make an enquiry even in non-cognizable cases if they consider that such an enquiry would be in the interests of preventing the commission of further offences and a possible breach of public peace. The new provision will also lay down a procedure for maintaining a record of such an enquiry, which may be followed up either with appropriate cautioning of the accused by the police officer himself on record or remitting the case for proceedings in court if the evidence warrants it. It has been emphasised that the new arrangement will be particularly relevant in regard to complaints from the weaker sections arising from exploitation and harassment by or at the instance of influential groups or individuals, particularly in rural areas. What are your views in this matter ?
- 54 4.14 A suggestion has been made that rape cases should invariably be investigated by an officer of or

- Sl. No. Code No.* above the rank of Inspector of Police and that this insistence should be statutorily spelt out in the Criminal Procedure Code itself.
Would you support this suggestion ?
- 46 4.15 Certain offences are compoundable under Section 320 Cr. P. C., but this procedure can be resorted to only after a charge-sheet has been laid in the court. It has been suggested that in certain categories of cases, having regard to local situations and the attitudes of the parties concerned, the police themselves should have the power to compound the offence before filing charge-sheet and report the matter accordingly to the court.
Do you agree with this view ? If so, can you specify the categories of offences for this purpose ?
- 47 4.16 Section 173 of the Cr. P. C. lays down the procedure for the submission of a police report to the competent magistrate on completion of investigation. In this report the police can only refer to the adequacy or otherwise of the evidence gathered during investigation and mention whether any offence appears to have been committed with reference to such evidence. A suggestion has been made that this section may also authorise the police to inform the court in appropriate cases the fact of the parties having compromised and recommend the closure of the case on that ground.
Would you support this suggestion ?
- 48 4.17 The concepts of "de-criminalisation" and "de-penalisation" are in vogue in some countries. Their implication is that certain acts cease to be offences if committed in certain circumstances and certain offences cease to be formally punishable when committed in certain situations. With these concepts in view, would you recommend that some offences which are presently cognizable by police may be non-cognizable and that certain offences, when proved in court, may not be visited by a formal punishment, but may be closed with appropriate advice ?
What, in your opinion, should be the nature and category of offences that could be brought under the above scheme ?
- 49 4.18 Police have the power to arrest without an order from a magistrate and without a warrant, any person who is concerned in any cognizable offence. A reasonable complaint or credible information or a reasonable suspicion of a person being so concerned is enough to make this arrest under Section 41 Cr.P.C. In practice the police invariably arrest the accused concerned in cognizable cases. In some cases they are released on bail immediately after arrest and in others they are produced in court for further orders regarding their release on bail or continued custody. It has been suggested that in cases where the police themselves consider bail release justifiable, it need not be preceded by a formal arrest, but can be effected by merely serving an appropriate notice on the accused and obtaining a bond from him for his continued availability for purposes of investigation and connected legal proceedings. Avoidance of formal arrest in such cases will remove the existing scope for harassment and humiliation through arrests which may not be really necessary in the interest of the case, but may be resorted to on mala fide considerations.
Do you agree with this view ?
- 50 4.19 A suggestion has been made that petty crime which occur in a locality could be expeditiously investigated on the spot by some specially selected members of the public of the locality, who could be enrolled as special police officers under the Police Act and given some minimal training and powers for discharging this responsibility. Petty cases investigated by them could appropriately be handled by the special judicial magistrates set up under Section 13 of the Cr. P. C.
Would you support this suggestion ?
- 51 4.20 A criticism has been made that expansion of police in the recent years has mostly been in the armed wing and that most of the armed police personnel are increasingly deployed on duties connected with maintenance of public order, as distinct from investigative work in individual crimes. It is said that the development of the civil police has been progressively neglected.

- Sl. No. Code No.* Would you share this criticism? If so, what are your specific suggestions to remedy the position? In this context would you advocate increased association of the Central Police Organisations with the investigative work of the State police?
- 52 4.21 Would you further advocate changes in law to facilitate increased participation of Central Police Organisations in investigative work in the States?
- 53 4.22 Would you recommend any specific provisions in the Criminal Procedure Code for the conduct of identification parades?
- 54 4.23 The police have to deal with the problem of growing violence, particularly in urban areas, by anti-social elements, goondas, hoodlums, etc. There is a view that any action taken against them under the normal law for any specific offence does not have the desired deterrent effect on them. It has been suggested that new provisions should be evolved in the Cr. P. C. to provide for—
- (i) externing them from the urban areas, where they normally operate;
 - (ii) segregating them and confining them to settlements where they can be gainfully employed under proper supervision; and
 - (iii) preventive detention in extreme cases.
- These provisions will be made applicable only to professional criminals involved in violent crimes. What is your reaction to this suggestion?
- 55 4.24 Section 106 Cr. P. C. empowers a Sessions Court or a First Class Magistrate to bind over a person for keeping the peace for a period up to 3 years at the time of convicting him of an offence which involves assault or use of criminal force or committing mischief, criminal intimidation, etc. In actual experience, quite a number of such cases involving violence are dealt with in Second Class Magistrate's Courts. Second Class Magistrate would seldom pass on a case file to a First Class Magistrate at the time of conviction for the mere purpose of applying Section 106 Cr. P. C. It has been suggested that, in actual practice, it would facilitate effective control over the activities of criminals who come to notice in offences involving violence if the powers under Section 106 Cr. P. C. can be exercised by Second Class Magistrates also. Would you support an amendment of Section 106 Cr. P. C. to this effect?
- 56 4.25 People are generally very reluctant to co-operate with the police during investigations. Do you think it is because of—
- (i) discourteous and harassing treatment meted out to them by police officers at various stages of investigation;
 - (ii) their having to spend long hours with the police to the detriment of their normal avocation for which they are not compensated;
 - (iii) the likelihood of their continued involvement in subsequent court proceedings where they will be harassed by protracted procedures and humiliating cross-examination;
 - (iv) lack of facilities in courts for reasonable comfort and compensation for their absence from their normal work;
 - (v) insufficient number of courts and their centralised location which involves long journeys for the parties concerned; and
 - (vi) public lack of confidence in satisfactory outcome of police investigation or court trial?
- Besides the above are there any other reasons, in your view, which make the public shy away from the police?
- 57 4.26 What are your specific suggestions for eliminating the use of third degree methods by police during investigations?

Prosecution

- Sl. No. Code No.**
- 58 4.27 What are the reasons, in your opinion, for the failure of quite a few criminal cases in court? What remedial measures would you suggest in this regard?
- 59 4.28 What practical measures would you suggest for close co-ordination of work between the investigating staff and the prosecuting staff within a district?
- 60 4.29 A view has been expressed that after the Criminal Procedure Code, 1973, came into force, the interaction between the investigating staff and the prosecuting staff has become ineffective and this has affected the progress of cases in court.
Do you agree with this view? If so, what remedial measures would you suggest? Have any measures been implemented in your State? If so, what has been their effect?
- 61 4.30 In particular, would you agree that effective co-ordination between the two wings can be brought about by placing the prosecuting staff under the control of Inspector General of Police?
- 62 4.31 What set up would you recommend for the recruitment, training and posting of prosecuting staff in a district, having regard to the need for—
(i) adequate knowledge on the part of prosecutors about the realities of investigational work in the field;
(ii) close interaction with the investigating staff; and
(iii) a satisfactory promotional career for the prosecutors within their system?
- 63 4.32 Would you recommend any modifications in Section 321 Cr. P. C. relating to withdrawal of prosecution? One criticism of the existing procedure is that the decision to move the Court for withdrawal can be taken by the executive on grounds which are not required to be disclosed fully in Court? What revised procedure would you suggest to ensure that the grounds for withdrawal would be fully subject to judicial scrutiny?
- 64 4.33 Under the existing practice, a criminal offence that is prima facie disclosed in the report of inquiry conducted under the Commissions of Inquiry Act, 1952, is once again gone into by a process of regular investigation by a police agency under the Cr. P. C. and then the matter is taken to court on the basis of available evidence. This entails considerable delay in the disposal of the entire matter. A view has been expressed that the Commissions of Inquiry Act may be suitably amended to provide for a draft complaint to be recommended by the Commission itself while giving its report and the Government can, after considering the Commission's report, file that complaint straightway in court for further proceedings.
Would you agree with this view? Or, do you have any other suggestions in this regard?

Court Trials

- 65 4.34 Pendency of cases under trial has risen enormously in the recent years. Compared to about 2 lakhs of criminal cases pending in courts in 1962, there are about 20 lakhs of cases pending in courts now. Gross delays in the disposal of court cases tend to dilute the deterrence of prosecution for containing the activities of criminals.
What, in your opinion, are the main causes for delays in the disposal of court cases? What remedial measures would you suggest in this regard?
- 66 4.35 A suggestion has been made that a large volume of ordinary crimes can be handled and disposed of by village or ward level courts, on the lines of Nyaya Panchayats, assisted by a trained executive. It is further suggested that the emphasis in the proceedings before these courts will be on compounding or levy of fine with adequate compensation to the victim of crime.

- Sl. No. Code No.* Would you support this suggestion ?
- 67 4.36 Do you feel there is scope for reducing procedural delays in court proceedings ? If so, please give your specific suggestions for amending the Criminal Procedure Code in this regard.
- 68 4.37 Section 162 Cr. P. C. prohibits the use of statements recorded by police for any purpose other than contradicting a witness during court proceedings. Arguing that a statement which is considered credit-worthy for purposes of contradiction should be held equally credit-worthy for purposes of corroboration also, it has been suggested that this section may be amended to permit statements recorded by police being used for all purposes, subject to the rules of the Evidence Act. Would you support the suggestion ?
- 69 4.38 It has been suggested that the provisions of Section 206 Cr. P. C. may be amplified to cover any offence which is compoundable under Section 320 or any offence punishable with imprisonment upto one year or with fine or with both. What is your view in this matter ?
- 70 4.39 Would you recommend any modifications in the existing procedure for summary trial to eliminate protraction of proceedings ?
- 71 4.40 In the existing procedure for summary trials the initiative has to be taken by the court whether to apply the procedure or not. Would you suggest that the procedure be made mandatory in certain categories of offences or that the procedure may be followed on the application made by the prosecuting agency ?
- 72 4.41 Some legal provisions like Sections 25, 26 and 27 of the Evidence Act breathe a total distrust of the Police and this general prejudice, which is implicit in the statute itself, influences the attitudes of other functionaries of the criminal justice system towards the Police. Would you recommend suitable changes in law to make the police officers' evidence stand on the same footing as any other person's evidence ?
- 73 4.42 It has been suggested that a new procedure may be evolved in the Criminal Procedure Code for the police themselves to serve infringement notices on the offenders for petty violations of traffic laws and such other regulations, specifying the fine amounts that may be prescribed by Government from time to time and authorising the closure of the case if the prescribed fine is paid by the offender either on the spot or at a specified place within a specified period. Would you support this suggestion ?
- 74 4.43 Would you further agree that similar powers of detection and on-the-spot disposal could be given to other functionaries like Home Guards, Traffic Wardens, etc. on a selective basis ?
- 75 4.44 It has been suggested that magistrates and judges should also be exposed to the significance and importance of scientific evidence and the modern aids that are available to police to establish such evidence. This would help a proper appreciation of such evidence in court proceedings. Would you support this suggestion ?

Rural Policing

- 76 6.1 The traditional institutions of village chowkidar (or village watchman or talayari as he is called in some States) exists in some areas. Would you recommend any modifications in this system to make it more effective or would you favour its total replacement by some other arrangement of village homeguards or village defence force, etc., on the basis of a new law to be enacted for this purpose ?

Sl. No. Code No.

- 77 6.2 Are any changes called for in the policing of rural areas? Have any new experiments been tried in your State in this matter? If so, with what results?
- 78 6.3 It has been suggested that villages could be grouped into an area and a suitable literate villager with an occupation of his own may be selected and enrolled as a Special Police Officer to perform elementary preventive police functions in his area. He will be a paid functionary and can be assisted by a few village chowkidars who may be formally enrolled as Home Guards so that they all act under statutory power and control. A public telephone accessible to all residents shall be installed in the residence of the village Special Police Officer. A scheme of systematic in-service training may be arranged to cover all such village police officers.
What are your views on this suggestion?
- 79 6.4 What is your assessment of the functioning of Nyaya Panchayats in your State in dealing with criminal cases? Have you any suggestions for improving the system and insulating it from possible political influences?
- 80 6.5 Certain tribal areas and remote regions have an indigenous system of inquiries and punishments through the agency of village elders. It has been suggested that such indigenous systems should be further strengthened with appropriate modifications to guard against politicisation of the system.
What are your views in this matter?
- 81 6.6 To enable quicker disposal of ordinary crimes, in rural areas, it has been suggested that a large number of suitable retired Government officers living in these areas may be empowered to function as Special Judicial Magistrates under Section 13 of the Cr. P. C., 1973. They will require some training and minimal clerical assistance to handle the trial of these cases.
What is your reaction to this suggestion?

Urban Policing

- 82 7.1 The minimum population for a city or town to be notified as a metropolitan area under Section 8 of the Cr. P. C. is 10 lakhs. A suggestion has been made that this limit may be reduced to 5 lakhs.
Would you support this suggestion?
- 83 7.2 What is your assessment of the quality of policing in towns where the police commissionership system is in vogue?
- 84 7.3 It has been suggested that the police commissionership system may be extended to all towns with population exceeding five lakhs.
Do you support this suggestion? If not, please give your alternate views with reasons.
- 85 7.4 In the present system, the police station is the basic unit at the ground level for receiving complaints and initiating police action. A suggestion has been made that the lowest unit may be a police service post which should function merely as a reception centre for receiving any kind of complaint from the public and initiating service oriented action immediately wherever called for. Staff at the service post will be limited and designed for this service role. Matters which require a regular investigation as such involving arrests, searches, seizures, etc. would be handled by the officer oriented staff located at a mother police station, to which the service posts will be attached. Prompt response of either kind from the mother police station as well as the service post will be ensured by effective telephone/wireless network covering all service posts and the mother police stations.
Would you recommend a revised structure as broadly envisaged above? Or have you any alternate suggestions in this regard?

Sl. No. Code No.

- 86 7.5 Contraventions of some laws like the Arms Act, Explosives Act, Places of Public Resort Act, Dramatic Performances Act, etc. have a bearing on the local law and order and crime situation. It has been suggested that the executive magisterial powers exercised under these laws by the District Magistrate may be transferred to the Superintendent of Police to bring about a greater measure of co-ordinated control over the law and order as also crime situation arising from the enforcement of these laws.
What are your views in this matter ?
- 87 7.6 It has been suggested that the complement of women police in urban areas may be substantially increased to handle the increasing crimes involving women as victims.
What are your specific ideas and suggestions in this regard ?
- 88 7.7 What is your experience of the working of police control room in important cities/towns in your State ? Have you any suggestions for their improvement ?
- 89 7.8 Agitations of different kinds having repercussions on public order have increased, particularly in urban areas. Railways, buses, public buildings and other public property frequently become targets of attack by vandals and anti-social elements under cover of such agitations. Action under the normal law does not always appear effective and deterrent enough to contain such agitations [and secure the safety of public property. A suggestion has been made that a separate self-contained law may be enacted to deal with such public order situations, which would include provisions for—
(i) defining new offences relating to damage to public property, even without the element of intention;
(ii) fixing responsibility on the organisers of the agitation or demonstration or procession, etc., for acts done by participants thereof;
(iii) arrest of accused without enlargement on bail for a specified period;
(iv) placing the burden of proof on the accused to explain the incriminating circumstances established against him; and
(v) assessment of damage caused by the acts of the participants of the agitation, demonstration, etc., and recovery of proportionate amount from the organisers.
This new law may initially apply to urban areas that may be notified in this behalf by the State Governments and may be extendable to other areas from time for specified periods.
What is your reaction to this suggestion ? Would you suggest any further specific ideas or concepts for inclusion in the new law ?

Modernisation of aids for law enforcement Development of Wireless and Computer net work, forensic science laboratories and research

- 90 8.1 While computer facilities and sophisticated wireless network may be organised at the district/regional/State level, what scientific and mechanical aids and equipment can be practically provided at the operational level at police stations and circles ?
- 91 8.2 Are mobile scientific aid units available in your State ? If so, what are their distribution and operational structure ? What is your assessment of their actual use and practical utility ?

Police and the weaker sections of the community

- 92 9.1 What are the special arrangements in your State for protecting the interests of weaker sections and ensuring for them—
(a) prompt investigation of crimes in which they are victims;
(b) adequate employment in the reserved quota; and

- Sl. No. Code No.* (c) social equality and justice in daily life ?
What is your assessment of the efficacy of these arrangements ? Have you any suggestions for improvement in this regard ?
- 93 9.2 A number of complaint from the weaker sections alleging harassment and exploitation fall under the category of non-cognizable offences. Would you recommend that some of these offences be made cognizable ? If so, please specify the offences.
- 94 9.3 What has been the practical effect of the enforcement of the Protection of Civil Rights Act, 1955, in your State ?
- 95 9.4 What special machinery would you suggest for looking into complaints from weaker sections alleging inaction or misconduct by police ?
- 96 9.5 It has been alleged that police handling of communal riots in certain instances has been ineffective. What, in your opinion, are the reasons for this failure and what remedial measures would you suggest in this regard ?

Prevention of misuse of powers by police

- 97 10.1.1 What are the various situations in which there is scope for misuse of powers by police and what remedial measures would you suggest to eliminate this scope ?
- 98 10.1.2 Would you agree with the view that police response to any complaint from the public is heavily conditioned by :
(i) grossly inadequate manpower, equipment and facilities for performance of work by the police;
(ii) enormous stress and strain in day-to-day performance of duties by the police; and
(iii) general apathy and callousness that are seen in different sections of society ?
- 99 10.1.3 What special measures would you recommend in the recruitment procedures to ensure that persons with proper behaviour and responsiveness to public service alone are inducted into the force at various levels ?
- 100 10.1.4 What special measures would you recommend during initial training and also the later in-service training to inculcate in a police officer the proper attitudes to his work and conduct towards the public.

Insulating police from extraneous, illegal, unjust or improper pulls and pressures, administrative and political

- 101 10.2.1 There is a view that the fairness and impartiality of police work are frequently impaired by considerations of the status and wealth of the parties concerned and/or by extraneous pulls and pressures from politicians, executives in Government and other influential groups and individuals. Do you agree with this view ?
- 102 10.2.2 At what level do you think such pulls and pressures frequently operate in the police ?
Is it at the level of—
(a) constabulary, or
(b) Sub-Inspectors, or
(c) Inspectors, or
(d) Sub-divisional police officers, or

Sl. No. Code No. (e) Superintendents of Police, or
(f) Deputy Inspector General/Inspector General of Police ?

- 103 10.2.3 Can you specify some typical examples of situations in which such pressures are exerted for securing police action or inaction ?
- 104 10.2.4 A view is held that straight and honest officials who do not yield to improper suggestions or pressures are often threatened with transfers and that a large number of such transfers actually take place all the year round.
Do you agree with this view ? Can you also furnish some statistics or typical instances of this kind ? Can you suggest measures for effectively protecting the interests of such officers ?
- 105 10.2.5 It has been suggested that public confidence in the impartiality and objectivity of police functioning would be greatly enhanced if Government's control over police is exercised through a Board of which the Minister in charge of Home portfolio can be the Chairman and Members may be drawn from the Judiciary, Academics including Sociologists of public standing and eminent non-political public men. The Chief of Police will function as Member Secretary of this Board. Police performance in the State will be periodically taken note of by this Board which will be responsible for giving appropriate policy directions and guide lines from time to time. Would you support this suggestion ? If so, would you further indicate some guidelines for selecting the persons to constitute the Board ?
(This Board will be distinct and different from the Public Security Committee envisaged in question Sl. No. 20, Code No. 3.1).
- 106 10.2.6 A further suggestion has been made that improper pulls and pressures from extraneous sources can be successfully resisted by the police if the Head of the Police force and his senior assistants, i.e., the Director General and Inspectors General are statutorily assured of a tenure of office, with appropriate exceptions to cover the contingencies of promotion, illness, etc. Any transfer within the tenure period should be with the approval of a specially constituted standing body which may be called the State Establishment Board with which the Chairman, UPSC and the Union Home Secretary will also be associated.
Would you agree with this suggestion ?
- 107 10.2.7 It has further been suggested that the initial appointment of the Director General of Police and his Inspectors General of Police should be with due regard to seniority and availability from a panel of IPS officers of the State cadre prepared by the State Establishment Board mentioned above.
Would you agree with this suggestion ?
- 108 10.2.8 It has also been suggested that appointments, postings, transfers and suspensions of all the officers of the rank of SP and below will be the exclusive statutory responsibility of the departmental officers at appropriate levels. Some suitable provisions will have to be made in the statute for resolving the situation when the Government and the Head of the Police have different views in any specific case in this matter.
What are your views and what specific statutory provisions would you recommend in this regard ?

Mechanism for Inquiry into Public Complaints Against Police

- 109 10.3.1 Any mechanism for inquiry into alleged police excesses has to command public confidence in the impartiality and objectivity of the inquiry. There is a view that, while ordinary complaints can be legitimately and rightly looked into by the departmental officers themselves, complaints of serious misconduct by police would require handling by an outside agency. Frequent demands are now voiced in Public for judicial inquiries in cases of this kind. A suggestion has been made that in every district there should be an arrangement for an automatic judicial inquiry by a

Sl. No. Code No. nominated Sessions or Additional Sessions Judge into any incident of—

- (i) death in police custody;
- (ii) death or grievous hurt arising from alleged police torture;
- (iii) death resulting from police firing; and
- (iv) alleged rape of women in police custody.

In conducting this judicial inquiry, the Judge will be assisted by a senior police officer as assessor who shall be responsible for promptly securing all the connected departmental records as soon as the specified event occurs.

What is your reaction to this suggestion ?

- 110 10.3.2 What special measures can be devised to deal effectively with corruption in police at different levels ?
- 111 10.3.3 What are the aspects of the methods and style of functioning of the police, particularly at the police station level, which cause harassment and inconvenience to public and what remedial measures would you suggest ?

Grievance Redressal Machinery Within the Police System

- 112 10.4.1 The nature of work handled by police officers exposes them to vexatious criminal or other proceedings at the instance of vested interests and anti-social elements. A view is held that the existing provisions in the Police Act and the Criminal Procedure Code (Section 197) are not adequate to protect police officers in the discharge of their duties and responsibilities. What measures would you suggest to ensure effective protection to police officers from such vexatious proceedings ?

Evaluation of Police Performance

- 113 10.5.1 What norms and determinants would you suggest for evaluating police performance at the level of police station/circle/sub-division/district/range/State? Existing methods mainly based on statistics of crime detection have led to distortions and gross abuses to the detriment of public satisfaction with police performance and the actual feeling of security enjoyed by the public in any specified area. Can you suggest some workable scheme for ascertaining public opinion about police performance in any given area through a kind of poll that may be organised through non-political volunteer agencies ?

Public-Police Relationship

- 114 11.1 There is a view that speculative and distorted reporting in press regarding crimes at the stage of investigation by police causes practical difficulties and prejudices the normal course of investigation. Do you agree with this view ? If so, what remedial measures would you suggest ?
- 115 11.2 What measures can be devised to bring about a better understanding of police by the public in day to day life and secure public co-operation in police work ?
- 116 11.3 What role can be played by the press in promoting healthy police-public relationship ?
- 117 11.4 A suggestion has been made that police-public relationship would benefit largely by increased association of police with the running of Boys' Clubs to promote games and sports among the youngsters and helping them generally with facilities and advice for improving their sports talents. Would you support this suggestion ?

Sl. No. Code No.

- 118 11.5 What should be the guidelines for day to day interaction between police and press ?

Police training, development and career planning

- 119 12.1 With the proposed abolition of direct recruitment of Deputy Superintendent of Police (vide question at Sl. No. 14 Code No. 2.4), it has been suggested that a small quota should be reserved in each State Cadre of IPS for special recruitment through a limited competitive examination from the rank of Inspectors and Sub-Inspectors in the State, subject to specified minimum educational qualifications and age limitations.
Would you support this suggestion ?
- 120 12.2 What aspects of service conditions in the Indian Police Service affect the morale of Police leadership ? What remedial measures would you suggest in this regard ?
- 121 12.3 What modifications would you suggest in the existing system of performance appraisal of police personnel so that it may reflect the measure of public satisfaction generated by police performance ?
- 122 12.4 A suggestion has been made that eligibility for promotion to the ranks of SP/DIG/IG should be conditional on satisfactory performance in special training courses and professional tests organised at a Police Staff College specially designed for this Purpose.
What are your views in this matter ?

Police and the future problems

- 123 13.1 It has been suggested that a Directorate of Planning, Evaluation and Co-ordination may be set up at the Centre with responsibility for—
- (i) co-ordinating the development of computer/wireless network and Forensic Science Laboratories at the Centre and in the States;
 - (ii) overseeing the work of training institutions set up by the Centre;
 - (iii) administration of the Central Crime Record Office;
 - (iv) supervising the work of research and development at the Centre and co-ordinating and analysing similar work done by the research and development units in States;
 - (v) setting norms and evaluating police performance in the States and assisting the Public Security Committees in States in their work;
 - (vi) convening periodic conferences of State Police Chiefs and over-seeing the implementation of ideas/suggestions/recommendations emanating therefrom;
 - (vii) functioning as a focal point for consultation and advice to Government from the enforcement point of view at the stage of drafting of legislation; and
 - (viii) maintaining liaison with police systems in other countries wherever possible and undertaking studies for police development with their co-operation.
- What is your reaction to this suggestion ?

Miscellaneous

- 124 15.1 Senior Police Officers have stated that police involvement in the enforcement of prohibition results in disproportionately large time and man-power being spent on this work to the detriment of prevention and detection of other crimes affecting life and property. This has also induced the spread of corruption, seriously undermining police efficiency. They, therefore, recommend the dissociation of police from this work and its entrustment to some other specialised agency under separate supervision and control.

- Sl. No. Code No.* Would you agree with this view ? If not, please give your alternate views with reasons.
- 125 15.2 Do you feel that the police should continue to be associated with the enforcement of Suppression of Immoral Traffic Act or that they should be dissociated from this work which may be allotted to some other specially recruited agency involving social welfare organisations in a large measure ?
- 126 15.3 In some existing laws police have concurrent jurisdiction along with other specialised agencies like custom, central excise etc.
Do you think that such concurrent jurisdiction should continue ? Or, would you advocate any modifications in this regard ?
- 127 15.4 What norms would you suggest for the location of police stations *vis-a-vis* population, area and crime ?
- 128 15.5 What norms would you suggest for determining the staff required at police stations and higher supervisory levels ?
- 129 15.6 What guidelines would you specify for the police handling of law and order situations arising from the agitational activities of—
(a) students.
(b) industrial labour,
(c) peasant labour, and
(d) political parties ?
- 130 15.7 Would you consider the provisions of the Children's Act to be adequate for the protection of juveniles ? If not what amendments would you suggest in the law ?
- 131 15.8 What is your assessment of the working of Probation of Offenders' Act in your State ? What are the existing deficiencies, if any, and what remedial measures would you suggest ?
- 132 15.9 What is your assessment of the performance of home guards in your State ? What specific suggestion do you have for their increased association with police functions, particularly in the prevention of crime and maintenance of public order ?
- 133 15.10 Traffic problems in urban areas are now handled by multiple authorities. For example, the planning and erection of traffic signal lights is the responsibility of one department while their day-to-day maintenance is looked after by yet another department. It has been suggested that every major city should have a unified traffic authority under the chairmanship of the chief of police of the city with members drawn from the engineering wing of the local body and the highways department of the State Government besides suitable representatives of the public. This body should be statutorily set up with sufficient finance and powers for handling the traffic problems in a rational and scientific manner.
What are your views in this regard ?
- 134 15.11 There is a common complaint that medical attention to the injured in traffic accidents either on the road or on the rail is badly delayed owing to procedural rituals of police investigation on the spot and also lack of adequate number of ambulances at the command of the police.
What remedial measures would you suggest in this regard ?
- 135 15.12 A suggestion has been made that the civil police and the armed police may have different colour for their uniform, to make them mutually distinguishable on sight. What are your views on this suggestion ?

Appendix-II
(Para 3.5—Chapter III)

Statement showing the comparison of Emoluments (Pay & D. A.) of Unskilled, Semi-skilled and skilled workers of Public Sector Undertakings with the emoluments of Constables

<i>Emoluments (Pay+DA)</i>	(Rupees)										
	<i>Constable Garde A (Non- Matric)</i>	<i>Delhi Police Garde B (Matric)</i>		<i>Bharat Heavy Elect. Un- skil- led Semi- skil- led Skil- led</i>			<i>Hindustan Steel Ltd. Un- skil- led Semi- skil- led Skil- led</i>			<i>Hindustan Machine Tools Un- skil- led Semi- skil- led Skil- led</i>	
<i>1</i>	<i>2</i>	<i>3</i>	<i>4</i>	<i>5</i>	<i>6</i>	<i>7</i>	<i>8</i>	<i>9</i>	<i>10</i>	<i>11</i>	<i>12</i>
Pay	210.00	225.00	250	275	320	300	310	330	200	235	265
D.A.	118.70	128.25	171	171	171	140	140	140	237	237	257
Total	328.70	353.25	421	446	491	440	450	470	437	472	522

<i>Emoluments (Pay+DA)</i>	<i>Hindustan Aeronautics Ltd.</i>			<i>Hindustan Elect. Corp.</i>			<i>Central Government</i>		
	<i>Un- skilled</i>	<i>Semi- skilled</i>	<i>Skilled</i>	<i>Un- skilled</i>	<i>Semi- skilled</i>	<i>Skilled</i>	<i>Peon</i>	<i>Daftry</i>	<i>L.D.C.</i>
	<i>13</i>	<i>14</i>	<i>15</i>	<i>16</i>	<i>17</i>	<i>18</i>	<i>19</i>	<i>20</i>	<i>21</i>
Pay	200	230	265	267	276	320	196.00	200.00	260.00
D.A.	237	237	257	165	165	165	112.60	114.00	148.20
Total	437	467	522	432	441	485	308.60	314.00	408.20

(Source : Bureau of Public Enterprises, New Delhi)

**Total Emoluments Per Month at the Minimum and Maximum of Scale in
Different Organisations as in June, 1977**

(Rupees)

Sl. No.	Organisation	Peon		Driver		Clerk		Steno (Lowest Grade)	
		Min.	Max.	Min.	Max.	Min.	Max.	Min.	Max.
1.	Central Government	337	398	445	572	445	632	478	767
2.	State Government								
	(i) Maharashtra	324	432	393	639	406	728	431	756
	(ii) U.P.	238	310	—	—	286	446	476	913
3.	BEST Undertakings	440	525	470	525	480	915	—	—
4.	L.I.C.	427	799	553	1006	496	1558	—	—
5.	Banks (Nationalised)	396	675	690	839	493	1546	—	—
6.	Engineering	464	865	525	1212	527	2225	—	—
7.	Pharmaceuticals	420	918	665	1082	708	2383	—	—
8.	Chemicals	488	986	630	1333	730	2164	—	—
9.	Fabrication & Forging	433	631	463	768	600	1428	—	—
10.	Bombay University	347	451	434	560	478	901	—	—
11.	ONGC (Dehra Dun)	367	445	—	—	—	—	507	837
12.	B.H.E.L. (Bhopal)	408	498	—	—	468	625	592	682
13.	H.M.T. (Bangalore)	416	528	—	—	451	595	501	696
14.	Hindustan Steel (Ranchi)	418	466	—	—	458	758	458	758
15.	Heavy Eng. Corpn. (Ranchi)	408	438	—	—	493	747	—	—
16.	Triveni Structurals (Naini)	397	472	—	—	477	598	652	845

Note : Serial numbers 1, 2 (i), and 3-10 show emoluments at Bombay.
Units at serial number 6-9 relate to the private sector.

Source : Boothalingam Committee Report. May, 1978.

Prevailing Minimum Wages (Basic+D.A.) in Different Industries/Sectors

Sl. No.	Industry/Sector	Minimum Wages (Rs.)		
		Basic	D.A.	Total
<i>Monthly Rates</i>				
1.	Cotton Textile :			
	(i) Bombay	282.52	151.78	434.30
	(ii) Ahmedabad	282.85	126.15	409.00
	(iii) Madras	55.00	381.10	436.10
	(iv) Kanpur	38.00	379.38	417.38
	(v) Calcutta	160.00	202.65	362.65
2.	Jute (West Bengal)	160.00	217.40	377.40
3.	Iron and Steel (H.S.L.)	300.00	129.60	429.60
4.	Engineering :			
	(i) H.M.T.	200.00	295.00	495.00
	(ii) B.H.E.L.	260.00	171.10	431.10
	(iii) Heavy Engg. Corp.	267.00	135.00	402.00
	(iv) EIL	196.00	99.00	295.00
5.	Sugar :			
	(i) Tamil Nadu	110.00	234.00	344.00
	(ii) U.P.	110.00	209.00	319.00
6.	Coal	286.00*	131.30	417.30
7.	Nationalised Banks	116.00	264.48	380.48
8.	General Insurance Corpn.	125.00	285.00	410.00
9.	Life Insurance Corporation	125.00	285.00	410.00
10.	Central Government	196.00	112.60	308.60

*This includes Rs. 26.00 attendance bonus.

Source : Boothalingam Committee Report May, 1978.

**Minimum Emoluments of Employees in Certain select Industries/Undertaking in the
Organised Sector—January 1978**

<i>Sl. No.</i>	<i>Establishments</i>	<i>Basic pay and DA</i>	<i>Basic Pay, DA and Cash allowances</i>	<i>Basic Pay, DA, Cash allowances and fringe benefits</i>
		Rs.	Rs.	Rs.
1.	P & T Workshop, Bombay	309	350	400
2.	Railway Workshop, Bombay	309	350	478
3.	A nationalised Bank at Bombay	380	409	514
4.	A public sector enterprise at Bangalore	424	513	723
5.	Another public sector enterprise at Bangalore	437	549	684
6.	An engineering company at Calcutta	385	418	473
7.	An engineering company at Faridabad	293	384	463
8.	A textile mill at Ahmedabad	421	455	534

Note : (i) Total earnings are exclusive of subsidy on account of housing and children's education, except in case of serial nos. 2 and 4.

(ii) Subsidy on account of medical facilities are included except in the case of serial nos. 1 and 8.

Source : Boothalingam Committee Report, May 1978.

Extracts from the Report of the Third Pay Commission, 1973- Volume II (Part I — Pages 162-164)

37. We now deal with the police posts below the gazetted level in organisations controlled by the Ministry of Home Affairs, viz., the Central Reserve Police (CRP), Border Security Force (BSF), Indo Tibetan Border Police (ITBP) and the Intelligence Bureau (IB). Even though posts in the Delhi Police are under the Delhi Administration, we have covered them in this section because of the marked similarities between their pay scales and structure and those of the Central Police Forces. We have also covered here the Police posts in the Central Bureau of Investigation (CBI) which was taken out of the Ministry of Home Affairs in 1970 and attached to the Department of Personnel in the Cabinet Secretariat.

38. The heads of police organisations are of the view that the remuneration provided to the police personnel is inadequate and not commensurate with either their duties and responsibilities or the specially arduous conditions of work. Various bodies like the Punjab Police Commission the Delhi Police Commission and the ARC Working Group on Police Administration have all commended the approach enunciated by the Royal Commission on the Police in Great Britain in their interim report (1960). At present, the equation of a Constable's pay (Scale Rs.75-95) is with that of the lower semi-skilled worker. The recommendations of the bodies mentioned above put the Constable, taking the special factors into account, at slightly above the starting salary of a skilled worker. Most of the heads of police organisations have, directly or indirectly, asked for the Constable's pay to be equated to that of a skilled industrial worker.

39. From the stand point of authority and personnel responsibility the police personnel stand apart from the other Government employees. The very nature of police work requires that considerable authority should be vested in even the lowest ranks. The Code of Criminal Procedure, the Police Act and various other special Acts clothe police-officers with powers of arrest and search and these powers in certain circumstances can be exercised without a warrant or order of a magistrate. Wide powers are also given to the police for prevention of crime and maintenance of public peace and tranquillity. The personnel of armed police and security forces are subject to certain hazards and dangers which are specially marked during operations along the border and in hostile areas. The standards of discipline required of the police necessarily have to be high. This imposes certain restrictions upon the policeman and empowers superior officers to punish misconduct and offences more quickly and severely than is usual in the case of other civilian employees. There are certain other drawbacks in the life of a policeman. Generally, his social and family life is more disturbed than that of persons in other occupations. Personnel in the CRP are frequently moved to trouble spots at short notice. They as also men of the BSF, have to remain parted from their families for long periods of time. In the civil police too personnel are not able to participate fully in the social and other activities of the community due to the peculiar nature of their work. Uncertainty of working hours, liability to work at night and on gazetted holidays, are all inseparable features of police work. In combination, they result in a degree of social segregation, to which attention has also been drawn by the Royal Commission on the Police (UK).

40. Certain fundamental changes have taken place since Independence in the role and functions of police personnel. The public is now more vigilant about the way in which the police exercise their authority. On occasions, ordinary lapses on the part of the police can result in ugly situations leading to riots, Lathi-charges and even firing. The tasks of the civil police have become more complex in several ways. In recent years we have witnessed widespread violence, destructions of Government property and use of firearms and explosives on a large scale against the police in various parts of the country. In the investigation of crime, there has been a significant change since Independence. Besides the increase in the volume of crime, the nature of offences has undergone a qualitative change with industrialisation, urbanisation, increase in economic activity and the proliferation of controls and licences. There is now greater need and scope for the application of scientific techniques in the detection of crime and collection and analysis of intelligence vital to the maintenance of security. It also calls for a higher degree of intelligence to comprehend the modus operandi of sophisticated criminals, to thwart their designs, or to bring them to book, specially where economic offenders are involved. These factors have resulted, in recent years, in the raising of pre-entry qualifications and the view is generally held that Constables of the civil police should be matriculates while those of the armed police may have lower qualifications.

41. We are, therefore, in general agreement with the views which seek to improve the level of remuneration of police personnel. A reasonably well-paid and contented police force is essential to good order,² internal security and stability. We feel that in the changed circumstances, the remuneration of police personnel should be fixed after altering the internal relativities in their favour. Our official witnesses shared this view, but they felt that the example of the United Kingdom was not strictly analogous because the conditions in India and the United Kingdom differ materially. We think that it would not be appropriate or rational to single out only one category of Government employees, viz., the Constable, for fixing his pay on the basis of a precise formula like one enunciated by the Royal Commission on the Police in Great Britain, which nevertheless still retain a large subjective element. Having fixed police scales on a somewhat liberal basis, we are of the view that any further demands for Special Pay, other allowances, or various concessions, (except in those cases specially commented upon by us), for overtime work, calling out on holidays, or special knowledge of arms etc., should be firmly discouraged.

42. The various police organisations in India can be broadly classified into two groups, the first consisting of the armed police including forces like the BSF, CRP, ITBP and the Delhi Armed Police; and the second comprising the civil and investigatory police serving in the Intelligence Bureau, CBI and the Delhi Civil Police. The special features that we have noted in relation to the duties and responsibilities of the policeman are not identical as between the armed police and the civil police. Most of the witnesses, including senior police officers, were of the view that a distinction in pay scales should be made between the Constable recruited to the civil police and the constable in the armed police. Even today the scales of Constables in the CBI and the IB are better than in the armed police forces like the BSF and CRP. The qualifications are also higher for the constables directly recruited to the CBI, IB and Delhi Civil Police, being matriculation as against 6th or 8th standard for the armed police forces. We have considered it appropriate therefore to prescribe a slightly higher scale for the constables in the civil police.

43. Constables in the CRP, BSF and the Delhi Police are on the scale of Rs. 75-1-85-2-95. Constables in the Delhi Civil Police are now being recruited from among matriculates and they are given 5 advance increments. Constables in the CBI and the IB are recruited from among matriculates to the scale of Rs. 85-2-95-3-110. In the proposals received from several heads of police forces, the main demand is for parity with the scales prescribed for the Punjab Police where the scale has been prescribed in relation to the wages paid to skilled industrial workers. Since the bulk of the police force in the country is employed in the States, we have examined the emoluments admissible to constables serving under the various State Governments. We find that while emoluments under the Central Government lag behind those in five or six States, the emoluments compare favourably with those admissible to the Constables in the majority of State Police forces. There are also certain allowances which are admissible to Constables in the Central Police forces but are not available to the constables in the State Police. We are conscious of the possible repercussions of the pay scales adopted by the Centre for police personnel on the State Governments, and we have, therefore, been careful, when increasing police salaries to see that differences between the scales proposed by us and those prevailing for the corresponding ranks in the States are justified on merits.

44. In our view, the Constable in the armed police forces should be given the scale of Rs. 200-260. In arriving at this conclusion, we have kept in mind the desirability of giving a slight edge to the infantry soldier over the constable in the armed police forces after taking into account the various allowances and benefits admissible to the soldiers and the personnel in the armed police and security forces. We feel that this consideration would remain valid in future also unless there is any alteration in the role assigned to any force or in the recruitment qualifications.

45. In the case of matriculate constables recruited to the Delhi Civil Police, the IB and the CBI considering the qualification prescribed for recruitment, the duties and the degree of individual responsibility, frequent contacts with the public and other factors, we recommend the scale of Rs. 225-308. The non-matriculate constables in Delhi Civil Police should be on the scale of pay recommended for the Constables in the Armed Police.

46. The scale of Rs. 225-308 should be admissible to constables discharging police duties and not to those assigned purely orderly duties. In our view, the employment of constables in this scale as orderlies would amount to gross under-utilisation of trained manpower, which could be put to more effective use in the service of the community. We would, therefore, suggest that the overall strength of Foot Constables should be reviewed and, to the extent possible, such posts as involve purely orderly duties, should be taken out of the cadre of the Foot Constables. Where it is considered necessary in the interest of discipline and other factors to employ constables on orderly duties, they should be remunerated on the scale that we have recommended for the constables of the armed Police viz. Rs. 200-260 without any special pay.

Achievement and balance of requirement for police housing

States	Non-gazetted police strength	No. (out of Col. 2) pro- vided housing upto 77-78 end	Percentage of Col. 3 to Col. 2	No. still requiring (Col. 2-Col. 3)	Break-up of Col. 5		Col. 7 as percentage of Col.5
					Upper sub- ordinate	Lower subordi- nate	
1	2	3	4	5	6	7	8
1. Andhra Pradesh	45,584	14,908	32.7	30,676	2,608	28,068	91.5
2. Assam	29,187	8,382	28.7	20,805	3,200	17,605	84.6
3. Bihar	55,163	23,345	42.3	31,818	4,655	27,163	85.4
4. Gujarat	43,044	31,730	73.7	11,314	728	10,586	93.6
5. Haryana	16,075	7,148	44.5	8,927	1,040	7,887	88.4
6. Himachal Pradesh	7,292	2,669	36.6	4,623	198	4,425	95.7
7. Jammu & Kashmir	13,373	554	4.1	12,819	641	12,178	95.0
8. Karnataka	34,247	17,796	32.0	16,451	1,224	15,227	92.6
9. Kerala	21,719	9,414	43.3	12,305	1,172	11,133	90.5
10. Madhya Pradesh	57,294	31,755	55.4	25,539	1,316	24,223	94.9
11. Maharashtra	82,570	43,507	52.7	39,063	2,489	36,574	93.7
12. Manipur	6,330	683	10.8	5,647	133	5,514	97.6
13. Meghalaya	4,592	1,115	24.3	3,447	536	2,941	84.6
14. Nagaland	8,387	2,069	24.7	6,318	431	5,887	93.2
15. Orissa	26,026	15,367	59.0	10,659	4,253	6,406	60.1
16. Punjab	27,137	13,831	51.0	13,306	1,377	11,929	89.7
17. Rajasthan	40,770	22,895	56.2	17,875	2,103	15,772	88.2
18. Sikkim	1,048	99	9.4	949	47	902	95.0
19. Tamil Nadu	41,388	17,637	42.6	23,751	1,931	21,820	91.9
20. Tripura	5,640	1,790	31.7	3,850	591	3,259	84.7
21. Uttar Pradesh	106,549	70,268	66.0	36,281	3,084	33,197	91.5
22. West Bengal	66,474	16,734	25.2	49,740	8,227	41,513	83.5
Total	739,889	353,696	47.8	386,193	41,984	344,209	89.1

Source : Report of Seventh Finance Commission, 1978

Amount invested in police housing during 1956-57 to 1977-78

(Rs. Lakhs)

<i>STATES</i>	<i>Central Assistance</i>	<i>State's own Resources</i>	<i>Total</i>	<i>Percentage distribution of total investment</i>
1	2	3	4	5
1. Andhra Pradesh	635.00	623.44	1258.44	7.87
2. Assam	266.14	391.09	657.23	4.11
3. Bihar	366.44	376.43	742.87	4.64
4. Gujarat	323.52	809.26	1132.78	7.08
5. Haryana (67-68 to 77-78)	89.50	108.78	198.28	1.24
6. Himachal Pradesh (71-72 to 77-78)	72.60	49.43	122.12	0.76
7. Jammu & Kashmir	278.91	N. A.	278.91	1.74
8. Karnataka	406.67	796.97	1203.64	7.53
9. Kerala	354.81	383.40	738.21	4.62
10. Madhya Pradesh	520.58	128.06	648.64	4.06
11. Maharashtra	634.55	1833.64	2467.99	15.43
12. Manipur (71-72 to 77-78)	19.80	50.48	70.28	0.44
13. Meghalaya (72-73 to 77-78)	39.88	12.76	52.64	0.33
14. Nagaland (69-70 to 77-78)	27.61	177.14	204.75	1.28
15. Orissa	371.00	177.00	548.00	3.43
16. Punjab	253.18	264.94	518.12	3.24
17. Rajasthan	405.28	15.00	420.28	2.63
18. Sikkim	14.31	N. A.	14.31	0.09
19. Tamil Nadu	536.66	506.80	1043.46	6.52
20. Tripura	39.33	16.91	56.24	0.35
21. Uttar Pradesh	680.00	1566.50	2246.50	14.05
22. West Bengal	764.80	604.51	1369.31	8.56
Total	7100.46	8892.54	15993.00	100.00

Source : Report of Seventh Finance Commission, 1978.

Housing for Police Personnel—(Lower Subordinates)

Statement showing the total expenditure involved in a programme for providing one hundred per cent housing satisfaction to the Lower Subordinate Head Constables and Constables police personnel

Sl. No.	Name of the States	Non-Gazetted Police Strength	No. of the personnel provided housing accommodation	Percentage of Col. 4 to Col. 3	No. of lower Subordinates still requiring housing accommodation	Cost of construction (Rs.)	Total expenditure involved (Rs.)
1	2	3	4	5	6	7	8
1.	Andhra Pradesh	45,584	14,908	32.7	28,068	24,000	67,36,32,000
2.	Assam	29,187	8,382	28.7	17,605	40,000	70,42,00,000
3.	Bihar	55,163	23,345	42.3	27,163	18,000	48,89,34,000
4.	Gujarat	43,044	31,730	73.7	10,586	20,000	21,17,20,000
5.	Haryana	16,075	7,148	44.5	7,887	35,000	27,60,45,000
6.	Himachal Pradesh	7,292	2,669	36.6	4,425	25,000	11,06,25,000
7.	Jammu & Kashmir	13,373	554	4.1	12,178	34,200	41,64,87,600
8.	Karnataka	34,247	17,796	32.0	15,227	22,500	34,26,07,500
9.	Kerala	21,719	9,414	43.3	11,133	19,200	21,37,53,600
10.	Madhya Pradesh	57,294	31,755	55.4	24,223	27,000	65,40,21,000
11.	Maharashtra	82,570	43,507	52.7	36,574	15,000	54,86,10,000
12.	Manipur	6,330	683	10.8	5,514	29,541	16,28,89,074
13.	Meghalaya	4,592	1,115	24.3	2,941	25,000	7,35,25,000
14.	Nagaland	8,387	2,069	24.7	5,887	23,750	13,98,16,250
15.	Orissa	26,026	15,367	59.0	6,406	29,250	18,73,75,500
16.	Punjab	27,137	13,831	51.0	11,929	27,300	32,56,61,700
17.	Rajasthan	40,770	22,895	56.2	15,772	25,700	40,53,40,400
18.	Sikkim	1,048	99	9.4	902	31,000	2,79,62,000
19.	Tamil Nadu	41,388	17,637	42.6	21,820	17,500	38,18,50,000
20.	Tripura	5,640	1,790	31.7	3,259	26,000	8,47,34,000
21.	Uttar Pradesh	106,549	70,268	66.0	33,197	19,200	63,73,82,400
22.	West Bengal	66,474	16,734	25.2	41,513	39,400	163,56,12,200
						Total	870,27,84,224

Note : For Lower Subordinates the cost is the average of the cost of quarters excluding cost of land for Constables and Head Constables as intimated by States.

**Government of West Bengal
Home Department
Police**

From : Shri A.C. Maitra,
Asstt. Secretary to the Govt. of West Bengal,

To : The Inspector General of Police,
West Bengal.

Memo No. : 5 734-PL/P61/66 Dated, Calcutta, the 12th Nov., 1966.

The undersigned is directed by order of the Governor to say that the Governor is pleased to accord sanction to the supply of certain items of essential food-stuff, viz., rice, wheat, wheat products, sugar, dal and mustard oil, to all subordinate police officers from the ranks of Sub-Inspectors/Sergeants downwards including wireless Supervisors, Wireless Operators, Mounted Police Sowars and Crew of police boats and Launches, Subedars and Jamadars of the E.F.R. enrolled under the Calcutta Police Act, 1866, Police Act, 1861 and the E.F.R. (Bengal Battalion) Act, 1920 and also to wholetime N.V.F. Personnel on the pay roll of Government at concessional rates and scales as shown in the enclosed Schedules I and II with immediate effect. All losses incurred by the sale of these items at Subsidised rates will be borne by Government.

2. The Governor is also pleased to direct that in carrying into effect the above decision the following instructions should be strictly followed :

- (i) Necessary administrative and operational arrangements should be made by the respective Superintendents of Police, Commandants of Armed Police Battalions (including E.F.R.) and the Commissioner of Police for the Supply of the ration at the scales and rates shown in Schedules I and II without incurring any extra expenditure to Government for operational staff.
- (ii) For the purpose of operating the scheme supply centres should be opened at convenient places and the existing family ration cards of the police personnel (both in the Statutory and modified rations areas) upto a maximum of 4 adult units should be registered with the supply centres.
- (iii) The scales of ration shown in Schedules I and II are liable to modification should the supply position or the introduction of any separate form of general rationing in any part of the State, so require.
- (iv) The provisions in Para I above do not give any police officer a right to claim that any particular item shown in Schedules I and II shall be provided where, in the opinion of the Superintendents of Police, Commandants or Commissioner of Police, the supply of that article is difficult or cannot be arranged for reason beyond control or without incurring undue expenses.
- (v) The privilege of purchasing rations at the concessional rates and scales as shown in Schedules—I and II will be extended to dependents upto the limit of 4 including self (i.e. self, wife and two children) only but the scale of ration in respect of Schedule—I is not applicable to dependents for whom the scale laid down in Schedule II will be applicable.
- (vi) These concessions will not ordinarily be admissible to a police officer or N.V.F. personnel on leave, but the Superintendents of Police, Commandants or Commissioner of Police, may permit an officer to continue to draw the rations from the police stores if, though on leave, he or his family remains at the station at which he was posted while on duty. This concession will also be admissible to officers on suspension or who are undergoing treatment in hospitals. In the case of persons in hospital, only the family will be entitled to these concessions.
- (vii) All purchases of rationed commodities for the purposes of this scheme will be made by the Commissioner of Police, Superintendents of Police and Commandants through the Food and Supplies Department. As regards non-rationed articles purchases may be made through contractors by inviting open

tenders and at the lowest rates. Common varieties of the commodities should be purchased at the discretion of the Commissioner of Police, Superintendents of Police and Commandants.

- (viii) The Commissioner of Police, Superintendents of Police and Commandants will ensure that no loss to Government is incurred from the supply of articles which may not be drawn by the police personnel by reasons of its poor quality so that these may have to be disposed of at an undue loss to Government.

3. The Governor is pleased to sanction advances totalling Rs. 30,00,000 (Rupees thirty lakhs) only to the officers as detailed in Schedule III annexed hereto to finance the purchases for carrying out the scheme, the advances which will be initially debited to the head "Deposits and Advances-Suspense-Suspense Account-Objection Book Suspense-124-Capital outlay Suspense" will be subsequently adjusted under a new head "supply of food stuff to police Force and whole time N.V.F. personnel at Concession rates-Cost of purchase of food stuff", the opening of which is hereby sanctioned, under the head "124-capital outlay on schemes of Government trading-other Miscellaneous Scheme" in the current year's budget.

4. Governor is further pleased to authorise, as a special case under Rule 9 (1) of the Treasury Rules, Vol. I, the opening of P.L. Accounts by the Officers with the above mentioned advances in the Treasuries/ Sub-Treasuries as indicated in Schedule III annexed here to.

5. Instructions regarding the detailed accounting procedure will follow.

6. The Accountant-General, West Bengal has been informed.

Sd/-
(A.C. Maitra)
Asstt. Secy. to the Govt. of
West Bengal.

SCHEDULE-I

(Scale of ration for police personnel)

<i>Items</i>	<i>Quantity per head per week</i>	<i>Subsidised rate per kg.</i>
Rice	1 kg.	0.50 paise
Wheat or Wheat products	1.5 kg.	0.25 „
Sugar	300 grams	0.70 „
Dal	750 grams	0.60 „
Mustard Oil	250 grams	2.00 „

SCHEDULE-II

<i>Items</i>	<i>Quantity per head per week</i>	<i>Subsidised rate per kg.</i>
Rice	1 kg.	0.50 paise
Wheat and Wheat products	1 kg.	0.25 „
Sugar	300 grams	0.70 „
Dal	750 grams	0.60 „
Mustard Oil	250 grams	2.00 „

Sd/-
(A. C. Maitra)
Asstt. Secy. to the Govt. of
West Bengal

Printed at : Central Reserve Police Force Press, Jharoda Kalan, New Dehli-110072/6000 Copies/February 1979

SECOND REPORT
of the
NATIONAL POLICE COMMISSION



Government of India

August 1979

SECOND REPORT
of the
NATIONAL POLICE COMMISSION

Government of India

August 1979

DHARMA VIRA

Chairman



D.O. No. 10,30,79-NPC-Ch.

राष्ट्रीय पुलिस आयोग

भारत सरकार

गृह मंत्रालय

नवी मंजिल

लोक नायक भवन

खान मार्किट

नई दिल्ली-110003

NATIONAL POLICE COMMISSION

GOVERNMENT OF INDIA

MINISTRY OF HOME AFFAIRS

9TH FLOOR, LOK NAYAK BHAVAN

KHAN MARKET

NEW DELHI-110003

August 16, 1979.

My dear Deputy Prime Minister,

I have great pleasure in forwarding herewith the Second Report of the National Police Commission, which deals with :—

- (i) Welfare measures for police families;
- ✓ (ii) Police role, duties, powers and responsibilities;
- ✓ (iii) Interference with and misuse of police by illegal or improper orders or pressure from political, executive or other extraneous sources—Remedial measures;
- (iv) Gram Nyayalayas; and
- ✓ (v) Maintenance of crime records and statistics.

2. One of our Members, Shri N. S. Saksena, is presently abroad and has, therefore, not been able to sign this report. But he had earlier participated in our deliberations which have led to this report, and he is in full agreement with the observations and recommendations made therein.

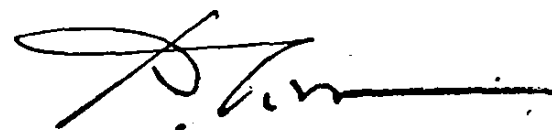
3. It may be recalled that our First Report dealt with item 10 (iii) and part of item 10 (iv) of our terms of reference. The enclosed Second Report disposes of items 1, 4 (part), 5, 10 (ii) and the remaining part of item 10 (iv) of the terms of reference.

4. When we gave the First Report to your predecessor on 7th February, 1979, we had the assurance that the Government would expeditiously examine our recommendations for very early implementation. Contrary to our hopes, the First Report has not yet been placed before the Parliament and consequently not yet released for general publication. We understand it was confidentially circulated to State Governments, on the eve of Chief Ministers' Conference on 6th June, 1979 which was convened as an emergent meeting in the context of policemen's unrest and agitation that erupted in some States in May-June, 1979. Our recommendations in the First Report included several measures for the redressal of policemen's grievances relating to their living and working conditions. In retrospect we cannot help feeling that if our First Report had been duly published and it was made known that the recommendations were under active consideration of the Government, perhaps the subsequent stir by policemen could have been avoided. Prompt publication of the report might have also evoked public interest and generated a measure of public debate which might have helped in reaching early decisions on connected matters. The importance of some fundamental issues involved in police reform and their impact on the public in their daily

life make it desirable that the examination of the reformatory measures is not conducted in the seclusion of the secretariat but is done with a measure of involvement and collective thinking of the public as well.

5. Several sections of the public are severely critical of the police being frequently subjected to unhealthy pressures and influences from political, executive or other extraneous sources, and police performance consequently falling off the standards required by truth, law and justice. The crux of police reform in our country today is to secure professional independence for the police to function truly and efficiently as an impartial agent of the law of the land, and at the same time to enable the Government to oversee the police performance to ensure its conformity to law. A supervisory mechanism without scope for illegal, irregular or *mala fide* interference with police functions as noticed today has to be devised. Our Second Report now submitted deals with this important aspect of police reform and is, therefore, likely to evoke considerable interest from different sections of the public as well as the services. We earnestly hope and trust that the Government would examine and publish this report expeditiously, so that the process for implementation of the various recommendations made therein could start right away and progress quickly with due awareness, understanding and support from the public.

Yours Sincerely,



(DHARMA VIRA)

Shri Y. B. Chavan,
Deputy Prime Minister and
Home Minister,
Government of India,
NEW DELHI.

CONTENTS

<i>Chapter</i>		<i>Pages</i>
XIII	Welfare measures for police families	1—4
XIV	Police role, duties, powers and responsibilities	5—19 ✓
XV	Interference with and misuse of police by illegal or improper orders or pressure from political, executive or other extraneous sources — Remedial measures	20—35 ✓
XVI	Gram Nyayalayas	36—42
XVII	Maintenance of crime records and statistics	43—44 ✓
XVIII	Summary of observations and recommendations	45—58
	Appendices	59—103

CHAPTER XIII

WELFARE MEASURES FOR POLICE FAMILIES

Introduction

13.1 In May-June, 1979, the country witnessed the spectacle of policemen's unrest and agitation in some States in regard to their living and working conditions. Police leadership was surprised and jolted by the signs of defiance and violence manifest in the agitation in certain areas. The immediate need for relief was recognised and some benefit measures and concessions were announced. Policemen's Associations were formed in some States where they did not exist before, and channels were opened for articulation of grievances and their redressal by mutual discussion. The agitation has subsided and policemen have resumed their duties in a changed atmosphere with new hopes and expectations. Among the many deficiencies that got exposed in this situation, one relates to the welfare measures for the families of police personnel.

13.2 Welfare in the police differs from any of the schemes for the welfare of other Government servants. The manner in which policemen live and serve, and their exceptional handicaps make welfare specially important. Such measures have generally been accepted as normal by industry in the private and public sector, where they are almost completely supported by institutional funds but police welfare measures have suffered owing to inadequate appreciation of their importance and lack of enthusiastic involvement of the Government, police leadership and the police personnel themselves in organising such measures. Governments have tended to accord low priority to the funding of police welfare measures. Police leadership does not appear to have realised its responsibility to take the initiative and organise such measures with a total and complete involvement of the personnel in maintaining them. The rank and file themselves have tended to view these measures as a responsibility of the Government, and have been inclined not to perform their own contributory role in full measure. A study of the State budgets shows the relatively low quantum of funds set apart for police welfare measures. While a few States have shown their contribution to police welfare fund as a separate item, some States have not even shown any expenditure separately under the heading of 'police welfare' but have apparently lumped the expenditure under the general head of 'police administration'. The pattern of expenditure on police welfare in general, and the contributions made to police welfare funds in particular, in different States may be seen in the statement in Appendix I.

13.3 In chapter VIII of our First Report we have referred to the studies we had entrusted to the National Council of Applied Economic Research (NCAER),

Delhi and the Tata Institute of Social Sciences (TISS), Bombay to examine in-depth the 'economic profile' of a police constable's family by a sample survey of a large number of police families in Delhi, Uttar Pradesh and Maharashtra. A sub-committee under the chairmanship of Shri Ashwini Kumar, the former Director General of Border Security Force, was also set up to examine the organisation and funding of police welfare measures. We have now received the study reports from NCAER and TISS and also the recommendations from the Ashwini Kumar Committee. We have also received several suggestions from the study groups in different States. Having regard to the study reports and the various suggestions received, and the actual field conditions we have observed during our tours in the States, we make the following recommendations.

Ashwini Kumar Committee Report

13.4 The Ashwini Kumar Committee has referred to the need for welfare measures to cover housing, education, medical care, recreational facilities, financial aid and special retirement benefits in distress situations arising from death or physical disability caused by service conditions, grievance redressal machinery, etc. In our First Report we have already given our recommendations regarding housing, machinery for redressal of grievances of police personnel and supply of essential commodities to police families. Extracts from Ashwini Kumar Committee Report relating to the remaining aspects of welfare are furnished in Appendix II. We broadly agree with this Committee's recommendations, and would advise their adoption in planning police welfare measures. We would, in particular, like to focus attention on some important aspects in the following paragraphs.

Welfare measures—two categories

13.5 Welfare measures for the police may be broadly divided into two categories. The first category would cover such items like pension/family pension/gratuity, medical facilities, housing, etc., which should be deemed as a part of conditions of service of the police personnel and, therefore, should be funded fully and adequately by the Government. The second category would cover such measures like welfare centres to provide work for police families and help in augmenting their income, financial aid and encouragement for pursuing higher studies by police children who show special merit, financial relief in distress situations not provided for under the regular rules, recreation and entertainment facilities to make life more bearable to police families in the midst of the stress and strain of their daily life, etc. For organising welfare measures of the second category, we would need an adequate

welfare fund which should be built up initially by contributions from the police personnel themselves, supplemented by *ad hoc* grant from the Government and sustained by recurring contributions and grants. In organising and funding welfare measures of the second category, a lot will depend on the initiative and interest taken by the personnel themselves and the continuous lead, guidance and support given by supervisory officers. The officer cadre of the force should realise their special responsibility in this regard and act accordingly. We would recommend that the work done by every officer in organising welfare measures for the personnel under his command should be specifically commented on in his annual confidential report. We would also like to observe that the wives of officers can play a significant role in bringing together the families of police personnel and encouraging their collective involvement in welfare work of different kinds.

Position in the States

13.6 We have collected information from different States regarding the existing welfare measures for the police personnel. A brief assessment of the facilities now available is furnished in Appendix 'III'. It indicates under different headings the most advantageous and beneficial arrangement that a few States have found it possible to introduce in regard to their own police personnel. We recommend that the remaining States may immediately examine the feasibility of introducing similar arrangements for their policemen also.

Pensionary benefit

13.7 In view of the extreme stress and strain of the working conditions of policemen and the serious risk of physical harm which they have to face while dealing with public order situations of increasing violence all round, not to speak of the hazards faced in dealing with the increasing incidence of robberies and dacoities in some States, we feel that the Government should take special care of the family of a policeman who happens to die or get disabled in circumstances arising from the risk of his office. In the case of a policeman who dies in such circumstances we would recommend financial aid to the family on the following lines :—

- (i) *Gratuity* equivalent to 8 months' pay last drawn by the deceased ;
- (ii) *Monthly Pension* to the family equal to the last pay drawn by the deceased till the date on which the deceased would have normally reached the age of superannuation, and thereafter a monthly pension equal to the amount of pension to which the deceased would have been entitled if he had continued in service till the date of his superannuation;
- (iii) *Ex gratia* grant of Rs. 10,000 as immediate financial assistance.

In the case of a policeman who gets disabled we would recommend a scale of pension as detailed in para 3(v) of the note furnished in Appendix III.

Medical facilities

13.8 Apart from the provision of police hospitals and special wards in Government hospitals at places with concentration of police families, as recommended by Ashwini Kumar Committee, we would point out the need for some special arrangements for getting a medical officer to visit the police lines at short notice to deal with any illness situation in which the patient cannot be quickly removed to the hospital or to the consulting room. Since policemen are drawn away from their homes by the call of duty for long hours at a stretch, their families find it extremely difficult in practice to secure prompt medical attention in case of illness of their children or old members at home. Arrangements for line visits by a Government doctor should also be made by authorising a small monthly allowance to the doctor from Government funds, if need be, depending on the frequency of calls and the distances involved.

13.9 We further recommend that medical treatment in all police hospitals should also be extended to retired police personnel and their families.

13.10 Police personnel in some States brought to our notice that there is considerable delay in the reimbursement of their medical claims. In some places they seem to prefer the monthly payment of a fixed allowance as medical allowance instead of the existing facility of recouping under which they have to wait endlessly for recouping an expenditure already incurred out of their pocket. We would emphasise that the officer incharge of police welfare in the State should deem it his special responsibility to monitor the position in this regard from time to time and effectively check the pendency of such reimbursement claims to eliminate delays in this matter.

Educational facilities

13.11 Various State Police Commissions have recommended from time to time that children of Policemen should get certain special facilities in the educational sphere. We endorse their important recommendations as indicated below :—

- (1) There should be free education upto high school standard ;
- (2) The children of policemen should get a grant of Rs. 50 per annum per child in lump sum for purchase of books ;
- (3) There should be no fees charged in Government or Government aided schools ;
- (4) Scholarships should be provided for vocational education ;
- (5) There should be hostel accommodation for the children of policemen at every divisional headquarters; and
- (6) Special scholarships should be given on grounds of exceptional merit for university education.

13.12 Children of police families even now have the benefit of free education up to a stage in several States under the scheme of general free education

upto to a specified standard. Where police children are particularly handicapped is the lack of adequate parental care, assistance and supervision in their studies at home because of the long and irregular hours of work of the police parent. We have reasons to believe that the children in most of the police families suffer from bad neglect on this account. TISS's study report shows that the children of 66% among the constables have dropped out of schools between 6th and 10th standard. Policemen's children need special assistance in this matter.

Police Education Fund and Police Schools

13.13 The first requisite of any arrangement for this purpose would be the creation of a separate police education fund in each State, made up of contributions from the police personnel themselves and supplemented and assisted by *ad hoc*/recurring grant from the State Government. The fund should be built up with the ultimate object of establishing at least one police school in each district headquarters which could take in police children for education upto the 12th standard. Hostel accommodation for children of police personnel located outside the district headquarters should also be planned. Admission to such schools should be governed by suitable tests to recognise merit and facilitate the development of bright young police children. In the curriculum of these schools, there should be special emphasis on discipline and a healthy combination of rigorous outdoor exercises with intensive academic pursuits. Management of all such police schools in a State may be supervised by the Head of the training wing of the Police Department and overseen by a Police School Board whose Chairman could be the Head of the Department of Education in the State and the Member-Secretary could be the Head of the training wing in the police. A couple of eminent educationists could also be nominated to the Board. The pay and allowances of the police personnel on the staff in the school could be borne by the Police Department. The deputation allowance and other incentives provided to the other teaching staff drawn on deputation from the other Government schools may also be borne by the Police Department. The rest of the expenditure may be borne by the Education Department. Police children who do exceptionally well in these schools may be encouraged with scholarship from 'police welfare fund' to pursue higher collegiate studies. In the survey made by TISS, it was disclosed that 61% of the constables very much desire their children to become graduates and go up further in life.

Retirement dues

13.14 A point of grievance with the police personnel, particularly at the level of constabulary, is the delay in settlement of their retirement dues including their monthly pension. The study report of TISS mentions that 36% of the constabulary mentioned this as a specific point of grievance. It would assure the police personnel that the department takes continuous and full care of their interests if every effort is made to settle all these matters in good time so that a

policeman receives his full pension order along with the gratuity amount and other dues on the very day of retirement itself. We were told in one metropolitan city about the initiative shown by the Commissioner of Police in arranging for farewell parades for all policemen who retired every month and seeing them off in a solemn ceremony with the full payment of their dues and pension order. We commend this initiative to all police units.

Leave

13.15 We have already made our recommendations regarding special leave facilities for police personnel, in chapter III of our First Report. We wish to point out here the inadequate provision of 'leave reserve' in the sanctioned strength of the non-gazetted police personnel in several States. The statistical position in some States is brought out in the note in Appendix III. Inadequate leave reserve is one of the reasons behind the organisation's inability to sanction and rotate leave promptly among the operating personnel. TISS study report mentions that 54% of the constables remained without availing their entitled leave. This deficiency in the strength of police personnel should be looked into and made good.

Group Insurance

13.16 Different types of 'group insurance schemes' are now available for all categories of employees in Government. Details of two special schemes which appear to be specially attractive and have been adopted in two States are furnished in the note in Appendix III. We recommend their adoption in other States as well.

Police Welfare Fund

13.17 We have earlier mentioned the importance of constituting a 'police welfare fund' to look after several items of police families' welfare which cannot normally be met from Government funds alone. At the Centre we have seen the example of the Border Security Force which has succeeded in organising its own welfare fund on a large scale—thanks to the initiative and interest taken by the commanding officers at various levels. It is the subscription raised from within the force itself that has made it possible to build up sufficient funds to start and sustain a variety of welfare measures. With the help of special grants given by the Government, the Border Security Force is now in a position to spend one crore of rupees per year on welfare activities. From the TISS study it is seen that the concept of 'Welfare fund' has not yet sufficiently spread among the police personnel. In fact, more than 2/3rd of the constables covered by the TISS study do not contribute to any welfare fund at all! We would advise the leadership of the force to take up this matter on hand immediately and build up the police welfare to cover all police personnel. Regarding the sources and mechanism for the initial building up of the fund and its sustained maintenance, the Ashwini Kumar Committee has made specific recommendations with which we agree. The broad principle which may guide the working arrangements in this matter should be that 60% of the requirements of the fund comes from

contributions from the police personnel themselves, 20% is made up from Government grants and the balance 20 % is covered by the interest generated by the initial lump sum grants which may be kept in fixed deposits or invested otherwise. Contributions from the police personnel should be made compulsory and on a graded scale starting with Rs. 5 p.m. from the constable and going up to Rs. 50 at the level of Inspector General of Police.

Management

13.18 There should be a representative committee to administer the fund and ensure its adequate utilisation for genuine welfare needs. Police personnel of all ranks should have ample scope to participate in planning welfare measures from time to time and projecting fresh schemes to meet their needs. In chapter VII of our First Report we have recommended the constitution of Staff Councils at the battalion/district level and also the State level. We recommend that the Managing Committees to administer the welfare funds be constituted by these Staff Councils at their respective levels.

Audit

13.19 There should be satisfactory arrangements for auditing the operation of the welfare fund from time to time. Since the fund is related to the actual welfare needs of police families which are best appreciated by the police personnel themselves, we consider that audit by an external agency may not really serve the purpose of the fund. We have to devise an internal audit but the composition of the audit party should carry credibility before the rank and file to assure them that all expenditure from the welfare fund has actually been in conformity with its avowed objectives. There should be no scope for a feeling among the men that the welfare fund has been wrongly utilised to further the special interests of the officer cadre. We, therefore, recommend that the audit of the welfare fund at the battalion/district level be made the responsibility of a sub-committee of the battalion/district Staff Council which would be representative in character and adequately reflect the interests of the rank and file. It will be open to this sub-committee to take the assistance of a qualified professional accountant or auditor to get this job done.

Welfare Centres

13.20 Facilities must be provided for the womenfolk in police families to engage themselves in productive employment at Welfare Centres established near police lines to augment their families' income. By virtue of his profession and involvement in law enforcement, a policeman is precluded from engaging himself in other trade and employment for augmenting his income. The scope for such employment for his family members is also correspondingly limited. Police families, therefore, need special assistance in this regard. Work centres have been established near police lines in some States to do such items of work as stitching police uniform, children clothing wear, etc. Our impression is that there is considerable scope for improving the facilities in this regard and increasing the spread of such centres to cover more

families. In a few places we noticed that the wages paid for uniform stitching and other allied work done at these centres were very much less than the local market rates. Government secretariat frequently argues for a reduction in wages in view of the facilities for work provided at Government expense. We feel that this reduction should not be arbitrary—as it appeared to us in one or two centres. Fixation of wages should be done by a local committee in which the Government secretariat and the police management could both be involved to take a realistic view of all the relevant factors.

Canteens and Stores

13.21 While supporting the recommendations of the Ashwini Kumar Committee in this regard, we would further recommend that educated girls in police families and retired police personnel may be given first preference for employment, to manage and run these canteens and stores.

Recurring Deposit Scheme

13.22 The Border Security Force has organised a 'recurring deposit scheme' for its personnel which helps in augmenting the pension and gratuity assistance for the personnel at the time of retirement. A copy of this scheme is furnished in Appendix IV. We recommend the adoption of a similar saving scheme by all police units.

Sports

13.23 Organisation of sports for police families, specially the children, should be deemed an integral part of welfare measures. Outstanding performance and talent in games and sports should be quickly spotted and encouraged to develop in full measure.

Police Welfare Officer

13.24 Police families welfare is a matter that requires continuous attention and careful monitoring to ensure effective results to the satisfaction of the rank and file. It would not be sufficient if police welfare is merely treated as a portfolio to be looked after by an existing functionary in the State police in the midst of various other duties. Every State police must have a while-time police welfare officer at the State Headquarters who, by his initiative and interest, should organise welfare measures on a sound basis in every district/battalion and, what is more, ensure satisfactory delivery of welfare services on the ground. We leave it to the State Governments to decide the rank of this officer at State Headquarters, while observing that it is not the mere rank but the initiative and genuine interest shown by the officer and the example set by him that would count more in this matter.

Re-settlement of ex-policemen

13.25 Policemen who retire in the normal course will need assistance and advice to keep themselves occupied and settled in reasonable comfort. There is considerable scope for rendering assistance in matters like securing allotment of land for cultivation, or facilities for productive self-employment from various developmental agencies under the Government or otherwise. The State Police Welfare Officer should deem it a part of his responsibility to render this help on a systematic basis to retired police personnel.

CHAPTER XIV

POLICE ROLE, DUTIES, POWERS AND RESPONSIBILITIES

Criminal Justice System

14.1 The fundamental basis for any criminal justice system is the law of the land, specially in a democratic society. The very process of evolution of law in a democratic society ensures a measure of public sanction for the law through consent expressed by their elected representatives. The entire criminal justice system in our country, therefore, revolves around laws passed by the Union Parliament and State Legislatures. The durability and credibility of the system will, in the first place, depend on the inherent strength or weakness of the various laws enacted from time to time. After laws are made in the legislative bodies, their enforcement is taken up by the various agencies set up for that purpose by the government. Police come at this stage as the primary law enforcement agency available to the State. Enforcement by police is primarily an exercise of taking due notice of an infraction of law as soon as it occurs and ascertaining the connected facts thereof including the identity of the offender. Thereafter the matter goes for trial before the judiciary where the facts ascertained by the enforcement agency are presented by the prosecuting agency and the accused person gets a full opportunity to present and argue his side of the case. If the trial results in the accused person being found guilty, he is made to suffer a penalty either by being held in custody for a specified period or by being made to pay up an amount of money as fine to the State Exchequer and/or compensation to the victim of crime. Even in cases where a convicted person is to be sentenced to imprisonment, there are legal provisions for exempting him from such physical custody in certain circumstances and keeping him under special observation by correctional agencies with the avowed object of facilitating his reform and smooth return to society. The criminal justice system covers the entire scenario from the occurrence of crime, *i.e.*, any deviatory conduct punishable by law, investigation into the facts thereof by the enforcement agency, adjudication proceedings in court aided by the prosecuting counsel as well as the defence counsel, the performance of the correctional services in facilitating the quick return of the delinquent person to normal behaviour and finally the administration of jails with the ultimate object of re-socialising the criminal apart from deterring him from repeating his crime. Police, prosecutors, advocates, judges, functionaries in the correctional services and jails form the different distinct organised wings of this system. The ultimate object of the system is to secure peace and order in society. The success of the system, therefore, depends largely on a proper understanding of the objectives of the system by all wings put together and their co-ordinated functioning to secure this objective. The role, duties, powers and responsibilities of the police with special

reference to prevention and control of crime and the maintenance of public order cannot be defined in isolation in absolute terms, but has to be fitted into the overall requirements for the success of the criminal justice system as a whole. We propose to examine in the succeeding paragraphs the limitations in police role that flow from this inter-relationship.

Criminal laws

14.2 The basic criminal law in our country is made up of the Indian Penal Code, the Code of Criminal Procedure and the Evidence Act, all of which were originally conceived in the late nineteenth century under the British regime and have largely remained intact in their original form since then. The amended Code of Criminal Procedure of 1973 vary largely reproduced the previous version of the Code. While the Indian Penal Code gives an exhaustive definition of several forms of deviatory conduct, the Code of Criminal Procedure limits police responsibility for dealing with them. Offences under the Penal Code are divided into two categories : cognizable and non-cognizable. In cognizable offences, police have a direct responsibility to take immediate action on a complaint by visiting the scene, ascertaining the facts, apprehending the offender and prosecuting him in court. Non-cognizable offences are generally left to be pursued in courts by the affected parties themselves. Police cannot intervene in non-cognizable offences except with magisterial permission to be specially obtained if found necessary in any specific situation. In the classification of offences as cognizable and non-cognizable, it appears that the framers of the Code were inclined to take a severe view of any violation of law relating to possession of property and a lenient view of offences against the human body. For example, even an ordinary theft involving a trifling amount has been made cognizable by the police and followed by aggressive prosecution while offences of causing hurt, assault etc. are held non-cognizable in certain circumstances. The classification of offences and limitations of police response to complaints thereof, as spelt out in the existing laws, do not conform to the understanding and expectation of the common people who, when they become victims of a crime or are otherwise subjected to a distress situation, naturally turn to the police for help. Police become a much misunderstood force when their action gets limited by law contrary to the natural expectations of the people. There is, therefore, immediate need to examine the procedural laws and allied regulations for modifying them to enable police response to conform to public expectations, consistent with the resources potential of the police.

Bail

14.3 The provisions in the Criminal Procedure Code for the release of an arrested person on bail have

* been so framed that bail release would be possible only if the arrested person has some financial backing by way of sureties. The report of the Legal Aid Committee appointed by the Government of Gujarat in 1970 under the chairmanship of Justice P. N. Bhagwati, who was then the Chief Justice of Gujarat High Court, stated—

“.....the bail system causes discrimination against the poor since the poor would not be able to furnish bail on account of their poverty while the wealthier persons otherwise similarly situated would be able to secure their freedom because they can afford to furnish bail. This discrimination arises even if the amount of the bail fixed by the Magistrate is not high, for a large majority of those who are brought before the courts in criminal cases are so poor that they would find it difficult to furnish bail even in a small amount. The evil of the bail system is that either the poor accused has to fall back on touts and professional sureties for providing bail or suffer pre-trial detention.”

The amendments made in the Criminal Procedure Code in 1973 have not changed the position in this regard. Here again, on account of a procedural requirement of law, the police appear as a harsh and oppressive agency showing undue severity in dealing with poor people who happen to get arrested in certain situations. We are mentioning this as an example of several such features in law which handicap the police and rigidly circumscribe their actions in such a manner as to stifle their functioning effectively.

Legislation

14.4 There has been a spate of legislation in Parliament and State Legislatures year after year. The socialist democracy that we have evolved for ourselves finds increasing need to restrict and regulate the conduct or business of individuals to secure the objectives spelt out in our Constitution. In the three decades of 1947—57, 1957—67 and 1967—77, the number of laws enacted by Parliament were 692, 597 and 672 respectively. In their anxiety to secure the desired objectives, the legislators enact laws at a rapid pace and immediately hope that a rigid enforcement of the laws would secure what they want. Police, as the premier law enforcement agency available to the State, are suddenly brought into the picture by a ring of the bell as it were and given a bundle of new laws to enforce forthwith. There is no meaningful interaction with them at the earlier stages of legislative exercises. No thought is given to the resources potential of the police to handle the fast increasing volume of law enforcement work. The situation is something like planning and executing a very large number of irrigation dams and giant reservoirs without simultaneously planning and executing an efficient canal system for orderly distribution. Police involvement in law enforcement in these circumstances is, therefore, subject to considerable strain and pressure. We have to bear this in mind while re-defining police role and responsibility for law enforcement in such a situation.

Accusatorial system of criminal trials

14.5 A significant feature in our criminal law is the accusatorial system or the Anglo-Saxon or common law system of trial which is at the base of our criminal justice system. Unlike the inquisitorial system which has been followed in Europe from the thirteenth century onwards in which the judge is expected to take the initiative and find out for himself, by examining all relevant persons including the accused, what really happened, *i.e.*, what was the truth and then act according to law, in the accusatorial system the judge is only an umpire between two contesting parties. He will only give his decision on the issues and evidence put before him. In a criminal trial it is the prosecution side that charges the accused with a definite offence and having done so it has the responsibility to prove it as well. Section 101 of the Indian Evidence Act, 1872 says : “Whoever desires any court to give judgment as to any legal right or liability dependent on the existence of facts which he asserts, must prove that those facts exist”, and “when a person is bound to prove the existence of any fact, it is said that the burden of proof lies on that person”. So the burden of proof, save in a few exceptional cases, lies on the prosecution. As the judge is an umpire and not an inquisitor, it is not for him to ascertain if the accused has violated a law. He will give a decision only on the evidence brought before him on the issues raised between the prosecution and the defendant. The rules which govern this system make various demands from and place various restrictions on the prosecution so that the defendant gets all the help he can to defend himself. After the accused has seen and heard the entire evidence against him, he can decide which line of defence he will adopt and, therefore, which documents and witnesses will he produce. At the end of the trial the prosecution must prove their case beyond reasonable doubt : the accused may, however, only raise a doubt and get its benefit to secure his acquittal. The severe limitations placed on the admissibility of evidence from the prosecution side and the norms for determining the value of the admitted evidence make it difficult for the police as the investigating agency to carry forward all the material uncovered during their investigation to the final point of success in getting the offender convicted under the law.

Prosecuting Agency—Police interaction

14.6 During pendency of proceedings in court, the police have no *locus standi* inside the court hall except when a specified police officer happens to be examined as a witness. Our criminal law has several provisions which breathe a total distrust of the police as a community (examples : section 162 of the Code of Criminal Procedure and sections 25, 26, and 27 of the Evidence Act). Our criminal procedures do not approve of police presence inside a court hall and do not envisage a legitimate interaction between the police and the prosecuting agency for proper marshalling and appreciation of all the facts uncovered during investigation. In fact, the amended Code of Criminal Procedure of 1973 has tended to segregate the prosecuting agency as another independent agency which, in practice, gets a feel of its independence only by declining to have effective interaction with police at

the stage of trial ! We are convinced of the need for this interaction without, in any manner, affecting the professional independence of the prosecuting agency and we are of the view that this principle should also be suitably recognised in law, instead of being left as a mere administrative arrangement. Later on, in a separate chapter, we shall deal with the details of the set up of prosecuting agency and the modalities for bringing about this interaction and coordination.

Court trial rituals

14.7 The rituals of court trials under the existing law and the general attitude shown by the legal counsel, tend to delay the proceedings in court. Apart from the delays at the stage of investigation which are attributable to deficiencies in police, the further delay at the stage of trial results in considerable harassment to the victims of a crime while at the same time the effect of deterrence of quick conclusion of proceedings in court is lost on the offender himself. Pendency of criminal cases under trial in courts has gone up enormously in the recent years and the system itself will soon get clogged up beyond repair if the existing law is allowed to operate without any modification. The loss of deterrent effect following prompt disposal of case in court and appropriate punishment in proved cases acts as a handicap in containing criminal activity in society. People tend to commit crime more freely when they know from what they observe in day to day life that it will take several years for the arm of law to hold them in effective custody. The relative ease with which accused persons with the influence of men and money get released on bail after repeated commission of crimes tends to encourage similar behaviour by the unruly elements in society. The ineffectiveness of court trials to produce the desired deterrence acts as a severe limitation on police success in containing crime.

14.8 Even in U.K., from where our present system is borrowed, it is not claimed now that this is a logical system. A Royal Commission on Criminal Procedure has been recently constituted there to examine if changes are needed in criminal procedure and evidence relating to the powers and duties of the police in the investigation of criminal offences and the rights and duties of suspects and accused persons including the means by which these are secured. Age old concepts regarding the process of investigation and trial in respect of criminal offences are thus under review in U.K. itself. We feel there is urgent need for a comprehensive reform in the procedural laws relating to investigation and trial in our own system. We shall be dealing with details of this reform in a separate chapter.

Correctional Services

14.9 Correctional Services which constitute the other end of the criminal justice system consist of the probation machinery, special schools to take care of delinquent juveniles as well as neglected and uncontrollable children, protective homes to look after women who may have been forced into the channel of immoral traffic under the compulsions of poverty

or social helplessness etc. and jails which are expected to hold the convicted criminals who are required to be kept in custody and handle them in such a manner as to aid their reform and reabsorption as normal members of society. Though well-conceived and based on progressive concepts, these institutions in practice have not been functioning to the desired levels of efficiency.

Probation

14.10 Although there were Probation Acts in some States before independence, the Parliament legislated the Probation of Offenders' Act in 1958 applicable to all the States and Union Territories in the country. The concept of Probation is intended to protect first offenders from the contamination of old offenders in prisons and probation officers are expected to place before the law court the socio-economic background, personality and behaviour of the offender to enable the court to decide whether the offender should be sent to a prison or can, under certain conditions, be allowed to return to the community. Should subsequent reports indicate any failure on the part of the person released on probation, the initial sentence which was suspended can be re-imposed without further trial. But the actual application of this act on account of too many cases and too few probation officers has been minimal only. The new section 361 of the Cr.P.C. wherein it is mandatory for the courts to record reasons for not adopting the rehabilitative system of treatment is by and large, reduced to a ritual. To illustrate, in 1976 a total of 1,20,910 juvenile offenders were put up before law courts and cases involving 33,227 juvenile offenders were disposed of. Out of these, 30,548 were sent to prisons and only 2,679 were released on probation. It is important to note that out of the juveniles arrested 89.2% of the offenders. Another important point is that 85% were new offenders who were sent to prison were for sentences of less than 6 months of imprisonment. The absence of adequate infrastructure of probation services to deal with juveniles has practically nullified the scope for reforming juvenile offenders.

Children Act

14.11 Although Children Acts have existed in various States for many years—in Madras it was enacted as early as 1920—the Central Children Act was passed in 1960. The Central Act which extends to all the Union Territories and serves as a model for adoption by the States provides for the care of non-delinquent as well as delinquent children; non-delinquent may be neglected or destitute children or exploited or victimised children. Delinquent children are expected to be dealt with by Children's Courts and non-delinquent children by Child Welfare Boards. The delinquent children go to special schools and the non-delinquent to Children Homes. Juvenile Courts do not exist in all the States and Union Territories. The Probation Officer is expected to investigate every case referred to the Juvenile Court and submit a report so that the court can select the most appropriate method of dealing with the child. Child Welfare Boards exist only in Delhi and Pondicherry to deal with the destitute children. The Children Act also provides

that female children should be handled by women police only but the number of women police in India is negligible and they are not to be found in every district.

Reformatory processes in law

14.12 A significant aspect of some laws—particularly those coming under the category of social legislation—is that the ultimate object of the law can be secured in reality, not by mere rigid enforcement of the law, but by successful implementation of the non-penal, remedial, rehabilitative and corrective measures spelt out in the law. It is common experience in all the States that the number of Protective Homes and Corrective Institutions as provided in Section 21 of the Suppression of Immoral Traffic in Women and Girls Act is far from adequate. There are only 74 Protective/Rescue Homes in the country and their total capacity is only 6290. The number of girls actually being exploited for prostitution may well exceed this number in any one large city itself. In one city hundreds of beggars were rounded up by police in the course of a drive against begging, but when they were produced before the Magistrate he had no alternative but to order their release as there was no room for them in any "Home". Anti-beggary laws are in force in 14 States and two Union Territories but a proper exit for beggars, after they have been put up before a court of law, is generally lacking. There is an All India Children Act (1960) which seeks to provide for neglected and delinquent children. But the accommodation, as compared to the requirement, in the various 'Homes' is infinitesimal. It has been estimated that we have about 10 million working children in "avocations unsuited to their age or strength". The number of neglected children is anybody's guess.

Jails

14.13 Our jails are terribly over-crowded. In 1961, there were 1176 prison institutions in the country and these included 52 central jails, 180 district jails, 919 sub-jails, 2 juvenile jails, 9 borstals, 3 women's jails, 6 special jails and 5 open jails. By 1970 the total number of institutions had come down to 1170 and yet admissions to jails in 1970 were 13,78,657 as compared to 10,05,896 in 1961. During this period the number of undertrials also rose; in 1960 there were 5,93,398 undertrials as against 4,12,498 convicts. In 1970 there were 9,38,598 undertrials as against 4,40,059 convicts. Thus while the convict admission rose by 7% only, the admission of undertrials rose by 58%. As the total accommodation remained the same it has led to more and more undertrials living with convicts, contrary to the requirement of section 27 of the Prison Act, 1894. The huddling together of a large number of undertrials with convicted prisoners and the mixing together of old and hardened criminals with young first offenders tend to promote in the minds of all inmates feelings of criminality instead of remorse and regret for their previous conduct and a desire to reform.

Apart from the over-crowding in jails, the general manner in which the rituals of the daily life inside the jails are rigidly administered and enforced tends

to dehumanise the prisoner who is cowed down by the oppressive atmosphere around with all its brutalities, stench, degradation and insult. Instead of functioning as a reformatory house to rehabilitate the criminal to reform him and make him see the error of his ways and return a better and nobler man, the ethos inside our jails to-day is tragically set in the opposite direction, making it practically difficult for any reformatory process to operate meaningfully.

14.14 The deficiency in the functioning of correctional services has meant the weakening of their corrective influence on the behaviour and conduct of all the delinquents who pass through the system. Police, who appear in the first part of the system to investigate crimes and identify the offenders involved, have again to contend with the likely continued criminal behaviour of the same offenders, without the expected aid and assistance from the other agencies of the system to contain their criminality. We are, therefore, of the opinion that in whatever way we may define the role, duties and responsibilities of the police, they cannot achieve ultimate success in their role performance unless all the wings of the criminal justice system operate with simultaneous efficiency. This would require our having some kind of body which will have the necessary authority and facilities to maintain a constant and comprehensive look at the entire system, monitor its performance and apply the necessary correctives from time to time, having in view the overall objective of the system. In view of the primacy of law in the entire system, our first thoughts in this matter go to the Law Commission. We feel it would be advantageous to enlarge the concept of the Law Commission and make it function as a Criminal Justice Commission on a statutory basis to perform this overseeing role on a continuing basis. For this purpose it would be desirable for appropriate functionaries from the police and correctional services to be actively associated with the deliberations of the new Commission. This arrangement at the Centre should be supported by a similar arrangement at the State level in which a high powered body under the Chairmanship of the Chief Justice of the High Court, either serving or retired, and with members drawn from the police, bar and the correctional services, would perform this monitoring role and evaluate annually the performance of the system as a whole. The deliberations of such a body would also help in more realistic enactment of legislative measures and their amendments as may be required from time to time.

Prevention of crime

14.15 Apart from investigating the facts of a crime after it has occurred, police have, according to normal public expectation, a responsibility for preventing the very occurrence of crime. Investigation may be deemed as an expert professional responsibility that has to be squarely borne by the police, and their success in this regard depends mostly on their own training, equipment and competence, aided by public cooperation wherever possible. But in regard to prevention of crime, police cannot do very much by themselves, since quite many among the factors that cause crime are beyond their control. In fact several of these factors

transcend the criminal justice system itself. At the fourth U.N. Congress on the Prevention of Crime and the Treatment of Offenders held in 1970, the criminogenic factors identified were urbanisation, industrialisation, population growth, internal migration, social mobility and technological change. All these factors are present in India in varying degrees and none of them is really controllable merely by police activity or influence. Criminogenic factors also vary from area to area within the country and also change from time to time. Communal tension which is marked in certain areas results in certain types of crime. Certain crimes are also generated by social tensions which affect the backward classes. The presence of a representative political leader, generally popular with large sections of the local public, is helpful in resolving conflicts and maintaining social order and harmony in certain areas. When such leadership is eroded by political instability in Government, there is consequent disturbance in the general state of law and order in the areas concerned. We thus see a large variety of factors which determine the state of crime and public order in society at any point of time, and it is obvious that police action alone cannot regulate the operation of these factors. Another aspect of prevention is deterrence. There is no doubt that certainty of detection and certainty of swift punishment in proved cases deter crime but while the former is within the control of police the latter involves, together with police, the prosecuting agency, the lawyer community and the law courts. Further, it is now being increasingly believed that one way to prevent crime is to resocialise the offender. This process lies entirely in the jurisdiction of the jail administration and the correctional services. Whether a person, who comes out of the other end of the criminal justice system, is absorbed by the community, or is capable of such absorption, depends on the degree of his resocialization at that stage. In a sense, laws create crimes and if more and more of human conduct is categorised as criminal, even an ideal criminal justice system, including the best possible police, cannot prevent the commission of more and more crimes. This is particularly true of those social laws which create the category of victimless crimes, such as gambling, drinking liquor, etc. where there is seldom any aggrieved party to complain. It would be seen, therefore, that the role of police in prevention of crime can only be defined in the context of the limitations described above.

Maintenance of public order

14.16 Police role in maintaining public order has even greater limitations specially in a democracy. Maintenance of order implies a certain measure of peace and avoidance of violence of any kind. Public order is deemed to have been upset, in public estimate, if violence breaks out in public in a noticeable form. The characteristic features of the existing social structure in India are (i) inter-group conflicts on account of religion, language, caste, etc.; (ii) a clear majority of the young in the population—there were according to the 1971 census 58.6% people below the age of 25; (iii) increasing pressure of poverty with 48% in rural areas and 41% in urban areas living below the poverty line in 1977-78; the total number of such persons according to the draft Five Year Plan (1978-83)

being in the neighbourhood of 29 crores; (iv) increasing unemployment—according to the National Sample Survey on a typical day 186 lakh people were seeking work; (v) groups of people congregating in urban areas—the Centre for the Study of Developing Societies (Delhi) has found that the urban growth rate of 4% a year is about the fastest in the world and at this rate by 1985 the Indian urban population is likely to be 350 million, possibly the largest in the world and there are many organised protest groups in urban areas such as Government employees, employees of autonomous bodies, professional groups, occupational groups, industrial workers, political groups, students and others; and (vi) increasing awareness of the destitute and the poor of what they do not have and what they should have. This awareness is increased by the spread of mass media. In 1947 there were 6 radio stations and now we have 82 with nearly two crore radios which means one set for about every 37-38 persons and our broadcasts cover all the regional languages and as many as 136 dialects. We have newspapers, 14,000 of them with a circulation (1976) of 340.75 lakh copies, and the films. All these factors, combined with the general belief among the havenots that the only way to evoke response from administration is to launch an agitation or a strike or any form of protest activity involving violence of some kind or other, induce an atmosphere of continuing pressure and proneness to break into situations of public disorder.

14.17 Public urge for reform and relief from pressure situations of the above kind are often articulated by political parties, particularly those in opposition to the ruling party. Protest activity, therefore, gets mixed up with political dissent. Police methodology in dealing with such situations has necessarily to conform to democratic traditions and cannot have the trappings of the technique of an authoritarian regime to sustain itself in power. In such circumstances, the police have the most difficult role to perform to maintain order. Any step taken by them for this purpose is immediately viewed by the agitating public as partisan conduct to maintain the *status quo* and oppose the changes for which the agitators clamour. Police invariably get dubbed as being on the side of the conservative and the no-changer. Police action in such situations is severely handicapped on this account. Police cannot be expected to handle such situations all by themselves but they should have accommodation, co-operation/assistance, sympathy and understanding from organised sections of the public themselves.

14.18 In the foregoing paragraphs we have referred to some aspects of the present functioning of the different wings of the criminal justice system. The object of the criminal justice system is to secure a state of peace and tranquility in society by reinforcing the norms of society by laws and ensuring that those who violate the law of the land are detected, tried according to law and procedure in a court and treated in accordance with the best interests of society which could be anything from their segregation—permanent through death penalty or for a fixed period in jail—from society to correction and release back into the mainstream of society. This entire process should not only be reformatory but also effective enough to deter potential law

breakers. In other words, the effectiveness of this process should be seen as an aid to counter the temptation to commit crime. There is no doubt that, at present, the entire criminal justice system in our country is weak, is seen to be oppressive on the poor and the helpless and is highly convenient for the rich and the power elite. In 1966 reported cognizable crimes were 7,94,733. In 1976 this figure rose to 10,90,887. The number of cases which remained pending investigation at the end of 1966 was 1,08,127; for 1976 this figure was 2,30,650. The number of cases pending trial at the end of the year 1966 was 2,92,003; at the end of 1976 this figure was 10,43,085. This system is fast getting choked and is ceasing to command the confidence of the people. The victim of an offence does not believe that he will get justice from this system, particularly if he is poor and lacks influence.

14.19 We are of the opinion that police role in law enforcement is very much linked with the part played by other wings of the criminal justice system and has, therefore, to be defined and understood within a common framework applicable to the entire system as such. We now proceed to examine their role, duties, powers and responsibilities in this context.

Police—Law enforcement agency

14.20 Police, throughout the ages, have functioned as the principal law enforcement agency of the State. In the early and medieval periods of civilisation, governance of a State was centred in ruling individuals or family groups. Laws of the State were what the individual rulers felt inclined to pronounce as such from time to time. Police enforcement of the law as propounded by the ruler practically meant regimented compliance of the ruler's demands and desires.

Ancient India

14.21 The basic concept of governance in ancient India were of Dharma and Danda and there were functionaries to ensure the operation of 'Danda'. In fact Dandaniti was an important ingredient of statecraft. In the Dharma-sutras proper wielding of 'Danda' was held to be an important duty of the king. The basic unit of policing was the village; a village being an aggregation of families together with their lands and pastures surrounding the village. Every village had its local court which was composed of the Headman and the elders of the village. These courts decided minor criminal cases such as petty thefts as well as civil disputes. The Mahabharata speaks of Gramadhipati and the Buddhist Jatakas mention Grambhojaka. While these were actually village headmen the nagaraguthka was responsible for arresting and executing robbers. There is also the mention of "chora-ghataka"—slayer of thieves. Kautilya's Arthashastra refers to a detailed police organisation, a "sangrahana" for 10 villages, a "kharvatika" for 200 villages, a "dronamukha" for 400 villages and a "sthaniya" for 800 villages. Significantly there was accent on intelligence collection.

Mughal period

14.22 During the Mughal period the key functionaries responsible for policing were the Faujdar and the

Kotwal, at their respective levels. In the Mughal Empire a number of villages were grouped together to form a Mahal or Parganah. A number of Parganahs formed a Sarkar and a number of Sarkars formed a Subah or Province. The Empire itself consisted of Provinces, the number of which generally increased or decreased in accordance with what happened in the Deccan. The Kotwal was responsible for policing the cities, towns and their suburbs. The functions of the Kotwal are mentioned in the Ain-i-Akbari. He prevented crimes and social abuses, regulated cemeteries, burials, slaughter houses, jails and took charge of heirless property. He patrolled the city at night and collected intelligence from paid informers on men and matters. The sanad of his appointment enjoined upon him to ensure that there was no theft in his city. In a register he maintained the addresses and professions of every resident of the town, observed the income and expenditure of various classes of men, and checked the accuracy of weights and measures. Preparation and distribution of intoxicants and the profession of prostitutes were also controlled by him. Thus his functions were preventive, detective and regulatory. The Faujdar was the head of the Sarkar and commanded troops to suppress rebellion and disorder in the area—mainly rural—of his jurisdiction. Although he was subordinate to the provincial Governor, he could directly communicate with the Imperial Government. He dispersed and arrested robber gangs and took cognizance of all violent crimes. His functions were to guard the roads in the country-side, suppress violent crimes, hunt down bandits, prevent manufacture of fire-arms, arrest disturbers of peace and assist the Malguzars in the collection of revenue by making demonstrations of force to overcome opposition, where necessary. In practice the Zamindar was made responsible for peace and security of the people in his zamindari. The Faujdar was only to ensure that the Zamindars did their job.

Democracy

14.23 With the advance of civilization, ideas of socialism and democracy took root. Laws of the land no longer reflected the individual whims and fancies of ruling individuals or groups. Law making as a process involved increasing participation by the public through elected representatives. Law thus got delinked from the individual ruler or ruling group or party and got attached to the people of the State as a whole. Personalised laws were replaced by public laws. Police role consequently changed in its content. Instead of serving the interests of an individual ruler or a group, police started functioning as servants of an impersonal law which was something common to all citizens of the State. While this natural development came about smoothly and easily in free countries, the old concept continued in colonial countries which were ruled by foreign powers as was the case in India till 1947.

Police Act, 1861

14.24 The Indian Police system as organised by the Police Act of 1861 was specifically designed to make the police totally subordinate to the executive government in the discharge of its duties. No reference was made at all to the role of police as a servant of the law

as such. Thus when on 17th August, 1860 the resolution appointing the Police Commission was issued by the Governor-General in Council the Memorandum attached to the resolution stated, for the guidance of the Commission, the following "characteristics of a good police for India". The first was "that it should be entirely subject to the Civil Executive Government". It was added that this would require "a change in the rule which, as formerly in Madras and Bombay, gave the control of the Police to a judicial body—the Circuit Judges in Madras and the Sudder Foujdaree Adawlut in Bombay. In a Non-Regulation Province this rule would point to the necessity of the police being under the Civil Commissioner, or other head of the Executive Government, rather than under the Judicial Commissioner or other substitute for a Court of Appeal". It was further noted that "the organisation of the police must be centralised in the hands of the Executive Administration" and that "the organisation and discipline of the Police should be similar to those of a military body".

14.25 The Commission (1860—62) found it easy to follow the guidelines given by Her Majesty's Government because examples of the type of police structure desired in them were already available within the country, starting from Sind. After annexation of Sind (1843) General Charles Napier organised on the pattern of the Royal Irish Constabulary, a police force commanded at the district level by Army officers, a European Lieutenant of Police and an Adjutant and at the provincial level by a Captain of Police directly responsible to the Chief Commissioner. The Irish Constabulary was organized to control a colony and was, therefore, fundamentally different from the British Police. The British Police was and is a democratic police, an instrument of law answerable to the people and their representatives who form the police authority and there were, at the last count, forty three police authorities. Sir George Clerk, the then Governor of Bombay, visited Sind in 1847 and impressed by Napier's police system reorganized his barquandazi police. Changes on similar lines were effected in Madras. The revelations by the 'Torture Commission' appointed in 1854 (reported in 1855) hastened the process and Act XXIV of 1859 set up the new pattern of a force led by an Inspector General of Police at the top and Superintendents of Police in the districts. Before 1860 a similar system had been established in Bengal. The Indian Police Commission of 1860, therefore, stated : "we have arranged for this force being in all respects subordinate to the Civil Executive Government and we have paid due consideration to the Despatch from the Majesty's Government of the 6th July on the constitution of the Police". The Indian Police Act, 1861 was enacted soon after, on the model of the Madras Act, formalising the present organisational set up and making the police at the district level function under the control and direction of the chief executive of the district, namely, the District Magistrate. The police force has since then remained an instrument in the hands of the State Government.

14.26 This position is very clearly reflected in the manner in which police role, duties, powers and res-

possibilities have been spelt out in the Police Act of 1861. According to Section 23 of that Act, police are required to—

- (i) prevent the commission of offences and public nuisances ;
- (ii) detect and bring offenders to justice ;
- (iii) apprehend all persons whom the police are legally authorised to apprehend ;
- (iv) collect and communicate intelligence affecting the public peace ;
- (v) obey and execute all orders and warrants lawfully issued to them by any competent authority ;
- (vi) take charge of unclaimed property and furnish an inventory thereof to the Magistrate of the District, and be guided by his orders regarding their disposal ;
- (vii) keep order on the public roads, thoroughfares, ghats, landing places and at all other places of public resort ; and
- (viii) prevent obstructions on the occasions of assemblies and processions on the public roads.

The insistence on prompt obedience and execution of all orders lawfully issued by any competent authority underlines the total submission of police to executive authority and provides immense scope for the executive to use police for implementing decisions which may not be spelt out in any law, rule or regulation. An average policeman would deem an order to be a lawful order provided it comes to him from some one above in the hierarchy. He would not pause to check whether there is any enabling provision in any law for such an order to be issued. This is the present position.

Police reform in U.K.

14.27 In contrast to this situation brought about in India, police reform in Britain itself took a different shape and truly reflected the basic responsibility of police for enforcement of law, in a fair and impartial manner without any obligation to implement mere intentions or desires of the Government as expressed in their policy declarations as different from duly promulgated law. When the metropolitan police of London was radically re-organised in 1829 under inspiration from Robert Peel, the then Prime Minister of U.K., Charles Rowan and Richard Mayne, who were the first two Joint Commissioners of Police, propounded the following nine basic principles to govern all police actions :

THE FIRST PRINCIPLE. To prevent crime and disorder, as an alternative to their repression by military force and severity of legal punishment.

THE SECOND PRINCIPLE. To recognise always that the power of the police to fulfil their functions and duties is dependent on public approval of their existence, actions and behaviour, and on their ability to secure and maintain public respect.

THE THIRD PRINCIPLE. To recognise always that to secure and maintain the respect and approval of the public means also the securing of the willing co-operation of the public in the task of securing observance of law.

THE FOURTH PRINCIPLE. To recognise always that the extent to which the co-operation of the public can be secured diminishes, proportionately, the necessity of the use of physical force and compulsion for achieving police objective.

THE FIFTH PRINCIPLE. To seek and preserve public favour, not by pandering to public opinion, but by constantly demonstrating absolutely impartial service to Law, in complete independence of policy, and without regard to the justice or injustice of individual laws; by ready offering of individual service and friendship to all members of the public without regard to their wealth or social standing; by ready exercise of courtesy and good humour; and by ready offering of individual sacrifice in protecting and preserving life.

THE SIXTH PRINCIPLE. To use physical force only when the exercise of persuasion, advice and warning is found to be insufficient to obtain public co-operation to an extent necessary to restore order; and to use only the minimum degree of physical force which is necessary on any particular occasion for achieving a police objective.

THE SEVENTH PRINCIPLE. To maintain at all times a relationship with the public that gives reality to the historic tradition that the police are the public and that the public are the police; the police being only members of the public who are paid to give full-time attention to duties which are incumbent on every citizen, in the interest of community welfare and existence.

THE EIGHTH PRINCIPLE. To recognise always the need for strict adherence to police-executive functions, and to refrain from even seeming to usurp the powers of the judiciary of avenging individuals or the State, and of authoritatively judging guilt and punishing the guilty.

THE NINTH PRINCIPLE. To recognise always that the test of police efficiency is the absence of crime and disorder, and not the visible evidence of police action in dealing with them.

Police—servant of law

14.28 For the present purpose we would, in particular, draw attention to the fifth principle, which underlines police responsibility for absolutely impartial service to law in complete independence of policy. We hold this as the most fundamental concept for obser-

vance in the police system in a democracy. The basic role of police is to function as a law enforcement agency and render impartial service to law, in complete independence of mere wishes, indications or desires, oppressed by the Government as a matter of policy which either come in conflict with or do not conform to the provisions in our Constitution or laws duly enacted thereunder. We will be separately discussing in another chapter the working arrangements and safeguards that would be needed to enable the police perform this role, but our purpose in this chapter is to underline this role as the basic role. We visualise that as we proceed further with our task of police reform, we might find it necessary to make several radical changes in the existing provisions of the out-moded Police Act of 1861. We recommend that the basic police role as noted above may be specifically spelt out in categorical terms in the new Police Act.

Code of Conduct for police

14.29 We notice that a Code of Conduct for the police in India was adopted at the Conference of Inspectors General of Police in 1960 and circulated to all the State Governments. This Code has the following clauses :

- (1) The police must bear faithful allegiance to the Constitution of India and respect and uphold the rights of the citizens as guaranteed by it.
- (2) The police are essentially a law enforcing agency. They should not question the propriety or necessity of any duly enacted law. They should enforce the law firmly and impartially, without fear or favour, malice or vindictiveness.
- (3) The police should recognise and respect the limitations of their powers and functions. They should not usurp or even seem to usurp the functions of the judiciary and sit in judgment on cases. Nor should they avenge individuals and punish the guilty.
- (4) In securing the observance of law or in maintaining order, the police should use the methods of persuasion, advice and warning. Should these fail, and the application of force becomes inevitable, only the absolute minimum required in the circumstances should be used.
- (5) The prime duty of the police is to prevent crime and disorder and the police must recognise that the test of their efficiency is the absence of both and not the visible evidence of police action in dealing with them.
- (6) The police must recognise that they are members of the public, with the only difference that in the interest of the community and on its behalf they are employed to give full-time attention to duties which are normally incumbent on every citizen to perform.

- (7) The police should realise that the efficient performance of their duties will be dependent on the extent of ready cooperation they receive from the public. This, in turn, will depend on their ability to secure public approval of their conduct and actions and to earn and retain public respect and confidence. The extent to which they succeed in obtaining public cooperation will diminish proportionately the necessity of the use of physical force or compulsion in the discharge of their functions.
- (8) The police should be sympathetic and considerate to all people and should be constantly mindful of their welfare. They should always be ready to offer individual service and friendship and render necessary assistance to all without regard to their wealth or social standing.
- (9) The police shall always place duty before self, should remain calm and good humoured whatever be the danger or provocation and should be ready to sacrifice their lives in protecting those of others.
- (10) The police should always be courteous and well-mannered; they should be dependable and unattached; they should possess dignity and courage; and should cultivate character and the trust of the people.
- (11) Integrity of the highest order is the fundamental basis of the prestige of the police. Recognising this, the police must keep their private lives scrupulously clean, develop self-restraint and be truthful and honest in thought and deed, in both personal and official life, so that the public may regard them as exemplary citizens.
- (12) The police should recognise that they can enhance their utility to the Administration and the country only by maintaining a high standard of discipline, unstinted obedience to the superiors and loyalty to the force and by keeping themselves in a state of constant training and preparedness.

While we are in general agreement with all the above clauses and are satisfied that they will admirably fit in with the re-defined role, duties and responsibilities for the police as envisaged now, we have some reservations in accepting clause (12) as it is. A reference to the utility of the police to the "administration" and the "country" separately would induce a general impression that the interests of the administration and the country may not always coincide. We have made clear our view that the basic role of the police is to function as a servant of the law and not as a servant of the government in power. The word "Administration" in clause (12) can only refer to the Government and, therefore, we do not accept its relevance in this clause. Further, the use of the words "unstinted obedience to the superiors" may also be misunderstood to mean an obligation to execute any decision taken by

the hierarchy irrespective of its legal validity or propriety. We would, therefore, recommend that clause (12) of the above Code may be modified to read as under :

- (12) The police should recognise that their full utility to the people of the country is best ensured only by maintaining a high standard of discipline, faithful performance of duties in accordance with law and implicit obedience to the directions of commanding ranks and absolute loyalty to the force and by keeping themselves in a state of constant training and preparedness.

Law enforcement—Objectives

14.30 Law enforcement cannot, however, be held up as an objective by itself. It may be viewed as a fundamental duty and responsibility with the ultimate object of preserving peace and order, protecting the life and property of the people and, what is more, protecting the constitutional rights conferred on them. The preamble to the Constitution says that India is constituted into a sovereign, socialist, secular, democratic republic and it is to secure to all its citizens "Justice, social, economic and political; Liberty of thought, expression, belief, faith and worship; Equality of status and of opportunity; and to promote among them all Fraternity assuring the dignity of the individual and the unity and integrity of the Nation".

14.31 Having regard to the objectives mentioned in the Preamble, we would hold that law enforcement by police should cover the following two basic functions :—

- (i) Upholding the dignity of the individual by safeguarding his constitutional and legal rights. Police secure this objective by enforcing laws relating to the protection of life, liberty and property of the people.
- (ii) Safeguarding the fabric of society and the unity and integrity of the nation. Police secure this objective by enforcing laws relating to maintenance of public order.

Investigation and prevention of crime

14.32 Law enforcement essentially consists of two parts. One relates to investigation of facts concerning a crime, *i.e.* a violation of law, after such violation has actually taken place. The second part relates to the prevention of the very occurrence of crime by a proper study, assessment, regulation and control of factors and circumstances, environmental or otherwise, which facilitate the commission of crime. We are of the view that police have a direct and more or less exclusive responsibility in the task of investigating crimes but have a limited role in regard to the prevention of crime for the reason that the various contributory factors leading to crime do not totally and exclusively fall within the domain of police for control and regulation. A coordinated understanding and appreciation of these factors not only by the police but also by several other agencies connected with social defence and welfare would be necessary for effective prevention of crime.

Police responsibility for the prevention of crime has thus to be shared to some extent with other agencies. We feel that this distinction in police responsibility for investigation of crime on the one hand and prevention of crime on the other should be clearly understood and indicated in the Police Act itself, which would also thereby institutionalise and facilitate appropriate associative action by other social welfare agencies for preventing crime.

Maintenance of public order

14.33 The task of maintenance of public order includes several measures for preventing violations of law relating to public peace. Extending the principle mentioned in the foregoing paragraph, we feel that police should be enabled in law to take the assistance of other organised public bodies for undertaking appropriate preventive measures.

Private security arrangements

14.34 With increasing State ownership of the means of production and distribution of goods and delivery of services, there has been an enormous growth of public property, particularly after independence. Like the traditional protection extended to private property, public property also needs protection. This has led to the development of special forces such as the Industrial Security Force and the Railway Protection Force. With progressive industrialisation private property also has expanded its dimensions, and the owners have progressed from the utilisation of sundry watchmen to a system of organised private security guards. As many owners are willing to pay for the services of such security guards without taking on the burden of administering them directly a large number of privately operated Industrial Security organisations have sprung up in the country. With greater industrialisation these organisations are bound to increase in size because police cannot themselves possibly provide these services to individual business establishments.

14.35 Besides organised services in the private sector for protection of property, private detective agencies have also come up in the recent years to make informal inquiries in certain types of crimes where, for a variety of reasons, the victims of crime desire a quiet and confidential inquiry in preference to an open and aggressive investigation by police. We understand there are over 50 such agencies functioning in the country. They mostly deal with inquiries relating to insurance claims, matrimonial suits, divorce matters, elopement and infringement of trade mark and copyright. Such agencies are also known to be employed on some occasions for collecting intelligence to facilitate a better understanding of an internal situation by the management of private industries. There is at present no law in our country governing the functioning of such private agencies. In some foreign countries they have a system of licensing such organisations and bringing them within the framework of some rules and regulations to facilitate their healthy working and meaningful interaction with police in specified situations.

We would recommend a system of licensing with appropriate statutory backing to control the working of these private agencies.

Categorisation of crime

14.36 Police responsibility for investigation of crimes may be spelt out in general terms in the basic law, namely, the Police Act, but in actual procedural practice there should be graded situations specifying different degrees of police responsibility in regard to different types of crimes. In the existing law, we have a graded division of crimes into two categories—cognizable and non-cognizable. The procedural law describes in detail the responsibility of police in the investigation of a cognizable crime. Police intervention in a non-cognizable crime requires prior permission from a magistrate. We agree that police responsibility need not be made uniform in regard to all crimes under all laws. Certain types of crimes will require police intervention on their own initiative and on their own intelligence, without waiting for a complaint as such from any aggrieved person. Certain other types of crimes may justify police intervention only on a specific complaint from a member of the public. A third category of crime can be visualised where police may intervene only on a complaint from an aggrieved party and not by any member of the public. The different types of police response that will be desirable in different situations will be separately dealt with by us in another chapter where we will be examining the present provisions in law relating to inquiries and investigations. It is sufficient for the purpose of this chapter to state our view that police responsibility for investigation need not be the same for all types of crimes but may be graded and classified into different categories for different types of crimes.

Social and economic offences

14.37 Apart from the traditional form of crimes as spelt out in the Indian Penal Code which relate to the protection of human body and property, we have in the recent years seen the growing phenomenon of social and economic crimes. The Law Commission in their 47th Report have defined social and economic offences as under :—

“By now, the concept of anti-social acts and economic offences has become familiar to those acquainted with the progress of the criminal law and its relationship to the achievement of social objectives. Still, it may not be out of place to draw attention to some of the salient features of these offences”.

Briefly, these may be thus summarised :—

- “(1) *Motive* of the criminal is avarice or rapaciousness (not lust or hate).
- “(2) *Background* of the crime is non-emotional (unlike murder, rape, defamation etc.). There is no emotional reaction as between the victim and the offender.

- (3) *The victim* is usually the State or a section of the public, particularly the consuming public (*i.e.* that portion which consumes goods or services, buys shares or securities or other intangibles). Even where there is an individual victim, the more important element of the offence is harm to society.
- (4) Mode of operation of the offender is *fraud*, not force.
- (5) Usually, the act is deliberate and wilful.
- (6) Interest protected is two-fold—
 - (a) Social interest in the *preservation* of—
 - (i) the property or wealth or health of its individual members, and national resources, and
 - (ii) the general *economic system* as a whole, from exploitation, or waste by individuals or groups ;
 - (b) Social interest in the *augmentation* of the wealth of the country by enforcing the laws relating to taxes and duties, foreign exchange, foreign commerce, industries and the like.”

The Law Commission concluded that “social offences” are offences which affect the health or material welfare of the community as a whole and not merely of the individual victim. Similarly, economic offences are those that affect the country’s economy, and not merely the wealth of an individual victim. In this category fall white collar crimes *i.e.* crimes committed in the course of their occupation by members of the upper class of society, offences calculated to prevent or obstruct the economic development of the country and endanger its economic health, evasion of taxes, misuse of position by public servants, offences in the nature of breaches of contracts resulting in the delivery of goods not according to specifications, hoarding and black marketing, adulteration of food and drugs, theft and misappropriation of public property and funds, and trafficking in the licences, permits etc.

Enforcement of social legislation—Police role

14.38 During our visits to the States and group discussions with several members of the services as also public, a basic question was raised whether the police should have any role at all in the enforcement of such social and economic laws. We have received three views on this subject. The first and what may be called the conservative view is that police should have nothing to do with social and economic legislation because (i) the police are concerned with the basic criminal law only ; (ii) due to deficiencies of manpower and equipment, they can barely manage to enforce the basic criminal law and cannot undertake a wider role ; (iii) much of social and economic legislation is in advance of, and sometimes in conflict with, public opinion and, therefore, enforcement of

such legislation would increase public hostility to police ; (iv) socio-economic reform is not the business of police ; (v) greater efficiency would result from concentration on a narrow role and (vi) it introduces avoidable corruption in the ranks of police which then affects every aspect of their activity. The second view, which is opposite to the first, states that (i) police are the primary law enforcing agency and must enforce all laws ; (ii) social and economic legislation represent an attempt to fulfil the aspirations of the people as outlined in the Preamble of the Constitution and the Directive Principles of State Policy and, therefore, police must lend a hand in this national effort ; (iii) by enforcing such legislation police would be acting as agents of social change, a role which is definitely better for their psychological health than the traditional negative and punitive role ; and (iv) social legislation often aims at social defence which being preventive in approach is of direct concern to the police. The third view is a composite of the two and holds that the police need not concern themselves with every piece of social and economic legislation but must concern themselves with such as seek to curb (i) social evils that are generally acknowledged as such by the mass of people, an example of which is the Prevention of Corruption Act through effective enforcement of which police can promote rectitude in public life ; (ii) social crimes which have a tendency to sprout traditional crime relating to life and property and (iii) social and economic crimes which tend to develop into organised crime.

14.39 On this subject the Working Group on Police Administration set up by the Administrative Reforms Commission had this to say (August 1967) :

“In some quarters, there is a certain amount of resistance to the assumption of responsibility for the enforcement of social legislation particularly like Prohibition etc. by the police. We feel that multiplication of enforcement agencies involved avoidable extra expenditure and manifest risk of clashes of authority. The vesting of concurrent jurisdiction for enforcement in the police along with other agencies like the Excise Department etc. is likely to lead to diffusion of responsibility. Police are an organised, experienced and disciplined agency and as such most suitable for all enforcement. A separate agency may not prove as efficient as the police. As scope for corruption exists in the field of other police work as well, this argument for divesting the police of their responsibility for enforcement of social legislation does not carry conviction. Any other agency, in all probability, may also suffer from the same drawback. Effective supervision may help to curb this evil. The machinery for it may be strengthened according to the needs. No doubt, the task of enforcing such legislation is indeed enormous. Proper assessment of the new work-load and provision of adequate additional strength are absolutely essential for effective enforcement in this field. It is also felt that organisation of ‘Specialised Squads’ or ‘Social Police Wings’ on the lines

of similar units in Scandinavian countries deserve to be considered. Such legislation is an important part of the social welfare programme and the Study Group feels that the police of a democratic welfare state should participate whole-heartedly in all such schemes of social welfare”.

The Committee on Police Training also was in favour of enforcement of social legislation by police.

14.40 We are of the view that as the primary law enforcement agency available to the State, police cannot escape involvement in the enforcement of social and economic laws also in some form or the other. Police have a duty to enforce these laws but the manner of enforcement can certainly be regulated and controlled to avoid some possible evils that may arise from this involvement. Having stated our basic view on this question, we would be separately detailing in another chapter the mechanics of enforcement of social and economic legislation by police.

Public order—definition

14.41 Police responsibility for maintenance of public order is frequently mentioned and accepted in general terms. It would be useful in this context to understand the actual ambit of the words “public order”, and identify the distinguishing features of a public order situation. The following observations of the Supreme Court in *Ram Manohar Lohia versus State of Bihar* (AIR 1966 SC 740) may be read in this connection :—

“The contravention of law always affects order but before it can be said to affect public order it must affect the community or the public at large disorder is a broad spectrum which includes at one end small disturbances and at the other the most serious and cataclysmic happenings..... Public order if disturbed must lead to public disorder. Every breach of the peace does not lead to public disorder. When two drunkards quarrel and fight there is disorder but not public disorder. They can be dealt with under the powers to maintain law and order but cannot be detailed on the ground that they were disturbing public order. Suppose that the two fighters were of rival communities and one of them tried to raise communal passions, the problem is still one of law and order but it raises the apprehension of public disorder..... The contravention of law always affects order but before it can be said to affect public order, it must affect the community or the public at large. One has to imagine three concentric circles. Law and Order represents the largest circle within which is the next circle representing public order and the smallest circle represents security of State. It is then easy to see that an act may affect law and order but not public order just as an act may affect public order but not security of the State”.

In *Arun Ghosh versus the State of West Bengal* (AIR 1970 Supreme Court 1228) the Supreme Court reaffirmed that a disturbance of the public order takes place when the current of life of the community is disturbed. “Public order is the even tempo of the life of the community taking the country as a whole or even a specified locality”. Public order, therefore, embraces more of the community than law and order and it involves general disturbance of public tranquillity. An act by itself or a breach of law by itself does not indicate a disturbance of the public order. If a man stabs another, some people may be shocked but the life of the community keeps moving at an even tempo. But if a man stabs a member of some other community with which there is already communal tension in the town, it affects public order because the repercussions may embrace large sections of the community and incite them to commit further breaches of law and subvert public order.

Internal Security—Role of Central Government

14.42 Our object in drawing attention to the above concept of ‘public order’ is to point out the fact that in a progressively deteriorating law and order situation in different parts of a State, a public order situation may arise in the State as a whole. Disturbances to public order in more than one State may mean threat to internal security of the country as a whole. Police responsibility for prevention and investigation of ordinary crimes may ultimately lead them on to involvement in containing law and order situations, public order situations and threats to internal security in that order. When the country’s internal security is threatened, the Central Government has a direct responsibility for taking appropriate counter measures. It has been the practice for the Central Government to come to the aid of State Governments by deputing armed forces of the Centre like CRP and BSF to aid the State police in dealing with serious public order situations. Police is at present a State subject in the 7th Schedule of the Constitution. It is for consideration of the Central Government and the State Governments whether the Central Government should be constitutionally facilitated to coordinate and direct police operations in situations which threaten internal security. In our view, the addition of Entry 2A in the Union List of the 7th Schedule following the Constitution (Forty Second) Amendment Act, 1976 recognises this need to some extent. We understand that no law has yet been enacted and no rules or regulations have yet been laid down governing the jurisdiction, privileges and liabilities of the members of the armed forces of the Union when they are deployed in a State in accordance with Entry 2A of the Union List. We recommend that appropriate law/rules/regulations for this purpose be enacted soon.

Group conflict

14.43 Sometimes law and order situations arise from confrontation between two organised groups like management-labour, landlord-tenant, academic bodies-students, etc. Each group might legitimately feel that its actions are only in the nature of a valid protest against an existing unjust situation and, therefore,

does not amount to any threat to law and order. Besides the two groups in conflict with each other in any particular situation, the police have also to contend with the third group—the largest group—which comprises the general public who are not at all involved in the conflict situation. We are of the view that the question whether the circumstances of such a situation constitute a disturbance to law and order or public order has to be judged by the police on their own understanding and appreciation of the connected facts, having in view the overall public interest as distinct from the interests of the two contesting groups alone. Preventive measures have to be planned by the police on this basis only. When specific violations of law actually take place, police intervention thereafter has to be in accordance with law.

Collection of intelligence

14.44 Under the existing law—Section 23 of the Police Act, 1861—the police are responsible for collecting intelligence affecting public peace only. As mentioned earlier, we recognise police responsibility for investigation of social and economic offences also besides offences affecting human body and property. Public peace as such may not always be affected by social and economic offences. Effective enforcement of these offences would necessarily involve collection of some related intelligence. The investigating agency cannot possibly operate in a vacuum while dealing with these offences. We, therefore, recommend that police powers for collection of intelligence should cover not only matters affecting public peace but also matters relatable to crimes in general including social and economic offences, national integrity and security. The legal provisions in this regard should only be in the nature of enabling provisions which can be availed by the police to collect intelligence as and when required. Law should not place the exclusive responsibility on the police only for collection of all intelligence on these matters because we are aware that a variety of intelligence relevant to these matters may fall within the jurisdiction of some other developmental or regulatory agencies as well. We further recommend that a police agency should not have the power or facilities for collection of any intelligence other than what is specified in law, as proposed.

Discretion in discharge of police functions

14.45 We are aware that there is considerable scope for exercise of discretion at various stages in the discharge of police functions, particularly in regard to preventive policing measures before a crime occurs as distinct from investigation which starts after the occurrence of crime. Such matters like organisation of preventive patrols, action to be taken in a law and order situation, stationing of police personnel in considerable strength at strategic sectors to show the likelihood of immediate aggressive action if a crime were to occur, whether or not to make preventive arrests in any situation, whether or not to arrest a person during investigation, whether or not to pursue minor infractions of a law like traffic rule or regulation, etc. involve discretion in the use of police power. We are of the view that exercise of discretion in all such

situations should be based on the assessment and judgment of the police functionaries concerned only. To prevent freakish or whimsical decisions in such matters some broad guidelines should be laid down to cover all such conceivable situations. Police Manuals which do not contain such guidelines at present should be appropriately amplified. These guidelines should be set out in clear terms and also made known to the public. *Ad hoc* views or policies declared on the spur of the moment and conveyed orally or otherwise from the executive hierarchy above should not be deemed equivalent to guidelines for such purposes. In the absence of a guideline, the matter should be left to the sole discretion of the police officer directly involved in the situation and should not be subject to directions from above, except where it falls within the legitimate supervisory responsibility of a higher functionary under the law.

Counselling role for police

14.46 We have already said that the police have a limited role in the field of prevention of crime. Even for performing this limited role, we feel that the police should have greater facilities recognised in law for dealing with different situations, in a less aggressive manner than through usual process of arrest, detention in custody. It is acknowledged that every individual member of the community can do a great deal to reduce the opportunities for commission of crime by taking due care of his person and property. In U.K. an important activity of the police is to advise people on how best they can keep their property secure. This is typified by the figures of the year 1976 according to which 40,000 persons were advised by the Metropolitan Police (Crime Prevention Mobile Advice Unit) on how to secure their house and motor-cars. In addition 20,000 surveys of premises were made and 1,900 talks given towards crime prevention. This advisory role of police is not recognised in our country. Such duties are performed here and there on the initiative of a few police officers but this performance is not institutionalised in the system. The use of a formal warning can also be helpful on occasions. Juveniles becoming wayward, taking drugs, pilfering objects out of bravado and smartness, could be warned on record and their parents duly advised. Persons in danger of falling into the clutches of criminals could be brought to the notice of social welfare organisations. Counselling and warning should be deemed legitimate as police activities towards prevention of crime and recognised as such in law.

Police and the prosecuting agency

14.47 We have already pointed out in para 6 *supra* the need for effective interaction between the police and the prosecuting agency at the stage of trial in court. We would recommend that this provision be recognised suitably in the Police Act itself.

Information system

14.48 A full and proper assessment of the various factors responsible for causing criminal behaviour in society will require a collated study of a variety of data and information not only from police records

but also from the proceedings and activities in courts, correctional institutions and jails. In depth studies made by social welfare organisations on some related subjects would also be relevant in this connection. We, therefore, feel that the building up of a good information system based on various inputs from the different wings of the criminal justice system is absolutely necessary for planning appropriate measures for prevention of crime and treatment of offenders. This information system has necessarily to be computerised to handle the increasing volume of data that is likely to pour in when once it is started. The police, as the premier law enforcement agency, should play a leading role in the organisation and maintenance of this information system. In another chapter of this report dealing with item 5 of our terms of reference we have described the detailed set up for maintaining crime records and all other relevant statistics and data for this purpose.

Service-oriented functions

14.49 Lastly we come to an important area of police work which is presently not recognised in law. That relates to service-oriented functions of police, which are meant to provide relief to persons in a distress situation. Even now policemen do render service of a general nature outside their statutory responsibilities connected with prevention and investigation of crimes as such, but this depends largely on their own initiative and interest, and not considered by them as a necessary part of their role. Situations of collective distress arise out of natural calamities such as cyclones and floods during which police perform numerous activities that are not related to either enforcement of law or maintenance of order. Examples are the rescue of the marooned, rendering first aid to the injured, clearing the debris, opening the roads, disposing of corpses and carcasses and helping in the distribution of food and clothing. In situations of individual distress involving a destitute or a lost woman or child, police are expected to help, but they generally do not on account of lack of emphasis on this role. Ideally a police post should be able to advise the citizens about their problems which they bring up before the police, whether they may or may not arise out of violations of law. For example, the victim of a crime may seek advice about the procedure for seeking compensation through civil laws. This kind of help is particularly important for victims of traffic accidents. Most important, it should be considered vital for police to so conduct themselves as to encourage people to seek their help, which must, to the extent possible, be given.

14.50 When a function is not duly recognised as important no preparation is made to discharge it well. For example, police have always been coming to the help of people during flood situations but no State police in India is really equipped for it : boats for rescue work do not exist in flood-prone districts, there is no disaster planning and policemen are never trained for it. While a State Police Manual may generally speak of police having to help a destitute, what precisely is the nature of help that may be rendered and what are the resources for rendering this help are not known to many police officers. We recommend that the police be trained and equipped properly to

perform these service-oriented functions. Counselling, which is a service activity par excellence, also requires preparation and training. Police officers will have to have a general knowledge of the functioning of various government offices, forms, procedures, locations, addresses etc. We recommend that the police should make a start in the metropolitan cities with this activity of counselling.

Conclusion

14.51 In the light of our observations in the foregoing paragraphs regarding the re-defined role, duties, powers and responsibilities of the police, we recommend that the new Police Act may spell out the duties and responsibilities of the police to—

- (i) promote and preserve public order ;
- (ii) investigate crimes, and where appropriate, to apprehend the offenders and participate in subsequent legal proceedings connected therewith ;
- (iii) identify problems and situations that are likely to result in commission of crimes ;
- (iv) reduce the opportunities for the commission of crimes through preventive patrol and other appropriate police measures ;
- (v) aid and co-operate with other relevant agencies in implementing other appropriate measures for prevention of crimes ;
- (vi) aid individuals who are in danger of physical harm ;
- (vii) create and maintain a feeling of security in the community ;
- (viii) facilitate orderly movement of people and vehicles ;
- (ix) counsel and resolve conflicts and promote amity ;
- (x) provide other appropriate services and afford relief to people in distress situations ;
- (xi) collect intelligence relating to matters affecting public peace and crimes in general including social and economic offences, national integrity and security ; and
- (xii) perform such other duties as may be enjoined on them by law for the time being in force.

Item (ii) above will give legal scope for police to be associated with the process of prosecution and have effective interaction with the prosecuting agency. Items (iii) and (v) will afford scope for police to be associated in a recognised manner with the other wings of the criminal justice system for preventing crime and reforming criminals. Items (ix) and (x) will facilitate the performance of service-oriented functions and will

also recognise a counselling and mediating role for the police in appropriate situations.

14.52 While closing this chapter we would like to observe that the police organisation should pursue certain objectives for effective role performance. These should be (1) to keep the organisation at a high pitch of efficiency particularly through effective personnel and financial management ; (2) enforce the law impartially and use discretion in accordance with given guidelines ; (3) accept the limitations of their

role and powers as something inherent in the democratic system and not look upon them as a handicap to be overcome somehow or the other ; (4) maintain effective working relationship with every sub-system of the criminal justice system and with community services and media ; (5) through research and study, continually update the training and the operating procedures of the organization ; (6) and, above all, ensure that every member of the organization renders service due and not service that is demanded, extracted or purchased.

CHAPTER XV

INTERFERENCE WITH AND MISUSE OF POLICE BY ILLEGAL OR IMPROPER ORDERS OR PRESSURE FROM POLITICAL, EXECUTIVE OR OTHER EXTRANEIOUS SOURCES—REMEDIAL MEASURES

Introduction

15.1 “Long years ago we made a tryst with destiny, and now the time comes when we shall redeem our pledge, not wholly or in full measure, but very substantially. At the stroke of the midnight hour, when the world sleeps, India will awake to life and freedom. A moment comes, which comes but rarely in history, when we step out from the old to the new, when an age ends, and when the soul of a nation, long suppressed, finds utterance. It is fitting that at this solemn moment we take the pledge of dedication to the service of India and her people and to the still larger cause of humanity..... We end today a period of ill fortune and India discovers herself again. The achievement we celebrate today is but a step, an opening of opportunity, to the greater triumphs and achievements that await us. Are we brave enough and wise enough to grasp this opportunity and accept the challenge of the future? . . . Freedom and power bring responsibility. That responsibility rests upon this Assembly, a sovereign body representing the sovereign people of India. . . . The service of India means the service of millions who suffer. It means the ending of poverty and ignorance and disease and inequality of opportunity. The ambition of the greatest man of our generation has been to wipe every tear from every eye. That may be beyond us, but as long as there are tears and suffering, so long our work will not be over. And so we have to labour and to work hard, to give reality to our dreams. . . .”—thus spoke Jawaharlal Nehru, our first Prime Minister, when he addressed the Constituent Assembly in New Delhi on the eve of Independence on 14th August, 1947. On the conclusion of this Assembly’s deliberation, we adopted, enacted and gave to ourselves the Constitution of India embodying all the fundamental concepts and principles of a socialist, secular democracy.

15.2 Looking back over the years that have rolled by since then, one is apt to question and doubt whether we have progressed well on the path of democracy and evolved smooth and successful working arrangements for the purposeful functioning of the three important wings of the democratic system : Legislature, Executive and the Judiciary. The Executive has two layers—the top layer constituted by the elected political leadership in Government and the lower layer covering the career executive, namely, the civil services. While steering the country towards the promised objectives of the socialist welfare State for its hundreds of millions of people, the Government have had to control and regulate in an increasing degree

the conduct and business of different sections of people through progressive legislation and other related measures. This has meant increasing exercise of power by the Government through its widely spread apparatus of the executive in several matters affecting the daily life of the people. National leaders, who were at the helm in different parts of the country in the first decade after Independence, conducted the affairs of the Government with great vision and wise statesmanship and set down patterns of conduct and inter-relationship between the political leadership in Government on the one side and the civil services on the other. Though not precisely defined, their respective roles were mutually understood fairly well and followed in practice. While the civil services had the benefit of lead and guidance in policy from the political leadership having in view the expectations and aspirations of the public, the political masters had the benefit of professional advice from the civil services regarding the different dimensions of the problems they had to solve. Great leaders and statesmen like Jawaharlal Nehru, Sardar Patel, Abul Kalam Azad, Rajagopalachari, Govind Ballabh Pant, Rafi Ahmed Kidwai, K. Kamaraj, B. C. Roy and Sri Krishna Sinha provided an atmosphere of dignity and sense of direction for the civil services to function honestly and efficiently, with public interests constantly held in view. Passing years saw the entry of a large variety of people into the field of politics and increasing contact between politicians and the executive at various levels in a variety of situations, including those caused by decreasing majorities in legislatures. Scope for exercise of power through the political leadership in Government induced political functionaries outside the Government to take undue interest in the conduct of Government affairs, and gradually the spectre of ‘political interference’ appeared on the scene. Police, as a part of the civil services, came within the ambit of this interference. In fact the police became specially vulnerable to interference from politicians because of the immense political advantage that could be readily reaped by misuse of police powers. The quality of police performance was and continues to be adversely affected by such interference. During our tours in several States and discussions with different sections of the public as well as services, we heard repeated references to the partisan performance of police owing to frequent interference and pressures from political, executive or other extraneous sources. We propose to deal with this malady in this chapter.

Pre-Independence Police

15.3 Prior to Independence police functioned *de jure* and *de facto* as an agency totally subordinate to the

executive and ever ready to carry out its commands ruthlessly, even though they may not always have been in genuine 'public interest' as viewed by the public. Though the concept of "rule of law" was introduced by the British regime, law enforcement was subject to the ultimate objective of protecting the British Crown and sustaining the British rule. In a criminal justice system in which the executive and judicial functions were combined in the same functionaries who constituted the magistracy, accountability to law was covertly subordinated to the executive will. Military strands of the organisation, with their emphasis on discipline and unquestioning obedience, made it easy for the Government to use or misuse the police as they wished.

Post-Independence Police

15.4 After long years of tradition of law enforcement subject to executive will under the British rule, the police entered their new role in independent India in 1947. The foreign power was replaced by a political party that came up through the democratic process as laid down in our Constitution. For a time things went well without any notice of any change, because of the corrective influences that were brought to bear on the administrative structure by the enlightened political leadership. However, as years passed by there was a qualitative change in the style of politics. The fervour of the freedom struggle and the concept of sacrifice that it implied faded out quickly, yielding place to new styles and norms of behaviour by politicians to whom politics became a career by itself. Prolonged one-party rule at the Centre and in the States for over 30 years coupled with the natural desire of ruling partymen to remain in positions of power resulted in the development of symbiotic relationship between politicians on one hand and the civil services on the other. Vested interests grew on both sides. What started as a normal interaction between the politicians and the services for the avowed objective of better administration with better awareness of public feelings and expectations, soon degenerated into different forms of intercession, intervention and interference with *mala fide* objectives unconnected with public interest.

15.5 The interaction of the political party in power with the civil services in general and the police in particular has also been considerably influenced by the tactics adopted by some political parties in opposition who believe in establishing their political presence only by continuously keeping up an agitationist posture. The manner in which different political parties have functioned, particularly on the eve of periodic elections, involve the free use of musclemen and Dadas to influence the attitude and conduct of sizeable sections of the electorate. Commenting on the last panchayat elections in Bihar the local correspondent of the "Hindu" reported as below in its issue of August 5, 1978 :—

"The Panchayat elections like the other elections in the recent past have demonstrated once again that there can be no sanity in Bihar as long as politics continue to be based on

caste and gangsterism. A significant pointer to this was the frank confession in the Assembly the other day by the Minister of Agriculture, Mr. Kapildeo Singh that he patronized and would continue to patronize gangsters and criminals to fight and win elections as long as the existing system of fighting is not changed. Speaking in the Assembly, Shri Singh declared : 'It is well known that each one of us, irrespective of all party affiliations, who is serious about fighting elections, patronizes anti-social elements and enlists their support. It is another matter that we do not admit this.'"

The involvement of such people in political activity brings in its wake anti-social elements who exploit their proximity to politicians to gain protection from possible police action under the law. The nexus between unscrupulous elements among politicians and such anti-social elements particularly affect the enforcement of social and economic enactments such as those against prostitution, gambling, smuggling, black-marketing, hoarding, adulteration, prohibition etc. whenever they involve politically influential accused. Arrest and enlargement on bail of persons involved in such offences and their subsequent prosecution in court attract political attention. This also results in some places in a kind of link being established between the elected representatives and the Station House Officer in the day to day affairs of the police station in which the local Dadas frequently get involved. This link facilitates the practice of corruption and other malpractices by the police and politician acting in collusion with each other.

15.6 Consequent on the agitationist posture taken up by some political parties in opposition, protest demonstrations, public meetings, processions, politically motivated strikes in the industrial sector, dharnas, gheraos, etc. have become a recurrent feature of political activity in the country. Police have been increasingly drawn into the resultant law and order situations and are expected by the ruling party to deal with all such situations with a political eye. Putting down political dissent has become a tacitly accepted objective of the police system.

15.7 The relationship that existed between the police and the foreign power before independence was allowed to continue with the only change that the foreign power was substituted by the political party in power. The basic law—Police Act of 1861—remained practically unaltered and no attempts were made to redefine the relationship between the police and the politically oriented Government. More and more time of the police was taken up with law and order work which really meant dealing with street situations in a manner that would cause maximum satisfaction to the ruling party. In the process, individual crimes affecting the interests of individual citizens by way of loss of their property or threat to their physical security got progressively neglected. Police got progressively nearer to the political party in power and correspondingly farther from the uncommitted general public of the country. Since most of the law and order situations

tended to have political overtones, the political party in power got habituated to taking a direct hand in directing and influencing police action in such situations. This has led to considerable misuse of police machinery at the behest of individuals and groups in political circles. Police performance under the compulsions of such an environment has consequently fallen far short of the requirements of law and impartial performance of duties on several occasions.

State Police Commissions

15.8 We notice that several State Police Commissions have also referred to this malady. The Punjab Police Commission (1961-62) said : "The evidence led before the Commission has disclosed that members of political parties, particularly of the ruling party, whether in the Legislature or outside, interfere considerably in the working of the police for unlawful ends. We have been told that politicians accompany complainants to police stations and try to influence the Station House Officer to take down reports implicating innocent persons against whom the complainant has enmity . . . no objection can be taken to politicians accompanying their constituents for lawful purposes but the objection is that they approach the Station House Officer for ulterior purposes and use their position to influence him. He is threatened that if he does not support them, they will bring orders from above for his transfer, or will otherwise harm him in his career. . . . the result of this political interference is disastrous and it has considerably and very seriously affected the police work in the State. The police are demoralised". The Kerala Police Reorganisation Committee (1959) said : "The greatest obstacle to efficient police administration flows from the domination of party politics under the State administration. Pressure is applied in varying degrees and so often affects different branches of administration. The result of partisan interference is often reflected in lawless enforcement of laws, inferior service and in general decline of police prestige followed by irresponsible criticism and consequent widening of the cleavage between the police and the public affecting the confidence of the public in the integrity and objectives of the police force". The Tamil Nadu Police Commission (1971) stated : "The problem of political interference is not a new one. It cannot be dated from February 1967. It has grown over the years, during the term of office of a number of different Ministers. And it has grown in spite of the most explicit public declarations made by successive Chief Ministers (including the present one) that there should be no political interference and they expect officers to do their duty without fear or favour, in the confident expectation of government support. . . . The problem is by no means peculiar to Tamil Nadu. The position in this State is no worse than in the best among other States and much better than in many". The West Bengal Police Commission (1960-61) found that there were frequent allegations that investigation of offences is sometimes sought to be interfered with by influential persons highly placed in society or office. . . . and concluded : "We have little doubt that such interference takes place, although it is difficult to say to what extent they are prevalent".

The Committee on Police Training set up by the Government of India (1972) reported : "There have been instances where Governments have been accused of using the police machinery for political ends. There are also instances of individual politicians interfering with the administration and the work of the police". The Committee had found a great deal of political interference in the administration as well as the operation of the police forces, particularly at the lower level. The Delhi Police Commission (1968) observed : "We have been informed that political interference is another rich source of corruption. Allegations have been made before us that some politicians resort to the device of securing the assistance of goondas and bad characters who are given protection by the police. This protection is the result of influence exercised by the politicians upon policemen. We are not in a position to say to what extent this allegation is true, and if there is a large substance of truth in it, but the evil undoubtedly exists. . . . and the only way to do away with it is to take a strong stand against political interference. This can come only from within the police force and the higher officers of the department should make it a code of their conduct to resist all kinds of unlawful interference and to see that their subordinates also do not permit themselves to be influenced by this kind of pressure".

Study by I.I.P.O.

15.9 The extent of political interference with police as perceived by the public is also revealed in a study conducted by the Indian Institute of Public Opinion, New Delhi at the instance of the Ministry of Home Affairs in September—December, 1978 regarding "Image of the Police in India". The study covered interviews with a total of 4,000 respondents, made up of a random sample of 1,000 each from the districts of Ballia (Uttar Pradesh), Ramanathapuram (Tamil Nadu) and Ranchi (Bihar), besides Delhi. The questionnaire for the study had three types of questions. One type was the unaided question where the respondent was free to indicate his own reply, without being restricted to alternatives posed by the questioner. The second was the 'aided' question in which the respondent had to indicate his choice among the specific alternatives proposed before him. The third was the 'priority' type where the responder had to indicate the relative priority of his preferences. Respondents were divided into two broad categories :—

- (i) Complainants, *i.e.*, those who had had direct interaction with the police; and
- (ii) Non-complainants, *i.e.*, those who did not have such interaction.

15.10 In answer to a question (unaided) regarding causes of misuse of power and disregard of law by the police, 33% in the complainant category identified the cause as "political pressures, interference by influential people". This item jointly shared top rating with another item "motivated by money and lack of morality" which was also identified by another 33% of the complainant category. All the other causes were rated lower. In the non-complainant category, "corruption" got the top-rating at 38%,

“political interference” was second with 31% and other causes fell well behind. In the complainant category, political pressure is more acutely perceived in rural areas (35%) as compared to urban areas (31%). The same position obtains in the non-complainant category also with 39% in rural areas and 22% in urban areas.

15.11 When the same question was repeated with a set of 14 alternative causes to elicit a well thought out answer, political interference took the first place, being mentioned by the highest number of respondents (81%), in the complainants category as well as non-complainant category. When the question was again repeated requesting the respondents to give priority ratings for the different causes, political interference was given the first priority by the largest number of respondents in the complainant category as well as non-complainant category, with all the other factors taking a lower priority.

15.12 The statistical tables of this study support the following conclusions :—

- (i) Political interference is seen by the public as a major factor contributing to the poor image of the police and manifests itself in the misuse and abuse of police powers and disregard of the law by the police;
- (ii) People consider political interference with police as a greater evil than even corruption ; and
- (iii) Political interference appears more pronounced in rural areas than in urban areas.

Examples

15.13 Some typical situations or matters in which pressure is brought to bear on the police by political, executive or other extraneous sources are listed below :

- (i) Arrest or non-arrest of a person against whom a case is taken up for investigation by the police.
- (ii) Deliberate handcuffing of a person in police custody merely to humiliate him.
- (iii) Release or non-release on bail after arrest.
- (iv) Suppression of material evidence that becomes available during searches by police.
- (v) Inclusion or non-inclusion in the charge-sheet placed in court on conclusion of investigation.
- (vi) 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.
- (vii) Taking persons into preventive custody to immobilise them from legitimate political activity in opposition to the party in power.
- (viii) Foisting false criminal cases against political functionaries for achieving political ends.

(ix) Discretionary enforcement of law while dealing with public order situations, with emphasis on severity and ruthlessness in regard to persons opposed to the ruling party.

(x) Manoeuvring police intervention by exaggerating a non-cognizable offence or engineering a false complaint to gain advantage over another party in a situation which will lie outside the domain of police action in the normal course.

(xi) Preparation of malicious and tendentious intelligence reports to facilitate action against an opponent.

Transfer or suspension weapon

15.14 Pressure on the police takes a variety of forms, ranging from a promise of career advancement and preferential treatment in service matters if the demand is yielded to, and a threat of drastic penal action and dis-favoured treatment in service matters if the pressure is resisted. While it is not possible to punish a police officer with a statutory punishment under the Discipline and Appeal Rules, without adequate grounds and following a prescribed procedure, it is very easy to subject him to administrative action by way of transfer or suspension on the basis of an alleged complaint taken up for inquiry. While suspension acts as a great humiliating factor, a transfer acts as a severe economic blow and disruption of the police officer's family, children's education, etc. The threat of transfer/suspension is the most potent weapon in the hands of the politician to bend down the police to his will. We have been told in several States about the frequent transfer of police personnel ordered on direct instructions from political levels in Government, in disregard of the rule that the transfer of the personnel concerned fell within the normal domain of the supervisory ranks within the police. We are aware of an instance in which the Inspector General of Police himself was transferred to an inconsequential post under the State Government immediately after he had shown his reluctance to issue orders for the transfer of a large number of police personnel as desired by the political leadership when he felt that the transfers were not justified on normal administrative grounds. A typical instance was brought to our notice in which even though the local commanding officer specifically pointed out the hardship and loss of morale that would result from the peremptory transfer ordered by a Minister, he was over-ruled and was asked to comply with the order forthwith. We were also informed of an instance in which an Inspector of Police, under orders of transfer issued by his departmental superiors, exclaimed publicly that he would soon get orders from above cancelling his own transfer order and transferring away his superior officer instead. The Inspector's transfer was in fact cancelled within the next few days and it was his superior officer who had to move out under the compulsion of a politically directed transfer order! The consequent serious damage to discipline and morale of the chain of command within the police system can be easily imagined.

15.15 We had commissioned the National Council of Applied Economic Research (NCAER) to make a sample survey of the living and working conditions of the constabulary in Delhi and Uttar Pradesh. Their study has *inter alia* revealed that about 53% and 43% of constables in Uttar Pradesh and Delhi respectively were transferred from one District to another or from one place to another in less than a year and they had mentioned it as a sore point of grievance. In their view the transfers were too frequent, *ad hoc* and arbitrary in nature, and were mostly ordered as a means of punishment and harassment, sometimes due to the influence of local politicians. During our tours in the States several officers brought to our notice this phenomenon of frequent and indiscriminate transfers ordered on political considerations. In one State, a Sub-Inspector broke down while narrating his story of 96 transfers in 28 years of his service! We analysed the frequency of transfers in different ranks in the States in the five year period 1973—1977 and found the following position in many States :

Rank	Average period of stay in the same post/ same station	
I.G.	1 year & 8 months	(In one State 6 IsG were changed, in three States 5 IsG were changed in this period).
S.P.	1 year & 7 months	(In one State it is as low as 11 months).
Sub-Inspector	1 year & 2 months	(In one State it is as low as 7 months and in three others it was 10 months)

In computing the above period, we have excluded the transfers arising from normal administrative reasons like promotion to a higher post, deputation to training or to a post under the Central Government, retirement, removal/dismissal from service, etc. The frequent changes of officers, particularly at the operational level of Sub-Inspectors in Police Stations and Superintendents of Police in districts coupled with frequent changes at the apex, namely, Inspector General of Police, have no doubt largely contributed to the sharp decline in the quality of police service down the line. Inspectors General in some States have been changed as often as the Chief Minister or Home Minister changed! The interests of real professional service to the public have been sacrificed at the altar of political expediency.

Sources of pressure

15.16 Political interference emanates not only from political functionaries in Government but also from others outside the Government who are connected in any manner with different political parties including the ruling party. Further, an individual's capacity to generate political pressure on the police is not necessarily linked with his formal association with a political party. He can operate through several links that are forged by considerations of money, caste, community, regional affinity, etc.

15.17 We are also aware that the unhealthy influences and pressures that are brought to bear on the police do not always originate from political sources alone. Capitalists, industrialists, businessmen, landlords and such others who form the richer and more influential sections of society have immense capacity to generate such pressures to operate at different levels in the police, either directly or indirectly through political sources, and influence the course of police action. Any corrective measure to deal with this malady has, therefore, to cover this pressure group also.

Repercussions of interference

15.18 Interference with the police system by extraneous sources, especially the politicians, encourages the police personnel to believe that their career advancement does not at all depend on the merits of their professional performance, but can be secured by currying favour with politicians who count. Politicking and hob-nobbing with functionaries outside the police system appear very worthwhile in the estimate of an average police officer. Deliberate and sustained cultivation of a few individuals on the political plane takes up all the time of a number of police personnel to the detriment of the performance of their normal professional jobs to the satisfaction of the general public at large. This process sets the system on the downward slope to decay and total ineffectiveness.

15.19 Apart from deterioration in the quality of police performance viewed from the public point of view, the exercise of such pressure on the police system from political and other extraneous sources immediately damages the control system and weakens the normal chain of command that has to operate efficiently if the discipline and health of the system are to be maintained. Interference at the operational level in police stations, police circles, etc. results in the total by-passing of the supervisory officers in the hierarchy. Subordinate officers see it in every day of their official life that their superior officers count little in the ultimate disposal of a matter which lies in the normal course within their official cognisance only. Decisions taken at a far higher level—political levels in government—are implemented without question at the operational level. The frequent by-passing of the normal chain of command results in the atrophy of the supervisory structure. It, therefore, fails to operate effectively even in matters which do not attract any such extraneous interference. This was strikingly seen in the situation arising from the policemen's stir in certain States in May-June 1979. It is also significant that the policemen's protest activity in this period, which mostly centred round the living and working conditions of the constabulary, is reported to have been triggered off by an alleged incident in one State in which a police constable was attempted to be victimised at the behest of a political functionary. The seriousness of the situation was recognised by the conference of Chief Ministers of States convened by the Union Home Minister on the 6th June, 1979, to discuss Police Reforms, with particular reference to the First Report we had submitted to Government in February 1979. In the note circulated by the Ministry of Home Affairs for this Conference, it was

noted that "there is a feeling in all States that interference not only in the matter of postings and transfers, but also in the matter of arrests, investigations and filling of charge-sheets in wide-spread. The principal grievance of the policemen is that if there is any unwillingness to comply with unlawful or improper suggestions, the persons concerned are harassed or humiliated". The note went on to observe further that "Government of India would like to impress upon the Chief Ministers that efforts should be made to ensure that there is no unlawful interference in the exercise of statutory powers. Secondly, in the matter of postings and transfers States should see to restore leadership and effectiveness of the official hierarchy with a view to ensure that the requisite rapport between the officers and the men is not further eroded". At the end of the deliberations of this conference the participants agreed that the "problems arising out of interference will bear effective solutions at the political level". The suggestion was noted that Chief Ministers might discuss with leaders of political parties the basis for some consensus on the issue. It was also agreed that a "similar effort at the national level would also be explored and the Home Minister will request the Prime Minister to initiate appropriate steps in this behalf".

Issue of illegal/irregular orders by State Governments

15.20 In their anxiety to ensure police performance in accordance with the appreciation of the situation by the political party in power, some State Governments are known to have issued executive instructions restricting the scope for police action even in situations where a specific line of action by police is enjoined on them by law itself. We have a typical instance in West Bengal in what has come to be known as the "Jay Engineering Works Case". This case arose from the executive instructions issued by the Government of West Bengal on 27th March, 1967, laying it down that in cases of "gherao" of industrial establishments by their workers resulting in the confinement of managerial and other staff, the matter should be referred to the Labour Minister and his directions obtained before deciding upon police intervention for the rescue of the confined personnel. When an affected party obtained an injunction from Calcutta High Court against the implementation of this order, a further order was issued by the State Government on 12th June, 1967, stating that "the police must not intervene in legitimate labour movements and that, in case of any complaint regarding unlawful activities in connection with such movements, the police must first investigate carefully whether the complaint has any basis in fact before proceeding to take any action provided under the law". Executive instructions conveyed in both these circulars were later struck down by Calcutta High Court as contrary to law, without jurisdiction and invalid. In view of the importance of the legal position clearly set out in this judgment, a copy of extracts from AIR 1968 Calcutta 407 (V 55 C 84) which give the ruling of the Court on the specific issues raised in this case along with copies of the three circulars dated 7th February, 1956, 27th March, 1967 and 12th June.

1967 of the Government of West Bengal, is enclosed as Appendix V.

15.21 We have seen another instance in another State (U.P.) where the following executive instructions were issued in March 1977, governing police action in law and order situations :

"Whenever a situation likely to have a bearing on the general law and order situation arises in the district, the Superintendent of Police will immediately inform the District Magistrate by the quickest means available and seek his instructions in regard to the steps to be taken to meet the situation, unless circumstances make it impracticable to do so. Further action to meet the situation will be taken according to the instructions of and in close and continuous consultation with and guidance from the District Magistrate."

[U.P. Government Order No. 7850/VIII-1-51-A/76 dated 21st March 1977]

This insistence on prior consultation with the executive functionary who has direct contact with Government before taking action to deal with a law and order situation would definitely inhibit the police from taking even such steps as are enjoined on them directly by law in a given situation. To that extent we feel that these executive instructions must be deemed to be illegal.

15.22 We are also aware that in several States executive instructions have been issued conferring a kind of supervisory and inspecting role on the subordinate executive magistrates *vis-a-vis* the police. Section 3 of the Police Act, 1861, runs as under :—

"3. SUPERINTENDENCE IN THE STATE GOVERNMENT—The superintendence of the police throughout a general police district shall vest in and be exercised by the State Government to which such district is subordinate, and except as authorised under the provisions of this Act, no person, officer or court shall be empowered by the State Government to supersede or control any police functionary."

The Act itself does not confer any supervisory or inspecting role on the subordinate ranks of executive magistrates in a district and, therefore, any executive instructions issued by the Government empowering them to control the police in any manner should be deemed to be illegal.

15.23 We have referred to the above-mentioned instances to underline the fact that in the garb of executive instructions that flow from the Government from time to time, attempts have been made to subordinate police personnel to executive requirements, without regard to the requirements of law as

such. Interference with police by political, executive or other extraneous sources have to be seen as a part of this philosophy and therefore, require to be analysed from the point of view of propriety or impropriety of such an approach.

Police during Emergency of 1975—77

15.24 The brazen manner in which the police were misused during the emergency of 1975—77 to subvert lawful procedures and serve purely political ends is brought out in Chapter XV of the Interim Report II dated 26th April, 1978, given by the Shah Commission of Inquiry, which is reproduced below :

“15.16 The Commission invites the Government’s attention pointedly to the manner in which the Police was used and allowed themselves to be used for purposes some of which were, to say the least, questionable. Some Police officers behaved as though they are not accountable at all to any public authority. The decision to arrest and release certain persons were entirely on political considerations which were intended to be favourable to the ruling party. Employing the police to the advantage of any political party is a sure source of subverting the rule of law. The Government must seriously consider the feasibility and the desirability of insulating the police from the politics of the country and employing it scrupulously on duties for which alone it is by law intended. The policemen must also be made to realise that politicking by them is outside the sphere of their domain and the Government would take a very serious view of it.

15.17 In this context the Commission can do no better than quote from one of the speeches of Sir Robert Mark, the ex-Chief Commissioner of Police, London. Its relevance for the Police of our country is self-evident. Sir Robert Mark says :—

‘Our authority under the law is strictly defined and we are personally liable for the consequences whenever we invoke it. We play no part in determining guilt or punishment and our accountability to the courts, both criminal and civil, to local police authorities, to Parliament and to public opinion is unsurpassed anywhere else in the world. In the legal and constitutional framework in which society requires us to enforce the laws enacted by its elected representatives, the most essential weapons in our armoury are not firearms, water cannon, tear gas or rubber bullets, but the confidence and support of the people on whose behalf we act. That confidence and support depends not only on the factors I have already mentioned but on our personal

and collective integrity and in particular on our long tradition of constitutional freedom from political interference in our operational role. Notwithstanding the heavy responsibilities for the policing of England and Wales given to the Home Secretary by the 1964 Police Act, it is important for you to understand that the police are not the servants of the Government at any level. We do not act at the behest of a minister or any political party, not even the party in government. We act on behalf of the people as a whole and the powers we exercise cannot be restricted or widened by anyone, save Parliament alone. It is this which above all else determines our relationship with the public, especially in relation to the maintenance of public order, and allows us to operate reasonably effectively with minimal numbers, limited powers and by the avoidance of force, or at least with the use only of such force as will be approved by the courts and by public opinion.’

‘To sum the position up for you in easily understandable and practical terms, a chief officer of police will always give the most careful consideration to any views or representations he may receive from his police authority, be it Home Secretary or police committee, on any issue affecting enforcement of the law, whether public order or anything else, but in England and Wales it is generally for him and him alone to decide what operational action to take and to answer for the consequences. In the case of the Commissioner of Police of the Metropolis his exercise of those responsibilities will no doubt be all the more scrupulous in that he alone of all chief police officers enjoys no security of tenure and that subject to parliamentary approval he may be removed by the Home Secretary.’

‘I emphasise this because while the police place great importance on their constitutional freedom the significance of their accountability should not be overlooked as a counter-balance to any improper use of it.’

15.18 The Commission feels that what applies to the police applies in equal measure to the Services as a whole. The politician who uses a public servant for purely political purposes and the public servant who allows himself to be so used are both debasing themselves and doing a signal disservice to the country.”

Political instability and politicisation of police

15.25 The phenomenon of political interference appears to have assumed larger dimensions particularly

after 1967 when the continued stability of the elected Governments in some States got disturbed and a period of political instability started. Increased political interference in such a context meant the increased division of the police personnel into different cliques and groups with different political leanings. A police force which does not remain outside politics but is constantly subjected to influences and pressures emanating within the system from the politicised police personnel themselves will in turn seriously disturb the stability of the duly elected political leadership in the State itself and thereby cause serious damage to the fabric of our democracy. This danger has to be realised with equal seriousness and concern by the politician as well as by the police.

15.26 The increasing scope for *mala fide* interaction between the politician and the police has also encouraged unscrupulous policemen at different levels to forge a working relationship with the politician for gaining undue career advantage, besides pecuniary advantage resulting from collusive corruption. The phenomenon of political interference has thus grown to enormous proportion, assiduously fed by vested interests among the police as well as the politicians. We are conscious that any remedial measures we might think of in this context will have to contend with resistance from such vested interests on both sides.

Experience in other democracies

15.27 On a survey of the existing situation as outlined in the foregoing paragraphs, any observer of the national scene is bound to feel extremely pessimistic and throw up his hands in despair. He may, however, draw some consolation from world history which indicates that perhaps this is an inevitable and passing phase in the growth of any young democracy.

15.28 An interesting study of the evolution of police reform in the United States of America by Robert M. Fogelson, Professor of Urban Studies and History at the Massachusetts Institute of Technology and Consultant for the President's Crime Commission, shows a remarkable similarity to some of the problems we are currently experiencing in the Indian police situation. The following extracts from Fogelson's study report, which depict the situation on the American scene around 1900, are relevant in this connection.

"Whoever dominated the police could assign to the polls hundreds of tough, well-armed, if not necessarily well-disciplined men, whose jobs, the politicians reminded them, depended on the outcome. Empowered to maintain order in the streets, the police decided whether or not to permit agitators to speak, protesters to march, and laborers to picket, and if so, judged whether or not the protests remained orderly. They also determined whether or not to intervene in racial, ethnic, and religious clashes, and if so, at what point, on whose side, with how many men, and with how much force. Whoever controlled the

police possessed an enviable flexibility to respond to confrontations and crises in ways consistent with their own political objectives, which was a tremendous advantage in a society so prone to group conflict.

* * *

The captain's wardman, a patrolman who collected the payoffs in the precinct, had more influence than many sergeants and roundsmen; and so did veteran patrolmen who were well regarded by local politicians. As every recruit who survived for long learned, most officers derived their prerogatives and influence as much from their political connections as from their official positions. Formal organization also corresponded poorly, if at all, with actual operation. The chiefs could not possibly know what went on outside headquarters; and their assistants, who owed their positions to the political organizations, would rarely tell them. The captains, who got their jobs through the ward bosses, felt no compunction about ignoring departmental instructions inconsistent with the injunctions of the local machines.

But as the investigative committees discovered, the police manuals were deceptive. Most politicians, including the Democrats who paid lip service to the concept of an apolitical police and the Republicans who criticized their opponents for interfering with the department, viewed control of the force as a prerogative of the party in power.

* * *

To secure an appointment, most candidates went not to the police commissioners or the police chiefs but straight to the New York district leaders, the Philadelphia ward leaders, the Chicago aldermen, and other influential politicians. Some politicians demanded a payoff: in the 1890s the going rate for a patrolman was \$300 in New York City and \$400 in San Francisco, according to investigating committees. But most politicians preferred evidence that the candidate and his friends or relatives had been helpful to the party in the past and could be counted on by the organization in the future.

* * *

As most patrolmen soon learned, the sympathetic concern of an influential politician was far better protection than the procedural safeguards of a departmental hearing."

15.29 Even the phenomenon of transfers at the dictates of political bosses was a noticeable feature in the American Police system. Fogelson's study report refers to an intransigent New York City officer who told a State Investigating Committee, "I have been transferred so continuously that I keep my goods packed ready to go at a minute's notice".

15.30 The direction of subsequent police reforms in the United States was towards strengthening the position of the police chief by giving him a reasonable tenure of office and reducing the scope for political interference. Policing was developed as a profession with emphasis on high admission standards, extensive training, and acquisition of a wide range of special skills. Policemen were made to subscribe to a Code of Ethics devoting themselves to the public interest.

15.31 In the United Kingdom the need to prevent political patronage from affecting the performance of civil services was recognised by the creation of the Civil Services Commission in 1855 which established independent civil services recruited through open competition. It, however, took nearly 15 years for the political parties to relinquish the patronage they had till then enjoyed and agree to the new arrangement. The experience of several other democracies has also shown the need for evolving healthy norms in the interaction between the political leadership in Government and the executive services, to ensure that each section performs its duly recognised role and benefits by the corrective influence from the other in constantly serving the cause of public interest.

15.32 We have already observed how in the early years after independence the political leadership provided by well-motivated administrators and statesmen had in fact enabled the services including the police to function effectively in the best interests of the public at large. We feel confident that the existing situation can certainly be corrected and we can evolve practicable remedial measures to bring about a healthy functioning of the police with helpful and wise guidance from the elected representatives of the people.

Remedial measures

15.33 Before we proceed to set out some possible remedial measures we would like to clarify at this stage the ambit of the meaning of certain terms we will be frequently using in our Report while dealing with this subject.

Some definitions

15.34 The term "politician" will denote any person who indulges in political activity of any kind, directly or indirectly, either as a formal member of a political party or otherwise. Political functionaries in government, like Ministers and Deputy Ministers will be referred to by the term "political executive". The mere term "executive" without the suffix 'political' will be used to refer to the normal career executives in government. The meanings of the words 'intercede', 'intervene' and 'interfere' require to be well understood to appreciate the points that will be made in the paragraphs to follow. A may be said to intercede in a situation with B if he merely pleads with B on behalf of another person to make B better understand the representation of the other person. A may be deemed to have intervened in a situation with B if by such intercession he seeks to modify the disposal of a matter by B without in any way bringing any kind of pressure

on B. Lastly, A may be said to interfere with B in the discharge of the latter's functions if A directs B or exerts pressure directly or indirectly on B to act or omit to act in a manner otherwise than on B's own judgment and assessment of the relevant facts. However, it shall not amount to 'interference' if A has the direct supervisory responsibility over B and has the concurrent power to act as aforesaid under the law or rules or duly recognised procedure and takes direct responsibility for the orders.

Shah Commission's observations

15.35 We would commence our analysis of the problem by quoting the following observations in Chapter XXIV of the Third and Final Report dated 6th August, 1978 of the Shah Commission of Inquiry :

"Para 24.10—The political system that our Constitution has given to our country is such that it contemplates parties with different political ideologies administering the affairs of the Centre and the State Governments. It is necessary in the interest of the territorial, political and economic integrity of the nation to ensure that the factors which contribute to such integrity are forever and continuously strengthened and not impaired. One such factor, and a very important and decisive one, is the body of public servants at various levels and particularly those at the decision making levels belonging to the different disciplines and functioning in the States and at the Centre. If the basic unity and territorial integrity of the country is to be emphasised at the political level it is imperative to ensure that the officials at the decision making levels are protected and immunised from threats or pressures so that they can function in a manner in which they are governed by one single consideration—the promotion of public well-being and the upholding of the fundamentals of the Constitution and the rule of law. The Government ought to ensure this, if necessary, by providing adequate and effective safeguards to which the officials may turn if and when necessary against any actual or attempted threats by the political and/or administrative authorities to sway the officials from performance of their legitimate duties.

* * *
* * *

Para 24.17..... If a recurrence of this type of subversion is to be prevented, the system must be overhauled with a view to strengthen it in a manner that the functionaries working the system do so in an atmosphere free from the fear of the consequences of their lawful actions and in a spirit calculated to promote the integrity and welfare of the Nation and the rule of law.

This will call for considerable heart-searching both at the political and the administrative levels. Both the groups, during the period of the emergency, sadly deviated from their respective legitimate roles of duty, trespassing into each other's areas with the consequences that are there for all to see and many to lament. If the officials on the one side and the politicians on the other do not limit their areas of operation to their accepted and acknowledged fields, this Nation cannot be kept safe for working a democratic system of Government. . ."

Our principal task in this exercise will, therefore, be to spell out as precisely as possible the areas in which political functionaries including the political executive may have legitimate facility for interaction/intercession and intervention with the career executive which will naturally include the police, and to further spell out the appropriate safeguards to ensure that this facility does not lead to unauthorised interference with the executive.

Government's superintendence over police

15.36 The phenomenon of 'interference' with police is, in popular estimate and belief, linked with the existing system of control over the police by the political executive in Government. It has been argued before us by functionaries in the political executive in some States that the Minister in charge of police has to account for and defend police performance in the State Legislature and in order to fulfil this responsibility properly he must have full control over the police. According to them the police cannot be conceived as an agency independent of Government control. Everyone will readily agree that while attempting to insulate the police from unauthorised interference from political and other extraneous sources, we should not confer a totally independent status on the police which would then make it function as a 'State within a State'. Our object, however, is to devise a system in which police will have professional and operational independence, particularly in matters in which their duties and responsibilities are categorically specified in law with little or no room for discretion and at the same time their overall performance can be effectively monitored and kept within the framework of law by an agency which will involve the Government also. In the existing set up the Government seeks to have full control over the police by virtue of Section 3 of the Police Act, 1861 according to which "Superintendence of the police throughout a general police district shall vest in and shall be exercised by the State Government to which such district is subordinate". While evolving ideas regarding the nature of relationship between the Government and the police that would be desirable in public interest in a democracy, we have examined the scope of supervision and control that can be deemed to flow from the word 'superintendence' occurring in the above section of law. In this context we have seen some rulings of the Supreme Court relating to article 227 of the Constitution according

S/ 11 HA/79-5

to which "Every High Court shall have superintendence over all Courts subject to its appellate jurisdiction". The purport of some relevant observations of the Supreme Court is furnished below :—

- (i) The general superintendence which the High Court has over all courts and tribunals is a duty to keep them within bounds of the authority and to see that they do what their duty requires and they do it in a legal manner. It does not involve responsibility for the correctness of the decisions of the subordinate tribunals either in fact or in law—AIR 1971(SC) 315.
- (ii) An error of fact or law resulting in a tribunal exercising jurisdiction not vested in it by law or in having failed to exercise jurisdiction vested in it by law, both come within the scope of superintendence of the High Court. Apart from matters relating to jurisdiction, flagrant abuse of elementary principles of justice, manifest error patent on face of record, or an outrageous miscarriage of justice, all call for exercise of powers by way of superintendence—1971 CRLJ 134—1971 BLJ 116.
- (iii) The power should be restricted to *interference* in case of grave dereliction of duty for which no other remedy is available and which would have serious consequences if not remedied. The High Court cannot under the 'superintendence' powers go into the merits of the dispute before the inferior court or tribunal in the absence of grounds such as, one of jurisdiction, grave irregularity of procedure, resulting in prejudice to the detriment to one of the parties and so on—AIR 1953 (SC)—58-59.
- (iv) Ordinarily there should be no interference by the High Courts with the decisions of the inferior courts or tribunals in matters which are left by law to the discretion of the inferior tribunal or court—AIR 1972 HP 24.

15.37 From these observations it may be seen that the power of superintendence by the High Court is generally exercisable in the following category of cases :—

- (i) Lower court or tribunal acting without jurisdiction.
- (ii) Lower court or tribunal refusing or failing to exercise jurisdiction or to do its duty.
- (iii) Conflict of jurisdiction (interference only when there is no other remedy).
- (iv) Refusal or failure to proceed with a case.
- (v) Proceeding contrary to principles of natural justice.

- (vi) Personal interest of Judge in the issue to be decided.
- (vii) Illegal orders of the court.
- (viii) Patently erroneous decision on facts.

15.38 Having regard to the general principles enunciated above in regard to judiciary, we feel that it would be appropriate to lay down that the power of superintendence of the State Government over the police should be limited for the purpose of ensuring that police performance is in strict accordance with law.

Police tasks—categorisation

15.39 Police tasks may be broadly divided into three categories for the purpose of this analysis. They are (i) investigative ; (ii) preventive and (iii) service-oriented. Investigative tasks will include all action taken by the police in the course of investigating a case under Chapter XII of the Code of Criminal Procedure. Preventive tasks will cover such actions like preventive arrests under section 151 Cr. P.C., initiation of security proceedings, arrangement of beats and patrols, collection of intelligence and maintenance of crime records to plan and execute appropriate preventive action, deployment of police force as a preventive measure when breach of peace is threatened, handling of unlawful assemblies and their dispersal, etc. Service-oriented functions will include rendering service of a general nature during fairs and festivals, rescuing children lost in crowds, providing relief in distress situations arising from natural calamities, etc.

Investigative tasks—professional independence

15.40 As far as investigative tasks are concerned we have a clear ruling from the Supreme Court that the nature of action to be taken on conclusion of investigation is a matter to be decided by the police only and by no other authority—*vide* para 18 of the Supreme Court judgment in criminal appeal No. 218 of 1966 reported in AIR 1968 Supreme Court 117 (V 55 C 32). In view of the importance of this judgment which sets out a fundamental principle, a copy thereof is furnished in Appendix-VI. It may, therefore, be safely projected as a fundamental principle governing police work that the investigative tasks of the police are beyond any kind of intervention by the executive or non-executive. Any arrangement in which the investigative tasks of the police are sought to be brought under executive control and direction would go against this fundamental principle spelt out by the Supreme Court and hence should be deemed illegal. We would, therefore, recommend in the first place that all the executive instructions issued by the government having a bearing on investigative tasks of the police may be scrutinised and either cancelled or modified to conform to the above principle.

15.41 If, during the pendency of an investigation, any person including a political functionary gets information which he feels should be passed on to the

police for appropriate follow up action during the course of investigation itself, he should merely pass on such information to the police without in any way attempting to interfere with the investigation.

Preventive tasks and service-oriented functions— Policy control by Government

15.42 In the performance of preventive tasks and service-oriented functions, the police will need to interact with other governmental agencies and service organisations. For example, in planning preventive measures in a near-strike situation in an educational institution or an industrial unit, police will have to keep in touch with the educational authorities or the labour departmental authorities to have a proper perception of the developing situation. In the performance of such preventive tasks there is considerable scope for exercise of discretion, having in view the overall public interests involved in any particular situation. Every police officer should normally be left free to exercise this discretion on his own judgment but there may be situations the disposal of which may have repercussions beyond the jurisdiction of one police officer and it will become necessary in such cases for the supervisory ranks to step in and exercise discretion at their level. Extending this analogy one can visualise a State wide situation in which the exercise of discretion in regard to preventive tasks may have to take into account several factors of State wide significance and it would be appropriate in public interest that the exercise of discretion in such situations conforms to some policy approach that may be evolved at the highest political level in the government which has the ultimate responsibility for proper governance of the State. We, therefore, recommend that in the performance of preventive tasks and service-oriented functions police should be subject to the overall guidance from the government which should lay down broad policies for adoption in different situations from time to time. There should, however, be no instructions in regard to actual operations in the field. The discretion of the police officer to deal with the situation, within the four corners of the overall guidance and broad policies, should be unfettered. An erring officer can always be made accountable for his action. Such policy directions should be openly given and made known to the State Legislatures also as and when occasion demands.

Tenure of office for the Chief of Police

15.43 We have already referred to the weakening of the normal chain of command resulting from unauthorised interference with police work by political and other extraneous sources. To restore the capacity of the police as an organization to resist such pressures and illegal or irregular orders, we consider it would be extremely useful if the Chief of Police in a State is assured of a statutory tenure of office, without the Damocles' sword of transfer hanging over his head all the time, subject to political whim. Such a tenure of office will strengthen his position and enable him to stand up effectively against such pressures on the system. The tenure may be fixed as a period of four years or a period extending upto the date of his retirement or promotion in the normal

course, whichever is shorter. This tenure should be put on a statutory basis by being included in a specific provision in the Police Act itself. It shall also be provided that the removal of the Chief of Police from his post before the expiry of the tenure period shall require approval from the State Security Commission as proposed in paragraph 15.46 infra, except when the removal is consequent on—

- (i) a punishment of dismissal/removal/compulsory retirement from service or reduction to a lower post, awarded under the provisions of All India Services (Discipline and Appeal) Rules ; or
- (ii) suspension ordered under the provisions of the above said Rules ; or
- (iii) retirement from service on superannuation in the normal course ; or
- (iv) promotion to a higher ranking post either under the State Government or the Central Government, provided the officer had given his consent to the posting on promotion.

15.44 It shall be further provided that an officer who has functioned as Chief of Police shall, on retirement from service, be barred from re-employment under the State Government or the Central Government or in any public undertaking in which the State or the Central Government have a financial interest.

Appointment of Chief of Police

15.45 Any arrangement of protecting a functionary like the Chief of Police with an assured tenure of office has necessarily to be accompanied by a procedure to ensure a proper selection of the person so that the protection is not put to abuse. For this purpose we recommend that the posting of Chief of Police in a State should be from a panel of IPS officers of that State cadre prepared by a Committee of which the Chairman of the Union Public Service Commission will be the Chairman and the Union Home Secretary, the seniormost among the Heads of Central Police Organisations, the Chief Secretary of the State and the existing Chief of Police in the State will be Members. In the absence of the Chairman of the Union Public Service Commission, the seniormost Member of the Commission shall chair the Committee. The panel should not have more than three names at any time. Posting from the panel should be according to seniority : We visualise that in the future police set up at the Centre and in the States, the Chiefs of State Police and the Heads of Central Police Organisations will be of comparable status and it should be possible for the Central and State Governments to arrange for periodic inter-change of officers at this level without involving any loss of rank or status as experienced now. The association of the Central Government and the State Government in jointly preparing this panel would ensure its acceptability to both and facilitate smooth inter-change of officers at the highest level in the normal course.

State Security Commission

15.46 We have already given our views on the scope of the power of superintendence of the State Government over the police and the necessary limitations within which that power has to be exercised if the police were to function as servants of law truly and efficiently. It would not be enough to secure the desired objective if lofty principles are merely enunciated and the existing control mechanism is allowed to operate in practice without any change. There is immediate need to devise a new mechanism of control and supervision which would help the State Government to discharge this superintending responsibility in an open manner under the framework of law, with due regard to healthy norms and conventions that may develop in due course. For this purpose we recommend the constitution of a statutory Commission in each State which may be called the State Security Commission which shall have the State Minister incharge of police as the *ex-officio* Chairman and six others as Members. Two Members shall be chosen from the State Legislature, one from the ruling party and another from the opposition parties. They shall be appointed to this Commission on the advice of the Speaker of the State Legislature. The remaining four members of the Commission shall be appointed by the Chief Minister, subject to approval by the State Legislature, from retired judges of the High Court, retired Government servants who had functioned in senior positions in the Government while in service, social scientists or academicians of public standing and eminence. The Chief of Police will *ex-officio* function as Secretary of this Commission which shall have its own Secretariat for the transaction of its business. Arrangement of funds for the functioning of this Commission will be made on the same lines as for the State Public Service Commission.

15.47 The term of the Members of the Commission (other than the Chairman) shall be three years. If any among the four non-political Members were to join a political party after being appointed to the Commission, he shall immediately cease to be a Member of the Commission and the vacancy shall be filled by fresh appointment from the non-political category.

15.48 The functions of the State Security Commission shall include—

- (i) laying down broad policy guidelines and directions for the performance of preventive tasks and service-oriented functions by the police ;
- (ii) evaluation of the performance of the State Police every year and presenting a report to the State Legislature ;
- (iii) functioning as a forum of appeal for disposing of representations from any police officer of the rank of Superintendent of Police and above regarding his being subjected to illegal or irregular orders in the performance of his duties ;

- (iv) functioning as a forum of appeal for disposing of representations from police officers regarding promotion to the rank of Superintendent of Police and above; and
- (v) generally keeping in review the functioning of the police in the State.

15.49 The Commission shall devise its own procedures for transaction of business. It shall be open to the Chairman and Members of the Commission and also the Chief of Police to bring up for consideration by the Commission, any subject falling within its jurisdiction.

15.50 The Commission shall meet at least once every month and may meet more often, if required by the Chairman or Members of the Commission or the Chief of Police for considering any particular subject proposed by them.

15.51 As the Chairman of the Commission, the Minister-in-charge of police will be able to project the government point of view during the Commission's deliberations. Any policy direction or guidelines which the government desire to issue shall have to be agreed to by the Commission before they are passed on to the police for implementation. However, in an emergency, the Government may directly issue a policy direction or guidelines in regard to a specific situation, but such direction or guidelines shall as soon as possible be brought before the Commission for ratification and be subject to such modifications as the Commission might decide.

15.52 In recommending the constitution of a State Security Commission as outlined above, we have taken into consideration the various suggestions received in this regard from different sections of the public as also the services in response to our questionnaire in which we had posed this suggestion and sought their reactions. Analysis of the replies received to our questionnaire shows an interesting pattern of response. A majority of respondents from the administration outside the police have favoured strengthening of the existing executive control without the intervention of a separate Commission as proposed. On the other hand a large majority of police officers have wholeheartedly welcomed the constitution of such a Commission. Leaving aside these sections of services which are intimately and directly involved in the present arrangements and, therefore, may be biased one way or the other, we find that a good majority of the other respondents from the judiciary, lawyers, businessmen, elected representatives and the general public have favoured the idea of such a Commission.

15.53 The constitution of the Security Commission as visualised above would ensure its overall non-political character though it would, in its internal deliberations, have scope for taking into account political views as may be reflected by the Chairman and the two political Members. When we discussed the proposed set up of the Commission with a cross-section of the public as well as services in different

States, we heard comments that in the present set up of the country it would be difficult, if not impossible, to find a non-political being! We consider this to be a somewhat cynical and defeatist view of the matter. We are firmly of the opinion that a beginning has to be made to set up an institution like the proposed State Security Commission to ensure political neutrality in police performance. There may be reservations and doubts to begin with, but we are confident that as the system gets going, it would soon acquire maturity and effectiveness to the satisfaction of the general public.

Amendment to Section 3 of the Police Act, 1861

15.54 The constitution of such a Commission will, in our opinion, help considerably in making police performance politically neutral. While retaining governmental responsibility for overseeing the police, this Commission will ensure that this responsibility is discharged in an open manner with publicly known policy directions and guidelines. The arrangements of an annual evaluation report from the same Commission and constant review of the functioning of the police by it would also further ensure that police performance in any given period has conformed to the prescribed policy directions and guidelines and has served public interests in the best possible manner. We recommend that the limits of supervisory responsibility of the State Government in regard to police performance as observed in paras 15.36 to 15.38 above, and the constitution of a State Security Commission as proposed above to help the State Government in discharging this responsibility may be spelt out in a new provision in the Police Act in replacement of the existing Section 3 of that Act.

Intelligence wing of the police

15.55 A sensitive area of police functions with considerable scope for misuse of police relates to collection of intelligence. Under the garb of having to collect intelligence regarding matters which have a bearing on the law and order situation and internal security in the State, the intelligence wing of the State Police frequently collects a variety of information regarding activities of political parties and individual politicians. It is a fact that the style of functioning of certain political parties and individuals with certain political ideologies has sometimes led to disturbances to public order. Collection of intelligence regarding activities which are likely to lead to such situations becomes a necessary part of the preventive functions of the police. The assessment whether the activity of a particular party or group or individual is likely to lead to a public order situation as such, is sometimes made by the police functionaries in the intelligence wing, not on their own judgment but on directions or indications emanating from the political leadership in Government at a given point of time. When this assessment is made at the instance of the political executive, it is likely to be coloured by political considerations in preference to the actual requirement of the interests of the public or the State as such. This very often leads to misuse of the intelligence wing to collect intelligence in political matters, not strictly relatable to public order or internal security. In this context, the Shah Commission of Inquiry has referred to

some aspects of the functioning of the Intelligence Bureau and the Central Bureau of Investigation at the Centre and has pointed out the need for appropriate safeguards to be evolved to ensure that these organisations are not put to misuse by the Government or some one in the Government. We would like to point out that the tendency to misuse these organisations would get accentuated by political instability in Government and, viewed from this angle, the functionaries in these organisations would need protection from improper and unhealthy pulls and pressures that might operate in such situations. We understand from the Ministry of Home Affairs that they have recently received the Report of the high-level Committee headed by Shri L. P. Singh, a former Home Secretary and presently Governor of Assam, Meghalaya, Nagaland, Manipur and Tripura, which was appointed in pursuance of the observations of the Shah Commission of Inquiry regarding the Intelligence Bureau and the Central Bureau of Investigation. The points that may emerge from the analysis of L. P. Singh Committee Report would, in our opinion, be applicable in a substantial measure to the working of the intelligence wing in the State Police as also the State Anti-Corruption agencies. We recommend that Central Government may communicate to the State Governments the essential observations and recommendations emanating from the L. P. Singh Committee Report for their information and further action in regard to their own agencies, not only for overseeing their performance but also for protecting them from unhealthy influences.

Policemen's involvement with political individuals and parties

15.56 Conduct Rules prohibit all Government servants including the police personnel from being members of or otherwise being associated with any political party, or any organisation which takes part in politics. They are also required to endeavour to prevent any member of their family from taking similar part in politics. Canvassing or otherwise interfering with or using their influence in connection with any election is also prohibited—*vide* Rule 5 of the All India Services (Conduct) Rules and Rule 5 of the Central Civil Services (Conduct) Rules. However, in practice this important Conduct Rule does not appear to have been enforced with the required strictness and severity. It is well known that in the symbiotic relationship that has developed between the politicians and the executive, several police personnel have developed close contacts with politicians and are known to seek political influence and interference to secure undue advantages at different stages in their career. We find that the number of instances in which police personnel get punished for infringement of this Conduct Rule are very rare. We would recommend that the administration should take a severe view of any infringement of the above mentioned conduct rule and deal with erring officers in a deterrent manner. In appropriate cases resort may also be had to article 311(2)(b) or (c) to weed out such personnel from the system. In cases where this constitutional

provision is invoked, all the available material against the police personnel concerned should be scrutinised by a small Committee under the Chairmanship of the Chief of Police. Members of this Committee may be drawn from senior ranks in the prosecuting agency set up of the State and police officers of the rank of Deputy Inspector General of Police (other than the one who may have been concerned either directly or in a supervisory capacity with the situations or instances that figure in the material for consideration by the Committee).

Political infiltration into police

15.57 We would also like to point out another danger in this context—the danger of political infiltration into the police system. It is conceivable that some political parties adopt a deliberate strategy of injecting into the police system, through channels of recruitment at different levels, young men who are strongly committed to the ideologies of the political party and could be expected to influence, from within, the functioning of the police system to conform to these ideologies. While we do not hold any brief for or against any political party to say that the membership thereof or association therewith should not or should act as a bar for recruitment to the police at any level, we would state emphatically that the continued involvement in political activity of any kind either directly or indirectly by any personnel after joining the police at any level should not be tolerated in any circumstances. The weeding out of such persons should receive special attention of the Chief of Police from time to time. Here again, recourse may be had to the provisions of article 311(2)(b) or (c) of the Constitution, if need be in appropriate cases.

Transfer/Suspension of police personnel

15.58 We have already referred to the threat continuously faced by police officers in the shape of frequent transfers, suspensions, etc. ordered by the government on political considerations. An analysis of suspensions ordered in a few States in 1977 has shown that in the rank of Inspectors 27% of suspensions were actually ordered by authorities higher than the authority normally competent to order their suspension. In the case of Sub-Inspectors this percentage is 16. This indicates the trend of interference from a higher level to bring about the suspension of officers when the normally competent authority to order a suspension may not consider it necessary to do so. We feel that police officers should be effectively protected from such whimsical and *mala fide* transfer/suspension orders. One step for securing this protection could be to incorporate a provision in the Police Act itself specifying the authorities competent to issue transfer/suspension orders regarding different ranks. Such a statutory provision would render null and void any transfer/suspension order passed by any authority other than those specified in the Act. This would be an improvement over the present position where the powers of transfer/suspension are merely spelt out in rules or executive instructions which can always be overruled by the government as and when it feels like doing so for reasons of its own.

15.59 Another step could be to lay down as a rule that every transfer/suspension order should also contain a brief paragraph indicating the reasons for the issue of the order, and making it a further rule that any transfer/suspension order which does not contain this explanatory paragraph shall not be a valid order. The advantage in this arrangement would be that the recipient of the transfer/suspension order will have some material with him which he can agitate before the authorised available forums if he feels that the reasons are *mala fide* or otherwise not sustainable.

Oral orders

15.60 Situations arising from oral orders issued by the supervisory officers including the political executive, while on tour or otherwise, are known to cause considerable embarrassment to the field officers when the orders happen to require the commission of illegal, irregular, improper or unjust acts. A few State Governments have issued instructions in the recent past for the guidance of officers to ensure proper conduct. The purport of these instructions is that the officer receiving such oral instructions should make a record of the instructions and get it confirmed by the superior officer concerned. We are aware that an administrative apparatus would get badly cramped and become ineffective in day to day service to the public if it is rigidly insisted that no functionary need take action under orders from a higher ranking functionary in the normal line of supervision unless the order is in writing. Several situations may occur in daily life in which a supervisory functionary on the spot may give oral orders for immediate execution by the subordinate functionaries concerned. Several such situations can be easily imagined in law and order matters. We are, therefore, not in favour of enunciating any rigid rule that every order that flows from one level to the lower level in administrative hierarchy should be in writing before the intended action is taken. While oral orders cannot be shut out totally from the administrative system, they can and should certainly be avoided in situations which do not involve any element of urgency and can wait for the oral orders to be confirmed in writing before the intended action is initiated. Our recommendation would, therefore, be that—

- (i) oral orders should be avoided as far as possible and may be resorted to only in situations which call for immediate executive action and cannot wait for the issue of written orders in confirmation of the oral order;
- (ii) a record of every oral order be kept both by the issuing officer and the recipient officer in the relevant files; and
- (iii) a subordinate officer receiving oral orders from a higher ranking officer shall be entitled to ask for and get confirmatory orders in writing from the higher functionary, for record.

Interaction between elected representatives and the police

15.61 In any democratic system we must have facilities for the elected representatives to interact

with the executive at different levels for bringing to the notice of the executive whatever information the elected representatives may have in which they feel the need for some kind of corrective action in the interests of justice. We must keep open all scope for such interaction. Persons subjected to flagrant injustice by executive action will be inclined to share their grief and disappointment with several others in public including the elected representatives and will expect them to do something to set matters right. While conceding the need for interaction between elected representatives and the executive in such situations, we are anxious to ensure that this does not lead to unauthorised interference as such with the performance of the executive. We, therefore, feel that if as a code of conduct it is laid down that elected representatives will interact with the police at the level of the Deputy Superintendent of Police or above only it would avoid situations in which the executives at the operational level in police stations and circles may be overawed by the stature of the political functionary and may be inclined to accept and act upon whatever information he passes on to them without making the necessary check and verification which they might make normally.

Conduct Rules for Police

15.62 In regard to the representations or information which elected representatives of the people may have to communicate to Government servants (including the police) existing instructions emphasise that while the Government servants should consider carefully and listen patiently to what the elected representatives may have to say, they (*i.e.* Government servants) should always act according to their own best judgment. These instructions are contained in the following references :

- (i) Government of India, Department of Personnel and Administrative Reforms, letter No. 25/19/64-Ests (A) dated 29th April, 1975 addressed to Chief Secretaries of all the State Governments.
- (ii) Circular No. PMG-1075/XVIII(O&M) dated 25-11-1975 issued by the Government of Maharashtra, General Administration Department.
- (iii) G. O. Ms. No. 976 dated 24th May, 1969, issued by the Government of Tamil Nadu, Public (Services A) Department, Madras to all Heads of Departments.

In this context it will be relevant to refer to rule 3(3) of the All India Services (Conduct) Rules, 1968, which is reproduced below :

“No member of the Service shall, in the performance of his official duties or in exercise of powers conferred on him—

- (i) act otherwise than in his best judgment except when he is acting under the direction of his official superior and he shall obtain such direction in writing, wherever practicable, and where it is not practicable, he shall obtain written confirmation as soon thereafter as possible ; and

- (ii) evade the responsibility devolving legitimately on him and seek instruction from, or approval of, a superior authority when such instruction or approval is not necessary in the scheme of distribution of powers and responsibilities.

The same rule is embodied in rule 3(2)(ii) of the Central Civil Services (Conduct) Rules, 1964. However, this does not find a place in the Conduct Rules in several States which are applicable to the police personnel. We would recommend the adoption of this rule in the Conduct Rules applicable to police personnel of all ranks in all States.

Code of Conduct for Legislators

15.63 The conduct of Government servants (including the police) can be controlled and guided by the issue of rules and instructions and enforcing their strict compliance in actual practice. If, however, the political functionaries, whose conduct is not subject to such rules and regulations, do not change their present attitudes and approach to this matter, their inclination to interfere with the executive including the police will continue in some form or other. While on one side we may be thinking of several remedial measures to enable the executive to resist this interference, our objective can be achieved in a substantial measure only when the political functionaries also change their style of functioning. In the Government of India, Department of Personnel & Administrative Reforms letter No. 25/19/64-Ests. (A) dated 29th April, 1975, addressed to the Chief Secretaries of all the State Governments, it was indicated that a Code of Conduct of Legislators was being separately processed by the Ministry of Home Affairs. Our enquiries reveal that this Code of Conduct for Legislators has not yet taken any shape. We recommend that the Ministry of Home Affairs complete their exercise expeditiously and have the Code issued very soon so that the elected representatives as also the general public at large may know and appreciate the requirements of ethics and propriety in this important and sensitive matter. We also trust that the contemplated exercise on the political plane as decided at the Chief Ministers' Conference of 6th June, 1979 (*vide* para 15.19 above) will be taken up in right earnest and completed soon.

Declaration by police personnel at the time of appointment

15.64 To bring home the primacy of the rule of law in a democracy and the paramount duty of every police officer to recognise this primacy and stoutly resist any interference with the course of his duties as enjoined by law and in accordance with the Constitution, we feel it would be appropriate if every member of the police is made to swear or solemnly affirm a declaration embodying this fundamental principle, at the time of his joining the police, whatever be the rank of entry. Police regulations in States do not envisage any separate affirmation or declaration by police officers, but in common with other Government servants they are required to sign a simple declaration proclaiming their allegiance to India and to the Cons-

titution of India as by law established. We feel that something more positive is required on the part of a police officer and would, therefore, recommend the following form of declaration :—

I, A B, do swear/solemnly affirm that I will be faithful and bear true allegiance to India and to the Constitution of India as by law established; that as a member of the police in the State of——— I will honestly, impartially and truly serve the people without favour or affection, malice or ill-will; that I will to the best of my ability, skill and knowledge discharge, according to law, such functions and duties as may be entrusted to me as a police officer, and in such a manner as to uphold and protect the dignity and rights of the citizen as proclaimed in the Constitution.

Apart from the initial declaration at the time of joining the police, it would further serve the purpose and embed the principle firmly in the minds of all the police officers if this declaration is remembered and repeated by them in groups and assemblies of police personnel drawn up on an annual ceremonial occasion like the 'Police Commemoration Day' which is observed on 21st October, every year.

Training

15.65 The sustained capacity of the police system to function as an efficient and impartial instrument of law will largely depend on the attitudes developed by the personnel at different levels in the system and the manner in which they respond to different situations in their career. This in turn depends on the training which they get at the time of their entry into the system and in the subsequent lead and guidance they receive from the leadership at various levels within the system. The structuring of the initial training courses and the later in-service training courses for all police personnel should be suitably designed to facilitate the growth of proper attitudes and sense of values on the part of every police officer, viewing himself throughout as a servant of law to uphold and protect the dignity and rights of every individual fellow citizen of the country. We shall be referring to this aspect in greater detail when we deal with the subject of training for police officers.

Conclusion

15.66 In recommending the various measures in this chapter for minimising, if not eliminating, the scope for interference with or misuse of police by pressures from political, executive or other extraneous sources, we have placed great hopes equally on politicians and police personnel and trust they would look at these measures objectively and see in them a mechanism for rendering genuine public service. We earnestly believe and trust that our expectations will not go in vain and, recalling the words of Jawaharlal Nehru, we hope the politician as well as the police would be "brave enough and wise enough to grasp this opportunity and accept the challenge of the future".

CHAPTER XVI

GRAM NYAYALAYAS

16.1 The present system of investigations and prosecutions under the provisions of the Code of Criminal Procedure involves a lot of delay in the ultimate disposal of every criminal case that passes through the system. A variety of reasons may be cited for the overall delay, but most of them would be relatable to the existing procedural rituals in law. The entire system is sophisticated and remains beyond easy reach of the common man, ill-informed of legal niceties, unless assisted by lawyers at a cost far beyond his resources. The existing situation of the legal and judicial system in the rural areas is best brought out by Justice Bhagwati Committee on Juridicare, constituted by the Government of India, which gave its report in August 1977. The following observations of that Committee are relevant in this connection :—

“To-day the poor and the disadvantaged are cut off from the legal system—they are functional outlaws not only because they are priced out of judicial system by reason of its expensiveness and dilatoriness but also because of the nature of the legal and judicial system. They have distrust and suspicion of the law, the law courts and the lawyers for several reasons. One is ignorance and illiteracy on their part which prevents them from taking advantage of the legal process. Another is their helplessness and lack of assertiveness which arises by reason of social disabilities and economic dependence and that also places the legal process effectively beyond their reach. But apart from these factors which we have discussed at length in another part of the Report, the functioning of the courts is unfortunately shrouded in mystery for the poor and the under-privileged. There is an air of excessive formalism in law courts which overawes them and sometimes scares them. Often the proceedings are conducted in a language which they do not understand. They do not know what is happening in the court. They sit as helpless spectators, not understanding what is going on in the court in regard to their own case. It is an ironical situation that they who should know most about their case know the least. They are completely mystified by the court proceedings and this, to a large extent, alienates them from the legal and judicial process. And lastly our system of administration of justice, which is an inheritance from the British, is archaic and suffers from obsolescence and obscurantism. It is not at all adapted to our socio-economic conditions and is wholly unsuited to our national

genius. The result is that it has failed to inspire confidence in the poor and they have little faith in its capacity to do justice.”

16.2 A study of the progressive institution of fresh criminal cases for trial in regular courts year after year and the corresponding disposal in court shows that while the input of fresh cases has been rapidly increasing the output by way of disposals in courts has not kept pace, resulting in the clogging up of the entire judicial machinery. The tabular statement enclosed as Appendix-VII indicates the comparative picture from 1953. Compared to about 2 lakhs of criminal cases under the Indian Penal Code pending in Courts in 1962 there are over 10 lakhs of such cases pending in courts now. Protracted court proceedings tend to dilute the deterrence of prosecution for containing the activities of criminals. Repeated attempts made to speed up the disposals by various measures including the setting up of a monitoring cell at the Centre have not led to any noticeable improvement. It is obvious that in the present system with its emphasis on procedures and rituals rigidly spelt out in law, the pendency of cases in court cannot be brought down within manageable limits except by devising a totally new system with simpler procedures to deal with ordinary crimes involving simple and straight evidence. Such a new system would not only ensure inexpensive and speedy justice but what is more, would also help in preserving the harmonious relationships in the community which usually get affected if criminal matters are subjected to prolonged trials which might ultimately involve prison sentences also. This is particularly relevant in the rural areas where community opinion and village harmony have been and continue to be perceptible factors of life.

16.3 The Indian Police Commission of 1902 had appreciated this aspect of the matter and had even then observed that “it is expedient to relegate the trial of petty offences to village headmen and panchayats, and that where the system does not exist, it should be cautiously and experimentally introduced”. This recommendation was apparently not followed up and implemented effectively, and in course of time the regular judiciary was saddled with a growing volume of cases, which ultimately resulted in the delay and, in a large number of cases, the consequent denial of justice. After independence the Law Commission of India (1954) gave a fillip to the then thinking in the country to provide speedy justice to the rural areas by endorsing the views of the Civil Justice Committee of 1924-25 which observed, “the Village Panchayat—villagers mediating between contending parties in their own village—has, in some form or other, existed in this country from the earliest times and that

without resort to any elaborate or complicated machinery. . . . The judicial work of the panchayat is part of that village system which in most parts of India and Burma has been the basis of indigenous administration from time immemorial."

16.4 The important conclusions reached by the Law Commission after a review of the then existing Panchayat Courts are mentioned in their 14th Report, reproduced below :

- (1) The Panchayat Courts are capable of doing a good deal of useful work by relieving the regular courts of petty civil litigation and criminal cases of similar types.
- (2) The panchayats are in a position to dispose of simple cases more cheaply and expeditiously and with less inconvenience to all concerned than ordinary courts.
- (3) An effort should be made to establish and popularise panchayat courts in States where they are not formally established.
- (4) Wherever possible, a panchayat court should be constituted for a group of villages situated in a nearby area.
- (5) Nyaya Panchas should be given training before they are allowed to exercise judicial functions.
- (6) To get over the difficulty caused by the existence of factions, the panchas deciding a case might be required to belong to neighbouring places, or each party to a dispute may be allowed to select his panchas.
- (7) The jurisdiction of Panchayat Courts should be exclusive.
- (8) The Criminal Jurisdiction of panchayat courts should be limited to inflicting a fine of Rs. 50 ; they should not have powers to award sentences of imprisonment either substantively or in default of payment of fine or to bind other parties to keep the peace. Cases in which such action is necessary, should be given over to the regular courts.
- (9) Panchayat courts should not be bound by procedural codes or by the law of evidence.
- (10) Legal practitioners should not be permitted to appear in these courts.
- (11) A revision should lie from the decisions of the Panchayat Courts before the Sub-Divisional Magistrate in criminal matters and he should be empowered to transfer a case from one panchayat court to another or to the regular court for trial.
- (12) The power of revision should not be given to the District Judge nor should a right of appeal to a larger panchayat be allowed.
- (13) The District Judge should be empowered to direct the removal of Panchas if he is satisfied upon a report that the Pancha in question

has been guilty of misconduct in the discharge of his judicial functions. There should be a provision for an appeal against such order of removal.

- (14) Special Officers should be appointed for the purpose of imparting training to Panchas and to supervise administration of Panchayat Courts.

16.5 In 1959 in the course of a discussion in the Rajya Sabha on the above mentioned Report of the Law Commission, Shri A. K. Sen, the then Law Minister observed, "There is no doubt the system of justice which obtains today is too expensive for the common man. The small disputes must necessarily be left to be decided by a system of panchayat justice—call it the people's court, call it the popular court, call it anything—but it would certainly be subject to such safeguards as we may devise—the only means by which for ordinary disputes in the village level the common man can be assured of a system of judicial administration which would not be too expensive for him and which would not be too dilatory for him".

16.6 The next important step in the study of this problem was the appointment of a Study Team headed by Shri G. R. Rajagopaul, the then Special Secretary (Law) to examine the question of composition, jurisdiction and functions of panchayat courts. The Rajagopaul Study Team gave its report in April, 1962 mentioning, *inter alia*, the following important points :—

- (1) Nyaya Panchayats are of respectable antiquity and their success in the past is a clear indication that by reviving and moulding them on the right lines we will be taking a much needed step in the direction of making law and administration of justice reflect the spirit of the people and become rooted once again in the people.
- (2) A study of the participation of laymen in the administration of justice in some of the leading countries of the world clearly reveals that with appropriate safeguards, it would not be difficult to make any institution of lay-judges successful, if the need for it is there.
- (3) Nyaya Panchayats, wherever they are in existence, are serving a real felt need of the villages by disposing of cases more expeditiously and with minimum of inconvenience and expenses to parties. Although some of the criticism directed against the nyaya panchayats may be justified, it is possible by suitable safeguards to remove the basis for any such criticisms.
- (4) To avoid the baneful effects of factions, unhealthy rivalries etc., a nyaya panchayat may be set up for a group of villages, and the grouping may be made having regard to factors like area, population, contiguity, compactness, means of communication, etc. Where in view of the size and population of

the village a separate nyaya panchayat has to be set up for a single village, the device of splitting up the village into a number of wards can be adopted.

- (5) As to method of constitution of nyaya panchayats, the system of nomination in any form has to be ruled out. Villagers must be given a free hand and the choice lies between the system of direct elections and indirect elections. The method of indirect elections seems to afford for the time being the best solution and of the various possible methods of indirect elections, the best seems to be the type in which each of the gram panchayats in the nyaya panchayat circle elects a specified number of persons to serve on the nyaya panchayat.
- (6) A minimum age of 30 years and ability to read and write the regional language fairly fluently may be prescribed as qualifications for a person to be eligible to serve as a nyaya panch. No property qualification need be prescribed. Relaxations of this minimum qualification may be necessary in backward areas.
- (7) The jurisdiction of nyaya panchayats should be exclusive.
- (8) Nyaya panchayats may be given criminal jurisdiction in respect of petty matters where the punishment in the form a fine would be an adequate corrective.
- (9) Nyaya panchayats may be empowered to inflict fines upto Rs. 50. The maximum limit of Rs. 50 may be increased to Rs. 100 if any State Government feels justified in doing so. Nyaya panchayats should, however, not be given power to award imprisonment either substantively or in default of payment of fine.
- (10) Nyaya panchayats should not be bound by the procedural codes or the Indian Evidence Act. Nyaya panchayat procedure should be of a simple character; but care should be taken to see that principles of natural justice are complied with.
- (11) No legal practitioner should be allowed to appear before nyaya panchayats.
- (12) Special officers or specified judicial officers may be appointed in consultation with the High Court wherever necessary, to supervise and guide the work of nyaya panchayats.
- (13) It is not necessary to make any provision for appeals from the decisions of nyaya panchayats.
- (14) Revision should lie from the decisions of nyaya panchayats to a senior judicial officer. The revisional authority may interfere only if he is not satisfied as to the correctness, legality or propriety of the decision and

should refrain from interfering if he is satisfied that substantial justice has been done.

- (15) No salary or remuneration may be paid to nyaya panchas, but they should be reimbursed in respect of travelling and other out-of-pocket expenses.
- (16) Nyaya panchas should be accorded the status and protection due to them as members of a judicial body and should be treated as 'public servants'. All official agencies, particularly police should extend the fullest co-operation to them.

16.7 In course of time Nyaya Panchayats were constituted in 15 States by special legislation. However, they are presently functioning in 8 States only, viz., Bihar, Gujarat, Jammu & Kashmir, Manipur, Rajasthan, Tripura, Uttar Pradesh and West Bengal. In 3 States, i.e., Haryana, Punjab and Himachal Pradesh, the regular Gram Panchayats have been vested with judicial functions in addition to executive and municipal functions. In Andhra Pradesh, Assam and Karnataka, the provisions of the Act relating to Nyaya Panchayats have either been held in abeyance or not been implemented. Maharashtra, Orissa and Madhya Pradesh have abolished these institutions after they had functioned for some time. Kerala and Tamil Nadu do not have such a system. There is no Panchayati Raj set up in Meghalaya and Nagaland.

16.8 In 1978, there were 29,942 Nyaya Panchayats working in this country. The composition and criminal jurisdiction of Nyaya Panchayats vary from State to State but generally they are based on a system of nomination or combination of elections with nominations except in the States where the Panchayats themselves exercise the judicial functions

16.9 The various committees appointed by the State Governments to evaluate the working of the Nyaya Panchayats present a discouraging picture. The Orissa Committee (1958) found that the Adalati Panchayat established itself only as a "compromising body". The Badal Team of Punjab (1969) felt that judicial functions be withdrawn from Gram Panchayats to enable them to perform their regular functions better. The Maharashtra Evaluation Committee (1971) felt that the entrustment of judicial functions to Panchayats "on the basis of democratic elections or otherwise are both out of place and unworkable"—and recommended its abolition. The Rajasthan Committee (1973) felt that Nyaya Panchayats were languishing for want of funds, secretarial assistance, lack of powers and people's faith and should be abolished.

16.10 During our tours in the States and discussions with a wide cross section of the public as also the services, we got the impression that the working of Nyaya Panchayats, though well conceived in principle, suffered in practice, mainly because of the lay members of the Panchayat being subjected to local influences and pressures which defeated the purpose of an objective and fair disposal of cases handled by the

Panchayats. It was also pointed out that a Nyaya Panchayat solely made up of lay members was unable to handle the judicial work with requisite attention to the minimum requirements of a judicial process. It was further mentioned that Nyaya Panchayats would function far more effectively if they were manned by trained persons with a certain minimum knowledge of law, rules and procedure. The same views are reflected in the replies we have received in response to our questionnaire which referred to the Nyaya Panchayat system.

16.11 We appreciate that if the Nyaya Panchayats are made up of knowledgeable and academically competent persons alone, they would lose their lay character and, therefore, would merely appear as an extension of the existing sophisticated court system which, for a variety of reasons, does not command the confidence of the rural folk. On the other hand, if the Nyaya Panchayats are made up only of lay men who come up through a process of election, direct or indirect, they would become susceptible to unhealthy influences and pressures which may conflict with the interests of justice. We have, therefore, to adopt a *via media* which would preserve the lay character of the Nyaya Panchayat and at the same time ensure the disposal of cases with due regard to certain minimum judicial requirements.

16.12 The Ashok Mehta Committee, which gave its report to the Government of India in August 1978 on the working of Panchati Raj institutions, has also dealt with the subject of Nyaya Panchayats and expressed its view that a qualified Judge should preside over the Nyaya Panchayat and elected Nyaya Panchas should be associated with it.

16.13 The observations of Justice Bhagwati Committee on the advantages of the Nyaya Panchayat system and its recommendations regarding the composition of a Nyaya Panchayat and procedures for transaction of its business are set out in paragraphs 6.11 to 6.31 of the Committee's report which are furnished in Appendix-VIII.

16.14 We have carefully gone through Justice Bhagwati Committee's report and we find ourselves in whole-hearted agreement with it. We fully endorse the recommendations therein, subject to the modifications and refinements as spelt out in the following paragraphs, which we consider desirable in the present context.

16.15 The new courts proposed at the grass roots level may be called "Gram Nyayalayas", avoiding any reference to Panchayat as such so that they may not be viewed as an adjunct or extension of the Panchayats which are totally executive bodies with which political functionaries are associated.

16.16 A Gram Nyayalaya shall be made up of three Members. One shall be the Presiding Judge who will be appointed by the District Judge from retired judicial officers or other retired Government servants who, from their experience while in service, would have acquired the requisite knowledge of law and minimum requirements of judicial processes.

16.17 Two other members of the Gram Nyayalaya shall be lay members appointed by the District Judge from a panel of names prepared by the local elected body that goes by the name of Panchayat Samiti/Panchayat Union/Block Committee or its equivalent, in the manner described below.

16.18 One Gram Nyayalaya shall cover about 25 to 30 villages coming under 8 to 10 Panchayats. This would mean about 5 or 6 Gram Nyayalayas in the jurisdiction of one Panchayat Union/Panchayat Samiti. The headquarters of each Gram Nyayalaya shall be fixed at some suitable place within the group of villages in its jurisdiction.

16.19 The Presiding Judge for all the Gram Nyayalayas within the jurisdiction of a Panchayat Samiti shall be the same person appointed by the District Judge in the manner prescribed earlier. The lay members of each Gram Nyayalaya will however be separate for each Nyayalaya. The Panchayat Pradhans relevant to the jurisdiction of each Gram Nyayalaya will be associated in proposing the names of lay members for that Gram Nyayalaya. The Presiding Judge shall hold proceedings of each Gram Nyayalaya in the Panchayat Samiti by visiting the respective headquarters once a month by turn, or more often if required by the volume of work to be handled, and associate the two local lay members with the proceedings in each place.

16.20 The Presiding Judge and the two lay members shall normally hold office for a term of three years from the date of appointment. They shall be deemed to be public servants as defined in the Indian Penal Code while they hold office.

16.21 Gram Nyayalayas shall have exclusive criminal jurisdiction over the offences enumerated in the attached schedule, and such other offences under the local and special laws as may be notified by the Government, subject to the conditions that—

- (i) the information/report/complaint lodged before the Gram Nyayalaya is against a specified person or persons ;
- (ii) the person against whom the information/report/complaint is lodged has not had a previous conviction for anyone or more of offences enumerated in Chapters XII and XVII of the Indian Penal Code or under sections 264, 265, 266, 269, 272 and 273 of the same Code ;
- (iii) in case of offences involving property, the value of property is not more than Rs. 250 ; and
- (iv) the alleged offences under sections 172, 173, 174, 175, 177, 178, 179, 180, 182, 186 and 187 of the Indian Penal Code are relatable to the proceedings before the Gram Nyayalayas.

16.22 Gram Nyayalayas shall be competent to take cognisance of offences falling within their jurisdiction on information/report/complaint received by them directly either from the affected party or otherwise.

16.23 If an information or complaint involving an offence falling within the jurisdiction of the Gram Nyayalayas is laid before the police, they shall transmit it forthwith for disposal by the Gram Nyayalaya without making any inquiry, except in the circumstances detailed below.

16.24 On receipt of information/complaint of the nature mentioned above by an officer in charge of the police station, he may, if considered necessary by him in the interests of public peace, make an immediate inquiry into the matter for ascertaining the facts thereof. On conclusion of his inquiry if he finds that an offence falling within the jurisdiction of the Gram Nyayalaya is made out, he shall submit a brief report indicating the result of his inquiry and the facts thereof to the Gram Nyayalaya for further action. If, however, the offence made out falls within jurisdiction of the regular courts, he shall deal with it further as required under the Cr.P.C.

16.25 Gram Nyayalayas shall not be bound by procedural codes or laws of evidence. Their proceedings shall be in the nature of an inquisitorial inquiry which would mean that the Gram Nyayalaya would itself take a positive role in the inquiry to ascertain the facts regarding the involvement or otherwise of the person concerned, instead of merely functioning as an adjudicating body to give its view on two versions put before it, one by the prosecution and the other by the defence. This arrangement would confer on the Gram Nyayalaya a slightly extended role as compared to the regular court in the sense that the Nyayalaya would be free to make field enquiries also to ascertain the availability of evidence and witnesses. When the system gets going, Gram Nyayalayas may require the assistance of some village-based field staff to make inquiries of this kind. In such a contingency, we visualise that the village-based police functionaries in the new set up regarding which we would be making separate recommendations, will be able to provide this assistance.

16.26 Parties to the proceedings before the Gram Nyayalayas shall not be allowed to be represented by lawyers. Exceptions may arise when a person happens to be arrested or otherwise detained in custody in connection with an offence related to the proceedings before the Gram Nyayalaya, in which case the provisions of Article 22(1) of the Constitution may get attracted. The observations of the Supreme Court in the case of State of Madhya Pradesh *versus* Shobharam and others (AIR 1966 SC 1910) would be relevant in this connection.

16.27 There shall be a provision to enable a Gram Nyayalaya to issue processes to compel appearance of parties before it, when necessary.

16.28 If on the facts ascertained in the course of proceedings before the Gram Nyayalaya it is found that the case will fall beyond the criminal jurisdiction of the Gram Nyayalaya, the Gram Nyayalaya shall transfer

the case to the competent court for further proceedings under the Cr.P.C.

16.29 The findings of the Gram Nyayalaya shall be based on the majority view of the component members including the Presiding Judge, subject to the provision that in any case where the two lay members agree on a finding with which the Presiding Judge does not agree, and the Presiding Judge is clearly of the opinion that it is necessary for the ends of justice to submit the case to a higher court, he shall record the grounds of his opinion and submit the case for adjudication by the Chief Judicial Magistrate. We are recommending this procedure specially to guard against local unhealthy influences and pressures operating on the system.

16.30 Punishment awardable by a Gram Nyayalaya shall be limited to fines not exceeding Rs. 500. Fines shall be recoverable by processes applicable to arrears of revenue. A Gram Nyayalaya shall not be competent to award any sentence of imprisonment, even in default of payment of fine. !

16.31 If in any particular case, having regard to the circumstances thereof, the Gram Nyayalaya feels that the person found guilty by it merits a more serious punishment than is awardable by the Gram Nyayalaya, it shall remit the case to the Chief Judicial Magistrate of the district for further action on the lines indicated in section 325 Cr.P.C.

16.32 In proposing the set up of Gram Nyayalayas on the lines recommended by the Justice Bhagwati Committee with further modifications and refinements spelt out in the foregoing paragraphs we have attempted to evolve a system that will take due account of the realities of the field situation and have adequate safeguards for eliminating the drawbacks in the functioning of Nyaya Panchayats as noticed hitherto. We recommend that the proposed set up of Gram Nyayalayas be given a statutory backing in a new self-contained legislation which would include all the safeguards detailed above.

16.33 If Gram Nyayalayas are set up on the pattern envisaged above, there would approximately be about 24,000 Gram Nyayalayas in addition to about 4,000 courts which are currently handling the bulk of the criminal cases all over the country. A statement showing the number of panchayat samitis, police stations and courts may be seen in Appendix-IX. We expect that the Gram Nyayalayas as proposed would be able to handle a fairly substantial volume of ordinary crime cases which would otherwise be taking up the time of the regular courts, particularly in States where there are no such institutions presently functioning. This alternative mechanism for dealing with ordinary crimes of generally frequent occurrence in the rural areas would greatly facilitate quicker disposal in courts of cases relating to more serious crimes. We also expect vexatious litigation from the rural side to diminish since villagers who may now be inclined to involve their opponents in complaints lodged at distant police stations would be more cautious if their complaints are to come up promptly before a local body. The resultant advantages will be many in the light of the overall effect on the criminal justice system.

SCHEDULE

(Para 16.21)

OFFENCES UNDER THE INDIAN PENAL CODE OVER WHICH GRAM NYAYALAYAS WILL HAVE EXCLUSIVE CRIMINAL JURISDICTION

Sl. No.	Section	Offence	Punishment	Cognizable or Non-cognizable
1	2	3	4	5
1.	160	Committing affray.	Imprisonment for one month or fine of 100 rupees, or both.	Cognizable
2.	172	Absconding to avoid service of summons or other proceeding from a public servant.	Simple imprisonment for 1 month or fine of 500 rupees, or both.	Non-cognizable
		If summons or notice require attendance in person, etc., in a Court of Justice.	Simple imprisonment for 6 months, or fine of 1,000 rupees, or both.	—Ditto—
3.	173	Preventing the service of the affixing of any summons of notice, or the removal of it when it has been affixed, or preventing a proclamation.	Simple imprisonment for 1 month, or fine of 500 rupees, or both.	—Ditto—
		If summons etc., require attendance in person, etc., in a Court of Justice.	Simple imprisonment for 6 months, or fine of 1,000 rupees, or both	—Ditto—
4.	174	Not obeying a legal order to attend at a certain place in person or by agent, or departing therefrom without authority.	Simple imprisonment for 1 month, or fine of 500 rupees, or both.	—Ditto—
		If the order requires personal attendance, etc., in a Court of Justice.	Simple imprisonment for 6 months, or fine of 1,000 rupees or both.	—Ditto—
5.	175	Intentionally omitting to produce a document to a public servant by a person legally bound to produce or deliver such document.	Simple imprisonment for 1 month or fine of 500 rupees, or both.	—Ditto—
		If the document is required to be produced in or delivered to a Court of Justice.	Simple imprisonment for 6 months, or fine of 1,000 rupees, or both.	—Ditto—
6.	177	Knowingly furnishing false information to a public servant.	Imprisonment of 6 months, or fine of 1,000 rupees, or both.	—Ditto—
		If the information required respects the commission of an offence, etc.	Imprisonment for 2 years, or fine, or both.	—Ditto—
7.	178	Refusing oath when duly required to take oath by a public servant.	Simple imprisonment for 6 months, or fine of 1,000 rupees, or both.	—Ditto—
8.	179	Being legally bound to state truth, and refusing to answer questions.	Simple imprisonment for 6 months, or fine of 1,000 rupees, or both.	—Ditto—
9.	180	Refusing to sign a statement made to a public servant when legally required to do so.	Simple imprisonment for 3 months, or fine of 500 rupees, or both.	—Ditto—
10.	182	Giving false information to a public servant in order to cause him to use his lawful power to the injury or annoyance of any person.	Imprisonment for 6 months, or fine of 1,000 rupees, or both.	—Ditto—
11.	186	Obstructing public servant in discharge of his public functions.	Imprisonment for 3 months, or fine of 500 rupees, or both.	—Ditto—
12.	187	Omission to assist public servant when bound by law to give such assistance.	Simple imprisonment for 1 month, or fine of 200 rupees, or both.	—Ditto—
		Wilfully neglecting to aid a public servant who demands aid in the execution of process, the prevention of offences, etc.	Simple imprisonment for 6 months, or fine of 500 rupees, or both.	—Ditto—
13.	264	Fraudulent use of false instrument for weighing.	Imprisonment for 1 year, or fine, or both.	—Ditto—
14.	265	Fraudulent use of false weight or measure.	—Ditto—	—Ditto—
15.	266	Being in possession of false weights or measures for fraudulent use.	—Ditto—	—Ditto—
16.	269	Negligently doing any act known to be likely to spread infection of any disease dangerous to life.	Imprisonment for 6 months, or fine, or both.	Cognizable
17.	272	Adulterating food or drink intended for sale, so as to make the same noxious.	Imprisonment for 6 months. or fine of 1,000 rupees, or both.	Non-cognizable
18.	273	Selling any food or drink as food and drink, knowing the same to be noxious.	—Ditto—	—Ditto—

1	2	3	4	5
19.	277	Defiling the water of a public spring or reservoir.	Imprisonment for 3 months, or fine of 500 rupees, or both.	Cognizable
20.	278	Making atmosphere noxious to health.	Fine of 500 rupees.	Non-cognizable
21.	279	Driving or riding on a public way so rashly or negligently as to endanger human life, etc.	Imprisonment for 6 months, or fine of 1000 rupees, or both.	Cognizable
22.	280	Navigating any vessel so rashly or negligently as to endanger human life, etc.	—Ditto—	—Ditto—
23.	283	Causing danger, obstruction or, injury in any public way or line of navigation.	Fine of 200 rupees.	—Ditto—
24.	289	A person omitting to take order with any animal in his possession, so as to guard against danger to human life, or of grievous hurt, from such animal.	Imprisonment for 6 months, or fine of 1,000 rupees, or both.	—Ditto—
25.	290	Committing a public nuisance.	Fine of 200 rupees.	Non-cognizable
26.	294	Obscene songs.	Imprisonment for 3 months, or fine, or both.	Cognizable
27.	323	Voluntarily causing hurt.	Imprisonment for 1 year, or fine of 1,000 rupees, or both.	Non-cognizable
28.	334	Voluntarily causing hurt on grave and sudden provocation, not intending to hurt any other than the person who gave the provocation.	Imprisonment for 1 month, or fine of 500 rupees, or both.	—Ditto—
29.	336	Doing any act which endangers human life or the personal safety of others.	Imprisonment for 3 months, or fine of 250 rupees, or both.	Cognizable
30.	341	Wrongfully restraining any person.	Simple imprisonment for 1 month, or fine of 500 rupees, or both.	—Ditto—
31.	352	Assault or use of criminal force otherwise than on grave provocation.	Imprisonment for 3 months, or fine of 500 rupees, or both.	Non-cognizable
32.	358	Assault or use of criminal force on grave and sudden provocation.	Simple imprisonment for 1 month or fine of 200 rupees, or both.	—Ditto—
33.	379	Theft.	Imprisonment for 3 years, or fine or both.	Cognizable
34.	380	Theft in a building, tent or vessel.	Imprisonment for 7 years, and fine.	—Ditto—
35.	381	Theft by clerk or servant of property in possession of master or employer.	—Ditto—	—Ditto—
36.	411	Dishonestly receiving stolen property knowing it to be stolen.	Imprisonment for 3 years, or fine, or both.	—Ditto—
37.	417	Cheating.	Imprisonment for 1 year, or fine, or both.	Non-cognizable
38.	426	Mischief.	Imprisonment for 3 months, or fine, or both.	—Ditto—
39.	427	Mischief, and thereby causing damage to the amount of 50 rupees or upwards.	Imprisonment for 2 years, or fine, or both.	—Ditto—
40.	447	Criminal trespass.	Imprisonment for 3 months, or fine of 500 rupees, or both.	Cognizable
41.	448	House-trespass.	Imprisonment for 1 year, or fine of 1000 rupees, or both.	—Ditto—
42.	491	Being bound to attend on or supply the wants of a person who is helpless from youth, unsoundness of mind or disease, and voluntarily omitting to do so.	Imprisonment for 3 months, or fine of 200 rupees, or both.	Non-cognizable
43.	506 (A)	Criminal intimidation.	Imprisonment for 2 years, or fine, or both.	—Ditto—
44.	508	Act caused by inducing a person to believe that he will be rendered an object of Divine displeasure.	Imprisonment for 1 year, or fine, or both.	—Ditto—
45.	509	Uttering any word or making any gesture intended to insult the modesty of a woman, etc.	Simple imprisonment for 1 year, or fine, or both.	Cognizable
46.	510	Appearing in a public place, etc., in a state of intoxication, and causing annoyance to any person.	Simple imprisonment for 24 hours, or fine of 10 rupees, or both.	Non-cognizable

CHAPTER XVII

MAINTENANCE OF CRIME RECORDS AND STATISTICS

17.1 Item 5 of our terms of reference requires us to "examine methods of maintaining crime records and statistics and suggest methods for making them uniform and systematic".

17.2 Sometime prior to the constitution of our Commission, a committee under the chairmanship of Shri S. Tandon, the then Director, Bureau of Police Research and Development, was set up by the Ministry of Home Affairs to look into some aspects of police computerisation programme and the development of a National Crime Information Centre. Since that Committee was to cover some ground common to the above mentioned item in our terms of reference, we got this committee's terms of reference suitably amplified to cover our item in depth and to make its recommendations on the amplified terms of reference. The Ministry of Home Affairs issued orders for this purpose on 21st February, 1978. A copy of this notification is furnished in Appendix—X.

17.3 It was also arranged that a senior officer from the Ministry of Law would be associated with the above committee, that it would work under the guidance of Shri N. S. Saxena, a Member of this Commission, and submit its final report to the Government through the Commission.

17.4 The above mentioned Committee, hereinafter referred to as the Tandon Committee, completed its deliberations and gave its report to us on 14th July, 1979. We have carefully examined the observations and recommendations of this Committee and we find ourselves in agreement with its general approach to this matter. Extracts from chapters 2 to 7 of the Committee's report relating to its important observations and recommendations are furnished in Appendix—XI.

17.5 We endorse the following important points made out in the Tandon Committee's Report :—

- (i) Maintenance of crime records at the police station level and submission of periodic reports and returns from there to the district level and the State level should be so designed as to fit into a scheme of computerised maintenance of data/information at the State level/National level.
- (ii) Changes in the existing crime record system in different States should be minimal for the limited purpose of achieving the objective mentioned above.
- (iii) Detailed recommendations made by a Committee of DIsG set up in 1962 regarding the type of records to be maintained at police stations may be kept as model and worked upon further in States.
- (iv) District Crime Record Bureau, State Crime Record Bureau and the National Crime Record Bureau should be set up with legal backing and adequate staff.
- (v) The Central Finger Print Bureau which is now located in Calcutta should merge with the National Crime Record Bureau which may be located either in Delhi or Hyderabad. Hyderabad location will facilitate useful interaction with the SVP National Police Academy.
- (vi) Collection and maintenance of data for national and Interpol purposes, at present handled by the Bureau of Police Research and Development and Central Bureau of Investigation, may be integrated with the proposed National Crime Record Bureau.
- (vii) Computerisation of Finger Prints at the State level and National level should be taken up on hand and completed within a reasonable time frame, say five years.
- (viii) Communication channels in the shape of VHF telephones and teleprinters between police stations and district headquarters, between district headquarters, and State headquarters and the final link up with the headquarters of the National Crime Record Bureau should be built up to facilitate prompt exchange of data/information. This will be very necessary to aid investigational work and reduce infructuous arrests and prolonged detention of persons on mere suspicion without adequate grounds.
- (ix) One or more educated constables must be specifically designated in every police station as Collators who will be responsible for maintenance of crime records at the police station, preparation of the input forms originating from the police station in respect of all police computer applications, placing all computer outputs received in the police station before the Station House Officer for their effective utilisation, handling the P&T telephone and other technical equipment, if any, in the police station, and generally

assisting the Station House Officer in all correspondence with the District Crime Records Bureau and the State Crime Records Bureau.

17.6 Another important recommendation made by the Tandon Committee relates to the enactment of a new comprehensive law in replacement of the existing "Identification of Prisoners Act, 1920" to facilitate the collection and recording of a large variety of data/information connected with crimes and offenders. The existing law facilitates the collection of finger prints, foot prints and photographs only of arrested/convicted persons in certain limited circumstances, either by the police officer in the course of his investigation or on orders from a Magistrate. The emphasis in the present law is on the collection of very limited data after a person has been arrested or convicted or ordered to give security for good behaviour. A proper study of the problem of crime in society would require analysis of a much larger variety of data concerning the very occurrence of different forms of crime irrespective of the offenders involved, and several aspects of the conduct and personality of individuals who are found prone to criminal behaviour or are actually involved in the commission of specific crimes, irrespective of whether they are arrested or convicted in any particular case. A lot of significant data/information may get thrown up when a probation officer completes his supervision over the conduct and behaviour of a juvenile delinquent entrusted to his charge. Several interesting bits of information of vital interest to criminologists and social scientists may come up through correctional institutions if the inmates' response to the atmosphere and treatment inside these institutions is carefully watched and assessed. It is in this context that we visualise the proposed Crime Record Bureaus at the State/National level to function as an authorised storehouse of a variety of data and information which will help not only the police in the performance of their investigative jobs but also the functionaries in probation services, jails and correctional institutions, besides criminologists and social scientists, in their respective fields of correctional work and analytical studies. To serve this manifold purpose, the Crime Record Bureaus should be authorised to receive information from all the different branches of the criminal justice system which will include the police, prosecutors, courts, probation services, jails and other correctional institutions. We, therefore, fully endorse the recommendation of the Tandon Committee for the enactment of a new comprehensive Act in replacement of the existing Identification of Prisoners Act, 1920.

17.7 The Tandon Committee has also enclosed to its Report, a draft of the new Act. We have carefully examined the provisions embodied in the draft.

We feel that the definition of "Crime and Offender Data" as proposed by the Committee should be made more specific, and the circumstances in which the prescribed data may be collected should be described in a more precise manner to avoid scope for harassment and misuse. We also feel that, as a further safeguard, the rules that may be framed under the Act from time to time should be laid before Parliament/State Legislature for a prescribed period and be subject to such modifications as the House may specify. We, therefore, recommend a revised draft as furnished in Appendix XII for the new Act which may be called "The Crime and Offender Records Act". It may be enacted as a Central Act with rule-making powers available to the Central and the State Governments.

17.8 The proposed Crime Record Bureaus at the State/National level will form the bedrock of the new information system for the entire country and its success will very much depend on the effective spread of the computer network. We are aware that the Government of India have rendered substantial aid to the States for installing computers in the police communication and record systems, and we recommend the continuance of this aid in increasing measure to complete a time-bound computerisation plan.

17.9 As regards the district level bureau, the Tandon Committee has recommended the name "District Crime Bureau" while the corresponding units at the State level and the National level are to be called "State Crime Record Bureau" and "National Crime Record Bureau". We would recommend the name "District Crime Record Bureau" for the district unit, as otherwise it might be confused with a field unit with direct investigative responsibility. As regards the staffing pattern for the three units at the district/State/National level, we would prefer to leave it to the respective State Governments to decide in consultation with the Chief of Police, who will no doubt take into account the views expressed by the Tandon Committee in this regard.

17.10 The proposed Crime Record Bureaus, when they get going, will be able to receive, store and furnish back different types of data/information relevant to different purposes like investigational requirements of the police, study of the effect of the present scheme of court trials and procedures and sentencing policy on the subsequent conduct of the criminal, assessment of the effect of probation and correctional services now in operation, study of the various environmental and other factors which promote deviant behaviour and criminality in society, etc., and thus effectively serve the overall purpose of the criminal justice system as a whole.

CHAPTER XVIII
SUMMARY OF OBSERVATIONS AND RECOMMENDATIONS

Welfare measures for police families

18.1 Among the many deficiencies that got exposed in the situation following the recent agitation by policemen in some States, one relates to the inadequacy of welfare measures for police families.

(Para 13.1)

18.2 Governments have tended to accord low priority to the funding of police welfare measures. Police leadership does not appear to have realised its responsibility to take the initiative and organise such measures with a total and complete involvement of the personnel in maintaining them. The rank and file themselves have tended to view these measures as a responsibility of the Government and have been disinclined to perform their own contributory role in full measure.

(Para 13.2)

18.3 The Ashwini Kumar Committee has given a report recommending several welfare measures to cover housing, education, medical care, recreational facilities, financial aid and special retirement benefits in distress situations arising from death or physical disability caused by service conditions, etc. Extracts from Ashwini Kumar Committee's Report are furnished in Appendix II. We broadly agree with these recommendations and would advise their adoption in planning police welfare measures in the States.

(Para 13.4)

18.4 One category of welfare measures would cover such items like pension/family pension/gratuity, medical facilities, housing, etc. which should be deemed as a part of conditions of service of police personnel and, therefore, should be funded fully and adequately by the Government. Another category would cover such measures like welfare centres to provide work for police families and help in augmenting their income, financial aid and encouragement for pursuing higher studies by police children who show special merit, financial relief in distress situations not provided for under regular rules, etc. For organising welfare measures of the second category, an adequate welfare fund should be built up initially by contributions from the police personnel themselves, supplemented by *ad hoc* grants from the Government and sustained by recurring contributions and grants. In organising such measures and building up the necessary fund, a lot will depend on the initiative and interest taken by the personnel themselves and the continuous lead, guidance and support given by supervisory officers. The officer cadre of the force should realise their special responsibility in this regard and act accordingly.

(Para 13.5)

18.5 The work done by an officer in organising welfare measures for the personnel under his command should be specifically commented on in his annual confidential report.

(Para 13.5)

18.6 Wives of officers can play a significant role in bringing together the families of police personnel and encouraging their collective involvement in welfare work of different kinds.

(Para 13.5)

18.7 A brief assessment of the existing welfare measures for the police personnel in different States is furnished in Appendix III. It indicates under different headings the most advantageous and beneficial arrangement that a few States have found it possible to introduce in regard to their own police personnel. The remaining States may immediately examine the feasibility of introducing similar arrangements for their policemen also.

(Para 13.6)

18.8 Government should take special care of the family of a policeman who happens to die or get disabled in circumstances arising from the risks of his office. In the case of a policeman who dies in such circumstances we would recommend financial aid to the family on the following lines :—

- (i) *Gratuity* equivalent to 8 months' pay last drawn by the deceased ;
- (ii) *Monthly pension* to the family equal to the last pay drawn by the deceased till the date on which the deceased would have normally reached the age of superannuation, and thereafter a monthly pension equal to the amount of pension to which the deceased would have been entitled if he had continued in service till the date of his superannuation ; and
- (iii) *Ex-gratia grant* of Rs. 10,000 as immediate financial assistance.

(Para 13.7)

18.9 Arrangements for line visits by a Government doctor should be made by authorising a small monthly allowance to the doctor from Government funds, if need be, depending on the frequency of calls and the distances involved.

(Para 13.8)

18.10 Medical treatment in all police hospitals should also be extended to retired police personnel and their families.

(Para 13.9)

18.11 We endorse the following important recommendations of various State Police Commissions in regard to the educational facilities for policemen's children :

- (1) There should be free education upto high school standard ;
- (2) The children of policemen should get a grant of Rs. 50 p.a. per child in lump sum for purchase of books ;

- (3) There should be no fees charged in Government or Government aided schools ;
- (4) Scholarships should be provided for vocational education ;
- (5) There should be hostel accommodation for the children of policemen at every divisional headquarters ; and
- (6) Special scholarships should be given on grounds of exceptional merit for university education.

(Para 13.11)

18.12 The first requisite of any arrangement for this purpose would be the creation of a separate police education fund in each State, made up of contributions from the police personnel themselves and supplemented and assisted by *ad hoc*/recurring grants from the State Government. The fund should be built up with the ultimate object of establishing at least one police school in each district headquarters which could take in police children for education upto the 12th standard. Hostel accommodation for children of police personnel located outside the district headquarters should also be planned. Admission to such schools should be governed by suitable tests to recognise merit and facilitate the development of bright young police children. In the curriculum of these schools, there should be special emphasis on discipline and a healthy combination of rigorous outdoor exercises with intensive academic pursuits. Management of all such police schools in a State may be supervised by the Head of the training wing of the Police Department and overseen by a Police School Board whose chairman could be the Head of the Department of Education in the State and the Member Secretary could be the Head of the training wing in the police. A couple of eminent educationists could also be nominated to the Board. The pay and allowances of the police personnel on the staff in the school could be borne by the Police Department. The deputation allowance and other incentives provided to the other teaching staff drawn on deputation from the other Government schools may also be borne by the Police Department. The rest of the expenditure may be borne by the Education Department. Police children who do exceptionally well in these schools may be encouraged with scholarship from 'police welfare fund' to pursue higher collegiate studies.

(Para 13.13)

18.13 Every effort should be made to finalise pension papers in good time so that every policeman receives his full pension order along with the gratuity amount and other dues on the very day of retirement itself. We were told in one metropolitan city about the initiative shown by the Commissioner of Police in arranging for farewell parades for all policemen who retired every month and seeing them off in a solemn ceremony with the full payment of their dues and pension order. We commend this initiative to all police units.

(Para 13.14)

18.14 Inadequate leave reserve is one of the reasons behind the organisation's inability to sanction and

rotate leave promptly among the operating personnel. This deficiency in the strength of police personnel should be looked into and made good.

(Para 13.15)

18.15 Different types of 'group insurance schemes' are now available for all categories of employees in Government. Details of two special schemes which appear to be specially attractive and have been adopted in two States are furnished in the note in Appendix III. We recommend their adoption in other States as well.

(Para 13.16)

18.16 Regarding the sources and mechanism for the initial building up of police welfare fund and its sustained maintenance, the Ashwini Kumar Committee has made specific recommendations with which we agree. The broad principle which may guide the working arrangements in this matter should be that 60% of the requirements of the fund comes from contributions from the police personnel themselves, 20% is made up from Government grants and the balance 20% is covered by the interest generated by the initial lump sum grants which may be kept in fixed deposits or invested otherwise.

(Para 13.17)

18.17 Management of the welfare fund should be by a committee constituted by the police staff council.

(Para 13.18)

18.18 The audit of the welfare fund at the battalion/district level should be made the responsibility of a sub-committee of the battalion/district staff council which would be representative in character and adequately reflect the interests of the rank and file. It will be open to this sub-committee to take the assistance of a qualified professional accountant or auditor to get this job done.

(Para 13.19)

18.19 Wages for work done by police families at welfare centres in stitching police uniform or for other similar occupation should be determined by a local committee in which the Government secretariat and the police management could both be involved to take a realistic view of all the relevant factors.

(Para 13.20)

18.20 Retired police personnel and educated girls in police families may be given first preference for employment to manage and run police canteens and stores.

(Para 13.21)

18.21 A recurring deposit scheme as organised in the Border Security Force for augmenting the pension/gratuity assistance for the police personnel at the time of their retirement may be adopted by all police units.

(Para 13.22)

18.22 Every State police must have a whole-time police welfare officer at the State Headquarters who, by his initiative and interest, should organise welfare measures on a sound basis in every district/battalion and, what is more, ensure satisfactory delivery of welfare services on the ground. We leave it to the

State Governments to decide the rank of this officer at State Headquarters, while observing that it is not the mere rank but the initiative and genuine interest shown by the officer and the example set by him that would count more in this matter.

(Para 13.24)

18.23 Resettlement of ex-policemen who retire in the normal course will need assistance and advice to keep themselves occupied and settled in reasonable comfort. There is considerable scope for rendering assistance in the matter of securing allotment of land for cultivation, or facilities for productive self-employment from various developmental agencies under the Government or otherwise. The State Police Welfare Officer should deem it a part of his responsibility to render this help on a systematic basis for retired police personnel.

(Para 13.25)

Police role, duties, powers and responsibilities

18.24 Police, prosecutors, advocates, judges, functionaries in the correctional services and jails form the different distinct organised wings of the criminal justice system. The role, duties, powers and responsibilities of the police with special reference to prevention and control of crime cannot be defined in isolation in absolute terms, but has to be fitted into the overall requirements for the success of the criminal justice system as a whole.

(Para 14.1)

18.25 The classification of offences and limitations of police response to complaints thereof, as spelt out in the existing laws, do not conform to the understanding and expectation of the common people who, when they become victims of a crime or are otherwise subjected to a distress situation, naturally turn to the police for help. Police become a much misunderstood force when their action gets limited by law contrary to the natural expectations of the people. There is, therefore, immediate need to examine the procedural laws and allied regulations for modifying them to enable police response to conform to public expectations, consistent with the resources potential of the police.

(Para 14.2)

18.26 The rules which govern the present accusatorial system of criminal trials make various demands from and place various restrictions on the prosecution so that the defendant gets all the help he can to defend himself. At the end of the trial the prosecution must prove their case beyond reasonable doubt, but the accused may, however, only raise a doubt and get its benefit to secure his acquittal. The severe limitations placed on the admissibility of evidence from the prosecution side and the norms for determining the value of the admitted evidence make it difficult for the police as the investigating agency to carry forward all the material uncovered during their investigation to the final point of success in getting the offender convicted under the law.

(Para 14.5)

18.27 We are convinced of the need for effective interaction between the police and the prosecuting agency at the stage of court trial for proper marshalling and presentation of all the evidence uncovered

during investigation. Facilities for such interaction should be provided without in any manner affecting the professional independence of the prosecuting agency. The need for such interaction should also be suitably recognised in law instead of being left as a mere administrative arrangement.

(Para 14.6)

18.28 The rituals of court trials under the existing law and the general attitude shown by the legal counsel tend to delay the proceedings in court. Apart from the delays at the stage of investigation which are attributable to deficiencies in police, the further delay at the stage of trial results in considerable harassment to the victims of a crime while at the same time the effect of deterrence of quick conclusion of proceedings in court is lost on the offender himself. Pendency of criminal cases undertrial in courts has gone up enormously in the recent years and the system itself will soon get clogged up beyond repair if the existing law is allowed to operate without any modification.

(Para 14.7)

18.29 There is urgent need for a comprehensive reform in the procedural laws relating to investigation and trial in our system.

(Para 14.8)

18.30 Though well-conceived and based on progressive concepts, the institutions and services contemplated under the Probation of Offenders Act, the Children Act, the Suppression of Immoral Traffic Act and similar enactments in the category of social legislation suffer in practice because of a totally inadequate infra-structure.

(Para 14.9)

18.31 Our jails are terribly overcrowded. The population of undertrial prisoners in relation to convicts has rapidly increased. The huddling together of a large number of undertrials with convicted prisoners and the mixing together of old and hardened criminals with young first offenders tend to promote in the minds of all inmates feelings of criminality instead of remorse and regret for their previous conduct and a desire to reform.

(Para 14.13)

18.32 Apart from the over-crowding in jails, the general manner in which the rituals of the daily life inside the jails are rigidly administered and enforced tends to dehumanise the prisoner who is cowed down by the oppressive atmosphere around with all its brutalities, stench, degradation and insult. Instead of functioning as a reformatory house to rehabilitate the criminal to reform him and make him see the error of his ways and return a better and nobler man, the ethos inside our jails to-day is tragically set in the opposite direction, making it practically difficult for any reformatory process to operate meaningfully.

(Para 14.13)

18.33 The deficiency in the functioning of their correctional services has meant the weakening of their corrective influence on the behaviour and conduct of all the delinquents who pass through the system. Police, who appear in the first part of the system to investigate crimes and identify the offenders involved, have again

to contend with the likely continued criminal behaviour of the same offenders, without the expected aid and assistance from the other agencies of the system to contain their criminality. We are, therefore, of the opinion that in whatever way we may define the role, duties and responsibilities of the police, they cannot achieve ultimate success in their role performance unless all the wings of the criminal justice system operate with simultaneous efficiency. This would require our having some kind of body which will have the necessary authority and facilities to maintain a constant and comprehensive look at the entire system, monitor its performance and apply the necessary correctives from time to time, having in view the overall objective of the system. In view of the primacy of law in the entire system, our first thoughts in this matter go to the Law Commission. We feel it would be advantageous to enlarge the concept of the Law Commission and make it function as a Criminal Justice Commission on a statutory basis to perform this overseeing role on a continuing basis. For this purpose it would be desirable for appropriate functionaries from the police and correctional services to be actively associated with the deliberations of the new Commission. This arrangement at the Centre should be supported by a similar arrangement at the State level in which a high powered body under the Chairmanship of the Chief Justice of the High Court, either serving or retired, and with members drawn from the police, bar and the correctional services, would perform this monitoring role and evaluate annually the performance of the system as a whole.

(Para 14.14)

18.34 Police role in maintaining public order has even greater limitations specially in a democracy. Maintenance of order implies a certain measure of peace and avoidance of violence of any kind. Public order is deemed to have been upset, in public estimate, if violence breaks out in public in a noticeable form. The characteristic features of the existing social structure in India are (i) inter-group conflicts on account of religion, language, caste, etc; (ii) increasing pressure of poverty; (iii) increasing unemployment; and (iv) rapid urban growth rate with a concentration of organised protest groups in urban areas like Government employees, industrial workers, political groups students, etc. All these factors, combined with the general belief among the haves-nots that the only way to evoke response from administration is to launch an agitation or a strike or any form of protest activity involving violence of some kind or other, induce an atmosphere of continuing pressure and proneness to break into situations of public disorder.

(Para 14.16)

18.35 Public urge for reform and relief from pressure situations of the above kind are often articulated by political parties, particularly those in opposition to the ruling party. Protest activity, therefore, gets mixed up with political dissent. Police methodology in dealing with such situations has necessarily to conform to democratic traditions and cannot have the trappings of the technique of an authoritarian regime to sustain itself in power. In

such circumstances, the police have the most difficult role to perform to maintain order. Any step taken by them for this purpose is immediately viewed by the agitating public as partisan conduct to maintain the *status quo* and oppose the changes for which the agitators clamour. Police invariably get dubbed as being on the side of the conservative and the no-changer. Police action in such situations is severely handicapped on this account. Police cannot be expected to handle such situations all by themselves but they should have accommodation, co-operation, assistance, sympathy and understanding from organised section of the public themselves.

(Para 14.17)

18.36 The basic role of the police is to function as a law enforcement agency and render impartial service to law, in complete independence of mere wishes, indications or desires, expressed by the Government as a matter of policy which either come in conflict with or do not conform to the provisions in our Constitution or laws duly enacted thereunder. We recommend that this basic role of the police may be specifically spelt out in categorical terms in the Police Act.

(Para 14.28)

18.37 A Code of Conduct for the police in India was adopted at the Conference of Inspectors General of Police in 1960 and circulated to all the State Governments. We recommend that clause (12) of the above Code may be modified to read as under :

- (12) The police should recognise that their full utility to the people of the country is best ensured only by maintaining a high standard of discipline, faithful performance of duties in accordance with law and implicit obedience to the directions of commanding ranks and absolute loyalty to the force and by keeping themselves in a state of constant training and preparedness.

(Para 14.29)

18.38 Having regard to the objectives mentioned in the Preamble to our Constitution, we would hold that law enforcement by police should cover the following two basic functions :—

- (i) Upholding the dignity of the individual by safeguarding his constitutional and legal rights. Police secure this objective by enforcing laws relating to the protection of life, liberty and property of the people ; and
- (ii) Safeguarding the fabric of society and the unity and integrity of the nation. Police secure this objective by enforcing laws relating to maintenance of public order.

(Para 14.31)

18.39 We are of the view that police have a direct and more or less exclusive responsibility in the task of investigating crimes but have a limited role in regard to the prevention of crime for the reason that the various contributory factors leading to crime do not totally and exclusively fall within the domain of

police for control and regulation. A co-ordinated understanding and appreciation of these factors not only by the police but also by several other agencies connected with social defence and welfare would be necessary for effective prevention of crime. Police responsibility for the prevention of crime has thus to be shared to some extent with other agencies. We feel that this distinction in police responsibility for investigation of crime on the one hand and prevention of crime on the other should be clearly understood and indicated in the Police Act itself, which would also thereby institutionalise and facilitate appropriate associative action by other social welfare agencies for preventing crime.

(Para 14.32)

18.40 We recommend a system of licensing with appropriate statutory backing to control the working of private detective agencies which have come up in the country in the recent years.

(Para 14.35)

18.41 Police responsibility for investigation of crimes may be spelt out in general terms in the basic law, namely, the Police Act, but in actual procedural practice there should be graded situations specifying different degrees of police responsibility in regard to different types of crimes.

(Para 14.36)

18.42 Certain types of crimes will require police intervention on their own initiative and on their own intelligence, without waiting for a complaint as such from any aggrieved person. Certain other types of crimes may justify police intervention only on a specific complaint from a member of the public. A third category of crime can be visualised where police may intervene only on a complaint from an aggrieved party and not by any member of the public.

(Para 14.36)

18.43 With regard to police role in the enforcement of social legislation, we are of the view that as the primary law enforcement agency available to the State, police cannot escape involvement in the enforcement of social and economic laws also in some form or the other. Police have a duty to enforce these laws but the manner of enforcement can certainly be regulated and controlled to avoid some possible evils that may arise from this involvement.

(Para 14.40)

18.44 Police responsibility for prevention and investigation of ordinary crimes may ultimately lead them on to involvement in containing law and order situations, public order situations and threats to internal security, in that order. When the country's internal security is threatened, the Central Government has a direct responsibility for taking appropriate counter measures. It has been the practice for the Central Government to come to the aid of State Governments by deputing armed forces of the Centre like CRP and BSF to aid the State police in dealing with serious public order situations. Police is at present a State subject in the 7th Schedule of the Constitution. It is for consideration of the Central Government and the State Governments whether the

Central Government should be constitutionally facilitated to coordinate and direct police operations in situations which threaten internal security. In our view, the addition of Entry 2A in the Union List of the 7th Schedule following the Constitution (Forty Second) Amendment Act, 1976 recognises this need to some extent. We understand that no law has yet been enacted and no rules or regulations have yet been laid down governing the jurisdiction, privileges and liabilities of the members of the armed forces of the Union when they are deployed in a State in accordance with Entry 2A of the Union List. We recommend that appropriate law/rules/regulations for this purpose be enacted soon.

(Para 14.42)

18.45 Under the existing law—Section 23 of the Police Act, 1861—the police are responsible for collecting intelligence affecting public peace only. We recommend that police powers for collection of intelligence should cover not only matters affecting public peace but also matters relating to crimes in general including social and economic offences, national integrity and security. The legal provisions in this regard should be in the nature of enabling provisions which can be availed by the police to collect intelligence as and when required. Law should not place the exclusive responsibility on the police only for collection of all intelligence on these matters because we are aware that a variety of intelligence relevant to these matters may fall within the jurisdiction of some other developmental or regulatory agencies as well. We further recommend that a police agency should not have the power or facilities for collection of any intelligence other than what is specified in law, as proposed.

(Para 14.44)

18.46 There is considerable scope for exercise of discretion at various stages in the discharge of police functions, particularly in regard to preventive policing measures before a crime occurs, as distinct from investigation which starts after the occurrence of crime. We are of the view that exercise of discretion in all such situations should be based on the assessment and judgment of the police functionaries concerned only. To prevent freakish or whimsical decision in such matters some broad guidelines should be laid down to cover all such conceivable situations. Police Manuals which do not contain such guidelines at present should be appropriately amplified. These guidelines should be set out in clear terms and also made known to the public. *Ad hoc* views or policies declared on the spur of the moment and conveyed orally or otherwise from the executive hierarchy above should not be deemed equivalent to guidelines for such purposes. In the absence of a guideline, the matter should be left to the sole discretion of the police officer directly involved in the situation and should not be subject to directions from above, except where it falls within the legitimate supervisory responsibility of a higher functionary under the law.

(Para 14.45)

18.47 Counselling and warning should be deemed as legitimate police activities towards prevention of crime and recognised as such in law.

(Para 14.46)

18.48 The police should have a duly recognised service-oriented role to play in providing relief to persons in distress situations like those arising out of natural calamities like cyclones, floods, etc. The police should be trained and equipped properly to perform these service-oriented functions.

(Para 14.50)

18.49 We recommend that the new police Act may spell out the duties and responsibilities of the police to—

- (i) promote and preserve public order;
- (ii) investigate crimes, and where appropriate, to apprehend the offenders and participate in subsequent legal proceedings connected therewith;
- (iii) identify problems and situations that are likely to result in commission of crimes;
- (iv) reduce the opportunities for the commission of crimes through preventive patrol and other appropriate police measures;
- (v) aid and co-operate with other relevant agencies in implementing other appropriate measures for prevention of crimes;
- (vi) aid individuals who are in danger of physical harm;
- (vii) create and maintain a feeling of security in the community;
- (viii) facilitate orderly movement of people and vehicles;
- (ix) counsel and resolve conflicts and promote amity;
- (x) provide other appropriate services and afford relief to people in distress situations;
- (xi) collect intelligence relating to matters affecting public peace and crimes in general including social and economic offences, national integrity and security; and
- (xii) perform such other duties as may be enjoined on them by law for the time being in force.

Item (ii) above will give legal scope for police to be associated with the process of prosecution and have effective interaction with the prosecuting agency. Items (iii) and (v) will afford scope for police to be associated in a recognised manner with the other wings of the criminal justice system for preventing crime and reforming criminals. Items (ix) and (x) will facilitate the performance of service-oriented functions and will also recognise a counselling and mediating role for the police in appropriate situations.

(Para 14.51)

Interference with and misuse of police by illegal or improper orders or pressure from political, executive or other extraneous sources—Remedial measures

18.50 While steering the country towards the promised objectives of the socialist welfare State for its hundreds of millions of people, the Government have had to control and regulate in an increasing degree the conduct and business of different sections of people through progressive legislation and other related measures. This has meant increasing exercise of power by the Government through its widely spread apparatus of the executive in several matters affecting the daily life of the people. National leaders, who were at the helm in different parts of the country in the first decade after Independence, conducted the affairs of the Government with great vision and wise statesmanship and set down patterns of conduct and inter-relationship between the political leadership in Government on the one side and the civil services on the other. Though not precisely defined, their respective roles were mutually understood fairly well and followed in practice. While the civil services had the benefit of lead and guidance in policy from the political leadership having in view the expectations and aspirations of the public, the political masters had the benefit of professional advice from the civil services regarding the different dimensions of the problems they had to solve. Great leaders and statesmen like Jawaharlal Nehru, Sardar Patel, Abul Kalam Azad, Rajagopalachari, Govind Ballabh Pant, Rafi Ahmed Kidwai, K. Kamaraj, B. C. Roy and Sri Krishna Sinha provided an atmosphere of dignity and sense of direction for the civil services to function honestly and efficiently, with public interests constantly held in view. Passing years saw the entry of a large variety of people into the field of politics and increasing contact between politicians and the executive at various levels in a variety of situations, including those caused by decreasing majorities in legislatures. Scope for exercise of power through the political leadership in Government induced political functionaries outside the Government to take undue interest in the conduct of Government affairs, and gradually the spectre of 'political interference' appeared on the scene. Police, as a part of the civil services, came within the ambit of this interference. In fact the police became specially vulnerable to interference from politicians because of the immense political advantage that could be readily reaped by misuse of police powers. The quality of police performance was and continues to be adversely affected by such interference.

(Para 15.2)

18.51 After long years of tradition of law enforcement subject to executive will under the British rule, the police entered their new role in independent India in 1947. The foreign power was replaced by a political party that came up through the democratic process as laid down in our Constitution. For a time things went well without any notice of any change, because of the corrective influences that were brought to bear on the administrative structure by the enlightened political leadership. However, as years

passed by there was a qualitative change in the style of politics. The fervour of the freedom struggle and the concept of sacrifice that it implied faded out quickly, yielding place to new styles and norms of behaviour by politicians to whom politics became a career by itself. Prolonged one-party rule at the Centre and in the States for over 30 years coupled with the natural desire of ruling partymen to remain in positions of power resulted in the development of symbiotic relationship between politicians on one hand and the civil services on the other. Vested interests grew on both sides. What started as a normal interaction between the politicians and the services for the avowed objective of better administration with better awareness of public feelings and expectations, soon degenerated into different forms of intercession, intervention and interference with *mala fide* objectives unconnected with public interest.

(Para 15.4)

18.52 Consequent on the agitationist posture taken up by some political parties in opposition, protest demonstrations, public meetings, processions, politically motivated strikes in the industrial sector, dharnas, gheraos, etc. have become a recurrent feature of political activity in the country. Police have been increasingly drawn into the resultant law and order situations and are expected by the ruling party to deal with all such situations with a political eye. Putting down political dissent has become a tacitly accepted objective of the police system.

(Para 15.6)

18.53 Some typical situations or matters in which pressure is brought to bear on the police by the political, executive or other extraneous sources are listed below :

- (i) Arrest or non-arrest of a person against whom a case is taken up for investigation by the police.
- (ii) Deliberate handcuffing of a person in police custody merely to humiliate him.
- (iii) Release or non-release on bail after arrest.
- (iv) Suppression of material evidence that becomes available during searches by police.
- (v) Inclusion or non-inclusion in the charge-sheet placed in court on conclusion of investigation.
- (vi) 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.
- (vii) Taking persons into preventive custody to immobilise them from legitimate political activity in opposition to the party in power.
- (viii) Foisting false criminal cases against political functionaries for achieving political ends.
- (ix) Discretionary enforcement of law while dealing with public order situations, with

emphasis on severity and ruthlessness in regard to persons opposed to the ruling party.

- (x) Manoeuvring police intervention by exaggerating a non-cognizable offence or engineering a false complaint to gain advantage over another party in a situation which will lie outside the domain of police action in the normal course.
- (xi) Preparation of malicious and tendentious intelligence reports to facilitate action against an opponent.

(Para 15.13)

18.54 Pressure on the police takes a variety of forms, ranging from a promise of career advancement and preferential treatment in service matters if the demand is yielded to, and a threat of drastic penal action and disfavoured treatment in service matters if the pressure is resisted. While it is not possible to punish a police officer with a statutory punishment under the Discipline and Appeal Rules without adequate grounds and following a prescribed procedure, it is very easy to subject him to administrative action by way of transfer or suspension on the basis of an alleged complaint taken up for inquiry. While suspension acts as a great humiliating factor, a transfer acts as a severe economic blow and disruption of the police officers' family, children's education, etc. The threat of transfer/suspension is the most potent weapon in the hands of the politician to bend down the police to his will.

(Para 15.14)

18.55 During our tours in the States several officers brought to our notice this phenomenon of frequent and indiscriminate transfers ordered on political considerations. We analysed the frequency of transfers in different ranks in the States in the five year period 1973—77 and found the following position in many States :—

Rank	Average period of stay in the same post/same station	
I.G.	1 year & 8 months	(In one State 6 IsG were changed, in three States 5 IsG were changed in this period).
S.P.	1 year & 7 months	(In one State it is as low as 11 months).
Sub Inspector	1 year & 2 months	(In one State it is as low as 7 months and in three others it was 10 months).

In computing the above period, we have excluded the transfers arising from normal administrative reasons like promotion to a higher post, deputation to training or to a post under the Central Government, retirement, removal/dismissal from service, etc. The frequent changes of officers, particularly at the operational level

of Sub Inspectors in Police Stations and Superintendents of Police in districts coupled with frequent changes at the apex, namely, Inspector General of Police, have no doubt largely contributed to the sharp decline in the quality of police service down the line. Inspectors General in some States have been changed as often as the Chief Minister or the Home Minister changed! The interests of real professional service to the public have been sacrificed at the altar of political expediency.

(Para 15.15)

18.56 We are also aware that the unhealthy influences and pressures that are brought to bear on the police do not always originate from political sources alone. Capitalists, industrialists, businessmen, landlords and such others who form the richer and more influential sections of society have immense capacity to generate such pressures to operate at different levels in the police, either directly or indirectly through political sources, and influence the course of police action.

(Para 15.17)

18.57 Interference with the police system by extraneous sources, especially the politicians, encourages the police personnel to believe that their career advancement does not at all depend on the merits of their professional performance, but can be secured by currying favour with politicians who count. Deliberate and sustained cultivation of a few individuals on the political plane takes up all the time of a number of police personnel to the detriment of the performance of their normal professional jobs to the satisfaction of the general public at large. This process sets the system on the downward slope to decay and total ineffectiveness

(Para 15.18)

18.58 Interference at the operational level in police stations, police circles, etc. results in the total by-passing of the supervisory officers in the hierarchy. The frequent by-passing of the normal chain of command results in the atrophy of the supervisory structure. It, therefore, fails to operate effectively even in matters which do not attract any such extraneous interference. This was strikingly seen in the situation arising from the policemen's stir in certain States in May-June 1979.

(Para 15.19)

18.59 In their anxiety to ensure police performance in accordance with the appreciation of the situation by the political party in power, some State Governments are known to have issued executive instructions restricting the scope for police action even in situations where a specific line of action by police is enjoined on them by law itself.

(Para 15.20)

18.60 A police force which does not remain outside politics but is constantly subjected to influences and pressures emanating within the system from the politicised police personnel themselves will in turn seriously disturb the stability of the duly elected political leadership in the State itself and thereby cause serious damage to the fabric of our democracy. This danger has to be realised with equal seriousness and concern by the politician as well as by the police.

(Para 15.25)

18.61 The experience of several other democracies has also shown the need for evolving healthy norms in the interaction between the political leadership in Government and the executive services, to ensure that each section performs its duly recognised role and benefits by the corrective influence from the other in constantly serving the cause of public interest.

(Para 15.31)

18.62 We have already observed how in the early years after independence the political leadership provided by well-motivated administrators and statesmen had in fact enabled the services including the police to function effectively in the best interests of the public at large. We feel confident that the existing situation can certainly be corrected and we can evolve practicable remedial measures to bring about a healthy functioning of the police with helpful and wise guidance from the elected representatives of the people.

(Para 15.32)

18.63 We feel that it would be appropriate to lay down that the power of superintendence of the State Government over the police should be limited for the purpose of ensuring that police performance is in strict accordance with law.

(Para 15.38)

18.64 Police tasks may be broadly divided into three categories for the purpose of analysing the relevance of supervision by Government. They are (i) investigative; (ii) preventive and (iii) service-oriented. Investigative tasks will include all action taken by the police in the course of investigating a case under Chapter XII of the Code of Criminal Procedure. Preventive tasks will cover such actions like preventive arrests under section 151 Cr.P.C., initiation of security proceedings, arrangement of beats and patrols, collection of intelligence and maintenance of crime records to plan and execute appropriate preventive action, deployment of police force as a preventive measure when breach of peace is threatened, handling of unlawful assemblies and their dispersal, etc. Service-oriented functions will include rendering service of a general nature during fairs and festivals, rescuing children lost in crowds, providing relief in distress situations arising from natural calamities etc.

(Para 15.39)

18.65 As far as investigative tasks are concerned we have a clear ruling from the Supreme Court that the nature of action to be taken on conclusion of investigation is a matter to be decided by the police only and by no other authority—*vide* para 18 of the Supreme Court judgment in criminal appeal No. 218 of 1966 reported in AIR 1968 Supreme Court 117 (V 55 C 32). It may, therefore, be safely projected as a fundamental principle governing police work that the investigative tasks of the police are beyond any kind of intervention by the executive or non-executive. Any arrangement in which the investigative tasks of the police are sought to be brought under executive control and direction would go against this fundamental principle spelt out by the Supreme Court and hence should be deemed illegal. We would, therefore, recommend in the first place that all the executive instructions issued by the government having a bearing

on investigative tasks of the police may be scrutinised and either cancelled or modified to conform to the above principle.

(Para 15.40)

18.66 In the performance of preventive tasks and service-oriented functions, the police will need to interact with other governmental agencies and service organisations. For example, in planning preventive measures in a near-strike situation in an educational institution or an industrial unit, police will have to keep in touch with the educational authorities or the labour departmental authorities to have a proper perception of the developing situation. In the performance of such preventive tasks there is considerable scope for exercise of discretion, having in view the overall public interests involved in any particular situation. Every police officer should normally be left free to exercise this discretion on his own judgment but there may be situations the disposal of which may have repercussions beyond the jurisdiction of one police officer and it will become necessary in such cases for the supervisory ranks to step in and exercise discretion at their level. Extending this analogy one can visualise a State-wide situation in which the exercise of discretion in regard to preventive tasks may have to take into account several factors of State-wide significance and it would be appropriate in public interest that the exercise of discretion in such situations conforms to some policy approach that may be evolved at the highest political level in the government which has the ultimate responsibility for proper governance of the State. We, therefore, recommend that in the performance of preventive tasks and service-oriented functions police should be subject to the overall guidance from the government which should lay down broad policies for adoption in different situations from time to time. There should however be no instructions in regard to actual operations in the field. The discretion of the police officer to deal with the situation, within the four corners of the over-all guidance and broad policies, should be unfettered. An erring officer can always be made accountable for his action. Such policy directions should be openly given and made known to the State Legislatures also as and when occasion demands.

(Para 15.42)

18.67 We have already referred to the weakening of the normal chain of command resulting from unauthorised interference with police work by political and other extraneous sources. To restore the capacity of the police as an organization to resist such pressures and illegal or irregular orders, we consider it would be extremely useful if the Chief of Police in a State is assured of a statutory tenure of office. Such a tenure will strengthen his position and enable him to stand up effectively against unhealthy pressures on the system. The tenure may be fixed as a period of four years or a period extending upto the date of his retirement or promotion in the normal course, whichever is shorter. This tenure should be put on a statutory basis by being included in a specific provision in the Police Act itself. It shall also be provided that the removal of the Chief of Police from his post before the expiry of the tenure period shall require

S:11 HA/79-8

approval from the State Security Commission whose set up is being recommended separately.

(Para 15.43)

18.68 We recommend that the posting of Chief of Police in a State should be from a panel of IPS officers of that State cadre prepared by a Committee of which the Chairman of the Union Public Service Commission will be the Chairman and the Union Home Secretary, the senior most among the Heads of Central Police Organisations, the Chief Secretary of the State and the existing Chief of Police in the State will be members. The panel should not have more than three names at any time. Posting from the panel should be according to seniority : We visualise that in the future police set up at the Centre and in the States, the Chiefs of State Police and the Heads of Central Police Organisations will be of comparable status and it should be possible for the Central and State Governments to arrange for periodic interchange of officers at this level without involving any loss of rank or status as experienced now. The association of the Central Government and the State Government in jointly preparing this panel would ensure its acceptability to both and facilitate smooth interchange of officers at the highest level in the normal course.

(Para 15.45)

18.69 There is immediate need to devise a new mechanism of control and supervision which would help the State Government to discharge their superintending responsibility in an open manner under the framework of law, with due regard to healthy norms and conventions that may develop in due course. For this purpose we recommend the constitution of a statutory Commission in each State which may be called the State Security Commission which shall have the State Minister incharge of police as the ex-officio Chairman and six others as Members. Two Members shall be chosen from the State Legislature, one from the ruling party and another from the opposition parties. They shall be appointed to this Commission on the advice of the Speaker of the State Legislature. The remaining four members of the Commission shall be appointed by the Chief Minister, subject to approval by the State Legislature, from retired judges of the High Court, retired Government servants who had functioned in senior positions in the Government while in service, social scientists or academicians of public standing and eminence. The Chief of Police will ex-officio function as Secretary of this Commission which shall have its own Secretariat for the transaction of its business. Arrangement of funds for the functioning of this Commission will be made on the same lines as for the State Public Service Commission.

(Para 15.46)

18.70 The term of the Members of the Commission (other than the Chairman) shall be three years. If any among the four non-political Members were to join a political party after being appointed to the Commission, he shall immediately cease to be a Member of the Commission and the vacancy shall be filled by fresh appointment from the non-political category.

(Para 15.47)

18.71 The functions of the State Security Commission shall include—

- (i) laying down broad policy guidelines and directions for the performance of preventive tasks and service-oriented functions by the police ;
- (ii) evaluation of the performance of the State Police every year and presenting a report to the State Legislature ;
- (iii) functioning as a forum of appeal for disposing of representations from any police officer of the rank of Superintendent of Police and above regarding his being subjected to illegal or irregular orders in the performance of his duties ;
- (iv) functioning as a forum of appeal for disposing of representations from police officers regarding promotion to the rank of Superintendent of Police and above ; and
- (v) functioning as a forum of appeal for disposing of the police in the State.

(Para 15.48)

18.72 The Commission shall devise its own procedures for transaction of business. It shall be open to the Chairman and Members of the Commission and also the Chief of Police to bring up for consideration by the Commission, any subject falling within its jurisdiction.

(Para 15.49)

18.73 The Commission shall meet at least once every month and may meet more often, if required by the Chairman or Members of the Commission or the Chief of Police for considering any particular subject proposed by them.

(Para 15.50)

18.74 As the Chairman of the Commission, the Minister-in-charge of police will be able to project the government point of view during the Commission's deliberations. Any policy direction or guidelines which the government desire to issue shall have to be agreed to by the Commission before they are passed on to the police for implementation. However, in an emergency, the Government may directly issue a policy direction or guidelines in regard to a specific situation, but such direction or guidelines shall as soon as possible be brought before the Commission for ratification and be subject to such modifications as the Commission might decide.

(Para 15.51)

18.75 The constitution of such a Commission will, in our opinion, help considerably in making police performance politically neutral. While retaining governmental responsibility for overseeing the police, this Commission will ensure that this responsibility is discharged in an open manner with publicly known policy directions and guidelines. The arrangement of an annual evaluation report from the same Com-

mission and constant review of the functioning of the police by it would also further ensure that police performance in any given period has conformed to the prescribed policy directions and guidelines and has served public interests in the best possible manner. We recommend that the limits of supervisory responsibility of the State Government in regard to police performance as earlier observed by us, and the constitution of a State Security Commission as proposed above to help the State Government in discharging this responsibility may be spelt out in a new provision in the Police Act in replacement of the existing Section 3 of that Act.

(Para 15.54)

18.76 A sensitive area of police functions with considerable scope for misuse of police relates to collection of intelligence. Under the garb of having to collect intelligence regarding matters which have a bearing on the law and order situation, the intelligence wing of the State Police frequently collects a variety of information regarding activities of political parties and individual politicians.

(Para 15.55)

18.77 The Shah Commission of Inquiry has referred to some aspects of the functioning of the Intelligence Bureau and the Central Bureau of Investigation at the Centre and pointed out the need for appropriate safeguards to be evolved to ensure that these organisations are not put to misuse by the Government or some one in the Government. We would like to point out that the tendency to misuse these organisations would get accentuated by political instability in Government and, viewed from this angle, the functionaries in these organisations would need protection from improper and unhealthy pulls and pressures that might operate in such situations. We understand from the Ministry of Home Affairs that they have recently received the report of the high-level Committee headed by Shri L. P. Singh, a former Home Secretary and presently Governor of Assam, Meghalaya, Nagaland, Manipur and Tripura, which was appointed in pursuance of the observations of the Shah Commission of Inquiry regarding the Intelligence Bureau and the Central Bureau of Investigation. The points that may emerge from the analysis of L. P. Singh Committee Report would, in our opinion, be applicable in a substantial measure to the working of the intelligence wing in the State Police as also the State Anti-Corruption agencies. We recommend that the Central Government may communicate to the State Governments the essential observations and recommendations emanating from the L. P. Singh Committee Report for their information and further action in regard to their own agencies, not only for overseeing their performance but also for protecting them from unhealthy influences.

(Para 15.55)

18.78 Conduct Rules prohibit all Government servants including the police personnel from being members of or otherwise being associated with any political party, or any organisation which takes part in politics. However, in practice this important pro-

vision in the Conduct Rules does not appear to have been enforced with the required strictness and severity.

(Para 15.56)

18.79 We would recommend that the administration should take a severe view of any infringement of the above mentioned Conduct Rule and deal with erring officers in a deterrent manner. In appropriate cases resort may also be had to Article 311(2)(b) or (c) to weed out such personnel from the system. In cases where this constitutional provision is invoked, all the available material against the police personnel concerned should be scrutinised by a small Committee under the Chairmanship of the Chief of Police. Members of this Committee may be drawn from senior ranks in the prosecuting agency set up of the State and police officers of the rank of Deputy Inspector General of Police (other than the one who may have been concerned either directly or in a supervisory capacity with the situations or instances that figure in the material for consideration by the Committee).

(Para 15.56)

18.80 While we do not hold any brief for or against any political party to say that the membership thereof or association therewith should not or should act as a bar for recruitment to the police at any level, we would state emphatically that the continued involvement in political activity of any kind either directly or indirectly by any personnel after joining the police at any level should not be tolerated in any circumstances. The weeding out of such persons should receive special attention of the Chief of Police from time to time. Here again, recourse may be had to the provisions of article 311(2)(b) or (c) of the Constitution, if need be in appropriate cases.

(Para 15.57)

18.81 We feel that police officers should be effectively protected from whimsical and *mala fide* transfer/suspension orders. One step for securing this protection could be to incorporate a provision in the Police Act itself specifying the authorities competent to issue transfer/suspension orders regarding different ranks. Such a statutory provision would render null and void any transfer/suspension order passed by any authority other than those specified in the Act.

(Para 15.58)

18.82 Another step could be to lay down as a rule that every transfer/suspension order should also contain a brief paragraph indicating the reasons for the issue of the order, and making it a further rule that any transfer/suspension order which does not contain this explanatory paragraph shall not be valid order. The advantage in this arrangement would be that the recipient of the transfer/suspension order will have some material with him which he can agitate before the authorised available forums if he feels that the reasons are *mala fide* or otherwise not sustainable.

(Para 15.59)

18.83 In regard to the issue of oral orders, our recommendations are that oral orders should be avoided as far as possible and may be resorted to only in situations which call for immediate executive action and cannot wait for the issue of written orders in confirmation of the oral order; a record of every oral order be kept both by the issuing officer and the recipient officer in the relevant files; and a subordinate officer receiving oral orders from a higher ranking officer shall be entitled to ask for and get confirmatory orders in writing from the higher functionary, for record.

(Para 15.60)

18.84 We feel that if it is laid down as a code of conduct that elected representatives will interact with the police at the level of the Deputy Superintendent of Police or above only, it would avoid situations in which the executives at the operational level in police stations and circles may be overawed by the stature of the political functionary and may be inclined to accept and act upon whatever information he passes on to them without making the necessary check and verification which they might make normally.

(Para 15.61)

18.85 We would recommend that the Conduct Rules applicable to Police personnel of all ranks in the States may embody provisions similar to those in Rule 3(3) of the All India Services (Conduct) Rules which emphasise the responsibility of a member of the Service to act according to his own best judgment and not evade this responsibility by seeking instructions or approval from a higher authority, where such instruction or approval is not necessary according to normal working procedures.

(Para 15.62)

18.86 In the Government of India Department, Department of Personnel and Administrative Reforms letter No. 25/19/64-Ests(A) dated 29th April, 1975, addressed to the Chief Secretaries of all the State Governments, it was indicated that a Code of Conduct for Legislators was being separately processed by the Ministry of Home Affairs. Our enquiries reveal that this Code of Conduct for Legislators has not yet taken any shape. We recommend that the Ministry of Home Affairs complete their exercise expeditiously and have the Code issued very soon so that the elected representatives as also the general public at large may know and appreciate the requirements of ethics and propriety in this important and sensitive matter.

(Para 15.63)

18.87 We also trust that the contemplated exercise on the political plane as decided at the Chief Minister's Conference of 6th June, 1979 will be taken up in right earnest and completed soon.

(Para 15.63)

18.88 To bring home the primacy of the rule of law in a democracy and the paramount duty of every police officer to recognise this primacy and stoutly

resist any interference with the course of his duties as enjoined by law and in accordance with the Constitution, we feel it would be appropriate if every member of the police is made to swear or solemnly affirm a declaration embodying this fundamental principle, at the time of his joining the police, whatever be the rank of entry.

(Para 15.64)

18.89 Apart from the initial declaration at the time of joining the police, it would further serve the purpose and embed the principle firmly in the minds of all the police officers if this declaration is remembered and repeated by them in groups and assemblies of police personnel drawn up on an annual ceremonial occasion like the 'Police Commemoration Day' which is observed on 21st October, every year.

(Para 15.64)

18.90 The structuring of the initial training courses and the later in-service training courses for all police personnel should be suitably designed to facilitate the growth of proper attitudes and sense of values on the part of every police officer, viewing himself throughout as a servant of law to uphold and protect the dignity and rights of every individual fellow citizen of the country.

(Para 15.65)

Gram Nyayalayas

18.91 The mounting pendency of cases in court in the present system of trials with emphasis on procedures and rituals rigidly spelt out in law, cannot be brought down within manageable limits except by devising a totally new system with simpler procedures to deal with ordinary crimes involving simple and straight evidence. Such a new system would not only ensure inexpensive and speedy justice but, what is more, would also help in preserving the harmonious relationships in the community which usually get affected if criminal matters are subjected to prolonged trials which might ultimately involve prison sentences also. This is particularly relevant in the rural areas where community opinion and village harmony have been and continue to be perceptible factors of life.

(Para 16.2)

18.92 During our tours in the States and discussions with a wide cross section of the public as also the services, we got the impression that the working of Nyaya Panchayats, though well conceived in principle, suffered in practice, mainly because of the lay members of the Panchayat being subjected to local influences and pressures which defeated the purpose of an objective and fair disposal of cases handled by the Panchayats. It was also pointed out that a Nyaya Panchayat solely made up of lay members was unable to handle the judicial work with requisite attention to the minimum requirements of a judicial process. It was further mentioned that Nyaya Panchayats would function far more effectively if they were manned by trained persons with a certain minimum knowledge of law, rules and procedure.

(Para 16.10)

18.93 We appreciate that if the Nyaya Panchayats are made up of knowledgeable and academically competent persons alone, they would lose their lay character and, therefore, would merely appear as an extension of the existing sophisticated court system which, for a variety of reasons, does not command the confidence of the rural folk. On the other hand, if the Nyaya Panchayats are made up only of lay men who come up through a process of election, direct or indirect, they would become susceptible to unhealthy influences and pressures which may conflict with the interests of justice. We have, therefore, to adopt a *via media* which would preserve the lay character of the Nyaya Panchayat and at the same time ensure the disposal of cases with due regard to certain minimum judicial requirements.

(Para 16.11)

18.94 The observations of Justice Bhagwati Committee on the advantages of the Nyaya Panchayat system and its recommendations regarding the composition of a Nyaya Panchayat and procedures for transaction of its business are set out in paragraphs 6.11 to 6.31 of the Committee's report which are furnished in Appendix VIII.

(Para 16.13)

18.95 We have carefully gone through Justice Bhagwati Committee's report and we find ourselves in whole-hearted agreement with it. We fully endorse the recommendations therein, subject to the modifications and refinements as spelt out in the following paragraphs, which we consider desirable in the present context.

(Para 16.14)

18.96 The new courts proposed at the grass roots level may be called "Gram Nyayalayas", avoiding any reference to Panchayat as such so that they may not be viewed as an adjunct or extension of the Panchayats which are totally executive bodies with which political functionaries are associated.

(Para 16.15)

18.97 A Gram Nyayalaya shall be made up of three Members. One shall be the Presiding Judge who will be appointed by the District Judge from retired judicial officers or other retired Government servants who, from their experience while in service, would have acquired the requisite knowledge of law and minimum requirements of judicial processes.

(Para 16.16)

18.98 Two other members of the Gram Nyayalaya shall be lay members appointed by the District Judge from a panel of names prepared by the local elected body that goes by the name of Panchayat Samiti/ Panchayat Union/Block Committee or its equivalent, in the manner described below.

(Para 16.17)

18.99 One Gram Nyayalaya shall cover about 25 to 30 villages coming under 8 to 10 Panchayats. This would mean about 5 or 6 Gram Nyayalayas in the

jurisdiction of one Panchayat Union/Panchayat Samiti. The headquarters of each Gram Nyayalaya shall be fixed at some suitable place within the group of villages in its jurisdiction.

(Para 16.18)

18.100 The Presiding Judge for all the Gram Nyayalayas within the jurisdiction of a Panchayat Samiti shall be the same person appointed by the District Judge in the manner prescribed earlier. The lay members of each Gram Nyayalaya will, however, be separate for each Nyayalaya. The Panchayat Pradhans relevant to the jurisdiction of each Gram Nyayalaya will be associated in proposing the names of lay members for that Gram Nyayalaya. The Presiding Judge shall hold proceedings of each Gram Nyayalaya in the Panchayat Samiti by visiting the respective headquarters once a month by turn, or more often if required by the volume of work to be handled, and associate the two local lay members with the proceedings in each place.

(Para 16.19)

18.101 The Presiding Judge and the two lay members shall normally hold office for a term of 3 years from the date of appointment. They shall be deemed to be public servants as defined in the Indian Penal Code while they hold office.

(Para 16.20)

18.102 Gram Nyayalayas shall have exclusive criminal jurisdiction over the offences that are assigned to them in the relevant law.

(Para 16.21)

18.103 Gram Nyayalayas shall not be bound by procedural codes or laws of evidence. Their proceedings shall be in the nature of an inquisitorial inquiry which would mean that the Gram Nyayalaya would itself take a positive role in the inquiry to ascertain the facts regarding the involvement or otherwise of the person concerned instead of merely functioning as an adjudicating body to give its view on two versions put before it, one by the prosecution and the other by the defence.

(Para 16.25)

18.104 Parties to the proceedings before the Gram Nyayalayas shall not be allowed to be represented by lawyers. Exceptions may arise when a person happens to be arrested or otherwise detained in custody in connection with an offence related to the proceedings before the Gram Nyayalaya, in which case the provisions of Article 22(1) of the Constitution may get attracted. The observations of the Supreme Court in the case of State of Madhya Pradesh versus Shobharam and others (AIR 1966 SC 1910) would be relevant in this connection.

(Para 16.26)

18.105 The findings of the Gram Nyayalaya shall be based on the majority view of the component members including the Presiding Judge, subject to the provision that in any case where the two lay

members agree on a finding with which the Presiding Judge does not agree, and the Presiding Judge is clearly of the opinion that it is necessary for the ends of justice to submit the case to a higher court, he shall record the grounds of his opinion and submit the case for adjudication by the Chief Judicial Magistrate. We are recommending this procedure specially to guard against local unhealthy influences and pressures operating on the system.

(Para 16.29)

18.106 Punishment awardable by a Gram Nyayalaya shall be limited to fines not exceeding to Rs. 500. Fines shall be recoverable by processes applicable to arrears of revenue. A Gram Nyayalaya shall not be competent to award any sentence of imprisonment, even in default of payment of fine.

(Para 16.30)

18.107 If in any particular case, having regard to the circumstances thereof, the Gram Nyayalaya feels that the person found guilty by it merits a more serious punishment than is awardable by the Gram Nyayalaya, it shall remit the case to the Chief Judicial Magistrate of the district for further action on the lines indicated in section 325 Cr. P.C.

(Para 16.31)

Maintenance of crime records and statistics

18.108 Maintenance of crime records at the police station level and submission of periodic reports and returns from there to the district level and the State level should be so designed as to fit into a scheme of computerised maintenance of data/information at the State level/National level.

(Para 17.5)

18.109 Changes in the existing crime record system in different States should be minimal for the limited purpose of achieving the objective mentioned above.

(Para 17.5)

18.110 Detailed recommendations made by a Committee of DISG set up in 1962 regarding the type of records to be maintained at police stations may be kept as model and worked upon further in States.

(Para 17.5)

18.111 A District Crime Record Bureau, State Crime Record Bureau and the National Crime Record Bureau should be set up with legal backing and adequate staff.

(Para 17.5)

18.112 The Central Finger Print Bureau which is now located in Calcutta should merge with the National Crime Record Bureau which may be located either in Delhi or Hyderabad. Hyderabad location will facilitate useful interaction with the SVP National Police Academy.

(Para 17.5)

18.113 Collection and maintenance of data for national and Interpol purposes, at present handled by the Bureau of Police Research and Development and the Central Bureau of Investigation, may be integrated with the proposed National Crime Record Bureau.

(Para 17.5)

18.114 Computerisation of Finger Prints at the State level and National level should be taken up on hand and completed within a reasonable time frame, say five years.

(Para 17.5)

18.115 Communication channels in the shape of VHF telephones and teleprinters between police stations and district headquarters, between district headquarters and State headquarters and the final link up with the headquarters of the National Crime Record Bureau should be built up to facilitate prompt exchange of data/information. This will be very necessary to aid investigational work and reduce infructuous arrests and prolonged detention of persons on mere suspicion without adequate grounds.

(Para 17.5)

18.116 One or more educated constables must be specifically designated in every police station as Collators who will be responsible for maintenance of crime records at the police station, preparation of the input forms originating from the police station in respect of all police computer applications, placing all computer outputs received in the police station before the Station House Officer for their effective utilisation, handling the P&T telephone and other technical equipment, if any, in the police station, and generally assisting the Station House Officer in all correspondence with the District Crime Records Bureau and the State Crime Records Bureau.

(Para 17.5)

18.117 The existing "Identification of Prisoners Act 1920" should be replaced by a new comprehensive law which may be called "The Crime and Offender Records Act" which would facilitate the collection of wide ranging data and information regarding crimes and criminals which would be of use not only to the police in the performance of their investigative jobs but also to the functionaries in probation services and correctional institutions besides criminologists and social scientists, in their respective fields of correctional work and analytical studies. A draft for the proposed new Act is enclosed to the report as Appendix XII.

(Para 17.7)

18.118 Government of India should continue financial aid in increasing measure to the States for installing computers in the police communication and record systems and complete a time bound computerisation plan.

(Para 17.8)

Sd/-
(DHARMA VIRI)
Chairman

Sd/-
(N. KRISHNASWAMY REDDY)
Member

Sd/-
(K. F. RUSTAMJI)
Member

Sd/-
(M. S. GORE)
Member

Sd/-
(C. V. NARASIMHAN)
Member Secretary

NEW DELHI

16th August, 1979

APPENDICES

APPENDIX I

(Para 13.2—Chapter XIII)

Revenue Expenditure on State Police, Welfare of Police Personnel, Grants-in-aid/Contributions to Welfare Fund

(Rupees in thousands)

State	1972-73			1973-74		
	Police Expenditure	Exp. on Welfare of Police Personnel	Grants-in-aid/contribution to Police Welfare Fund	Police Expenditure	Exp. on Welfare of Police Personnel	Grants-in-aid/contribution to Police Welfare Fund
1	2	3	4	5	6	7
1. Andhra Pradesh	180000	58	58	201700	110	—
2. Assam	124900	723	—	134900	216	7
3. Bihar	202000	647	60	249000	593	60
4. Gujarat	170500	—	—	185800	—	—
5. Haryana	46900	—	—	62100	—	—
6. Himachal Pradesh	36600	—	—	36100	—	—
7. Jammu & Kashmir	57400	102	87	59100	90	75
8. Karnataka	115300	N.A.	N.A.	122100	47	47
9. Kerala	99200	—	—	113900	—	—
10. Madhya Pradesh	209700	—	—	247800	—	—
11. Maharashtra	365100	500	500	531800	500	500
12. Manipur	25700	—	—	31700	—	—
13. Meghalaya	14300	—	—	18300	47	2
14. Nagaland	58700	N.A.	N.A.	50200	89	—
15. Orissa	81800	501	—	101200	560	—
16. Punjab	104500	—	—	111000	294	—
17. Rajasthan	143200	—	—	154300	—	—
18. Sikkim	N.A.	N.A.	N.A.	N.A.	N.A.	N.A.
19. Tamil Nadu	208200	—	—	234200	—	—
20. Tripura	18100	97	—	32700	148	—
21. Uttar Pradesh	346100	3040	—	418800	1274	—
22. West Bengal	307400	16070	—	348200	45356	—
Total Expenditure	2915600	21738	705	3444900	49324	691

(Rupees in thousands)

State	1974-75			1975-76		
	Police Expenditure	Exp. on Welfare of Police Personnel	Grants-in-aid/contribution to Police Welfare Fund	Police Expenditure	Exp. on Welfare of Police Personnel	Grants-in-aid/contribution to Police Welfare Fund
8	9	10	11	12	13	
1. Andhra Pradesh	237500	538	100	271600	808	100
2. Assam	148600	652	3	171900	853	19
3. Bihar	270400	604	—	286500	373	—
4. Gujarat	232600	—	—	271200	964	650
5. Haryana	78300	—	—	96500	—	—
6. Himachal Pradesh	44600	—	—	46200	—	—
7. Jammu & Kashmir	57500	323	75	62500	345	75
8. Karnataka	160100	126	126	179100	223	223
9. Kerala	139100	—	—	164000	—	—
10. Madhya Pradesh	277700	2362	—	296700	3151	168
11. Maharashtra	491600	550	550	535000	850	850
12. Manipur	56500	—	—	48800	—	—
13. Meghalaya	23500	64	2	27800	60	14
14. Nagaland	65300	67	—	82100	122	—
15. Orissa	119800	542	—	157800	474	—
16. Punjab	136600	846	244	159600	995	—
17. Rajasthan	182300	200	200	205200	175	175
18. Sikkim	N.A.	N.A.	N.A.	2600	—	—
19. Tamil Nadu	252300	1228	—	263400	1473	137
20. Tripura	35100	229	50	26500	—	—
21. Uttar Pradesh	486000	4949	1275	544700	5767	N.A.
22. West Bengal	406300	56515	—	478500	—	—
Total Expenditure	3901700	69795	2625	4378200	16633	2411

(Rupees in thousands)

State	1976-77			1977-78		
	Police Expenditure	Exp. on Welfare of Police Personnel	Grants in aid/contribution to Police Welfare Fund	Police Expenditure	Exp. on Welfare of Police Personnel	Grants in aid/contribution to Police Welfare Fund
	14	15	16	17	18	19
1. Andhra Pradesh	329800	971	250	367000	1249	250
2. Assam	176300	1312	25	241800	1512	26
3. Bihar	289200	1035	—	410000	3061	—
4. Gujarat	321800	628	246	320300	1409	880
5. Haryana	103000	—	—	114500	—	—
6. Himachal Pradesh	51100	—	—	53100	—	—
7. Jammu & Kashmir	65100	355	75	91300	360	75
8. Karnataka	203300	234	234	230000	275	275
9. Kerala	181000	—	—	196800	—	—
10. Madhya Pradesh	315800	3193	176	342700	3528	200
11. Maharashtra	574300	950	950	650700	950	950
12. Manipur	98200	—	—	102800	—	—
13. Meghalaya	28800	72	7	40300	103	11
14. Nagaland	76300	183	—	82900	370	—
15. Orissa	161800	1092	—	167300	1076	—
16. Punjab	182700	1148	266	174400	1125	269
17. Rajasthan	218100	175	175	251800	500	500
18. Sikkim	4400	15	—	8200	30	—
19. Tamil Nadu	300100	1302	151	336500	1323	153
20. Tripura	27600	236	54	36700	254	48
21. Uttar Pradesh	617900	7539	747	671800	7300	388
22. West Bengal	473100	70499	—	563700	75241	—
TOTAL	4799700	90739	3357	5459500	99671	4025

(Rupees in thousands)

State	1978-79 (B.E.)		
	Police Expenditure	Exp. on Welfare of Police Personnel	Grants in aid/contribution to Police Welfare Fund
	20	21	22
1. Andhra Pradesh	391800	1268	250
2. Assam	204600	1363	26
3. Bihar	419500	3077	—
4. Gujarat	335600	1276	735
5. Haryana	118000	—	—
6. Himachal Pradesh	56200	—	—
7. Jammu & Kashmir	88900	360	75
8. Karnataka	263400	300	300
9. Kerala	205000	—	—
10. Madhya Pradesh	363500	3653	210
11. Maharashtra	706300	950	950
12. Manipur	97400	—	—
13. Meghalaya	37700	132	17
14. Nagaland	99200	400	—
15. Orissa	176700	1528	—
16. Punjab	184700	1223	274
17. Rajasthan	252100	500	500
18. Sikkim	10400	30	—
19. Tamil Nadu	333400	1439	153
20. Tripura	38700	313	60
21. Uttar Pradesh	734900	7500	388
22. West Bengal	585400	77151	—
TOTAL	5703400	102463	3938

N.A. = Not available.

Source = State Budget Documents.

medicare, recreational facilities, vocational training, rehabilitation after retirement and financial aid in distress arising out of destitution or physical disability caused by service conditions.

10. Some of the welfare schemes which are illustrative are mentioned below for adoption and implementation:

- (a) Providing adequate living accommodation for the personnel and their families;
- (b) Provision of schools and residential schools for the children;
- (c) Sponsoring and running of correspondence courses for the personnel both in academic and technical field;
- (d) Provision of libraries both static and mobile;
- (e) Establishment of hospitals and dispensaries;
- (f) Establishment of Family Welfare Centres, Creches and Maternity Centres;
- (g) Providing spare-time employment for the members of the families to augment incomes;
- (h) Financial assistance to the families and dependents and to those who are disabled due to the rigours of service;
- (i) Rehabilitation of those who retire or are medically boarded out being no longer fit for active service;
- (j) Provision of vocational training for the handicapped;
- (k) Encouraging group insurance and savings schemes;
- (l) Provision of canteens and departmentally run grocery and allied stores;
- (m) Arranging subsidised technical and vocational training for the wards of the personnel and providing employment opportunities for them;
- (n) Provision of recreational facilities in the shape of indoor and out-door games and equipping recreation rooms with radio and television; and
- (o) To alleviate distress.

* * * *

Education

16. We are happy to note that most of the State Police Forces have some schemes by which scholarships are provided to the children of the members of the Force, both for studies in schools and in institutions of higher learning. The quantum of such assistance varies according to the availability of financial resources. It would be necessary to streamline the existing schemes and adopt a realistic standard of assistance to the children of policemen. In our view, education of the children of all policemen should be the direct responsibility of the Police Organisations. This would include, where necessary, hostel accommodation, text-books, school uniform and tuition fees. We are happy to note that funds for providing such facilities in Central Police Organisations have come out of the sale of empty cartridge cases in addition to government grants-in-aid. We realise that in the case of States' Police force, a similar provision may not be adequate and liberal grants from the Government as well as voluntary contributions from the members of the forces would be necessary.

17. We feel that reservations of seats in technical and professional colleges for the children of the members of the Force will be a great morale boosting factor. The admissions to these reserved seats for the children of Police personnel would conform to the general standards applicable to other candidates who are selected for admission to such courses. We would commend the setting up of at least one residential school for every 20,000 policemen with accommodation for 500 boarders.

Medical Care

18. At present medical care to police personnel is available only in Government hospitals including specialist treatment. We suggest that where incidence of T.B. or such like diseases is high amongst the Police personnel, a system of reservation of beds in the specialised treatment centres, should be devised. In each District HQs a 10 bedded hospital ward with supporting medical staff should be provided. We also recommend that medical treatment should be extended to retired police personnel also in all Police Hospitals.

Welfare

19. To relieve the boredom of police duties, amenities like film shows, TV and radio sets for communal viewing, Newspapers and periodicals, libraries and indoor games should be provided for the policemen and their dependents. Play fields and sports equipment are also essential. The establishment, therefore, of a Welfare Fund to provide these amenities and temporary loans in distress situations is essential. Family Welfare Centres should be established in each District HQs or in Bn. HQs to provide gainful spare time employment to family members of policemen like fabrication of uniforms and manufacture of handicrafts based on local talent and raw materials. These amenities will lighten the financial burden of the policemen and reduce the drudgery and the boredom of life in barracks. Any investments on such schemes will pay rich dividends in the form of improved efficiency and morale and also alleviate the financial burden of the policemen.

20. Vocational training and acquisition of a trade whilst in service will help policemen to sustain themselves financially after retirement.

21. Provision of sports facilities and promotion of sports amongst policemen will go a long way in improving physical fitness and morale of policemen with the added dividend of improving police-public relations through participation in matches and tournaments. Trained coaches and Sports Officers should be provided for encouraging games and sports.

22. All these activities will require considerable financial outlays. From the information received from the various States we gather that the quantum of such financial assistance varies from Rs. 3 to 10 per individual per annum which is grossly inadequate to meet the needs of various welfare measures enunciated above. In our view, though self-help will remain the mainstay of all welfare funds, the importance of welfare measures and the dividends that it will pay, in the matter of public satisfaction and a high morale among the Police personnel, generous grants-in-aid both recurring and non-recurring by the Central and State Governments will be absolutely essential. We recommend that initially every member of the Force may be required to contribute Rs. 10 per head per month for a year

for creating a corpus and thereafter a monthly contribution on a graded scale by all members of the Force from Constable to Inspector General of Police, minimum being Rs. 4 per head per month. We also recommend that financial assistance from the State Governments should be provided in the following manner:—

- (a) A one time grant of Rs. 100 per head for constituting the corpus of the Welfare Fund, and
- (b) a matching grant calculated at the rate of Rs. 48 say Rs. 50 per head per annum to match the subscription made by the members of the forces.

Added to the income from the corpus, it should yield approximately Rs. 100 per head per annum to support and sustain the welfare schemes enunciated above.

23. In terms of per capita allotment the Central/State Governments' contribution on the basis suggested above would work out roughly to Rs. 100 per head as a one-time grant and Rs. 50 per head per annum as a recurring grant thereafter. The Force personnel themselves would be contributing Rs. 120 in the first year and Rs. 50 per annum thereafter. The success of these funds and welfare schemes will depend on the imagination, drive and initiative of the senior officers of the Force. It is recommended that the funds be administered by committees consisting of representatives of all ranks.

24. In working out the scales of assistance from the Government we have largely gone by the experience of the BSF. It is likely that some marginal adjustments may be necessary to make various schemes viable in the States and other CPOs.

Benevolent Fund

27. Under the existing rules the personnel of the Police Forces who die whilst on duty or in service are entitled to special rates of pension and gratuity. While Government assistance in this regard cannot be raised without repercussion on other civilian employees we feel that the State should still have a responsibility for looking after the families of the deceased personnel of the Police Forces in a special way in view of the fact that Police work is not only arduous in nature but carries a risk to the lives of the personnel. A scheme by which special grants ranging from Rs. 1,000 to Rs. 10,000 are provided by Government is in vogue in a few of the States at present. We would recommend that there should be a uniform scale of assistance to the families of deceased personnel. We have studied the Benevolent Fund and Contributory Benevolent Fund Schemes in vogue in the BSF and would commend the adoption of the same scales of relief for the Police personnel all over the country. The rules may require slight modification in respect of the Police Forces serving in the country and those who are exposed to special risk of office in dealing with internal security. Perhaps both the Contributory Benevolent Fund and the Benevolent Fund Schemes may be combined into one fund to which a substantial sum of money should be contributed by the State Governments.

Recurring Deposit Scheme

28. To augment the pension and gratuity assistance on retirement a Recurring Deposit Scheme would make available a sizeable sum of money to retiring personnel and will help in their rehabilitation. In BSF members of the Force contribute multiples of Rs. 10 every month in a cumulative deposit at compound interest and are insured against death due to accident under the Accident Insurance Scheme at no extra cost which entitles the family of the deceased to a sum of Rs. 5,000 to Rs. 17,000 depending on the amount of Recurring Deposit. It is recommended that the State Police Forces should organise similar Savings Schemes for the personnel in their respective Forces.

Modernisation

29. Now that most of the State Police Forces have gone in for use of computers for building up crime records, we are of the view that computers should also be utilised to compute pay, GP Fund, pension and welfare accounts. Inordinate delays in dealing with pension cases and payment of GP Fund and gratuity etc. cause considerable hardship. A separate accounts office for police departments with EDP facilities of its own to deal with settlement of claims monthly will go a long way in ameliorating hardships. Prompt payment of pay, grant of leave, pension, GP Fund etc. can, therefore, be achieved by resorting to use of computers.

31. Canteens and grocery shops should be opened in places where there is a large concentration of Police personnel and exempted from sales tax as in the case of the Army to enable them to obtain consumer goods at reasonable rates.

Resources for Meeting Welfare Requirements of State Police Forces

36. The Government of India gives grants-in-aid to the needy States for maintaining Armed Police Battalions, housing schemes for the police and for modernisation programmes. To maintain the morale of the police in the discharge of its role to maintain order, which is fundamental to a Parliamentary democracy, we are of the view that the Central Government should assist each of the State Governments initially by a matching grant of Rs. 50 lakhs to provide the corpus for welfare funds and thereafter a grant of Rs. 10 lakhs annually towards sustaining these welfare activities on a recurring basis.

A Brief Assessment of Welfare Measures Available to Police Personnel in the States

Introduction

Information received from various States and the reports of the States Study Groups indicate that the existing police welfare measures generally cover the following items :—

- (1) Pensionary benefits including extraordinary pension, gratuity and compensation in special situations.
- (2) Medical facilities.
- (3) Educational facilities.
- (4) Special entitlement for leave.
- (5) Group Insurance Scheme.
- (6) Family welfare-cum-work Centres.
- (7) Canteens and Co-operative Stores.
- (8) Welfare Fund.
- (9) Welfare Officers.

I. Pensionary Benefits

2. Pensionary benefits differ from State to State and cover different situations or contingencies enumerated below:—

- (i) Pension admissible on retirement in the normal course on superannuation.
- (ii) Pension admissible on voluntary retirement earlier than the date of superannuation.
- (iii) Pension admissible on compulsory retirement under the 50-55 year rule or earlier.
- (iv) Extraordinary pension/gratuity/compensation admissible to the policeman when he suffers injury/disability attributable to the risk of office, and continues to remain in service after suffering the injury/disability.
- (v) Extraordinary pension/gratuity/compensation admissible to the policeman when he suffers injury/disability attributable to the risk of office, and he is discharged from service since he cannot be utilised on any duty at all.
- (vi) Extraordinary family pension/gratuity/compensation admissible when the policeman dies while undergoing the risk of office.
- (vii) Extraordinary pension/gratuity/compensation admissible to the policeman when he suffers injury/disability not attributable to the risk of office, and continues to remain in service after suffering the injury/disability.
- (viii) Extraordinary pension/gratuity/compensation admissible to the policeman when he suffers injury/disability not attributable to risk of office, and he is discharged from service since he cannot be utilised on any duty at all.
- (ix) Extraordinary family pension/gratuity/compensation admissible when the policeman dies in circumstances not attributable to risk of office.

3. The following paragraphs give an overall picture of the benefits generally available under the above nine heads in the State Police/Central Police Organisations :

(i) Retirement on normal superannuation :

The pensionary benefits admissible to police personnel on retirement in the normal course of superannuation are at par with other Government servants in their respective States/Central Government. The most common formula is 30/80 of average emoluments. Recently the Central Government has revised the pensionary rules in favour of the Government servants and these are better than those available in States. On completion of 33 years of service, a Government servant drawing pay up to Rs. 1,000 can expect to get 50% of his pay as pension.

(ii) Voluntary Retirement :

For Police personnel who want to proceed on voluntary retirement earlier than on superannuation, the pensionary benefits granted by the Central Government are quite attractive. The formula under Central Government rules on completion of 20 years of service is as under :—

$$\frac{25}{80} \times \text{Average monthly emoluments.} \\ \text{(based on 10 months' pay)}$$

(iii) Compulsory Retirement :

Pensionary benefits admissible to police personnel on compulsory retirement under the 50-55 years group or earlier are generally calculated on the basis of completed six-monthly periods. In one State the formula is 25/80 on completion of 50 such periods. It is $\frac{2}{3} \times \frac{25}{80}$ in the Central Police Organisations.

(iv) *When Injury/Disability is attributable to the risk of office :*

When any policeman suffers injury/disability while in service and continues to remain in service after suffering the injury/disability which is attributable to the risk of office, the compensation in the form of gratuity is more advantageous in one State as compared to lumpsum compensation (in proportion to the percentage of disability) admissible in the Central Police Organisations.

The formula evolved by that State is :—

For basic pay below Rs. 200 = 4 months' pay as gratuity.

For basic pay over Rs. 200 = 3 months' pay as gratuity subject to minimum of Rs. 800.

(v) *In respect of injury/disability attributable to risk of office, suffered by police personnel while in service as a result of which they are not retained in service but are discharged, extraordinary pension/gratuity/compensation is admissible in several States and Central Police Organisations.*

The most favourable benefits are :—

<i>Pay</i>	<i>Minimum</i>	<i>Maximum</i>
Under Rs. 200	1/5th of pay subject to minimum of Rs. 4 per month	1/3rd of pay subject to a minimum of Rs. 8 per month
Between Rs. 200—350	Rs. 50	Rs. 67
„ Rs. 350—400	Rs. 70	Rs. 85
„ Rs. 400—900	Rs. 84	Rs. 100
„ Rs. 900—1000	Rs. 125	Rs. 150
„ Rs. 1000—1500	Rs. 150	Rs. 200
„ Rs. 1500—2000	Rs. 200	Rs. 275
„ Rs. 2000—and above	Rs. 225	Rs. 300

The disability pension admissible to Army personnel is based on the length of service, qualifying rank and the percentage of disablement and covers causes not only attributable to risk of office but get aggravated by service.

(vi) *As regards extraordinary pension/gratuity compensation admissible to a policeman when his death is attributable to risk of his office the most advantageous benefits offered to the widow in one State are mentioned below :—*

(a) *Gratuity* : Equivalent to 8 months' pay last drawn by the deceased;

(b) *Monthly pension* to the family equal to the last pay drawn by the deceased till the date on which the deceased policeman would have normally reached the age of superannuation and thereafter a monthly pension equal to the amount of pension which the deceased would have been entitled to if he had continued to be in service till the date of his superannuation;

(c) *Ex-gratia* grant of Rs. 5,000 as an immediate financial assistance.

(vii) *When injury/disability is not attributable to the risk of office :*

It seems that no special compensation is admissible from Government to serving police personnel suffering injury/disability not attributable to the risk of office, who continue to remain in service. However, some State Governments and Central Government sanction generous advances to police personnel for meeting the expenses towards their medical treatment and recuperation.

(viii) *When serving police personnel suffer injury/disability not attributable to the risk of office and are not retained in service but are discharged then invalid pension is admissible to them on the formula—*

$$\frac{\text{average emoluments} \times \text{length of service}}{80}$$

subject to a prescribed upper limit.

(ix) *In case of police personnel who die while in service and the death is not attributable to risk of office, the family pension benefits depend upon the length of service put in by the deceased and the pay last drawn by him. Some States provide a pension to the surviving children also. These pensions range from Rs. 8 to Rs. 250 per month.*II. *Health and Medical Facilities*

4. Various States have provided different types of medical facilities to their police personnel. Practically all major States have provided police hospitals in all district headquarters. Where police hospitals or dispensaries are not located, medical facilities to police personnel are provided in Government hospitals. Besides, arrangements have been made in a number of States for specialized medical treatment for certain complicated diseases. Many State Governments have made arrangements in sanatorium for a special free ward or free treatment for police personnel suffering from T.B. Some State Governments have reserved a number of beds for police personnel in T.B. hospitals in their respective States. Generally T.B. patients are also given a special diet allowance till they have fully recuperated.

5. In case certain medicines are not available in police or general hospitals, the cost of such medicines is fully reimbursed to police personnel in several States.

6. Some State Police forces provide certain other special medical facilities for their police personnel as a welfare measure. One State has arranged a Women Hospital with a maternity ward at the State headquarters. The facility of maternity ward has been provided at a number of other places also in the same State. Such maternity wards exist in some other States also.

7. Police personnel admitted in hospitals as indoor patients are provided milk, diet etc., at the cost of the Government. In one State, medical facilities have been made available to the retired police personnel and the members of their families also at par with the serving men. In yet another State two mobile police hospital vehicles have been provided to carry patients for hospitalisation and to provide medical attendance on the spot where no medical facilities exist. If the patient becomes ill outside the headquarters of the Authorised Medical Attendant, then he is paid travelling allowance for the journey to and from such headquarters. In case the patient is too ill to be moved, the Authorised Medical Attendant attends on him at the place of the patient. Similarly, in one State, where medical treatment is not available and it is found necessary to get the patient treated in any specialised hospital outside the State, the Police personnel are permitted to avail of such a specialised treatment and the expenditure incurred on such treatment is reimbursed by the Government on the admissible items.

8. Some States sanction advances liberally for the non-gazetted police personnel who suffer from prolonged and serious diseases like Cancer, Leprosy, poliomyelitis etc. and need specialised treatment. In such cases an advance of upto Rs. 1,000 inside the State and Rs. 3,500 outside the State for the purpose of medical treatment of police personnel and their family members is sanctioned. Besides, a programme for annual medical check up has also been introduced in most of the States to detect ailments and arrange for prompt treatment.

9. Central Government employees are provided medical facilities under the (i) Central Government Health Scheme (CGHS); (ii) Medical Reimbursement Scheme under the Central Services (Medical Attendance) Rules, 1944. The CGHS provides free medical aid including outdoor treatment, supply of drugs and hospitalised and specialised treatment by whole-time medical staff mostly at hospitals and dispensaries maintained exclusively for the beneficiaries. This scheme is, however, contributory in the sense that every beneficiary Central Government employee has to contribute an amount according to his pay range. Under this scheme, domiciliary visits to attend to the employee and his family members are free.

10. Medical Reimbursement Scheme covers those Central Government employees who are not covered by the CGHS. The medical coverage under the reimbursement scheme is broadly comparable to that available under the CGHS except that no separate medical institution or medical staff are maintained for the employees governed by the reimbursement scheme and they depend on the State Government or recognised hospitals for indoor treatment and all State Government medical officers, who are declared as Authorised Medical Attendants, for out-door treatment. The expenditure incurred initially by the employees on the purpose of medicine as well as for medical examination etc. are reimbursed later. Class III and Class IV staff are entitled to receive medical treatment from private medical practitioners also (allopaths only) who are recognised as AMA for this purpose. The CGHS has also Homoeopath and Ayurvedic dispensaries. It makes special arrangements for the treatment of T.B. patients and it gives preventive inoculation and vaccination.

III. Educational facilities

11. In BSF a separate fund known as the BSF Education Fund has been established for the benefits of all BSF personnel. All serving members of the BSF personnel are required to contribute from Rs. 1 to Rs. 3 on *pro rata* basis. The other sources of income for this fund are the sale proceeds of the scrap which fetch approximately rupees 20 lakhs per year and grants-in-aid from the Central Government for running BSF schools. Out of this Fund, 7 educational institutions (2 higher secondary and 5 secondary) and 2 vocational institutions are run to impart training equivalent to diploma course in electronics, mechanical and electrical courses. Admission is through a competitive test and annual intake in each School is 25 except in Diploma courses where it is 9. Besides, arrangements have been made to provide free primary schools upto V standard in all BSF colonies. The BSF educational institutions are affiliated to the Central Board of Higher Secondary Education and Directorate of Technical Education respectively. The Education Fund also provides financial assistance to the children of serving personnel for studying in residential schools or other institutions. This financial assistance is given in addition to the Children Educational Allowance which is normally granted to the BSF personnel under the Central Government rules. Another important feature of this Fund is that financial assistance is given to the children of deceased BSF personnel also.

12. Some State Police forces have also built up funds to give scholarships to meritorious children of Police personnel especially when they are receiving technical education. But the assistance which they are able to give is usually meagre because of lack of resources.

IV. Special Leave Entitlements

13. Policemen have been entitled to the leave facilities available to other Government servants. However, as they have to work almost on all Sundays and other Gazetted holidays, certain State Governments have made provision for additional casual leave. For example, the Constabulary in one State are entitled to 30 days' casual leave as against 14 days to which other Government servants are entitled. Due to constant law and order problems and pressure of work, it is generally not possible to sanction the entitled leave to all members of the police force. Adequate leave reserve has not been provided in the police strength in many States. This will be clear from the following tables which give the comparative position of leave reserve in some States :

TABLE I
Constabulary Ranks

State	Total strength		Leave reserve sanctioned	% of leave reserve
	H.C.	P.C.		
1	2	3	4	5
1. Uttar Pradesh	16412	83387 = 99799	13909 (PC)	13.9
2. Maharashtra	21198	58818 = 80016	3124 (HC & PCs)	3.9
3. Gujarat	9891	31670 = 41561	2395 (PC)	5.5
4. Punjab	3615	21069 = 24684	435 + 2427 = 2862	11.6
5. Rajasthan	4313	28369 = 32682	3730 (PCs)	11.4
6. Tamil Nadu	5058	32579 = 37637	868 (PCs)	2.3

TABLE II
Upper Subordinate Ranks

State	Total Strength			Leave reserve sanctioned	% of leave reserve
	Inspector	S.I.	A.S.I.		
1. Uttar Pradesh	908	7556	699 = 9163	1098 (SIs)	11.9
2. Maharashtra	796	3739	— = 4535	225 (SIs)	4.9
3. Gujarat	434	1648	— = 2082	77 (SIs)	3.7
4. Punjab	171	812	1201 = 2184	6 Insp. + 34 SIs + 135 ASIs = 175	8.0
5. Rajasthan	227	1410	934 = 2571	198 SIs + 103 ASIs = 301	11.7
6. Tamil Nadu	714	2266	822 = 3802	6 Insp. + 78 SIs + 1 ASI = 85	2.2

The above tables speak for themselves. They show that some of the leave reserves are grossly inadequate to permit leave being granted liberally upto the entitlements.

Encashment of leave on superannuation

14. The concession of encashment of leave has been sanctioned in a number of States to compensate their employees in lieu of leave which remains to their credit at the time of superannuation. In most States and Union Territories all police personnel are entitled to the cash equivalent of leave salary on account of Earned Leave/Privilege Leave at their credit on the date of superannuation subject to a maximum of 180 days. Leave salary for this period is not reduced by pension and other retirement benefits which are admissible on the date of superannuation. The cash equivalent of leave salary is also paid to the family of the Government servant who dies in harness to the extent of leave that remains to his credit at that time, subject to the maximum limit of 180 days. However, in some States encashment of leave is admissible subject to a maximum of only 120 days.

V. Group Insurance Scheme

15. Salient Features :

(1) Group Insurance Scheme is aimed at providing low cost life insurance protection to a group of employees. Under such a scheme, a large number of employees or organised groups are provided social security benefits. The Group Insurance Scheme as introduced by the Life Insurance Corporation of India makes provision for adequate compensation to the widow of an employee who dies while in service. The main object of this scheme is to avoid great hardship and suffering by the employee's family as the conventional individual insurance in the earlier years of one's career is difficult to afford and maintain to the limit one requires compensation on death.

(2) There are two types of plans covering the Group Insurance Scheme. One is the Deposit Administration Plan (DAP) and the other is one year Renewal Term Assurance Plan (OYRTA). Under the DAP the quantum of terminal benefits under the Group Insurance Scheme depends upon the contribution in respect of the concerned employee from time to time and the rate of interest allowed by the Life Insurance Corporation on these amounts. In the case of OYRTA Plan, every employee in the same age group has to contribute at a uniform rate and this scheme is renewable on year to year basis.

(3) Under the Group Insurance Scheme, the LIC issues one Master Policy to cover all the employees of one organisation. The consolidated premium is paid to the LIC by the employer after collecting contribution from the employees, but it is stipulated in the scheme that at least 25% of the total premium shall be paid by the employer himself. The premium depends on the age group of the employees.

(4) On the basis of age distribution, the cost towards insurance cover per thousand per month is worked out depending upon the amount of insurance cover.

(5) The Group Insurance Scheme does not involve any medical examination of individuals. All the employees are automatically covered. However, such a Group Insurance Scheme is workable only when it is made compulsory for all the employees.

(6) The maximum insurance cover which is provided by the LIC under the Group Insurance Scheme to any individual is restricted to Rs. 10,000 only. The cost towards group insurance depends upon the age distribution. This is worked out every year on the basis of fresh age distribution to be supplied by the employer. Accordingly, the cost towards this will vary from year to year.

16. Benefits under Group Insurance Scheme :

The benefits to the employees under an ordinary group insurance scheme and a Group Insurance Scheme with saving benefits are as under :—

(a) *Under an ordinary Group Insurance Scheme :* The amount of insurance cover provided to the employee in the event of his death while in service of the employer is paid to the dependents of the employee.

(b) *Benefits under Saving cum Risk Insurance Scheme :*

(i) The amount of insurance cover, in the event of death while in service of the employer.

(ii) Death benefits under the savings portion which will depend upon the duration for which the member has been covered under the scheme and the rate of interest allowed to contributions from year to year.

(iii) On retirement, the member will be paid the savings benefits. The savings benefits again will depend upon the contribution put to savings and the period for which the employee has been a member of the scheme and the rate of interest allowed for year to year on the contribution of the member.

17. Central Government Ordinance :

The Central Government had promulgated an ordinance in September, 1976 enjoining upon all Establishments covered by the P.F. Act 1952 to provide compulsory Life Insurance cover to their employees by paying a premium of 0.6% of the wage bill to the Regional Provident Fund Commissioner. The Government was to contribute further 0.3% to this amount and the P.F. authorities were required to pay to the dependents of a worker in the event of his death an amount equivalent to the average balance in the Provident Fund Account during the last three years subject to a maximum of Rs. 10,000/-. Thus the Group Insurance coverage has become more or less statutory. The provisions of this Ordinance have subsequently been enacted under the Employees' Provident Funds and Miscellaneous Provisions Act.

Insurance Scheme for Central Government Employees

18. Recently the Group Insurance Scheme has been introduced by the Central Government for all their employees including policemen in the Central Police Organisations. This Scheme is compulsory for all Central Government employees. The scheme is divided into three groups.

Group - I

Group-I relates to those employees who on the date of introduction of the scheme were below the age of 28 years. Employees covered by Group I are required to pay a uniform contribution of 50 paise per month till they attain the age of 28. In case of death of the Government servant in service during this period, his/her nominees shall be paid Rs. 5,000/- (Rupees five thousand only) in lump sum. No terminal cash benefit whatsoever shall be payable under this scheme if the employees leaves service before reaching the age of 28 or dies after leaving service and before reaching that age. On attainment of 28 years of age, these employees will come under Group-II of the Scheme.

Group - II

This group will include the employees in Group-I after they attain the age of 28 and also those who have attained the age of 28 in the month in which the Scheme came into force. These employees will be required to pay a uniform contribution of Rs. 5/- per month commencing from the month in which they attain the age of 28 years, and ending with the month preceding the month in which they attain the age of 58 years. A sum of Rs. 5,000/- (Rupees five thousand only) shall be paid to the Government servant on attainment of the age of 58 years. In case of the death while in service, the nominees of the Government servant shall be paid Rs. 5,000/- (Rupees five thousand only) in lump sum. No contribution is to be recovered for the month in which a government servant dies in service.

Group - III

All other employees will be included in this group. The rate of contribution and the benefit payable on death will be the same as applicable to employees covered by Group-II. However, the benefits available on attaining the age of 58 years will be as follows in the case of employees covered by this group :-

Age on the date of joining the Scheme	Cash sum payable
29 to 34	An amount calculated on the basis of Rs. 8.75 for each month for the period the employee was covered by the scheme.
35 to 44	An amount calculated on the basis of Rs. 6.25 for each month for the period of employee was covered by the scheme.
45 to 57	An amount calculated on the basis of Rs. 5.00 for each month for the period the employee was covered by the scheme.

No contributions will be recoverable from a Government servant on his attaining the age of 58 years. The insurance cover will accordingly be available only upto the age of 58 and not thereafter.

19. In the Border Security Force there is a scheme known as the BSF Contributory Benefit Fund. This fund is a sort of Group Insurance Scheme which covers all BSF personnel. Each member of the BSF has to contribute a sum ranging from Rs. 5/- to Rs. 45 on *pro-rata* basis. The minimum contribution for a Constable is Rs. 5/- and the maximum for the Director General is Rs. 45/-. In case of death of any member of the BSF while in service due to any reason whatsoever, an *ex gratia* grant of Rs. 5,000/- is paid from this Fund to the family of the deceased member. This amount is paid in the form of Fixed Deposit Receipt in the State Bank of India with the stipulation that the interest accruing from this amount is paid to the family of the deceased member every quarter. Similarly, this Fund provides assistance to the members of the BSF in the following contingencies :-

- (a) In case of injury received in action causing disability or discharge from service—Rs. 5,000/- in the form of Fixed Deposit receipt.
- (b) When a member of the BSF contracts any serious disease like T.B. etc. and is boarded out of service Rs. 3,000/-.
- (c) If boarded out of service due to injury received due to reasons not attributable to risk of office Rs. 1,000 to Rs. 2,500 (on *pro-rata* basis depending upon the extent of injury).
- (d) On normal superannuation Rs. 1500/-.
- (e) On leaving the BSF on deputation or otherwise :-
 - (i) with less than 7 years service—equal to 50% of contribution.
 - (ii) with 10 years or more service—75% of contribution.
- (f) If a member of BSF, who has not qualified for pension, is killed in action then his family is given special financial assistance from this fund to the extent of Rs. 200 per month for 10 years.
- (g) If any BSF member dies due to other reasons without having rendered the required years of service qualifying for pension then his family is given financial assistance to the extent of Rs. 150/- per month.

Insurance Scheme in various States

20. One State has introduced a Government Servants Family Benefit Fund Scheme, which covers all Government servants in the State including police personnel and village establishments also. It is purely a family benefit scheme with a token monthly recovery of one rupee only from the Government servant. According to this scheme, a lump sum amount of Rs. 10,000 is given to the nominee of the employee if he dies while in service.

21. In another State two Group Insurance-cum-Savings Schemes for the employees of the State Government have been introduced. The first scheme covers all State Government employees, including gazetted police officers. The second scheme covers only non-gazetted police personnel of the rank of Inspector and below. Each employee is covered for Rs. 12,000 under One Year Renewable Term Assurance (OYRTA) plan.

22. The contributions and benefits under the two schemes are as follows:—

I. Contributions :

Employee	Rs. 8 per month
State Govt.	Rs. 1.65 per month (Rs. 3.75 per month for non-gazetted police ranks).

II. Allocation of the above Contributions :

	Risk Plan	Deposit Ad- ministration Plan (DAP)
Employee	Rs. 3.05 per month.	Rs. 4.95
State Govt.	Rs. 1.65 per month (for each Gazetted Police Officer), Rs. 3.75 per month (for each non-gazetted policeman).	—

III. Benefits :

The benefits available to the employee under these schemes are:—

- (a) On death He will get Rs. 12,000 plus accumulated value of the contribution allocated under D.A.P. as indicated in Col. 6 of the Table below.
- (b) On retirement or premature retirement (other than death). He will get the accumulated value of the monthly contribution allocated under D.A.P. as indicated in Col. 6 of the Table below.

It is further provided that the benefit that would accrue to an employee will in no case be less than the employee's contribution. This means that on retirement or premature retirement (other than death) the employee will get either the amount in Col. 4 or Col. 6 whichever is more advantageous to him.

TABLE

Completed year of service before retirement	Contribution made by the employees	Benefit on		Retirement Benefit Expressed as % of contributions	Accumulated value of monthly contribution of Rs. 5 payable in advance under DAP
		Death	Normal Retirement		
1	2	3	4	5	6
Rs	Rs	Rs	Rs	Rs	Rs
1	96	12,061	96	100	61.93
5	480	12,343	480	100	349.12
10	960	12,804	960	100	816.32
15	1440	13,420	1440	100	1,441.54
20	1920	14,244	2244	117	2,278.23
25	2400	15,347	3347	139	3,397.90
30	2880	16,823	4823	167	4,896.28
35	3360	18,799	6799	202	6,901.45
40	3840	21,443	9443	246	9,584.82

23. A number of other States and Union Territories have already taken suitable steps to introduce group Insurance Schemes for their police personnel.

VI. Family Welfare-cum-Work Centres

24. In some States and also in the Central Police Organisations, family welfare-cum-work centres have been established with a view to providing subsidiary and spare time employment to the members of the family of police personnel. These centres help police personnel to supplement their income. These welfare centres undertake activities like stitching of uniforms, knitting, manufacture of handicrafts based on local talent and raw materials etc. The labour charges paid to the family members of policemen working at these centres are however found to be lower than market rates.

VII. Canteens and Co-operative Stores

25. In several States and Central Police Organisations the facility of providing canteens and cooperative stores for the benefit of police personnel has been provided. Refreshments at reasonable and competitive rates are provided at such departmental canteens. These canteens are generally run on no-profit-no-loss basis. Besides, departmental cooperative stores have also been established in some States where rates of the commodities are fixed at reasonable levels as compared to market rates.

VIII. Police Welfare Fund

26. In most States and also in the Central Police Organisations, police welfare funds have been established. The benefits of the police welfare fund have been extended to all members of the police force. These funds are mainly built up by contributions from the members of the police force. The rates of subscription have been fixed at stages depending upon the various rates of pay of the members of the police force. Other sources of income for these funds are *ad hoc* special grants given by the Government, income from unit activities such as sale proceeds on tickets for tournaments, entertainment shows, money accruing from police bands, profits from canteens and cultivation of land, etc.

27. The police welfare funds are mainly utilised for the following purposes:—

- (i) to finance welfare measures for the benefit of police personnel;
- (ii) to provide amenities in the police messes for all police personnel;
- (iii) to purchase books and periodicals;
- (iv) to provide various recreational facilities like indoor and out-door games, dramas, dance, concerts etc.
- (v) to arrange film shows, T.V. and radio sets;
- (vi) promotion of sports;
- (vii) purchase of sewing machines, knitting machines and such other equipment for the welfare-cum-work Centres; and
- (viii) financial assistance in case of serious prolonged illness like T.B., paralysis and cancer.

IX. Police Welfare Officers

28. In a number of States and Central Police Organisations Police Welfare Officers have been appointed for the execution of various welfare schemes aimed at providing welfare amenities and facilities to the police personnel. These welfare officers serve as a link between the police personnel, especially the subordinate ranks, and the Superintendent of Police of the district. Their main responsibility is to arrange for prompt relief to the family of a policeman who is killed while in service or is otherwise disabled, or in a distress situation.

SYNDICATE BANK SAVING SCHEME FOR BSF

Salient features of the Scheme

- (a) The minimum rate of contribution to the scheme is Rs. 10 per month. However, individuals desirous of contributing higher amounts can do so in multiples of Rs. 10.
- (b) Individual recurring deposit accounts are being opened with Syndicate Bank at Delhi.
- (c) The bank will issue a Pass Book to each contributor. He will get a statement of account showing the credit balance twice in a year; as on the first of January and July. The statement will be sent to the contributor for the verification of his balance.
- (d) The contribution will be deducted at source from the salary by the EDP Cell, HQ BSF and remitted to the Bank.
- (e) The amount will be payable to the Depositor at the time of his retirement or resignation or boarding out. The payment will be made by means of a pay order made out in his name. In the event of death the amount would be paid by way of pay order in the name of a nominee who should be a joint account holder. These pay orders will be sent to the unit for handing over to the beneficiaries.
- (f) The contributor can continue with his Recurring Deposit Account even after leaving the force by dealing directly with the Bank, if he so desires.

Rate of Interest

The depositors will be paid interest at the rate of 10% to be worked out on a monthly basis. At this rate of interest a contribution of Rs. 10 per month will increase as per table given below. For example, a person contributing Rs. 30 a month will collect over Re. 1 lac after 35 years. It will be observed that after 35 years the amount deposited increases by over 9 times. The rate of interest is liable to increase/decrease as per Reserve Bank of India directives:

Period	Actual amount paid at Rs. 10	Amount payable at maturity inclusive of interest
5—1 month	610.00	797.50
10	1200.00	2065.50
15	1800.00	4179.50
20	2400.00	7658.00
25	3000.00	13380.00
30	3600.00	22793.00
35	4200.00	38283.00

Penalty for late payment

In case any individual fails to contribute towards his Recurring Deposit Account, penalty of 1% delayed subscription per month will be charged for the delayed instalment. This penalty will be recovered at the time of making final payment.

Commencement of the Scheme

The Scheme has commenced from pay for January, 1976 in BSF.

Accounting

A recurring deposit cell has been established under Deputy Director (Admn) HQ BSF for operating the scheme.

Nominee

Nominee for this Scheme may be the same as for different from the nominee for the Benevolent Fund Scheme. The name of the nominee should be reviewed on 1st January every year and changes, if any, reported to EDP Cell. Since under the Banking Act nominations are not being allowed, the nominee should be made a joint account holder.

Loans

In case of requirement of loan by the subscribers a loan upto 75% of the individual's balance with the bank or as laid down in RBI directives, will be paid by the Bank on receipt of recommendations from HQ BSF. The rate of interest charged on such loans will be 2% in excess of the interest being earned by that account.

Withdrawal

The Bank will make the payment to the depositor on receiving advice from HQ BSF by pay order in the name of the depositor/joint account holder. The bank will not insist on a death certificate in such cases. If it is desired to withdraw the balances earlier than the normal maturity period, on account of death, invalidation or reversion of a depositor, the amount standing to the credit of the depositor at that time will be paid, without any penalty, subject to approval of Reserve Bank of India. In other cases of foreclosure of accounts a penalty as per RBI directives which at present is 2% of the interest due will be charged.

The Scheme represents one of the largest single small savings efforts of its kind. It is expected to help all the members of the Force and their families in planning their savings profitably.

(The Scheme is voluntary. It is expected that the entire force will join it. At the end of 25 years when the Scheme is in full force it is expected to generate small saving of the BSF to the tune of nearly Rs. 80 crores).

AIR 1968 CALCUTTA 407 (V 55 C 84)

SPECIAL BENCH

B. N. SINHA C. J., B. N. BANERJEE

A. N. RAY, AMARESH ROY AND

B. C. MITRA JJ.

In Matter No. 343 of 1967.

Jay Engineering Works Ltd., and others	<i>Petitioners</i>
✓	
State of West Bengal and others	<i>Respondents</i>
In Civil Revision No. 726 (W) of 1967 :	
Indian Oxygen Ltd., and others	<i>Petitioners</i>
✓	
State of W.B. and others	<i>Respondents</i>
In Civil Revision No. 733(W) of 1967 :	
Bengal Enamel Works.	<i>Petitioner</i>
✓	
State of W.B. and others.	<i>Respondents.</i>

Matter No. 343 of 1967, Civil Revision Nos. 726 (W) and 733(W) of 1967 D/29-9-1967 and 4-12-1967 respectively.

(A) Words and Phrases — "Gherao".

Per Sinha C.J. The word "Gherao" is a physical blockade of a target, either by encirclement intended to blockade the ingress and egress from and to a particular office, workshop, factory or even residence or forcible occupation. The "target" may be a place or a person or persons, usually the managerial or supervisory staff of an industrial establishment. The blockade may be complete or partial and is invariably accompanied by wrongful restraint, and/or wrongful confinement and occasionally accompanied by assault, criminal trespass, mischief to person and property, unlawful assembly and various other criminal offences. Some of the offences are cruel and inhuman like confinement in a small space without lights or fans and for long periods without food or communication with the outside world. The persons confined are beaten, humiliated by abuses and not allowed even to answer calls of nature and subjected to various other forms of torture, and are completely at the mercy of the besiegers. The object is to compel those who control industry to submit to the demands of the workers, without recourse to the machinery provided for by law and in wanton disregard of it, in short to achieve their object, not by peaceful means, but by violence. Such a Gherao invariably involves the commission of offences.

(Paras 1, 10, 11, 13, 18 and 37)

Per Banerji J : Etymologically, "Gherao" means encirclement. Encirclement by a crowd may be due to various reasons, say for example, there may be encirclement of a popular leader by an admiring crowd, the leader himself enjoying this form of demonstration. Encirclement may also be made by a hostile crowd, say of workmen, who elect wrongfully to confine the management, so as to coerce them to concede to their demands. "Gherao" as such that is to say simple encirclement is no offence under the Criminal law of this country. But a "Gherao" accompanied by violence and diverse forms of crimes resulting in wrongful confinement or wrongful restraint of the encircled person or persons is a criminal activity not because it is encirclement but it is encirclement "with more".

(Para 94)

Per Amaresh Roy J : "Gherao" means collective action by large number of persons surrounding, encircling or besetting some other person or place for the purposes of using coercive methods to compel acceptance of demands or claims generally resorted to by workers and employees against the authority or employers or their officers and staff. That collective action may be by Union of workers or by a group of employees who are not a registered Trade Union. It may be a strike as defined in labour laws or it may not be so. Even when it is a strike so defined, it may be a lawful and peaceful strike or it may be unlawful and violent involving criminal offence. Surrounding or encircling or besetting and thereby putting the subject of that act under restraint, may or may not be by committing an act of trespass on property, but inevitably it results in wrongful restraint and even wrongful confinement, which are offences defined and punishable by Indian Penal Code. Coercive method may be attended with violence and it may result in degrees of assault even without actual assault, show of force or putting the subject to fear of injury may amount to intimidation or extortion depending on the purpose for which that coercive method is employed. Other unlawful acts and other offences of mischief or theft may result from such coercive methods though that need not happen in every instance of Gherao. Distinctive character of Gherao is existence in it of coercive method in one form or other. Without coercive method Gherao does not exist. Such coercive method in Gherao may take many forms and fabrications. It may be by shouts and noises raised by slogans. Not only encirclement of person and place attended with slogans and shouts or noise and clamour, but also crowding of public places and roads may be of a degree which is nuisance in law but not an offence defined in Indian

Penal Code or any other special law. In some cases the congregation may be peaceful or it may be disorderly and violent to the extent of disturbing public order causing breach of public peace, and thereby it may cause disturbance of law and order, or even may amount to serious offences punishable under Indian Penal Code or one or more special laws.

(Paras 119 to 122, 123, 146)

Per B.C. Mitra J : Gherao is encirclement by the workers of the employers and their managerial staff followed by various hostile manifestations. Such manifestations invariably take crude and obnoxious forms and involve physical and mental torture. 'Gherao' also includes the blockade of a target from inside by the workers with the object of ousting and evicting the employers and their managerial and supervisory staff. The object of a 'Gherao' invariably is to compel the employers to accept the demands of the employees by threats and coercive methods. It may involve violation of the laws of the land and commission of cognizable offences under the Indian Penal Code and also other statutes.

(Para 283)

(B) Trade Unions Act (1926) Ss. 17 and 18 — Applicability—Exemptions apply only to peaceful strikes—Strikes accompanied by violence—No exemption is available.

Sections 17 and 18 of the Indian Trade Unions Act grant certain exemption to members of a trade union. But there is no exemption against either an agreement to commit an offence or intimidation, molestation or violence, where they amount to an offence. Members of a trade union may resort to a peaceful strike, that is to say, cessation of work with the common object of enforcing their claims. A concerted movement by workmen by gathering together either outside the industrial establishment or inside within the working hours is permissible, when it is peaceful and does not violate the provisions of law. But when such a gathering is unlawful or commits an offence then the exemption is lost. Thus, where it resorts to unlawful confinement of persons, criminal trespass or where it becomes violent and indulges in criminal force or criminal assault or mischief to person or property or molestation or intimidation, the exemption can no longer be claimed. (1966) 2 AIR ER 133 and (1938) 306 US 240 and AIR 1939 Sind 256 and All 1957 SC 82 and AIR 1960 SC 160 and AIR 1962 SC 1166 and AIR 1963 SC 812 and 1964 AC 1129. Rel. on (English law compared).

(Paras 31, 63, 136, 136 A, 244, 245)

There are no express provisions in the Trade Unions Act regulating strikes or picketing. But these are recognised weapons in the armoury of labour. The word 'strike' in its broad significance has reference to a dispute between employer and his workers, in the course of which there is concerted suspension of employment. In a strike employment relations continue but there is a state of belligerent suspension. There are many varieties of strikes e.g. stay in strike, tool down strike, pen-down strike etc. But there is no provision in law which exempts a workman taking part in a strike, from the criminal laws of the land. Neither Section 17 nor 18 of the Trade Unions Act, exempts a workman, if he commits an offence, which means an offence under the criminal laws of the country, save and except the limited ground upon which he is exempted from being charged with criminal conspiracy under Section 17. An agreement to commit an offence being expressly excluded from the purview of Section 17.

(Para 37)

(C) Constitution of India Arts. 14, 21, 256, 166(3)—"Gheraos" in industrial establishments—Confinement of managerial staff—Administrative circulars based on cabinet decision—Police officers and District Officers directed to obtain labour Minister's direction before discharging their statutory duties—Validity—Circulars violate Arts. 14, p 56 and 166(3) of the Constitution and Ss. 54, 127, 100, 151, 154, 157 of Criminal P.C. and are invalid.

A limited company carrying on the business of manufacturing fans and machines retrenched some of its workmen. Consequent on such retrenchment, the retrenched workmen along with some others, blockaded the company's premises completely obstructing the passage of personnel and goods, including food-stuffs for the barricaded persons inside, who were wrongfully confined therein. The blockade was lifted after about 14 hours after police intervention. Consequent on the new Government taking office in West Bengal the retrenched workers, together with other employees numbering about 200 persons gheraoed the manager and other officers at the office premises and the gherao continued for 33 hours. It was alleged that beside confining the officers, the workmen tampered with the company's property spoil the walls and continuously shouted insulting and humiliating slogans against the confined persons. Supply of food to those confined was not permitted except for a nominal quantity at the will of the besiegers. Information was given to the police authorities but no action was taken. Similar actions by the retrenched workmen along with other followed on different dates, the confinement in each case carrying in duration and rescue being effected through a search warrant issued by Presidency Magistrate. A writ petition was filed challenging *inter alia* the validity of the circulars issued by the State Government through its joint secretary in its Home and Political Department being No. 513 P.C. dt. 28th March, 1967, addressed to all District Officers and the Commissioner of Police, Calcutta and No. P-914 P.S. dt. 12th June, 1967. These circulars were based on cabinet decision. It was alleged that by reason of these two circulars the police had been reduced to total inaction. The first circular dated 27-3-1967 superseded a previous circular dealing with Gherao, Stay in strike, etc. and directed *inter alia* that, in cases of Gherao of industrial establishments by their workers, resulting in confinement of managerial and other staff, the matter be immediately referred to the Labour Minister and no police intervention for the rescue of the confined personnel should be decided upon without obtaining his direction. An interim injunction from the High Court having been obtained restraining the State Government from giving effect to the circular, the second circular dated 12-6-1967 was issued and was to the following effect. It was to be followed by all authorities connected with the maintenance of law and order, particularly the police and the magistracy. (2) The Police ought not to intervene in 'legitimate labour movements', which was admitted to mean 'legitimate Trade Union rights'. (3) when a complaint was made to the police regarding unlawful activities in connection with any legitimate labour movements, the police, instead of following the procedure prescribed by law, ought to first investigate the facts and if they were satisfied that the complaint has basis in fact, then alone could any action in law be taken. This circular did not by itself refer to the High Court's injunction. On the question of the validity of these circulars.

Held : (i) that the circulars were contrary to law, without jurisdiction and were invalid. The circulars, dated March 27 and June 12, 1967, and the cabinet decisions upon which they were based were unlawful. There was no legislative authority behind the executive action. The action was discriminatory in so far as it denied to wrongfully confined or wrongfully restrained managerial staff of industrial establishments, prompt police intervention as provided for by the law of the land. In so doing, the executive violated its duties under Article 256 of the Constitution. Neither the Council of Ministers nor individual Minister in charge of any department had any power or authority under any statute law. The State Government being the executive authority, the exercise of that authority in law could only be in the manner directed by Art. 166(1) of the Constitution. The Council of Ministers or its Committee called the Cabinet could only sanction policy, due execution of which was the responsibility of the Secretary or the Joint Secretary in charge of the department concerned, with the subject matter. It was not for Minister in charge of the department, far less Minister in charge of another like labour to give directions on any particular subject. Police being under Home Department it was violation of the Rules of Business to direct Police or Magistrate to take directions from Labour Minister. It was more so, not less, when that violation was by a cabinet decision. The Cabinet decisions insofar as they put those matters under direction of Labour Minister over the head of the Home Minister clearly violated the Rules of Business which are constitutional rules not amenable to change or modification by Cabinet or Council of Ministers.

(Paras 37, 94, 187 to 189 and 266)

(ii) that the circulars laid down the procedure which was violative of Ss. 54 and 127, 154, 157, 151 and 100 of Criminal P. C. Further the circulars added burdens which were not found in the Code and therefore invalid. There was no special procedure that ought to be adopted when an offence was committed by members of a Trade Union, even in an attempted enforcement of their power to collective bargaining. The procedure applicable was the ordinary procedure to be adopted in the case of such infraction outside the Trade Unions Act. The executive government had no power, jurisdiction or authority to add to or detract from such laws or give executive directions that the procedure ought to consist of any kind of special investigations, which ought to be done, at a stage not contemplated by the Criminal Procedure Code. The second circular of June 12, 1967, in so far as it prohibited the police from taking any action provided by law before completing a careful investigation, interfered with the duties of the police, which the executive had no jurisdiction or competency to do. In effect these two circulars by their language and emphasis had interdicted any police action in performance of their duties enjoined by law. The first, dated 27th March 1967, showed awareness and acknowledged that Gherao resulted in confinement yet directed that before deciding upon police intervention for rescue of confined personnel the matter ought to be immediately referred to the Labour Minister and his direction obtained. On the face of it this circular countermanded all that law enjoined on police as imperative duty on receiving information of wrongful confinement which was a cognizable offence. It was against the provision of statutes and the action was undoubtedly unlawful. It had also interfered with Magistrate's judicial function under Section 100, Cr. P. C. in so far as it directed that before deciding upon police intervention for rescue of confined persons, the matter should be referred to a particular Minister and his directions obtained. No louder interference by executive with judicial function of the court of Magistrate could be imagined. AIR 1955 SC 196 and (1907) 11 Cal WN 554 and AIR 1962 Cal 135 (FB), Ref., AIR 1928 Mad 791 and AIR 1935 Cal 403, Dist.

(Paras 31, 37, 85, 87, 165 and 257)

(iii) that the circulars violated Art. 14 of the Constitution. The executive government by an executive fiat, had determined that the managerial and other staff of an industrial establishment when subjected to a gherao, which involved the commission of several cognizable offences like wrongful restraint, wrongful confinement, criminal trespass, assault etc. would be subjected to a different procedure in law than any other person or persons subjected to the same. While, in all other cases, the police were to act in accordance with the Cr. P. C. and the relative Police Acts applicable, in their case no action was possible except under the direction of the Labour Minister. There was therefore a clear discrimination because such persons who had been illegally gheraoed did not constitute a separate class, to whom the ordinary law ought not to be applied. The effect of the circulars was that arbitrary powers were conferred upon the District Officers and the police whereby the petitioners had been deprived of the equality before the law and equal protection of law. As these were cases where substantial discrimination was made, which was not justified by any law, the question of reasonable classification did not prevent the operation or the protection given by Article 14 of the Constitution. AIR 1956 SC 479 and AIR 1967 SC 1836 and AIR 1963 SC 222 and AIR 1959 SC 149 and AIR 957 SC 397 and AIR 1955 SC 191, Rel. on.

(Paras 34, 77, 81 and 261)

(iv) that the circulars did not violate Art. 21 of the Constitution. By the impugned circulars, the Government was not proceeding against the life or personal liberty of the petitioners. If they were deprived of their personal liberty, it was by the persons who staged a gherao and not by the circulars. The circulars might have affected the promptness or effectiveness of the rescue by the police but they were not the proximate cause of any deprivation of life or personal liberty of the petitioners. AIR 1950 SC 27. Dist. AIR 1963 SC 1295 Rel. on.

(Paras 35, 82, 264)

GOVERNMENT OF WEST BENGAL

HOME DEPARTMENT

POLITICAL

From

Shri M. M. Basu, I.C.S.
Secretary to the Govt. of
West Bengal.

To

1. The District Officer.
2. The Commissioner of Police,
Calcutta.

Memorandum No. 138-PS dated, Calcutta, the 7th February, 1956.

SUBJECT : *Action to be taken in cases of stay-in-strikes and "Gherao" or Coercive and Confinement tactics resorted to by the employees of commercial and industrial undertakings.*

Cases of stay-in-strikes and "Gherao" or wrongful confinement of officers by employees of commercial and industrial undertakings in order to coerce the management to concede to their demands have often come to the notice of Government. It is considered necessary to indicate in broad lines the action to be taken in dealing with such occurrences. It is appreciated that each occurrence will have its own peculiar features and that District Officers will have to use their discretion in dealing with the situation as it develops. The instructions outlined below are therefore meant to indicate the broad lines of policy in dealing with such occurrences. They are not intended in any way to fetter the discretion of the local officers in using their lawful powers according to the needs of the situation they are called upon to deal with.

"Gherao" or wrongful confinement and criminal trespass.

2. Though workers may go on peaceful strikes which are not illegal they have no right to resort to coercive methods like wrongful restraint, wrongful confinement and criminal trespass which are all cognizable offences. Such methods are also unwarranted as there is a machinery set up by law to deal with all industrial disputes.

3. It is necessary to emphasise that the police should never lay themselves open to the charge of inaction. When the police receive information from any source whatsoever regarding such occurrences or any apprehension of such occurrences they should immediately seek confirmation thereof and proceed to the scene of occurrence particularly if police help is asked for by the management. A responsible police officer not below the rank of Sub-Inspector should be in charge of the party. On arrival at the place, the officer should contact the management to find out if police intervention is necessary.

In a case where the management asks for police intervention, the police should :—

- (a) disperse the demonstrators if it be found that they are an unlawful assembly;
- (b) arrest those who have committed or are committing cognizable offences; and
- (c) take such other action as may be called for.

4. When however the demonstration is found to be peaceful and/or police intervention is not asked for by the management the police should withdraw from the premises concerned. If in such case the officer-in-charge of the police party considers that there is apprehension of serious trouble, he should withdraw with his force to a suitable place within reasonable distance but not within sight of the demonstrators, after intimating the fact to the management and making arrangements for establishing quick contact in case the demonstration takes an untoward turn involving lawlessness.

5. The above instructions will apply to cases where coercive methods are adopted by labourers at places other than a factory, e.g., an office or any other place of business.

6. In all such cases the police should immediately on getting information of any such occurrence or as soon thereafter as possible send an intimation to the nearest District Magistrate, Sub-Divisional Magistrate or any other Magistrate having jurisdiction.

Stay-in-strikes.

7. Strikes are governed by the Industrial Disputes Act (Central Act XIV of 1947). The Act defines legal and illegal strikes. The District Officers' main concern will be the law and order aspect of the affairs, the industrial dispute itself being that of the Labour Department. There is provision in the Industrial Disputes Act itself for dealing with an illegal strike. The District Magistrate comes into the picture only where there is an apprehension of a breach of the peace over a strike of the stay-in-variety.

8. Factory workers have a right to enter the factory. Their staying in, however, becomes criminal trespass under Sec. 447 I.P.C. when it appears that they intend to intimidate insult or annoy the management or to commit any other offence. It follows, therefore, that staying-in-peacefully for the purpose of appealing to the management to grant some concessions would not be an offence under the I.P.C. It would be advisable to avoid police action in such cases.

9. Peaceful stay-in-strike rarely remains peaceful for long. The workers get restive and frequently take law in their own hands. Often then, a serious threat to life and property results. In such circumstances, action suggested in paras 3 to 6 above should be taken. But District Officers where possible should ascertain before-hand from the local representative of the Labour Directorate whether the strike is legal or not—

10.
11.

Sd/- M. M. BASU,
Secretary to the Govt. of West Bengal.

Calcutta

The 17th March 1967.

No. 513 P.C. Confidential.

Dt. 27th March, 1967

West Bengal Home Dept., Political

To

1. The District Officer,
2. The Commissioner of Police,
Calcutta.

REF. : Government Memo No. 138 P.S. dated 7th February, 1956.

In supersession of the instructions contained in the above mentioned memo, the undersigned is directed to state that it has now been decided that in cases of gherao of industrial establishments by their workers resulting in the confinement of managerial and other staff, the matter should be immediately referred to the Labour Minister and his directions obtained before deciding upon Police intervention for the rescue of the confined personnel.

Sd/- A. K. DUTT,
Joint Secretary to the
Government of West Bengal.

GOVERNMENT OF WEST BENGAL

HOME DEPARTMENT

POLITICAL

No. P 914-P.S.

Calcutta, the 12th June, 1967.

From : Shri A. K. Dutt, I.A.S.,
Joint Secretary to the Govt. of
West Bengal.

To

1. The District Officer,
2. The Commissioner of Police, Calcutta.

SUBJECT : *Police action in labour movements.*

Government would like to impress upon all officers, specially those connected with maintenance of law and order that the police must not intervene in legitimate labour movements and that, in case of any complaint regarding unlawful activities in connection with such (sic) movements the police must first investigate carefully whether the complaint has any basis in fact before proceeding to take any action provided under the law.

Sd/- A. K. DUTT,
Joint Secretary to the
Government of West Bengal.

AIR 1968 Supreme Court 117 (V 55 C 32)

(From Patna)*

M. HIDAYATULLAH AND C. A. VAIDIALINGAM JJ.

Criminal Appeal No. 218 of 1966

Abhinandan Jha and others, Appellants v. Dinesh Mishra, Respondent

Criminal Appeal No. 238 of 1966

Roopchand Lal and another, Appellants v. State of Bihar and another, Respondents

The following judgement of the Court was delivered by VAIDIALINGAM, J.:—The common question, that arises for consideration, in these two criminal appeals, by special leave, is as to whether a Magistrate can direct the police to submit a charge-sheet, when the police, after investigation into a cognizable offence, had submitted a final report, under section 173 of the Code of Criminal Procedure (hereinafter called the Code). There is a conflict of opinion, on this point, between the various High Courts in India. The High Courts of Madras, Calcutta, Madhya Pradesh, Assam and Gujarat have taken the view that the Magistrate has no such power, whereas the Patna and Bombay High Courts have held a contrary view.

(2) In Criminal Appeal No. 218 of 1966, the respondent, Dinesh Mishra, lodged a first information report, on June 3, 1965, at the Rajoun Police Station, that he saw a thatched house, of one Uma Kant Misra, situated on the northern side of his house, burning, and the petitioners herein, running away from the scene. The police made an investigation and submitted what is called a 'final report', under Section 173(1) of the Code, to the effect that the offence complained of, was false. The Sub-divisional Magistrate received this report on July 13, 1965, but in the meanwhile, the respondent had filed what is termed 'a protest petition', challenging the correctness of the report submitted by the police. The Magistrate appears to have perused the police diary, and, after hearing the counsel for the respondent and the Public Prosecutor, passed an order on Oct. 27, 1965, directing the police to submit a charge-sheet, against the petitioners, herein. The petitioners challenged this order, without success, both before the learned Sessions Judge, Bhagalpur, and the Patna High Court. It was held by the High Court, following its previous decision that the Magistrate has jurisdiction to call for a charge-sheet, when he disagrees with the report submitted by the police under section 173(1) of the Code. The petitioners in this appeal challenge these orders.

(3) Similarly, in Criminal Appeal No. 238 of 1966, the second respondent therein, had lodged a written report on Feb. 24, 1964, before the police, at Malasalami police station, that his daughter, Heramani, was missing from February 21, 1964, and that the appellants in that appeal had kidnapped her. A case, under Section 366 I.P.C. was registered against them. The police, after investigation, submitted a final report to the Magistrate, to the effect that the girl concerned, had been recovered and that she had stated that she had, of her own accord, eloped; and therefore the police stated that the case might be treated as closed.

(4) The second respondent filed a 'protest petition' in Court, challenging the statements of the police and he also filed a complaint, under Sec. 498 I.P.C. The Magistrate after a perusal of the case diary of the police, and hearing the lawyer for the appellants and the second respondent, as also the Public Prosecutor, passed an order directing the Investigating Officer to submit a charge-sheet against the accused persons, under Section 366 I.P.C. This order has been confirmed by the learned Sessions Judge as well as the Patna High Court. Here also, the Patna High Court, in accordance with its previous decision held that the Magistrate had jurisdiction to pass the order in question. All these orders are challenged by the appellants in this appeal.

(5) On behalf of the appellants, in Criminal Appeal No. 218 of 1966, Mr. Jha, learned counsel, pointed out that when a final report is submitted by the police, under section 173(1) of the Code, stating that no case is made out, the Magistrate has no jurisdiction to direct the police to file a charge-sheet. It may be open, counsel points out, to the Magistrate, to direct further investigation to be made by the police, or to treat the protest petition filed by the second respondent, as a complaint and take cognizance of the offence and proceed, according to law. The scheme of Chap. XIV of the Code, counsel points out, clearly indicates that the formation of an opinion, as to whether or not there is a case to place the accused on trial, is that of the investigating officers and the Magistrate cannot compel the police to form a particular opinion on the investigation and to submit a report, according to such opinion. In this case there is nothing to show that the protest petition, filed by the second respondent, has been treated as a complaint, in which case, it may be open to the Magistrate to take cognizance of the offence; but in the absence of any such procedure being adopted, according to counsel, the order of the Magistrate directing a charge-sheet to be filed, is illegal and not warranted by the provisions of the Code. These contentions have been adopted, and reiterated by Mr. Nuruddin Ahmed, on behalf of the appellants, in Criminal Appeal No. 238 of 1966.

(6) Both the learned counsel pressed before us, for acceptance, the views, as expressed by the Gujarat High Court in its Full Bench judgement, reported as State of Gujarat v. Shah Lakhamsi, AIR 1966 Guj. 283 (FB). On the other hand, Mr. U. P. Singh, learned counsel for the respondent, in Criminal Appeal No. 218 of 1966, has pointed out that the Magistrate has jurisdiction, in proper cases, when he does not agree with the final report submitted by the police to direct them to submit a charge-sheet. Otherwise, counsel points out, the position will be that the entire matter is left to the discretion of the police authorities, and the Courts will be powerless, even when they feel that the action of the police is not justified. Quite naturally, counsel prays for acceptance of the views expressed by the dissenting judges, in A. K. Roy v. State of W.B. AIR 1962 Cal. 135 (FB), and by the Bombay and Patna High Courts, in the decisions reported as State v. Murlidhar Govardhan, AIR 1960 Bom. 240 and Ram Nandan v. State AIR 1966 Pat. 438, respectively.

(7) In order, properly to appreciate the duties of the police, in the matter of investigation of offences, as well as their powers, it is necessary to refer to the provisions contained in Chapter XIV of the Code. That chapter deals with 'Information to the Police and their Powers to investigate; and it contains the group of sections beginning from section 154, and ending with section 176. Section 154 deals with information relating to the commission of a cognizable offence, and the procedure to be adopted in respect of the same. Section 155, similarly deals with information in respect of non-cognizable offences. Sub-section (2) of this section, prohibits a police officer from investigating a non-cognizable case, without the order of a Magistrate. Section 156 authorises a police officer, in-charge of a police station, to investigate any cognizable case, without the order of a Magistrate. Therefore, it will be seen that large powers are conferred on the police, in the matter of investigation into a cognizable offence. Sub-section (3), of section 156, provides for any Magistrate, empowered under section 190, to order an investigation. In cases where a cognizable offence is suspected to have been committed, the

officer in-charge of a police station, after sending a report to the Magistrate, is entitled under section 157 to investigate the facts and circumstances of the case and also to take steps for the discovery and arrest of the offender. Clause (b), of the proviso to section 157(1), gives a discretion to the police-officer not to investigate the case, if it appears to him that there is no sufficient ground for entering on an investigation. Section 158 deals with the procedure to be adopted in the matter of report to be sent, under section 157. Section 159 gives power to a Magistrate, on receiving a report under section 157 either to direct an investigation or, himself or through another Magistrate subordinate to him, to hold a preliminary enquiry into the matter, or otherwise dispose of the case, in accordance with the Code. Sections 160 to 163 deal with the power of the police to require attendance of witnesses, examine witnesses and record statements. Sections 165 and 166 deal with the power of police officers, in the matter of conducting searches during an investigation, in the circumstances, mentioned therein. Section 167 provides for the procedure to be adopted by the police, when investigation cannot be completed in 24 hours. Section 168 provides for a report being sent to the officer, in-charge of a police station, about the result of an investigation, when such investigation has been made by a subordinate police-officer, under Chapter XIV. Section 169 authorises a police-officer to release a person from custody, on his executing a bond, to appear, if and when so required before a Magistrate, in cases when, on investigation under Chapter XIV, it appears to the officer, in-charge of the police station, or to the police-officer making the investigation, that there is no sufficient evidence or reasonable ground of suspicion to justify the forwarding of the accused to a Magistrate. Section 170 empowers the officer, in-charge of a police station, after investigation under Chapter XIV, and if it appears to him that there is sufficient evidence, to forward the accused, under custody, to a competent Magistrate or to take security from the accused for his appearance before the Magistrate, in cases where the offence is bailable. Section 172 makes it obligatory on the police-officer making an investigation, to maintain a diary recording the various particulars therein and in the manner indicated in that section. Section 173 provides for an investigation, under Chapter XIV, to be completed, without unnecessary delay and also makes it obligatory, on the officer in-charge of the police station to send a report to the Magistrate concerned in the manner provided for therein, containing the necessary particulars.

(8) It is now only necessary to refer to section 190, occurring in Chapter XV, relating to jurisdiction of Criminal Courts in inquiries and trials. That section is to be found under the heading 'Conditions requisite for initiation of proceedings' and sub-section (1) is as follows:—

“(1) Except as hereinafter provided, any Presidency Magistrate, District Magistrate or Sub-Divisional Magistrate, and any other Magistrate specially empowered in this behalf, may take cognizance of any offence—

- (a) upon receiving a complaint of facts which constitute such offence;
- (b) upon a report in writing of such facts made by any police-officer;
- (c) upon information received from any person other than a police-officer, or upon his own knowledge or suspicion, that such offence has been committed.”

(9) From the foregoing sections, occurring in Chapter XIV, it will be seen that very elaborate provisions have been made for securing that an investigation does take place into a reported offence and the investigation is carried out within the limits of the law, without causing any harassment to the accused and is also completed without unnecessary or undue delay. But the point to be noted is that the manner and method of conducting the investigation, are left entirely to the police, and the Magistrate, so far as we can see, has no power under any of these provisions, to interfere with the same. If, on investigation, it appears to the officer, in-charge of a police station, or to the officer making an investigation, that there is no sufficient evidence or reasonable grounds of suspicion justifying the forwarding of an accused to a Magistrate, Section 169 says that the officer shall release the accused, if in custody, on his executing a bond to appear before the Magistrate. Similarly, if on the other hand, it appears to the officer in-charge of a police station, or to the officer making the investigation, under Chapter XIV, that there is sufficient evidence or reasonable ground to justify the forwarding of an accused, under Section 170, to forward the accused to a Magistrate; or if the offence is bailable to take security from him for his appearance before such Magistrate. But, whether a case comes under Section 169, or under Section 170 of the Code, on the completion of the investigation, the police-officer has to submit a report to the Magistrate, under Section 173, in the manner indicated therein, containing the various details. The question as to whether the Magistrate has got power to direct the police to file a charge-sheet on receipt of a report under Sec. 173 really depends upon the nature of the jurisdiction exercised by a Magistrate, on receiving a report.

(10) In this connection, we may refer to certain observations, made by the Judicial Committee in *King Emperor v. Nazir Ahmed*, 71 Ind App 203 = (AIR 1945 PC 18) and by this Court in *H. N. Rishbud v. State of Delhi*, (1955) 1 SCR 1150 = (AIR 1955 SC 196). In *Nazir Ahmed's case*, 71 Ind App 203 = (AIR 1945 PC 18), Lord Porter observes, at p. 212 (of Ind App) = (at p. 22 of AIR) as follows:

“Just as it is essential that every one accused of a crime should have free access to a court of justice so that he may be duly acquitted if found not guilty of the offence with which he is charged, so it is of the utmost importance that the judiciary should not interfere with the police in matters which are within their province and into which the law imposes on them the duty of inquiry. In India as has been shown, there is a statutory right on the part of the police to investigate the circumstances of an alleged cognizable crime without requiring any authority from the judicial authorities, and it would, as their Lordships think, be an unfortunate result if it should be held possible to interfere with those statutory rights by an exercise of the inherent jurisdiction of the Court. The functions of the judiciary and the police are complementary, not overlapping and the combination of individual liberty with a due observance of law and order is only to be obtained by leaving each to exercise its own function, always of course, subject to the right of the court to intervene in an appropriate case when moved under Section 491 of the Criminal Procedure Code to give directions in the nature of habeas corpus. In such a case as the present, however, the court's function begins when a charge is preferred before it, and not until then.”

These observations have been quoted with approval, by this Court, in *State of West Bengal v. S. H. Basak*, AIR 1963 SC 447. This court in *Rishbud and Inder Singh's case*, 1955 (1) SCR 1150 = (AIR 1955 SC 196), observes at p. 1156 (of SCR) = (at p. 201 of AIR) as follows :

“Investigation usually starts on information relating to the commission of an offence given to an officer in-charge of a police station and recorded under Section 154 of the Code. If from information so received or otherwise, the officer in-charge of the police station has reason to suspect the commission of an offence, he or some other subordinate officer deputed by him, has to proceed to the spot to investigate the facts and circumstances of the case and if necessary to take measures for the discovery and arrest of the offender. Thus investigation primarily consists in the ascertainment of the facts and circumstances of the case. By definition, it includes all the proceedings under the Code for the collection of evidence conducted by a police-officer”.

Again, after a reference to some of the provisions in Chapter XIV of the Code, it is observed at p. 1157 (of SCR) = (at p. 201 of AIR) :

“Thus, under the Code investigation consists generally 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 (a) the examination of various persons (including the accused) and the reduction of

their statements into writing, if the officer thinks fit, (b) the search of places of seizure of things considered necessary of the investigation and to be produced at the trial and (5) Formation of the opinion as to whether on the material collected there is case to place the accused before a Magistrate for trial and if so taking the necessary steps for the same by filing of a charge-sheet under section 173. . . It is also clear that the final step in the investigation, viz., the formation of the opinion as to whether or not there is a case to place the accused on trial is to be that of the Officer in-charge of the police station."

(11) We are referring to these observations for the purpose of emphasising that the scheme of Chapter XIV, clearly shows that the formation of an opinion as to whether or not there is case to place the accused on trial, has been left to the officer in-charge of a police station. Bearing in mind these principles referred to above, we have to consider the question that arises for consideration in this case. The High Courts, which have held that the Magistrate has no jurisdiction to call upon the police to file a charge-sheet, under such circumstances, have rested their decision on two principles viz., (a) that there is no express provision on the Code empowering a Magistrate to pass such an order; and (b) such a power, in view of the scheme of Chapter XIV, cannot be inferred *vide* Venkata Subba v. Anjanayulu, AIR 1932 Mad 673; Abdul Rahim v. Abdul Mukhtadia, AIR 1953 Assam 112; Amar Pramanand v. State, AIR 1960 Madh Pra 12; the majority view in AIR 1962 Cal 135 and ILR (1966) Guj 285 = (AIR 1966 Guj 283) (FB). On the other hand, the High Courts which have recognised such a power, rest their decision again on two grounds viz. (a) when a report is submitted by the police, after investigation, the Magistrate has to deal with it judicially, which will mean that when the report is not accepted, the Magistrate can give suitable directions to the police; and (b) the Magistrate is given supervision over the conduct of investigation by the police and therefore, such a power can be recognised in the Magistrate *vide* AIR 1960 Bom 240; and AIR 1966 Pat 438.

(12) Though it may be that a report submitted by the police may have to be dealt with judicially, by a Magistrate, and although the Magistrate may have certain supervisory powers, nevertheless, we are not inclined to agree with the further view that from these considerations alone it can be said that when the police submit a report that no case has been made out for sending up an accused for trial, it is open to the Magistrate to direct the police to file a charge-sheet. But, we may take it clear, that this is not to say that the Magistrate is absolutely powerless, because, as will be indicated later, it is open to him to take cognizance of an offence and proceed, according to law. We do not also find any such power under Section 173(3), as is sought to be inferred, in some of the decisions cited above. As we have indicated broadly the approach made by the various High Courts in coming to different conclusions, we do not think it necessary to refer to those decisions in detail.

(13) It will be seen that the Code as such does not use the expression 'charge-sheet' or 'final report'. But it is understood in the Police Manual containing Rules and Regulations, that a report by the police, filed under Section 170 of the Code, is referred to as a 'charge-sheet'. But in respect of the reports sent under Section 169 *i.e.*, when there is no sufficient evidence to justify the forwarding of the accused to a Magistrate, it is termed variously, in different States, as either 'referred charge', 'final report', or 'Summary'.

(14) In these two appeals, which are from the State of Bihar, the reports, under Section 169, are referred to as 'final report'. Now, the question as to what exactly is to be done by a Magistrate, on receiving a report, under Section 173, will have to be considered. That report may be in respect of a case, coming under Section 170, or one coming under Section 169. We have already referred to Section 190, which is the first section in the group of sections headed 'Conditions requisite for Initiation of Proceedings'. Sub-section (1), of this section, will cover a report sent, under Section 173. The use of the words 'may take cognizance of any offence', in sub-section (1) of section 190, in our opinion, imports the exercise of a 'judicial discretion', and the Magistrate, who receives the report, under Section 173 will have to consider the said report and judicially take a decision, whether or not to take cognizance of the offence. From this it follows, that it is not as if, that the Magistrate is bound to accept the opinion of the police that there is a case for placing the accused, on trial. It is open to the Magistrate to take the view that the facts, disclosed in the report do not make out an offence for taking cognizance or he may take the view that there is no sufficient evidence to justify an accused being put on trial. On either of these grounds, the Magistrate will be perfectly justified in declining to take cognizance of an offence, irrespective of the opinion of the police. On the other hand, if the Magistrate agrees with the report, which is a charge-sheet submitted by the police, no difficulty whatsoever is caused, because he will have full jurisdiction to take cognizance of the offence, under Section 190(1) (b) of the Code. This will be the position, when the report, under Section 173, is a charge-sheet.

(15) Then the question is, what is the position, when the Magistrate is dealing with a report submitted by the police, under Section 173, that no case is made out for sending up an accused for trial, which report, as we have already indicated, is called, in the area in a question, as a 'final report'? Even in those cases, if the Magistrate agrees with the said report, he may accept the final report and close the proceedings. But there may be instances when the Magistrate may take the view, on a consideration of the final report, that the opinion formed by the police is not based on a full and complete investigation, in which case, in our opinion, the Magistrate will have ample jurisdiction to give directions to the police, under S. 156(3) to make a further investigation. That is, if the Magistrate feels after considering the final report, that the investigation is unsatisfactory, or incomplete, or that there is scope for further investigation, it will be open to the Magistrate to decline to accept the final report and direct the police to make further investigation, under Section 156(3). The police, after such further investigation, may submit a charge-sheet, or, again submit a final report, depending upon the further investigation made by them. If ultimately, the Magistrate forms the opinion that the facts, set out in the final report, constitute an offence, he can take cognizance of the offence, under Section 190(1)(b), notwithstanding the contrary opinion of police, expressed in the final report.

(16) In this connection, the provisions of section 169 of the Code, are relevant. They specifically provide that even though, on investigation, a police-officer, or other investigating officer, is of the opinion that there is no case for proceeding against the accused, he is bound while releasing the accused, to take bond from him to appear, if and when required, before a Magistrate. This provision is obviously to meet a contingency of the Magistrate, when he considers the report of the investigating officer, and judicially takes a view different from the police.

(17) We have to approach the question, arising for consideration in this case, in the light of the circumstances pointed out above. We have already referred to the scheme of Chapter XIV, as well as the observations of this Court in Rishbud and Inder Singh's case AIR 1955 SC 196 that the formation of the opinion as to whether or not there is a case to place the accused on trial before a Magistrate, is left to the officer in-charge of the police station. There is no express power, so far as we can see, which gives jurisdiction to pass an order of the nature under attack nor can any such powers be implied. There is certainly no obligation, on the Magistrate, to accept the report, if he does not agree with the opinion formed by the police. Under those circumstances, if he still suspects that an offence has been committed, he is entitled, notwithstanding the opinion of the police, to take cognizance, under section 190(1)(c) of the Code. That provision, in our opinion, is obviously intended to secure that offences may not go unpunished and justice may be invoked even where persons individually aggrieved are unwilling or unable to prosecute, or the police, either wantonly or through *bona fide* error, fail to submit a report, setting out the facts constituting the offence. Therefore, a very wide power is conferred on the Magistrate to take cognizance of an offence, not only when he receives information about the commission of an offence from a third person, but also there he has knowledge or even suspicion that the offence has been committed. It is open to the Magistrate to take cognizance of the offence, under Section 190 (1)(c), on the ground that, after having due regard to the final report and the police records placed before him, he has reason to suspect that an offence has been committed. Therefore, these circumstances will also clearly negative the power of a Magistrate to call for a charge-sheet from the police, when they have submitted a final report. The entire scheme of Chapter XIV clearly indicates

that the formation of the opinion, as to whether or not there is a case to place the accused for trial, is that of the officer in-charge of the police station and that opinion determines whether the report is to be under section 170, being a 'charge-sheet', or under section 169, 'a final report'. It is no doubt open to the Magistrate, as we have already pointed out, to accept or disagree with the opinion of the police and, if he disagrees, he is entitled to adopt any one of the courses indicated by us. But he cannot direct the police to submit a charge-sheet, because the submission of the report depends upon the opinion formed by the police, and not on the opinion of the Magistrate. The Magistrate cannot compel the police to form a particular opinion, on the investigation, and to submit a report, according to such opinion. That will be really encroaching on the sphere of the police and compelling the police to form an opinion so as to accord with the decision of the Magistrate and send a report either under S. 169, or under section 170, depending upon the nature of the decision. Such a function has been left to the police under the Code.

(18) We have already pointed out that the investigation, under the Code, takes in several aspects, and stages, ending ultimately with the formation of an opinion by the police as to whether, on the material covered and collected a case is made out to place the accused before the Magistrate for trial, and the submission of either a charge-sheet, or a final report is dependent on the nature of the opinion, so formed. The formation of the said opinion, by the police, as pointed out earlier, is the final step in the investigation, and that final step is to be taken only by the police and by no other authority.

(19) The question can also be considered from another point of view. Supposing the police send a report, viz. a charge-sheet, under Section 170 of the Code. As we have already pointed out the Magistrate is not bound to accept that report, when he considers the matter judicially. But can he differ from the police and call upon them to submit a final report, under section 169? In our opinion, the Magistrate has no such power. If he has no such power, in law, it also follows that the magistrate has no power to direct the police to submit a charge-sheet, when the police have submitted a final report that no case is made out for sending the accused for trial. The functions of the Magistracy and the police, are entirely different, and though, in the circumstances mentioned earlier, the Magistrate may or may not accept the report, and take suitable action, according to law, he cannot certainly infringe (sic. impinge?) upon the jurisdiction of the police, by compelling them to change their opinion, so as to accord with his view.

(20) Therefore, to conclude, there is no power, expressly or impliedly conferred, under the Code, on a Magistrate to call upon the police to submit a charge-sheet, when they have sent a report under section 169 of the Code, that there is no case made out for sending up an accused for trial.

(21) In these two appeals one other fact will have to be taken note of. It is not very clear as to whether the Magistrate, in each of those cases, has chosen to treat the protest petitions, filed by the respective respondents, as complaints, because, we do not find that the Magistrate has adopted the suitable procedure indicated in the Code, when he takes cognizance of an offence, on a complaint made to him. Therefore, while holding that the orders of the Magistrate, in each of these cases, directing the police to file charge-sheets, is without jurisdiction, we make it clear that it is open to the Magistrate to treat the respective protest petitions, as complaints and take further proceedings, according to law, and, in the light of the views expressed by us, in this judgment.

(22) Mr. Nuruddin Ahmed, learned counsel for the appellants, in Criminal Appeal No. 238 of 1966, particularly urged that it is unnecessary to direct further proceedings to be continued, so far as his clients are concerned. Learned counsel pointed out that the police report before the Magistrate, clearly show that the girl, in question, who is stated to be above 19 years of age has herself stated that she had eloped, of her own accord and that if that is so, further proceedings against his clients, are absolutely unnecessary, to be continued. We are not inclined to accept these contentions of the learned counsel. As to whether an offence is made out or whether any of the appellants or both of them are guilty of the offences, with which they may be charged, are all matters which do not require to be considered, by this Court, at this stage.

(23) In the result, subject to the directions contained above, the orders of the Magistrate, directing the police to file a charge, will be set aside, and the appeals allowed, to that extent.

Appeals allowed.

Statement showing the Disposal of Cognizable Crime Cases (I.P.C. Cases Only) By Courts

(Figures are in Lakhs)

Sl. No.	Year	Cases Instituted or cases in which charge-sheet was laid or cases sent for trial during the year	Disposal (cases in which trials were completed)	Cases pending trial at the end of the year	Remarks
1	2	3	4	5	6
1.	1953	Not available	2.34	1.92	Including investigation cases
2.	1954	Not available	2.18	Not available	-do-
3.	1955	Not available	2.03	-do-	-do-
4.	1956	2.35	2.04	1.40	Excluding investigation cases
5.	1957	2.42	2.05	1.49	-do-
6.	1958	2.56	2.16	1.57	-do-
7.	1959	2.64	2.23	1.68	-do-
8.	1960	2.87	2.42	1.75	-do-
9.	1961	2.85	2.43	1.86	-do-
10.	1962	2.94	2.52	1.97	-do-
11.	1963	2.79	2.36	2.13	-do-
12.	1964	3.28	2.78	2.38	-do-
13.	1965	3.42	2.89	2.60	-do-
14.	1966	3.56	2.95	2.92	-do-
15.	1967	3.45	2.85	3.50	-do-
16.	1968	3.47	2.89	4.06	-do-
17.	1969	3.48	2.89	4.53	-do-
18.	1970	3.44	2.85	5.15	-do-
19.	1971	4.28	3.02	5.74	-do-
20.	1972	4.49	3.13	6.34	-do-
21.	1973	5.06	3.31	7.50	-do-
22.	1974	5.60	3.64	8.69	-do-
23.	1975	5.89	3.96	9.80	-do-
24.	1976	5.84	4.26	10.43	-do-

Note:

1. The figures indicate the number of cognizable crime cases in which police filed charge-sheets.
2. The private complaints and challans filed by police in respect of offences under Local and Special Acts are not included.
3. The pending investigation cases (from 1956 and onwards), the disposal of cases otherwise (viz. compounding, withdrawn etc.) are not included.

Source : CRIME IN INDIA (ANNUAL).

Statement showing the Disposal of Cognizable Crime Cases (Under Local & Special Laws) By Courts

(Figures are in Lakhs)

Sl. No.	Year	Cases Instituted or cases in which charge-sheet was laid or cases sent for trial during the year	Disposal (cases in which trials were completed)	Cases pending trial or investigation at the end of the year	Remarks
1	2	3	4	5	6
1.	1966	18.27	17.88	5.21	Including investigation cases.
2.	1967	25.50	25.36	5.72	-do-
3.	1968	28.34	27.85	6.72	-do-
4.	1969	26.73	26.38	6.70	-do-
5.	1970	27.35	26.96	7.53	-do-
6.	1971	28.33	28.41	5.77	Cases under investigation are not included.
7.	1972	23.08	21.83	6.74	-do-
8.	1973	24.58	23.18	7.95	-do-
9.	1974	24.67	23.16	9.10	-do-
10.	1975	31.04	29.84	9.91	-do-
11.	1976	31.19	30.68	9.59	-do-

NOTE:

1. The figures indicate the number of Cognizable cases in which Police filed charge-sheets.
2. The private complaints, challans filed by police in respect of offences under Indian Penal Code are not included.
3. The pending investigation cases, the disposal of cases otherwise (viz. Compounding, Withdrawn, etc.) are not included.

SOURCE: CRIME IN INDIA (ANNUAL).

*Extracts from Chapter Six of the Bhagwati Committee Report on National Juridicare (Nyaya Panchayats)**Advantages of Nyaya Panchayats*

6.11 The institution of Nyaya Panchayats would not only be in conformity with the ideal of democratic decentralisation and ensure public participation in the administration of justice at the lowest level but it would also help in delivering justice to the poor and the backward in rural areas without any delay and at practically no cost. It would save them from the inconvenience and expense to which they would necessarily be subjected, if they have to approach the regular court of law situated in taluka or tehsil and sometimes, even district town. If they have to go to a regular court of law, they would be required to travel quite a long distance—sometimes as much as 30 or 40 miles—to go to the court from their village and there they would have to engage a lawyer and then they would have to waste considerable time in going to and from their village to the court whenever any date is fixed by the court—and this happens several times because notoriously enough, there are frequent adjournments—and they would also have to take their witnesses to the court and back on every date fixed by the court for hearing of the case. This would involve considerable waste of time and money which the poor can ill-afford. The delay in disposal of litigation in the court may also be ruinous, because the poor have no staying power and with their back broken by poverty and suffering they cannot wait for justice. It must be given to them promptly and speedily. Moreover, they would also suffer loss of wages and income on each occasion on which they have to go to the court and this may happen quite often. The institution of Nyaya Panchayats would, indeed, be a great boon to them, because it would bring justice to their door-steps and make it cheaply, easily and expeditiously available to them. The Nyaya Panchayats would also inspire confidence in the poor because they would be informal, their proceedings would be in a language which the common man can understand and they would not be encumbered by intricate and sophisticated rules of procedure. The establishment of Nyaya Panchayats would considerably assist the poor villager in asserting his legal rights against those who are inclined to violate them. Where court are far away and difficult of access, villagers who are poor and low in the social scale are denied an opportunity of fighting injustice through resort to the legal process. Not having the means and the opportunity to obtain redress of their grievances by reason of want of financial resources and also helplessness and lack of assertiveness arising on account of social disabilities and economic impoverishment, they suffer silently injustice done to them without taking any action. If Nyaya Panchayats are established in villages so that access to the legal process becomes easily available to them, the poor villagers would be able to take necessary proceedings for redressing the wrong done to them.

6.12 Nyaya Panchayats would be able to remove many of the defects of the British system of administration of justice since they would be manned by people who would have knowledge of local customs and habits, attitudes and values and who would be familiar with the ways of thought and living of the parties before them. Drastically low cost, informal atmosphere, absence of technicalities, nearness—both geographical and psychological—community of shared attitudes and values and a greater scope for compromise would be some of the definite advantages of the system of Nyaya Panchayats and they would make the system of administration of justice more relevant and meaningful to the poor masses and thereby generate greater confidence in them. The poor would feel that the authority which is administering justice to them is their own and it is not part of an alien system which they neither understand nor trust.

Moreover, Nyaya Panchayats would be able to discover the truth much more easily than ordinary courts. It is self-evident that the possibility of perjury is largely reduced if the venue of the inquiry is nearer the place of the occurrence and in the presence of the fellow-citizens. The witness may, without such reluctance, perjure himself in the witness-box in a court some distance away from his village but he would hesitate considerably to tell an untruth in the presence of his fellow citizens who all know what in fact has happened. Untruthfulness often springs from difficulty in detection and distant trial, both in time and place, and is inhibited by on-the-spot and instant hearing by men who know the thoughtways and mores of the local folk.

6.13 More than all, in an ordinary court, the parties join issue and the fight becomes fiercer at the end of the litigation. However, in the Nyaya Panchayats, the whole emphasis is on conciliation and promotion of better relations. Footprints of good-will are left behind, not stains of blood feud. Parties come as foes but return as friends. And not the least of the benefits would be the educative influence of the Nyaya Panchayats on the villagers. As the administrative panchayats would gradually train them in the area of self-government and enable them to look after the affairs of their village, so would Nyaya Panchayats, where they would be doing justice between their fellow citizens in the village, instill in them a growing sense of fairness and responsibility.

6.14 We are, therefore, definitely of the view that Nyaya Panchayats should be established at the grass roots level for administering justice in the rural areas.

Composition of Nyaya Panchayats

6.15 The question then arises as to what should be the composition of the Nyaya Panchayats. Should they consist of elected members as at present in some of the States? We do not think it would be advisable to have Nyaya Panchayats composed wholly of elected representatives of the village. We issued a questionnaire in regard to Nyaya Panchayats to the State Governments, High Courts, Bar Councils and Bar Associations of various States in the country and the uniform answer which we got from them in regard to the composition of the Nyaya Panchayats was that it would be dangerous to adopt the elective principle in the constitution of Nyaya Panchayats. They pointed out that if Nyaya Panchayats were to be elected, they would become highly politicised and lead to factionalism and groupism and the village people would have no confidence in their capacity to do justice. The Maharashtra and the Rajasthan Governments stated in no uncertain terms that the experiment of Nyaya Panchayats had failed in their respective States because of the elective principle. The State of Maharashtra, in fact, abolished Nyaya Panchayats with effect from 1st August, 1975 on the basis of the recommendation contained in the report made by the Evaluation Committee on Panchayati Raj, set up by the State Government. We think there is force in this point of view and it cannot be said to be outside the realm of probability that if Nyaya Panchayats were to be elected, party politics would enter in the constitution of Nyaya Panchayats and that would seriously cripple its credibility in rendering justice to the people. It is also possible that factionalism and groupism, which vitiate the life in the village, would be reflected in Nyaya Panchayats and Nyaya Panchayats may also come to be dominated by caste and communal considerations. The elective process may also result in the stronger and more powerful sections of the community or the rich and well-to-do or vested interests or anti-social elements acquiring control over Nyaya Panchayats. And if that happens, there will be no hope for the poor and weaker sections of the community to get justice.

6.16 It would not, therefore, be advisable, in the present social and economic conditions prevailing in the villages, to adopt the elective principle in the composition of Nyaya Panchayats. The Study Team under the chairmanship of Shri G. R. Rajagopalan also expressed the same opinion:

"The method of indirect election seems to afford for the time being the best solution and of the various possible methods of indirect elections, the best seems to be the type in which each of the gram panchayat in the Nyaya Panchayat circle elects a specified number of persons to serve on the Nyaya Panchayats".

The Bhagawati Committee in Gujarat also reached the conclusion that "Nyaya Panchayats should not be composed wholly of elected representatives of the village". We endorse the same opinion.

6.17 We are of the view that having regard to considerations of geographical contiguity and administrative convenience, five or more villages should be grouped together and a Nyaya Panchayat should be constituted for each such group of villages. The Nyaya Panchayat should consist of three members. One of them should be a person having knowledge of law. He would be the chairman of the Nyaya Panchayat and he may be called the Panchayat Judge. The Panchayat Judge, who will be the legal member, must be regarded as absolutely indispensable to the constitution of the Nyaya Panchayat. The advantage of having a person trained in law as chairman of the Nyaya Panchayat would be that it would eliminate the possibility of arbitrary or irrational decision and ensure that justice is done objectively and dispassionately, without any predilections or prejudices. There may be one Panchayat Judge for each taluk or tehsil or even a Block and he would preside over all Nyaya Panchayats within the taluk, tehsil or Block. The State Government may constitute a new cadre of Panchayat Judges and the Panchayat Judge for each taluk, tehsil or Block may be drawn from this cadre. If it is found inexpedient to form a new cadre of Panchayat Judges or for some reason or other it is not possible to appoint a Panchayat Judge from such cadre, the State Government may appoint a retired judicial officer or where a retired judicial officer is not available, a social service minded senior practising lawyer who is prepared to devote a part of his time to this work, as Panchayat Judge in a particular area. The remuneration and conditions of service of a Panchayat Judge may be such as may be fixed by the State Government. It would be desirable to assimilate the cadre of Panchayat Judges to that of the juniormost judicial officers in the State so that Panchayat Judges have the same avenues of promotion in the judicial hierarchy.

6.18 So far as the other two members of the Nyaya Panchayat are concerned, they should be laymen but, as pointed out above, their appointment should not be based on the elective principle. There are two possible methods of appointment of lay-members of the Nyaya Panchayat and either of them may be adopted. One method is that a panel of qualified persons for the group of villages in question may be prepared by the District Judge in consultation with the Collector or Deputy Commissioner and out of that panel, four persons for each village comprised in the group, may be chosen by majority vote of the *gram* or village panchayats or *gaon sabhas* acting together as the electoral college. The persons so chosen would constitute the Nyaya Panchayat panel. The other method is that each gram panchayat or *gaon sabha* may elect eight members from amongst the residents of the village who are not members of the gram panchayat or *gaon sabha* and out of them, four persons may be selected by the District Judge in consultation with the Collector or Deputy Commissioner and the persons so selected from each village may constitute the Nyaya Panchayat panel for the group of villages in question. It would be advisable to prescribe certain minimum qualifications for membership of the Nyaya Panchayat panel. Literacy must be an indispensable qualification except perhaps in the case of Scheduled Castes and Scheduled Tribes. The persons selected on the Nyaya Panchayat panel must also possess reputation for integrity and impartiality and they must enjoy the confidence of the people. There must also be a provision that at least one of the persons selected on the Nyaya Panchayat panel from a village should be a member of Scheduled Caste or Scheduled Tribe and two should, as far as possible, be drawn from women and the working class, from actual tillers or marginal farmers. It must be insisted that no member on the Nyaya Panchayat panel should have been guilty of conviction for moral turpitude and as far as possible, he must have background of social service. We would consider holding of considerable wealth and property as a disqualification for being on the Nyaya Panchayat panel. This last consideration becomes necessary because village justice is often times the resolution of a conflict between the little landless, casteless villager *versus* the village chief, the high-caste, boss or member of the proprietariat or anti-social element, and it would be impossible to hold the scales of justice even between the tiny timorous dalit and oppressed people and the big and overbearing vested interests, by making the latter judges in their own class cause. These are some of the considerations which would have to be borne in mind if we want Nyaya Panchayats to succeed as organs of justice at village level. It is from the Nyaya Panchayat panel so constituted that the other two members of the Nyaya Panchayat would be drawn. The Panchayat Judge would have power to select two persons from out of the Nyaya Panchayat panel to act as lay-members of the Nyaya Panchayat in respect of any particular dispute which may come up for decision before the Nyaya Panchayat. Where one of the parties to the dispute is a member of a Scheduled Caste or Scheduled Tribe, one of the lay-members of the Nyaya Panchayat should, as far as possible, be a person falling within that category; and so also in a case where a woman is a party to the dispute, one of the lay-members on the Nyaya Panchayat should be a woman. The Panchayat Judge, of course, will have to take care to see that neither of the two lay-members selected to act on the Nyaya Panchayat is in any way related to or personally connected with any of the parties to the dispute or is in any manner hostile or antagonistic to him.

6.19 The advantage of this mode of constitution of Nyaya Panchayat is that the Nyaya Panchayat would have, as its chairman, a person trained in law and this will ensure that nothing grossly illegal is done on account of innocence of law of the members. The other two members of the Nyaya Panchayat, being selected according to a method which reconciles the elective principle with the anxiety to have competent members on the Nyaya Panchayat, would almost invariably be respected members of the community and hence there would be popular element in the Nyaya Panchayat as well and this popular element would invest the Nyaya Panchayat with an air of informality which would go a long way towards removing the psychological barrier between the litigant and the adjudicating authorities and it would also considerably assist the Nyaya Panchayat in properly understanding the true nature of the dispute before it and resolving such dispute in a manner satisfactory to both parties. The presence of two lay-members, who have their roots in the community, would also help in bringing about amicable settlement of the dispute between the parties. In fact, the whole emphasis in the proceedings before the Nyaya Panchayat should be on conciliation and settlement rather than on adjudication. It is common experience that whichever party wins or loses in a litigation, it leaves a trail of bitterness and enmity apart from bringing about financial ruination of both and the object of panchayati justice must, therefore, be to bring about conciliation so that the litigants part as friends in an atmosphere of harmony and good relations. The advice of Abraham Lincoln bears repetition in this connection. He said: "Discourage litigation, persuade your neighbours to compromise whenever you can, point out to them how the nominal winner is often the real loser in fees, expense and waste of time". It may be noted that Mahatma Gandhi throughout his career as a lawyer tried to promote settlement between parties. This would be easy to accomplish on account of the presence of lay-members on the Nyaya Panchayat. The Nyaya Panchayat would also provide good training ground for the people of the village and this training will not be at the cost of justice, because Panchayat Judge would always be there to guide the lay-members to see that no injustice results to anyone. We are hopeful that, in course of time, once traditions are established and administration of justice by Nyaya Panchayat becomes a way of life, it will be possible to do away with the presence of Panchayat Judge and to have our panchayats manned wholly by lay-members.

Orientation course to lay-members of Nyaya Panchayat

6.20 It would be advisable that in the interest of proper functioning of Nyaya Panchayat, the lay-members on the Nyaya Panchayat panel in the district should have some training in the rudiments of judicial procedure, judicial objectivity, judicial reasoning and the like. They should be given orientation course and some idea of the law—substantive and procedural. A short period of training and orientation of about 15 days might be regarded as sufficient.

Office and procedure of Nyaya Panchayat

6.21 Every group of villages which if formed for the purpose of constitution of Nyaya Panchayat must have an office of the Nyaya Panchayat at a central place which is easily accessible to the residents of the villages. Whenever any person comes to the office of the Nyaya Panchayat with a grievance, he may give a statement in writing of his grievance to the officer incharge who may be a Sarpanch or other panchayat officer or some other Government officer stationed there or he may narrate his grievance orally in which case the officer must record it in writing and give a copy of such writing to the person concerned. The original of the statement must be kept by the officer at the Nyaya Panchayat office and a copy of it must be immediately forwarded by him to the Panchayat Judge at his headquarters. The Panchayat Judge would then visit the centre, once a week or once in 10 days according to the exigencies of work, after giving previous intimation in writing to the office of the Nyaya Panchayat and also requiring the officer incharge to give intimation of the date appointed for his visit to the persons who have lodged their grievances with the Nyaya Panchayat as also to the opposite parties requesting them to remain present on the date. The Panchayat Judge would then select two persons out of the Nyaya Panchayat panel to be lay-members of the Nyaya Panchayat and the Nyaya Panchayat so constituted would hear the two parties on the appointed date. The Nyaya Panchayat would first try to bring about settlement between the parties and if they find it necessary, they may decide to shift the venue of the hearing to the village from which the dispute comes and hear the dispute in the presence of the residents of that village. The Nyaya Panchayat may also visit the site in respect of which the dispute has arisen between the parties and try to bring about settlement on the spot. And it is only if the efforts at settlement fail that the dispute should be adjudicated. The administration of justice by Nyaya Panchayat should not suffer from the same vice of frequent adjournments which has been the ruination of the system of administration of justice by our regular courts. Of course, if it is necessary to have a short adjournment in order to bring about settlement between the parties, the Nyaya Panchayat may not grudge it. But in any event not more than one adjournment should be granted. We are anxious that the case should be disposed of on the date which is fixed for hearing and it should not be adjourned except for the most compelling and unavoidable reasons.

6.22 So far as the procedure of Nyaya Panchayat is concerned, it should not be governed by the Code of Civil Procedure or the Code of Criminal Procedure. The Nyaya Panchayat may follow a procedure of its own so long as it conforms with the basis of natural justice and rules of fair play. There should be no formal prescription of procedure for the Nyaya Panchayat except perhaps laying down some broad guidelines and within such broad guidelines, it should be left free to comply with the rules of conscience, fairness and natural justice with an amount of flexibility depending on the circumstances of each case. The Nyaya Panchayat need not adopt an adversary system of administration of justice which characterises Anglo-Saxon jurisprudence. It may follow an informal procedure of questioning both parties and their witnesses without any set rules of procedure except requirements of natural justice. The only guiding factor in the inquiry must be the search for truth. The Nyaya Panchayat may take all such steps as it may consider necessary for the purpose of finding out the truth and for this inquiry, there should be no procedural fetter on its power. The Nyaya Panchayat should not confine itself to playing the passive role which a judge does in Anglo-Saxon courts, but it should adopt a more activist approach in its operations. If available evidence which bears on the truth and helps the happy solution is not produced by either party, the Nyaya Panchayat may try and get such material on its own initiative. It must adopt an inquisitorial approach and no technicality should be allowed to stand in its way in discovering the truth.

6.23 The rules of evidence contained in the Indian Evidence Act need not apply in relation to a proceeding before Nyaya Panchayat, although the search for truth will not be any the less serious. It is not unusual to find the Anglo-American obsession with technical rules of evidence defeating the cause of truth and justice. Nor is the exclusion of the sophisticated law of evidence a calamity. Administrative Tribunals, which handle subject matter, immensely more significant in terms of persons and property, do not act according to the technical rules of the Indian Evidence Act and still their decisions do not offend fair play and justice. In the European countries the accent is more on being convinced on the materials rather than on the exclusionary rules of evidence. While care should certainly be taken to see that verdicts are not swayed by prejudices and polluted by irrelevances, surrender to technicalities of proof and artificial canons may prove counter-productive to the cause of truth. The Nyaya Panchayat would be entitled to take into account all produced material, unfettered by technical rules of evidence, and decide the matter on the basis of free evaluation of the entire material placed before it. This procedure may appear to be radical and unorthodox and lawyers accustomed to traditional mode of justice may not favour it, but we do not apprehend any danger in its adoption by Nyaya Panchayat, because the cases which come before the Nyaya Panchayat would be small cases affecting the rural poor and the Panchayat Judge who is a trained person with a judicial outlook would always be there to see that justice is not prejudiced. The decision of the Nyaya Panchayat should be the decision of the Chairman as well as the other two members and if there is difference of opinion, the decision of the majority should prevail. It would be advisable that brief reasons may be given by the Nyaya Panchayat in support of the decision taken by it, so that the parties know what are the main considerations which have weighed with the Nyaya Panchayat in giving its decision.

Lawyer not to appear before Nyaya Panchayat

6.24 We may then consider the question whether representation should be allowed to parties in cases before the Nyaya Panchayat. We are of the view that the parties may appear before the Nyaya Panchayat either themselves or through relations or friends but they should not be allowed to be represented by a lawyer. If legal representation is permitted, many of the evils which to-day exist in administration of justice by our regular courts of law would enter the administration of justice by Nyaya Panchayats. Justice would cease to be cheap and expeditious, parties would have to pay the fees of the lawyers and once lawyers are engaged, they would indulge in legal gymnastics, wholly unworthy of the small nature of the case, and try to protect the litigation in a misguided attempt to protect the interests of their clients. We are, therefore, firmly of the opinion that no lawyer should be allowed to appear before the Nyaya Panchayat. If any question of law is involved and having regard to the nature of the dispute, it is bound to be a simple question the Panchayat Judge who is trained in law can always decide it. And if the Panchayat Judge goes wrong in the decision of such question, the District Judge in revision can set it right.

Nyaya Panchayat to have wider view of village harmony

6.25 It is also necessary to emphasise that the Nyaya Panchayat should not confine itself to the actual dispute as in an ordinary court of law; but it should also go into the social, economic and family circumstances which have given rise to the dispute the socio-economic pathology which has manifested itself in the particular dispute. It must be remembered that Nyaya Panchayats are intended to be promoters of justice individual and social and must therefore have a wider view of village harmony rather than a narrow focus on actual legal dispute. The Nyaya Panchayat must, therefore, inquire into other features of the case, the circumstances of the victim and the causes which have led to the litigation and collect all material which bears not only upon the resolution of the individual conflict but also upon the promotion or satisfaction of social justice. It should like the People's Courts in the socialist countries, have the power to issue supplemental directions in addition to giving judgments on issues directly arising in the case. Where a case has revealed shortcomings on the part of parents, public organisations or other institutions, the person or organisation responsible may be ordered to take appropriate steps to prevent their recurrence. The Nyaya Panchayat may be clothed with the power to satisfy itself that such supplemental directions are not neglected.

Civil and criminal jurisdiction may be exercised in the same proceedings

6.26 There may be a class of cases which have both civil and criminal aspects. For instance, the victim of an offence may be entitled to claim damages from the offender and in such a case, jurisdiction can be given to the Nyaya Panchayat while convicting the accused also to award damages. This will reduce litigation and mitigate the injury. Such flexibility may also be applicable in cases where a man's property has been stolen. It may well be that the alleged thief is acquitted but the articles may still be stolen ones and in such a case, even if the thief is not punished, the victim may be given back the property by the Nyaya Panchayat. Similarly, a prosecution may be malicious and where it is found to do so, it need not be necessary to file a civil suit later for damages, but the Nyaya Panchayat can itself award compensation.

Jurisdiction of Nyaya Panchayats

6.27 If faith in the commonsense of the common people furnishes the rationale for Nyaya Panchayats, there is no reason why civil and criminal jurisdiction up to a certain level should not be granted to these rural organs of judicial power. But to start with, the jurisdiction conferred upon Nyaya Panchayats may be a limited one and it may extend to those types of civil and criminal cases which are at present broadly within the jurisdiction of Nyaya Panchayats under different State legislation, with this difference that, since under the present recommendation a professional judge is to be the chairman of the Nyaya Panchayat, the pecuniary limit of the jurisdiction in civil cases may be raised to Rs. 1,000 and in criminal cases, the Nyaya Panchayats may have the same powers as those of a Third Class Magistrate. The Nyaya Panchayats should, in addition, be given jurisdiction to try and dispose of land reforms litigation as also cases arising out of legislation in regard to small cultivators and farm labour, rural artisans and backward classes such as Minimum Wages Act, Untouchability (Offences) Act, 1975 and other local laws having limited rural impact. The Nyaya Panchayats should also have jurisdiction to hear applications or suits for maintenance by destitute women and children so that quick and expeditious relief can be granted to them. We would also suggest that there should be no court-fee payable in respect of civil actions in Nyaya Panchayats. If it is found, as a result of experience gained from the working of this new type of Nyaya Panchayats, that the Nyaya Panchayats are functioning efficiently and the jurisdiction of the Nyaya Panchayats can be increased without jeopardising the interest of justice, the State Government may suitably increase the jurisdiction both in civil and criminal cases. That would go a long way towards lifting a sizeable portion of the workload—civil and criminal—which is at present overburdening the regular courts of law. There are some State statutes which give option to a litigant to approach either the Nyaya Panchayat or the regular court of law but we are of the view that no such option should be given and the Nyaya Panchayats should not be allowed to be by-passed and they must have exclusive authority in regard to cases legislatively entrusted to their jurisdiction.

No appeal from decision of Nyaya Panchayat—but revision to District Judge

6.28 There should be no appeal against the decision of the Nyaya Panchayat as that would be incompatible with the informal nature of the inquiry and would also have the ill-effect of protracting the proceedings. But there may be a provision for exercise of revisional jurisdiction by the District Judge. The District Judge may *suo motu* or on application of the aggrieved party, call for the record of the case before the Nyaya Panchayat and revise the decision of the Nyaya Panchayat if he finds that it is contrary to law. There should be a District Registrar of Panchayat Courts of the status of Sub-Judge or Civil Judge, Senior Division, who would periodically visit some villages within the district for the purpose of finding out how the Nyaya Panchayats are functioning and carry out audit on the working of the Nyaya Panchayats and where he finds any problems or difficulties, drawbacks or deficiencies, he would draw the attention of the District Judge to the same. He would also inspect, at random records of Nyaya Panchayats and if he finds that in any case, gross injustice has been done, he would report the matter to the District Judge so that the District Judge can *suo motu* take action, if he so thinks fit.

Nyaya Panchayats to have power to execute their orders, decrees and sentences—but where they involve immovable property or imprisonment, power of execution to be with District Registrar of Panchayat Courts

6.29 In none of the present statutes relating to Panchayat Courts, the power to execute decrees and orders in civil and criminal cases is given to the Nyaya Panchayats, as if the common people could not have the competence to enforce their own verdicts. This serious omission makes panchayati justice ineffective. There is absolutely no justification why the power to execute their own orders and decrees and the necessary mechanism in that behalf should not be made available to Nyaya Panchayats. We are of the view that execution of decrees and orders and sentences must be made by the Nyaya Panchayat itself, except where immovable property on the civil side and imprisonment on the criminal side are involved, in which case the District Registrar of Panchayat Courts may be given the power to execute the same.

Nyaya Panchayats to bring justice to door-steps of poor and under-privileged

6.30 This is the broad structure and jurisdiction of Nyaya Panchayats which we strongly recommend to the Government of India. We think it would carry out the objective of democratic decentralisation and bring an element of popular participation in the adjudicatory process and at the same time ensure that justice is done fairly and objectively to people generally and to the poor and the disadvantaged in particular. The institution of Nyaya Panchayats can be a veritable blessing to the poor and the under-privileged, for it would bring justice to their door-steps, and equal justice under law would no longer remain a distant dream or a teasing illusion but would become a promise of reality.

Criticism of Nyaya Panchayats answered

6.31 It is true that there are quite a few lawyers and judges in our country who are critical of the system of administration of justice by Nyaya Panchayats on the ground that those who sit on Nyaya Panchayats are often motivated by extraneous considerations and it would be unsafe to entrust the administration of justice in their hands. This criticism is more often elitist and impressionistic and empirical observations have proved the contrary. The system of honorary magistrate prevalent in England and of People's Courts in the Soviet Union and other Socialist countries shows that laymen can be entrusted with dispensing legal justice provided certain safeguards are written into the scheme. We have great faith in the innate commonsense of our people and we have no doubt that our people can be trusted to do what is right and just. We have an ancient tradition of panchayati justice and we do not see why we cannot make the Gandhian vision of self-supporting village communities a reality and actualise his ideal of village justice. It is a matter of great satisfaction that after a break about 30 years we are once again beginning to realize the importance and relevance of Gandhian thought and way of life and no greater magic can be paid to him by the nation than to translate his teachings into action.

APPENDIX VI

(Para 16.33 Chapter XVI)

Panchayati Raj Institutions, Police Stations and Courts in different States/UTs

Sl. No.	Name of State/U.T.	Total No. of villages covered by Gram Panchayats	Total No. of CD blocks	Total No. of Gram Panchayats	Total No. of panchayat Samitis	Total No. of Police Stations	No. of Magisterial Courts now available for criminal work
1	2	3	4	5	6	7	8
1.	Andhra Pradesh	29092†	324*	16137†	324	902	258
2.	Assam	19733	130	663	—	127	64
3.	Bihar	77967	587	10778	210	642	433
4.	Gujarat	18697	250*	12653†	182	377	194
5.	Haryana	6690	87	5250†	87	114	72
6.	Himachal Pradesh	16916	69	2034	69	64	37
7.	Jammu & Kashmir	6723†	75*	1483†	—	84	65
8.	Karnataka	29117	175	8411	175	553	161
9.	Kerala	1334	144	974	—	301	111
10.	Madhya Pradesh	70214	457	12770	390	873	288
11.	Maharashtra	38515†	442*	23950†	296	717	352
12.	Manipur	581	14	221	—	44	NA
13.	Meghalaya	—	24	—	—	15	NA
14.	Nagaland	—	21	—	—	17	29
15.	Orissa	50854	314	3830	314	330	153
16.	Punjab	12188†	117	10612†	117	192	154
17.	Rajasthan	35795	232	7292†	232	536	246
18.	Sikkim	413†	—	215	—	12	9
19.	Tamil Nadu	16633	374	12591†	374	873	225
20.	Tripura	871	17	476	—	32	25
21.	Uttar Pradesh	112624	876*	72853	876	1031	746
22.	West Bengal	38047	335	19662	325	338	185
23.	Andaman & Nicobar Islands	163	5	38	..	10	4
24.	Arunachal Pradesh	2776	43	701	45	12	28
25.	Chandigarh	22	1	22	1	4	4
26.	Delhi	258	5	204	—	60	51
27.	Goa, Daman & Diu	443	12	189	—	21	15
28.	Lakshadweep	—	4	—	—	9	3
29.	Mizoram	—	20	—	—	23	19
30.	Pondicherry	—	4	—	11	22	7
31.	Dadra & Nagar Haveli	72	2	10	1	2	1
All India		586738	5160	224029	4029	8337	3939

Col. (4) shows the position as on 31-3-1976 except figures marked * which indicate the position as on 31-3-1977.

Cols. (3), (5) and (6) show the position as on 31-3-1977 except figures marked † which indicate the position as on 31-3-1978.

Col. (7) shows the position as on 1-1-1979.

Col. (8) shows the position as on 31-3-1978.

Source : Col. 3 to 6—Deppt. of Rural Development.

Col. 7—Directorate of Coordination, Police Wireless.

Col. 8—Ministry of Law, justice & Company Affairs.

No. 32/22/75-GPA-I
GOVERNMENT OF INDIA
MINISTRY OF HOME AFFAIRS

New Delhi-110001

The 21 February, 1978.

ORDER

The Study Group on Modernisation of Police Forces has recommended that for achieving optimum results from the Police Computerisation Programme, there is a need for setting up of Control Records Offices at State Hqs. and at the national level. The Study Group has also recommended the setting up of a separate Committee to examine this issue in detail with reference to the evaluation of the national crime information centre and also to go into the legal requirements in this regard. The recommendation has been considered in this Ministry and it has been decided to set up a Central Records Committee in this regard. The composition of the Committee will be as follows :—

- | | |
|--|-----------------|
| (1) The Director, Bureau of Police Research and Development | <i>Chairman</i> |
| (2) The Director, Central Fingerprints Bureau, Calcutta | <i>Member</i> |
| (3) Shri N. Krishnaswamy, Director, Vig. & Anti-Corruption, Tamil Nadu, Madras | <i>—do—</i> |
| (4) Shri P. G. Nawani, DIG, CID, Gujarat, Ahmedabad | <i>—do—</i> |
| (5) Shri B. Lahiri, DIG, CID, West Bengal | <i>—do—</i> |
| (6) Shri V. D. Mehta, DIG, CID, Madhya Pradesh | <i>—do—</i> |
| (7) Shri B. B. Upadhyay, Dy. Director (Coord.), CBI, New Delhi | <i>—do—</i> |
| (8) Shri T. Anantha Chari, Director, DCPC | <i>—do—</i> |

The terms of reference of the Committee will be :—

- (1) Examine methods of maintaining crime records and statistics and suggest methods for making them uniform and systematic.
- (2) Examine the need and feasibility of setting up a Central Records Office in each of the States and a coordinating set up at the Centre for this purpose.
- (3) Determine the type of records that should be kept by the Central Records Office at the State and Central level and how they could be integrated with the records maintained at the State, District and Police Station level.
- (4) Determine the statutory powers, if any, that have to be bestowed on the crime records offices and related issues including amendments to existing legislations and enactment of new legislations to ensure supply of accurate and relevant information by Courts, jails and other relevant agencies to the crime records offices regarding crimes and criminals.
- (5) Examine existing arrangements for computerisation of crime records and statistics and methods for communication of the computerised data among police stations, districts, States and the Centre and suggest modifications and improvements wherever called for.

3. It has also been decided that :

- (a) A Law Officer of the Ministry of Law, Justice and C.A. with Criminal Law background may also be associated to act as an Adviser to this Committee. He will be co-opted as and when necessary.
- (b) The Committee will work under the guidance of Shri N. S. Saxena, Member, National Police Commission and route its report through the National Police Commission.

Sd/-
C. S. CHADHA
Deputy Secretary to the Govt. of India

Copy to :—

1. All States Government.
2. All Members of the Central Records Committee.
3. Directorate of Coordination Police Computers.
4. National Police Commission, New Delhi.
5. Shri N. S. Saxena, Member, National Police Commission.

Extracts from the report of the Tandon Committee

CHAPTER 2

Crime Record^s — Existing System

2.1 The term "Crime Records" is generally understood to embrace a specified range of factual, numerical or pictorial data recorded in various ways like forms, registers, cards, charts, graphs, maps, history sheets, finger-print slips, photographs, etc. The main object of maintaining these records, as set out in the Delhi Police Crime Record Manual, 1957, are :—

- (a) to study the general incidence and distribution of crime;
- (b) to understand the crime problem as it exists and to some extent also indicate the success or failure of the police in dealing with it; and
- (c) to aid Police Officers in the investigation of crime.

2.2 To fulfil such objectives as the above, crime records are maintained by the police in the country in different forms and degrees of detail at the police station, the district, the State and the National levels. Basic data in respect of every crime and criminal originates in the police station level, where these are primarily handled. This data is collated and analysed at the higher levels in a perspective appropriate to each level. A limited range of data in respect of all crimes is aggregated into statistical compilations to fulfil the objectives of study and understanding by higher levels of the crime problem; and a wide range of data in respect of socially significant crimes, is aggregated into compilations to provide information helpful to police officers in the field operations of prevention and detection of crime.

2.3 Statistical compilations bring out among other things, what forms of crime are taking place, with their distribution over place and time, what sort of crime opportunities are presenting themselves in society, and what sort of persons are getting involved in crime. Operational compilations help field officers with information such as :

- (i) Who, on the basis of information of *modus operandi* or current potential, are the offenders on record, who could be possibly responsible for a newly reported crime?
- (ii) What are the earlier crimes with which the newly reported crime is possibly linked as the work of the same offender?
- (iii) What is the identity and previous criminal record of a person whose finger-prints and description have been obtained either on arrest, or from a scene of crime?
- (iv) Is the property seized in a case, or noticed in field enquiries (e.g. cycle checks) concerned in any reported crime?
- (v) What could be the possible channels of disposal of property stolen in a case?

2.4 The first attempt to bring about some measures of national uniformity in the range and pattern of crime records, was by the Indian Police Commission 1902-03. Recognizing the operational advantage to the police of a common nomenclature and form for police records throughout the country, the Commission, in para 185, Chapter X of its report, stated as follows :—

"There are certain police records in respect of which it is both possible and desirable to prescribe a common form and a common name for the whole of India. In this, as in many other details of administration, there are unnecessary divergences of practice which cause confusion and put obstacles in the way of mutual understanding by police officers of different provinces. The recommendations of the Commission on the subject of these records is given in Appendix IX, while Appendix XI contains proposals for abolition of certain records and returns which are now prescribed. These proposals were, in each instance, framed in consultation with the local member of the Commission."

2.5 Relevant extracts of Appendices IX and XI of the Report of the Indian Police Commission 1902-03, referred to above, are reproduced in Annexure 2(1). It will be seen therefrom that the Commission recommended maintenance of the following records on a uniform basis throughout India :

- (i) FIR, (ii) Case Diary, (iii) Charge Sheet and Final Report, (iv) General Diary, (v) Police Station Crime Register, and (vi) Superintendent's Register of Crime.

It will also be seen that detailed recommendations were made in respect of police records and returns in the provinces of Madras, Bombay, Bengal, Assam and United Province and Central Provinces.

2.6 Crime records systems continued to grow in subsequent years, in isolation in each region of the country, largely on an *ad-hoc* basis in response to local need. In the period following Independence, two important developments occurred at the national level. The Central Finger-print Bureau, Calcutta was formed in the year 1956, and the Crime Records Division of the Central Bureau of Investigation was formed in the year 1964. These two organisations embodied record systems on a limited range of crime in order to provide at the national level, data in respect of inter-State and inter-national crimes and criminals. This data had to be generated from field units of all the police forces in the country, and this naturally meant standard forms for the needed uniform range of data. These developments mark the beginning of a National Crime Record System.

2.7 In the meanwhile, the growth in the volume and complexity of crime problems in different parts of the country, emphasised the need for a common coordinated approach to police handling of those problems. The 1962 conference of DIsG CID felt it was necessary to carry forward the principle of uniformity of crime records in the State Police forces at the State, District and Police Station levels and

hence appointed a Committee to go into this matter. This Committee (referred to hereinafter for convenience as the 1962 Committee) reviewed the crime records system obtaining in all States and recommended adoption of a uniform system comprised of 11 cards, 10 registers and 10 forms at the State and District levels, and 4 registers and 8 forms at the Police Station level, apart from the forms and registers prescribed by law like the F.I.R., General Diary etc. Details of the records recommended by the 1962 Committee are set out in Annexure 2 (2).

2.8 Apart from suggesting the range of crime records to be maintained at different levels, the 1962 Committee made the following recommendations to secure a rational and uniform record system :—

- (a) The State and District level *Modus Operandi* Bureaux or Crime Record Offices as they were variously called in the different States should bear the uniform nomenclature of State (or District) Crime Record Bureaux.
- (b) The various records prescribed for in the State/District Crime Record Bureaux should be maintained in English, and in addition, if necessary, in the regional languages, so that there is no problem of inter-State communication of information; headings in all forms should be both in English and the regional language.
- (c) Records should be maintained for all convicted persons and also for persons not convicted, but strongly suspected.
- (d) History sheets should be maintained at State level for Inter-State and Inter-District criminals and at District level for inter-District and inter-Police Station criminals.
- (e) Data should be submitted promptly by Police Stations to District and State Bureaux for record, in initial, continuation and final reports in prescribed proformae.
- (f) Adequate staffing should be provided for the District Crime Bureaux; the scale should be one S.I. and 4 H.Cs for small districts, one S.I. and 6 H.Cs for medium districts and one S.I. and 8 H.Cs for large districts. There should be the provision for one typist for small districts and two typists for medium or large districts.

2.9 The present Committee undertook a detailed review of the existing crime record system on a country-wide basis, and also had detailed discussions with representatives of all State Police forces on the subject. The Committee discovered persistence of considerable variance in the formats and names of Crime Records of different States of the country, though some measure of uniformity was noticeable within zonal groupings of States, broadly of the Northern, Eastern, Western and Southern regions. States with a long administrative tradition like West Bengal, Gujarat, Maharashtra, Tamil Nadu etc. had well developed record systems which influenced the record systems of their neighbouring States. States with a short administrative tradition like those covered by the North Eastern Council had virtually no crime records.

2.10 The Committee also discovered that not much progress had been made in the adoption by the States of the uniform records system proposed by the 1962 Committee. This was found to be due to the following reasons :—

- (a) The existing pattern of records in most States covered more or less the same range of data or at any rate what was considered adequate for local needs and hence the State forces were not moved by any sense of dire need to change over to the formats and names proposed by the 1962 Committee, especially as it meant a considerable volume of scriptory work in all their Police Stations, and their District and State Crime Records Bureaux.
- (b) The new formats and names were not incorporated in State Police Manuals or appropriate administrative orders directing the change over; nor were any arrangements made to monitor and ensure the change-over.
- (c) There was no organised attempt to reorient the staff at the different levels to an understanding of the new formats.
- (d) And finally, staff on the recommended scales was not sanctioned, so that no change should be accomplished with existing meagre staff resources.

2.11 Meanwhile new features and factors in the crime situation were already highlighting certain inadequacies in the existing crime records system. Criminals were getting more varied and sophisticated in their *modus operandi*, with their operations cutting across Police Stations, District and State boundaries thanks to facilities of modern transport and communications. And much of this new information was escaping records, because individual Police Stations did not have a complete picture of activities of criminals on their records, nor did such information possessed in bits and pieces by different Police Stations get shared or get pooled in the District or State Crime Bureaux for collection, analysis and feedback. This neglect was compounded by Police Stations neglecting their records because of preoccupation with law and order duties, and by the inadequate and unsuitable staff who manned the District and State Crime Bureaux.

2.12 It was at this point that computerisation was seen to provide the answer to these inadequacies in the existing crime record systems. Police Stations could remit all data as and when available, in simple input forms, to a central computer record and from this record, the computer could furnish a full range of information more rapidly to the Police Station, District and State levels, while greatly reducing the enormous manual effort needed to build and maintain a massive physical record system at these levels. The need for and the direction of change is elaborated in the next Chapter.

CHAPTER 3

The need for and the direction of change

3.1 It has been seen that want of adequate administrative follow-up action resulted in the States largely continuing to maintain their traditional crime records systems, without reorienting them to the uniform system recommended by the 1962 Committee. At the same time, however, more basic changes were occurring in the nature and extent of crime problems in the country, which rendered even the traditional crime records system extremely inadequate to the needs of the new situation.

3.2 The sharp increase in the population, the massive movement of the population from rural to urban areas, the rising but unfulfilled economic expectations of the people, and the mounting social and political tensions were all contributing to new dimensions in the crime problem. In absolute numbers crime was on the increase. New forms of crime, like white-collar crime, economic crime, crimes of vice and violence, and crimes involving women and children were becoming established and information relating to these was not getting incorporated into the crime record system which had been designed basically to cover traditional predatory crime.

3.3 Modern transport and communications added a new dimension to the range and speed of criminal activity. Knowledge about criminal remained confined to the records, or more often, to the personal knowledge of personnel of the Police Station in whose jurisdiction the criminal lived, or had come to notice. Knowledge about his current capabilities and movements remained unknown to distant police stations, in or outside the district or the State, to which he now extended his operations with greater ease and safety. Inadequacies in existing procedures and in the quality and number of staff at all levels, resulted in all such knowledge not only being dispersed over individual Police Stations or police officers, but also in its not being collected, analysed and disseminated by district level or State-level record systems. In any case, the criminals capable of inter-police station, inter-district, or inter-State operational potential were becoming so numerous and the range and volume of information about them so enormous, that the collection, collation, analysis or dissemination of such information was clearly getting beyond the capacity of manually-maintained record systems at the district and the State level.

3.4 This breakdown in the record system at the district and State levels resulted not only in these higher levels not getting a proper perspective and understanding of the crime problem, but, far worse, they were not in a position to give Police Stations a feedback of enough or timely information needed for the effective prevention of crime. Without such information of identity, past criminality and current criminal potential of persons arrested, police investigations could not uncover their involvement in current crimes, while prosecutions could not even get them deterrent sentences based upon their past records. During the Committee's deliberations, numerous instances came to notice where criminals with numerous previous convictions were not given enhanced punishment. In a number of cases persons with four or five previous convictions were let off with comparatively lesser punishment, even including imprisonment till the rising of the Court. In numerous instances, properties recovered could not be traced to cases where they were stolen. In most metropolitan areas for instance, hundreds of cycles were being recovered every year, but were being ultimately auctioned as unclaimed, simply because they could not be linked to cases through records. In Delhi alone, as many as 1185 cycles were recently reported to be lying with the police unidentified. Due to the shortcomings of the existing record system, establishing identity of these cycles and linking up with the cases in which they were stolen has become extremely difficult. Instances of this kind came to the notice of the committee in several other States also.

3.5 A new system of crime records, that could be handled by a machine or more specifically, the computer, held promise, not only of overcoming these shortcomings, but also conferring a number of additional important advantages. In the first place data headings that were significant to the handling of crime could be listed, standardized and prescribed for submission to a central data bank in very simple input forms from the Police Stations. Standardized input forms would guarantee that all relevant information was neither lost nor lost sight of. Such data could be remitted, updated, and corrected in these forms whenever and from wherever information became available. Once limited input effort was over, all effort needed at any subsequent stage for recording, collating, indexing, analysing or information would be mechanised and foolproof; there would be no inadequacies arising out of the manual processes, i.e. inadequacy of number or quality of staff. The information needs of all levels—operational, analytical, statistical—could be generated at high speed from the central data bank in a far wider range and greater depth of detail, and in the desired output formats. In particular, where communications facilities with access to a computer are available, complete information would be available within hours, if not minutes, to investigating officers on the identity of suspects or properties held on suspicion, or of the offenders likely to be concerned in the crime. The more rapidly such information is available, the greater the impact on the prevention and detection of crime. In Tamil Nadu, where a computerised finger-print system is in operation, identity of arrested persons through this finger-print system is reported back within a day of arrest, while under the old manual system this took 10 to 15 days. This has drastically put down on needless detention of arrested persons in remand pending identification.

3.6 Even more far-reaching possibilities open out if the other agencies of the Criminal Justice System, like the Courts, Probation Officers, Penal and Correctional Institutions etc., join the police by contributing related data to building up a comprehensive integrated, and computerised information system. Each of these agencies would then draw from the system, a far richer range of information than is available to them, at present, that would help them to make a more effective contribution to the overall common objective of prevention of crime. More specifically they could contribute data and receive processed information as follows:—

- (a) Courts : Case pendency, data relevant to sentences in individual cases, and case statistics.
- (b) Probation Officers: Social, economic and personal factors influencing criminal behaviour, supervision and rehabilitation in each case.
- (c) Penal and Correctional Institutions : Factors effecting classification and treatment.

It is to be noted that the absence of such a system at present in India and the need for it has been specifically brought out in a recent Study Report of the United Nations Social Defence Research Institute. In this Report the need for classification centres to help in pre-trial classification of non-adult offenders has been particularly emphasised.

3.7 Two other basic inadequacies were also becoming increasingly evident in the working of the existing crime record system. In the first place new techniques of forensic science were opening up many new information areas which could aid in the identification of criminals and establish their involvement in crimes. These new information areas were clearly beyond the scope of the existing crime record system and obviously rendered it out-of-date. In the second place, the law of which the existing crime record system was based was also equally out of date, insofar as it conferred powers to collect and retain too limited a range of information to be really effective in the prevention and detection of crime in the new situation.

3.8 It is thus clear that change in the existing crime record system has to be in the direction of centralised pooling of information and use of modern technological aids for the rapid storage and retrieval of data and at the same time the law has to be amended to give power to collect and retain the widest possible range of data that is significant for the prevention and detection of crime. Change in the direction of computerisation has already begun and what has been done so far is more appropriately delineated in the next Chapter, where details of the proposed Crime Records system are fully spelt out. The inadequacies in the law and changes that are needed are detailed in the Chapter thereafter.

CHAPTER 4

Crime Records—Proposed System

4.1 The first major step into the future, towards building a country-wide, uniform computerised system of crime records was taken by a Committee set up by the 1970 Conference of DIsG CID. This Committee (referred to hereafter for convenience as the 1970 Committee) in its Report put forth the objective that, "every State Police force should develop a modern data processing facility for its crime records, that will primarily provide operational data for the investigating officer at the Police Station level and incidentally, the necessary operational or statistical data needed at the State level, or at the national level, for inter-State, National and International purposes."

4.2 Proceeding to explain how the above objective should be achieved, the 1970 Committee went on to say, ".....the Committee was actually conscious that the structure, content and operational efficiency of the existing crime record system showed a great range of variation from State to State. For this reason, the Committee felt that in evolving a common computer-oriented system it should address itself to a minimal model that would be both necessary and acceptable to all States. The Committee agreed, however, that this should not fetter any State in elaborating on the minimal model with such additional range of data as it desired, provided that this did not come in the way of ready inter-State access to the range of information covered by the minimal model".

4.3 The 1970 Committee went on to strongly recommend that "irrespective of when an individual State may take to the computer facility, every State should forthwith review its crime record system at the Police Station level and reorient it to bring it in the line with the data requirements of the minimal model that the Committee has proposed."

4.4 The 1970 Committee recommended adoption of a Crime Record system in all States, covering a comprehensive list of 40 Crime heads, with a specified range of data headings in respect of each head. These data headings are dispersed over 6 input forms containing 16 punchcard formats (including finger-prints). These forms are reproduced in Annexure 4(1) Standard codes are also prescribed for data details under each data heading. These codes are recorded against the data in each input form in a manner that admits of easy carry over into punchcards that can be read by a computer. The standard input form and codes for the computerised crime—criminal—finger-print record system to be adopted uniformly throughout the country has been prescribed and circulated to Inspectors General of Police in all States in letter No. V-12011/1/76-DCPC, dated 31-5-76 of the Directorate of Coordination, Police Computer, MHA, Government of India.

4.5 In 1975-76, the Ministry of Home Affairs took the next major step to implement the computerisation programme on a national basis, by arranging for the supply of computers to the State Police Forces with the aid of funds provided under the Police Modernisation Scheme. Provision was also made for a computer at Delhi to serve the Delhi Police and the Central Police Organisations. Arrangements were made with Messrs Electronics Corporation of India Ltd., Hyderabad, to supply 12 TDC-316 computers on a phased programme and in accordance with this programme, computers have been supplied so far to Delhi, Tamil Nadu, Maharashtra, Karnataka, Andhra Pradesh, West Bengal, Gujarat, Rajasthan, Kerala and Madhya Pradesh.

4.6 The national computerisation programme envisaged, as a first priority application, that the crime records system of each State would be operated by the computer located at the State Headquarters. Teleprinter terminals at the headquarter of each district would be linked by suitable communication channels with the computer at the State headquarters and the District Communication network would enable Police Stations to get access through the District terminals to the computerised crime record system. And finally the computers of all States would be linked by suitable communication channels to enable inter-se access between the crime records system of all States and also access to a crime records system to be set up at the national level. In 1976, the Directorate of Coordination Police Computers was established in the Ministry of Home Affairs, New Delhi to direct and coordinate this national police computerisation programme.

4.7 It is important at this point to take note of the changes in the existing crime record system that will result from the national computerisation programme. Both in its own deliberations and in its discussions with representatives of State Police Forces this Committee found that it was neither possible nor desirable to attempt national uniformity in the pattern of crime records especially at the Police Station level. Such an attempt was made by the 1962 Committee, but for reasons already discussed, the attempt ended in failure. The present Committee is clear in its mind that changes in the existing crime record system should be minimal; they should reduce, or at any rate, not add to work-loads; and till computerised operations are established, changes in Police Station records should be limited to just what is needed to facilitate computerisation and to just what is needed for ready reference for operational purposes at Police Stations.

4.8 At the outset it may be stated that the range of data to be recorded and submitted by Police stations in the new input formats of the computerised system correspond largely to the range of data being even now recorded in the existing crime records in most of the States (except in some of the newly formed ones). This is clearly brought out in the tabular statement set out in Annexure 4(2). The Committee, therefore, specifically recommends that:—

- (a) Police Station copies of the new computer input formats in Forms I, I-A, II, III and IV should be accumulated in casewise order and will be maintained as a new set of additional basic crime records at the Police station level;
- (b) All existing crime records at the Police Station level may continue, preferably on the model proposed by the 1962 Committee, subject to periodic review, modification or elimination in the light of progress of computerisation in each State, by a Study Group in each State comprised of experienced field officers and headed by the DIG CID (Crime) or the DIG (Police Computer) of the State. A new model which has attempted a further rationalisation of the 1962 Committee model is set out in Annexure 4(3), 4(3A), 4(3B), 4(3C).
- (c) In Police Stations of States which do not have any crime records at all, e.g. in States of the North-Eastern Council, the accumulated computer input forms referred to above will provide an adequate basis crime record to start with.

4.9 The existing physical record system consists of a large number of registers, forms, indexes etc. maintained at the Police station, District, State and National levels. The data originates at the first level and gets selectively recorded at the higher levels. A computerised record takes in most of the data from the physical records of the Police Station level and can supply the information needed at the District, State and National level. A physical record system at these levels (except to the extent proposed hereafter for the District, State and National Crime Record Bureaux) will, therefore, become superfluous once they obtain rapid access to the computerised crime records, either direct or through remote on-line terminals. In such a case, the Committee recommends that:—

- (a) the records to be maintained at the district level should be those recommended by the 1962 Committee with suitable modifications of data items, wherever necessary;
- (b) these records may, with advantage, be generated by the computer itself from the State level computerised record.

4.10 Crime records at the national level for operational and statistical purposes are at present maintained respectively by the Central Bureau of Investigation and the Bureau of Police Research and Development, Government of India, New Delhi (Fingerprint records maintained at various levels are dealt with later). The operational records maintained by the CBI contain a limited range of data in respect of cases involving counterfeiting of currency and coins, firearms, explosives, motor vehicles, cultural property etc. reported from all States. It also contains data circulated by Interpol on international crimes and criminals. A list of these records is set out in Annexure 4 (4). It is clear that once crime records of all States are computerised, they can be integrated in their entirety to provide a comprehensive computerised crime record at the National level. To this can be added the Interpol data and the total record will be readily accessible for handling crime in a national or international context.

4.11 In regard to the statistical data now being compiled manually at the State level and also remitted to the Bureau of Police Research and Development, to be aggregated into National statistics, the analytical tables in Annexure 4(5) show that the bulk of these compilations can be generated from the computerised record of every State. In fact the computerised crime record will admit of statistical analysis in greater depth than is now obtaining at the State or the National level. Some of the shortcomings include non-availability of some data elements regarding juveniles and of information regarding non-property offences. Also information relating to correctional services and Court data which are required by the BPR & D are not available in the input forms of the computerized Crime-Criminal/Fingerprint Information System. The Committee has been informed that the DCPC are currently engaged in devising a computerised Crime-Criminal statistical system which will take care of these new requirements. Some of the important outputs of the system are mentioned below:—

OUTPUT OF CRIME STATISTICS SYSTEM

Output	Periodicity	Level	Coverage
1. Review of Crime under major heads	Monthly	S.P.	Police Stationwise
(a) Reported cases			
(b) Arrests reported by sex	Monthly	IGP	Districtwise
2. Review of Crime under major heads	Q'tly.	I.G.P.	Districtwise
(a) Police disposal — cases	Q'tly.	Home Miny.	Statewise
(b) Court disposal — cases	Annual	"	-do-
3. Review of crime under major heads	2. Same as above.		
(a) Disposal of arrests by police	3. Same as above.		
(b) Disposal of arrests by Courts			
4. Juvenile Delinquency			
(a) Above outputs.			
(b) Socio-economic background of juveniles.			
5. Violent crimes (Dacoity & Robbery) Reported—by important place of occurrence.			
6. Crime against persons by motive, age and type of victim —			(Murder and culpable homicide not amounting to murder, sexual crimes etc.)
7. Thefts by minor heads — Reported.			
8. Property stolen and recovered — by value.			
9. Important types of property stolen — Reported.			
10. Recidivism—new offenders, convicted once, twice, thrice and above.			

4.12 The foregoing discussion shows that from the limited number of computer input formats generated at the Police Station level, the computer will be virtually generating a uniform crime records system in the country at the District, State and National levels.

4.13 Two important elements in the crime records system have not been dealt with so far, viz. photographs and fingerprints. The 1962 Committee envisaged albums at the District and State levels of photographs of criminals, arranged *modus operandi* wise. The present Committee recommends that albums should be maintained as follows:

Police station level	:	Criminals with local operation.
District level	:	Criminals with inter-police station operational capability.
State level	:	Criminals with inter-district operational capability.
National level	:	Criminals with inter-State and international operational capability.

The albums should be maintained *modus operandi* wise. The photographs should be numbered serially so that a cross-reference to these may be recorded in the computerised crime-criminal fingerprint information system.

4.14 Fingerprints of criminals originate from Police stations or other specialised investigation units and are maintained in Ten-digit classification records at the State and National levels and in single digit classification records at the District or State levels in some States and also at the National level. At the outset, in view of the conclusive proof of identity of criminals that is afforded by fingerprints (whether taken on arrest or lifted from scene of crime), this Committee strongly recommends the establishment of Bureaux maintaining single digit records and ten digit records in those Districts and States respectively of the country where they do not exist now. At present, Himachal Pradesh, J & K, and Union Territories of Delhi and Goa have no Fingerprint Bureau of their own. Goa is sharing the facility at Pune in Maharashtra and the rest are served by the FPB at Phillaur in Punjab. In the case of North Eastern States, they share the common facility at Gauhati. Computerisation of fingerprint records, as will be explained below, will not dispense with the need for maintenance of physical fingerprint records.

4.15 The rules as to whose fingerprints can be retained on record in a State Fingerprint Bureau, taking an example, say from Tamil Nadu, are reproduced in Annexure 4(6). These rules, which conform to the Identification of Prisoners' Act 1920 (Central Act XXXIII of 1920) forbid the Police (except with the permission of Court) from retaining fingerprints of persons not convicted but who have been merely arrested in cases. Assuming that this disability is removed, the need for which is discussed later, the Committee would recommend adoption of the following system of fingerprint records :—

- | | |
|--------------------|---|
| (a) District level | (i) Record of house-breakers, house thieves, car thieves and other appropriate categories whether convicted or arrested, classified under Battley's Single Digit system; this record is to aid in the Identification of scene of crime fingerprints. |
| | (ii) Records of all persons arrested during each year and the four preceding calendar years in the districts, for involvement or on suspicion of involvement in professional cases under all the crime types covered by the computerised crime record. Cross-check of scene of crime fingerprints with these records has been seen to produce valuable results in the detection of crimes by criminals whose fingerprints are not on record in the State Bureaux. |
| (b) State level | Record of all offenders who have been convicted, or arrested in professional cases under all the crime types covered by the computerised crime record; this is intended to help in identification and locate conviction or involvement in previous crimes. |

4.16 The rules as to whose fingerprints are to be recorded in the Central Fingerprint Bureau are reproduced in Annexure 4(7). It is seen that they are largely identical with the rules reproduced in Annexure 4(6) except in regard to some features e.g. records of offenders under local and special laws. A basic question that arises is whether the CFPB's records should be a complete duplicate of the records of all the State Bureaux or a selective record, say of criminals with Inter-District, Inter-State and international operational capability. The Committee had earlier recommended (*vide* para 4.10) that computerised crime record system at the National level should be derived by integrating the computerised crime records of all the States in their entirety. So too, the Committee recommends that the national record of fingerprints should be a complete duplicate of the records at the State level.

4.17 The national computerisation programme also envisages computerisation of the fingerprint record system at the State and National level. To begin with, all fingerprint slips on record in the State Fingerprint Bureau must be coded and put on computer record. When a person is arrested or convicted, his fingerprints are taken on a fingerprint slip and referred to the State Fingerprint Bureau for search or for record. These fingerprints are coded by fingerprint experts at the District or State level and the coded data are submitted to the computer centre in a standard input form, Form V which is reproduced in Annexure 4(1). The coded data are searched against, or added to the coded total record by the computer. Computerised search may yield no matching record or may yield references to one or more possibly matching records.

4.18 The national computerisation programme in relation to fingerprint can best be accomplished in the following manner. Each State Fingerprint Bureau will progressively encode its entire fingerprint record and put the encoded data on magnetic tape which can be duplicated easily by the computer. The duplicate tapes will be sent to the CFPB from time to time from all the State Bureaux along with duplicates of the corresponding physical fingerprint slips. At the CFPB a special task force will check computer classification and the Henry Classification and progressively develop an integrated computer and a physical record. Periodic weeding and elimination of useless data from both the Central and State Bureau records can be effected not only by special input forms from the field reporting such events as death, but also by the computer scanning the records to remove those qualifying for removal under existing rules by reason of age, prolonged inaction etc. Detailed norms will have to be worked out with reference to local conditions on State-wide basis.

4.19 The Committee considers it important to complete the computerisation of fingerprints at the National and State levels within a reasonably short time frames say of 5 years. In order to accomplish this, the Committee would recommend that each State should attempt to computerise the record at the rate of 1 lakh fingerprint slips per year for the larger Bureaux. At a recording rate of 5,000 slips per year per expert, the larger Bureaux would need an additional staff of 20 experts and the smaller Bureaux would need an additional staff of 10 experts. For effective supervision and control there should be one supervisory officer for every four experts. The Supervisors and experts would be at the Inspector and Sub-Inspector level respectively in the State Bureaux. At the National level, for checking and integrating the record coming in at the National level from the State Bureaux, the Committee recommends a task force of 4 DSI-P and 20 Inspector level officers.

4.20 Apart from computerisation, one other important technological aid for handling fingerprint record system has become available in recent years. This is the Miracode microfilm record system which has been introduced in the Tamil Nadu Police. Under this system a 10-digit fingerprint slip and its corresponding codes are recorded as adjacent images on microfilm, with the aid of a special camera. The coding is finger-by-finger for the 10 fingers. A spool of 100 ft. of film can carry around 350 sets of such images and around 100 spools can carry the complete fingerprint record of a State Fingerprint Bureau. When a 10-digit arrest slip or a single digit scene of crime print is received for search, its codes can be keyed into a special reader which can scan all the spools very rapidly to locate possible matching prints and project them in succession on the reader's screen. This enables the operator to compare them with the arrest slip or scene of crime fingerprint and locate the exact match. The reader also has the facility of quickly producing a hard photocopy of the matching image, in any size, to be used in evidence in court.

4.21 Apart from the fact that the Miracode record can be accessed on the code of a single finger or codes of all the ten fingers, it has several other important operational advantages. The reader can locate matching record wherever they may occur on the microfilm spools and hence there is no need to build the microfilm record in any classified sequence. Such random access is also accomplished at such high speeds. A single spool of 100 feet can be scanned in 10 seconds, assuming that it contains no matching record. And finally, the scanning can be done simultaneously in respect of several 10-digit search slips or single digit scene of crime prints. A whole day's search work by dozens of experts in the Fingerprint Bureau under the manual system can be completed on a Miracode reader in a couple of hours. While intra-district record searches can be done manually at the State and National level where the record size is small, inter-district and inter-State searches cannot be done manually at these levels. The Committee has, therefore, no hesitation in recommending the adoption of the Miracode Microfilm record system in all Fingerprint Bureaux both at the State and Central levels, on a phased programme to be completed in 5 years.

4.22 The present approach to computerising fingerprint records is based on manual codification. In due course when advanced facilities involving image processing techniques become available they will have to be extended to this area in order to make the fullest use of computer capabilities for maximising the speed and accuracy of classification, record and identification of fingerprints. The Committee recommends that these developments should be systematically studied and pursued.

CHAPTER 5

Legal Requirement

5.1 The ultimate objective of the law, and of the criminal justice system which enforces and administers the law, is the prevention of crime. When a crime does occur, the law provides for its investigation, for establishing the guilt of the offender and for his punishment correction and supervision in such a manner that not only will he not commit a crime again but others too will be deterred from doing so.

5.2 Though the basic objective of prevention of crime is common to the different agencies of the Criminal Justice System viz. the police, probation, Court, Prison and Correctional agencies, they have tended to function in mutual isolation. It should be quite obvious that if their record systems were integrated into a common comprehensive record, each of them would have access to a more reliable and comprehensive range of data which would aid better fulfilment not only of their individual functions but also their collective objective viz. the prevention of crime.

5.3 It is in this broad perspective that crime record systems must be built by the different agencies of the Criminal Justice System. Specifically in respect of Police agency, the more effective the provisions of law and organisational arrangement for the collection and record of data of value to the detection of crime, the more effective will be the police contribution to the overall objective of prevention of crime. Existing provisions and arrangements are clearly inadequate, especially in regard to the many powerful and speedy capabilities that have become possible due to modern science and technology.

5.4 Broadly speaking, identification data provides a crucial determinant in the detection of crime. In the basic criminal law as it stood in the Indian Penal Code, 1871, there were references to the evidence of experts. Powers for the collection and record of materials on which experts could testify were left to be inferred instead of being specifically conferred by these enactments. Hence these enactments had to be supplemented by the Identification of Prisoners Act, 1920.

5.5 The Identification of Prisoners Act, 1920 provides for:—

- (a) the taking by the police of measurements, including fingerprint impressions, footprints and photographs of a person convicted of an offence punishable with rigorous imprisonment for one year or over or an offence where a subsequent conviction entails enhanced punishment or of a person bound over for good behaviour under Section 118 Cr. P.C.
- (b) the taking by a police officer of measurements including fingerprints and footprints only of a person arrested for an offence punishable with rigorous imprisonment of one year and above;
- (c) the taking by the police, under orders of a Magistrate of measurements, fingerprints, footprints and photographs of any person arrested in, or for the purposes of any investigation or proceeding under Cr. P.C.;
- (d) the taking by force, by the police, of measurements etc. and any resistance thereto being punishable under section 186 IPC.
- (e) the destruction of measurements of fingerprints, footprints and photographs in the event of release of the person without trial or on discharge or acquittal by court, unless otherwise directed by the court, or the District Magistrate or Sub-Divisional Officer for reasons to be recorded; and
- (f) the framing of rules under the Act by the State Governments.

5.6 These provisions, enacted as long ago as 1920 are totally inadequate to meet the complex problems of the present day. Some States like Maharashtra, have found it necessary to expand on them. They cover a very limited range of persons. They do not take account of the range of crimes and the high speed and wide sphere of operation of criminals in modern conditions and the limited time and resources at the disposal of the police to collect the needed data. A few examples will illustrate the inadequacy of these provisions.

5.7 Crimes are committed everyday by large number of persons, many of whom escape detection by the police. Some who are detected escape conviction in courts for want of satisfactory evidence. Many potential or active criminals are also arrested by the police on suspicion, as for instance, while on the prowl at night. Fingerprints are taken when arrests are made in such cases. In many cases no prior convictions are traced, and in many cases convictions do not follow. Under the law as it exists, their fingerprints cannot be retained. But it is a matter of frequent experience that these fingerprints are found identical with fingerprints developed at scenes of crime or crime weapons, much later. A similar thing happens in the case of photographs of arrested persons which are identified by eyewitnesses in later crimes. There could be no more convincing argument for the permanent retention of fingerprints and photographs taken at the time of arrests, irrespective of the subsequent course of the cases in which they were arrested. It is clear that the law must be amended to permit this.

5.8 Modern forensic science has thrown up a whole new range of investigation and identification techniques. Materials, stains, marks etc. on the person of the suspect, the victim of the crime, on the weapon or at the scene of crime, lend themselves to sophisticated laboratory analysis and provide powerful evidence to establish or support the guilt or innocence of a suspect. The materials may include strands of hair, fibre, specks of mud, glass, paint etc. Stains may arise from blood, semen, urine, saliva, sweat, oil cosmetics, ink etc. and urine from an offender or from weapons, nails, teeth, shoes etc. Blood and urine from an offender or from a victim can show the presence of alcohol, or a poison respectively. Psychiatric, medical and other tests can show a suspect telling lies or suffering from abnormalities which affect criminal liability or show the type of environment and activity that should be emphasised in the sentence imposed upon a convicted person in order to retrieve him from criminality. And finally a comprehensive centralised record or data would be most valuable for analysis and research which will enable a better understanding of handling of crime and criminality in their various facets.

5.9 The law as it exists does not give a specific power to the authorities to collect and retain the whole range of such materials specially those needed from the person of a suspect. It is of the greatest importance to the effective prevention and detection of crime that powers to collect and retain selectively this range of materials and should be available in addition to fingerprints, footprints, measurements and photographs. These powers should arise once an arrest is made on any type of crime or situation. Refusal of an arrested person to submit to examination for the purpose of collection of such materials should not only constitute an offence but should also invite an adverse inference and against him in evidence in the case in which such examination is sought.

5.10 The Committee has formulated a new draft enactment called, the Crime and Offender Records Act which should replace the Identification of Prisoners Act, 1920, to fulfil the above purposes. A copy of this draft Act is enclosed in Annexure 5(1). It brings all materials that could aid in the prevention and detection of crime within the ambit of the term, "Crime and Offender Data" which is covered by a wide definition. It authorises the taking of crime prevention data in respect of an arrested person by police, medical, court, jail, probation or other officers who are declared as, "Authorised officers" for the purpose. It requires that such officers shall submit such data for retention in Crime Record Bureaux to be set up at the national and State levels. And finally it provides for issue of certificates by the Crime Records Bureaux in respect of data in its records which will dispense with the need for courts to examine witnesses to prove whatever is certified.

5.11 The Committee believes that this approach will break new ground and put not only the police, but all agencies of the Criminal Justice System into an operational frame-work of modern science. This Committee believes that these arrangements will greatly enhance the certainty of detection of crime and the scientific treatment of offenders and thus contribute ultimately to the more effective prevention of crime. The shift from the existing Identification of Prisoners Act to the proposed, Crime and Offender Records Act will mark a basic change in our perspective and also a big step forward in our handling of the Crime problem.

5.12 The terms of reference of the Committee as already indicated have provided that a law officer of the Ministry of Law, Justice and Company Affairs, Government of India, may be associated with it as an Adviser. The Committee had the benefit of the advice of Shri V. V. Vaze, Joint Secretary of the Ministry who was seconded to this Committee as its Advisor. The Committee has in particular been advised that its proposed draft, Crime and Offender Records Act is basically sound. Such legislation is within the legislative competence of the Government of India with reference to the Entry 2, List III, Schedule VII of the Constitution. The Advisor has also opined that the proposed provisions also do not offend Art 20(3) or any other related provisions of the Constitution or Constitutional case law built up so far.

CHAPTER 6

Organisational Arrangements

6.1 The establishment of the Crime records system as proposed in Chapter 3 will call for considerable organisational and administrative arrangements at the Police Stations and the District and State and National levels. These arrangements are broadly spelt out in this Chapter.

6.2 At the outset it must be noted that all crime data originate in Police Stations. It is, therefore, vital that fool proof arrangements are made in Police Stations so that such data are collected fully and accurately and submitted promptly to higher level units where they are processed and recorded.

6.3 The Committee, therefore, propose that following the example of some States like Andhra Pradesh, Karnataka, Delhi, Tamil Nadu, Maharashtra etc., one or more educated police-men (to the extent possible from the existing strength) should be named, trained and posted as Collators in every Police Station. The number and rank of collators to be so posted may be on the following scale and pattern.

Sl. No.	Nos. of FIR's registered in the Police Station	Rank and number of Collators
(i)	Upto 300 FIRs	1 PC
(ii)	Upto 600 FIRs	1 HC and 1 PC
(iii)	Upto 900 FIRs	1 HC and 2 PC
(iv)	Over 1000 FIRs	1 ASI, 1 HC and 2 PCs.

All Police Stations must have one or more trained constables in reserve to fill up collator vacancies arising out of leave, sickness or absence due to other causes. Collators, additional collators and reserve collators must be named and posted as such to the Police stations under the personal orders of the Superintendent of Police. They must be given one or two weeks special intensive training in the District Crime Bureau so that they become proficient in the functions assigned to them. These personnel should have a term of at least 3—5 years in a particular Police Station.

6.4 The functions of the Collator must be incorporated in the Police Manual. These will include:—

- (a) Maintenance of crime records of the Police station;
- (b) Preparation of the input forms originating from the Police station in respect of all Police computer applications;
- (c) Placing all computer outputs received in the Police station before the Station House Officer for their effective utilisation;
- (d) Taking of finger-prints of person on arrest or conviction, and submitting them to the District Crime Bureau or State Crime Records Bureau;
- (e) Generally assisting the Station House Officer in all correspondence with the District Crime Bureau or State Crime Records Bureau;
- (f) Handling the P & T Telephone and VHF telephone and other technical equipment, if any, in the Police station.

CHAPTER 5

Legal Requirement

5.1 The ultimate objective of the law, and of the criminal justice system which enforces and administers the law, is the prevention of crime. When a crime does occur, the law provides for its investigation, for establishing the guilt of the offender and for his punishment correction and supervision in such a manner that not only will he not commit a crime again but others too will be deterred from doing so.

5.2 Though the basic objective of prevention of crime is common to the different agencies of the Criminal Justice System viz. the police, probation, Court, Prison and Correctional agencies, they have tended to function in mutual isolation. It should be quite obvious that if their record systems were integrated into a common comprehensive record, each of them would have access to a more reliable and comprehensive range of data which would aid better fulfilment not only of their individual functions but also their collective objective viz. the prevention of crime.

5.3 It is in this broad perspective that crime record systems must be built by the different agencies of the Criminal Justice System. Specifically in respect of Police agency, the more effective the provisions of law and organisational arrangement for the collection and record of data of value to the detection of crime, the more effective will be the police contribution to the overall objective of prevention of crime. Existing provisions and arrangements are clearly inadequate, especially in regard to the many powerful and speedy capabilities that have become possible due to modern science and technology.

5.4 Broadly speaking, identification data provides a crucial determinant in the detection of crime. In the basic criminal law as it stood in the Indian Penal Code, 1871, there were references to the evidence of experts. Powers for the collection and record of materials on which experts could testify were left to be inferred instead of being specifically conferred by these enactments. Hence these enactments had to be supplemented by the Identification of Prisoners Act, 1920.

5.5 The Identification of Prisoners Act, 1920 provides for:—

- (a) the taking by the police of measurements, including fingerprint impressions, footprints and photographs of a person convicted of an offence punishable with rigorous imprisonment for one year or over or an offence where a subsequent conviction entails enhanced punishment or of a person bound over for good behaviour under Section 118 Cr. P.C.
- (b) the taking by a police officer of measurements including fingerprints and footprints only of a person arrested for an offence punishable with rigorous imprisonment of one year and above;
- (c) the taking by the police, under orders of a Magistrate of measurements, fingerprints, footprints and photographs of any person arrested in, or for the purposes of any investigation or proceeding under Cr. P.C.;
- (d) the taking by force, by the police, of measurements etc. and any resistance thereto being punishable under section 186 IPC.
- (e) the destruction of measurements of fingerprints, footprints and photographs in the event of release of the person without trial or on discharge or acquittal by court, unless otherwise directed by the court, or the District Magistrate or Sub-Divisional Officer for reasons to be recorded; and
- (f) the framing of rules under the Act by the State Governments.

5.6 These provisions, enacted as long ago as 1920 are totally inadequate to meet the complex problems of the present day. Some States like Maharashtra, have found it necessary to expand on them. They cover a very limited range of persons. They do not take account of the range of crimes and the high speed and wide sphere of operation of criminals in modern conditions and the limited time and resources at the disposal of the police to collect the needed data. A few examples will illustrate the inadequacy of these provisions.

5.7 Crimes are committed everyday by large number of persons, many of whom escape detection by the police. Some who are detected escape conviction in courts for want of satisfactory evidence. Many potential or active criminals are also arrested by the police on suspicion, as for instance, while on the prowl at night. Fingerprints are taken when arrests are made in such cases. In many cases no prior convictions are traced, and in many cases convictions do not follow. Under the law as it exists, their fingerprints cannot be retained. But it is a matter of frequent experience that these fingerprints are found identical with fingerprints developed at scenes of crime or crime weapons, much later. A similar thing happens in the case of photographs of arrested persons which are identified by eyewitnesses in later crimes. There could be no more convincing argument for the permanent retention of fingerprints and photographs taken at the time of arrests, irrespective of the subsequent course of the cases in which they were arrested. It is clear that the law must be amended to permit this.

5.8 Modern forensic science has thrown up a whole new range of investigation and identification techniques. Materials, stains, marks etc. on the person of the suspect, the victim of the crime, on the weapon or at the scene of crime, lend themselves to sophisticated laboratory analysis and provide powerful evidence to establish or support the guilt or innocence of a suspect. The materials may include strands of hair, fibre, specks of mud, glass, paint etc. Stains may arise from blood, semen, urine, saliva, sweat, oil cosmetics, ink etc. and urine from an offender or from weapons, nails, teeth, shoes etc. Blood and urine from an offender or from a victim can show the presence of alcohol, or a poison respectively. Psychiatric, medical and other tests can show a suspect telling lies or suffering from abnormalities which affect criminal liability or show the type of environment and activity that should be emphasised in the sentence imposed upon a convicted person in order to retrieve him from criminality. And finally a comprehensive centralised record or data would be most valuable for analysis and research which will enable a better understanding of handling of crime and criminality in their various facets.

5.9 The law as it exists does not give a specific power to the authorities to collect and retain the whole range of such materials specially those needed from the person of a suspect. It is of the greatest importance to the effective prevention and detection of crime that powers to collect and retain selectively this range of materials and should be available in addition to fingerprints, footprints, measurements and photographs. These powers should arise once an arrest is made on any type of crime or situation. Refusal of an arrested person to submit to examination for the purpose of collection of such materials should not only constitute an offence but should also invite an adverse inference and against him in evidence in the case in which such examination is sought.

5.10 The Committee has formulated a new draft enactment called, the Crime and Offender Records Act which should replace the Identification of Prisoners Act, 1920, to fulfil the above purposes. A copy of this draft Act is enclosed in Annexure 5(1). It brings all materials that could aid in the prevention and detection of crime within the ambit of the term, "Crime and Offender Data" which is covered by a wide definition. It authorises the taking of crime prevention data in respect of an arrested person by police, medical, court, jail, probation or other officers who are declared as, "Authorised officers" for the purpose. It requires that such officers shall submit such data for retention in Crime Record Bureaux to be set up at the national and State levels. And finally it provides for issue of certificates by the Crime Records Bureaux in respect of data in its records which will dispense with the need for courts to examine witnesses to prove whatever is certified.

5.11 The Committee believes that this approach will break new ground and put not only the police, but all agencies of the Criminal Justice System into an operational frame-work of modern science. This Committee believes that these arrangements will greatly enhance the certainty of detection of crime and the scientific treatment of offenders and thus contribute ultimately to the more effective prevention of crime. The shift from the existing Identification of Prisoners Act to the proposed, Crime and Offender Records Act will mark a basic change in our perspective and also a big step forward in our handling of the Crime problem.

5.12 The terms of reference of the Committee as already indicated have provided that a law officer of the Ministry of Law, Justice and Company Affairs, Government of India, may be associated with it as an Adviser. The Committee had the benefit of the advice of Shri V. V. Vaze, Joint Secretary of the Ministry who was seconded to this Committee as its Adviser. The Committee has in particular been advised that its proposed draft, Crime and Offender Records Act is basically sound. Such legislation is within the legislative competence of the Government of India with reference to the Entry 2, List III, Schedule VII of the Constitution. The Adviser has also opined that the proposed provisions also do not offend Art 20(3) or any other related provisions of the Constitution or Constitutional case law built up so far.

CHAPTER 6

Organisational Arrangements

6.1 The establishment of the Crime records system as proposed in Chapter 3 will call for considerable organisational and administrative arrangements at the Police Stations and the District and State and National levels. These arrangements are broadly spelt out in this Chapter.

6.2 At the outset it must be noted that all crime data originate in Police Stations. It is, therefore, vital that fool proof arrangements are made in Police Stations so that such data are collected fully and accurately and submitted promptly to higher level units where they are processed and recorded.

6.3 The Committee, therefore, propose that following the example of some States like Andhra Pradesh, Karnataka, Delhi, Tamil Nadu, Maharashtra etc., one or more educated police-men (to the extent possible from the existing strength) should be named, trained and posted as Collators in every Police Station. The number and rank of collators to be so posted may be on the following scale and pattern.

Sl. No.	Nos. of FIR's registered in the Police Station	Rank and number of Collators
(i)	Upto 300 FIRs	1 PC
(ii)	Upto 600 FIRs	1 HC and 1 PC
(iii)	Upto 900 FIRs	1 HC and 2 PC
(iv)	Over 1000 FIRs	1 ASI, 1 HC and 2 PCs.

All Police Stations must have one or more trained constables in reserve to fill up collator vacancies arising out of leave, sickness or absence due to other causes. Collators, additional collators and reserve collators must be named and posted as such to the Police stations under the personal orders of the Superintendent of Police. They must be given one or two weeks special intensive training in the District Crime Bureau so that they become proficient in the functions assigned to them. These personnel should have a term of at least 3—5 years in a particular Police Station.

6.4 The functions of the Collator must be incorporated in the Police Manual. These will include:—

- (a) Maintenance of crime records of the Police station;
- (b) Preparation of the input forms originating from the Police station in respect of all Police computer applications;
- (c) Placing all computer outputs received in the Police station before the Station House Officer for their effective utilisation;
- (d) Taking of finger-prints of person on arrest or conviction, and submitting them to the District Crime Bureau or State Crime Records Bureau;
- (e) Generally assisting the Station House Officer in all correspondence with the District Crime Bureau or State Crime Records Bureau;
- (f) Handling the P & T Telephone and VHF telephone and other technical equipment, if any, in the Police station.

6.5 The district level unit handling crime records now goes by various names like the District Crime Bureau, the District Intelligence Bureau, the District Modus Operandi Bureau etc. The Committee recommends that the name, "District Crime Bureau" may be uniformly adopted. The Committee also recommends that the District Crime Bureau should be headed by a Dy. Superintendent of Police and should be comprised of the following sections with staff noted against each :—

- (a) The Records Section with a staff of 1 Inspector and 6 to 10 H.Cs. (depending on the size of the district) will be responsible for:—
 - (i) Maintenance of Crime records at the district level including statistical and other compilations;
 - (ii) Monitoring submission of computer inputs and utilisation of computer outputs in respect of all computer applications by all field units of the district;
 - (iii) Training and monitoring the work of all Collators in the district; and
 - (iv) Handling all correspondence with State and National Crime Records Bureau.
- (b) The Finger-print Section with a staff of 1 Senior Expert (Inspector level) and 2 to 4 Finger-print Experts (S.I. level) and 2 to 4 Searchers (depending on the size of the district) which will be responsible for:—
 - (i) Maintaining a single-digit classified record of appropriate classes of criminals of the district;
 - (ii) Maintaining a collection of 10-digit finger-print slips of all persons arrested in the district in the last 5 years for cross check with scene of crime finger-prints or with subsequent 10-digit arrest slips; and
 - (iii) Attending to scene of crime finger-print work.
- (c) The Forensic Section with a staff of 1 Scientific Assistant, 1 Photographer and 1 Laboratory Assistant, with a fully equipped Mobile Laboratory Unit and a Photographic dark room with all equipment.

6.6 It will thus be seen that the District Crime Bureau will provide all the specialised expert services at the District level so as to be able to handle the entire range of crime data originating from Police stations, in the most effective manner. The Committee feels that these arrangements at the District level are the best guarantee not only of scientific style of functioning of Police stations, but also the most fruitful interaction between the Police Stations and the Crime Record Bureau at the State and National levels. The Committee has been confirmed in this view by the fact that such arrangements have been instituted in Tamil Nadu with striking results.

6.7 We now come to a detailed consideration of the set up of the State and the National Crime Records Bureau. Basically the Records maintained in these Bureaux would fall into three broad Divisions covering Descriptive Records, Finger-print and Photo records. The set up of a State Crime Records Bureau would be broadly as discussed below.

6.8 The Descriptive Records Division would maintain a dossier for each criminal containing original records received in respect of him from all "Authorised Officers" of the Police, Courts, Probation Deptt., Correctional Institutions, Prisons, Medical Department, Forensic laboratories etc. Such data will be available in these records as convictions, sentences, personal or environmental factors affecting his criminality, his responses to institutional or other classification, discipline, training and rehabilitation etc. as will be relevant to future investigations, prosecutions or type of treatment. Different agencies of the Criminal Justice System would be entitled to draw on the records for information needed by them, duly certified by the Head of the Division. Information so certified would not be required to be proved by witnesses in courts. Dossiers of criminals in this section would be arranged in the order of criminal numbers assigned to them.

6.9 The Descriptive Records Division would require adequate staff and accommodation. The Division should be headed by a Superintendent of Police and should have staff at the minimal scale of one SI for every 10,000 criminal records with Supervisory staff of 1 Inspector for every 3 SIs and 1 DSP for every 3 Inspectors. Special furniture and floor accommodation for the Division will have to be determined by actual needs.

6.10 The existing State Fingerprint Bureau would become the Fingerprint Records Division of the State Crime Records Bureau. The Fingerprint staff are civilians in some States and Police officers in some States. On consideration of security, discipline and cohesion within the Police Department, the staff in all the States should be embodied as specialist category of Police officers under the Police Act. The Fingerprint Records Division should be headed by a Superintendent of Police and should have staff on minimal scale of 1 SI for every 5,000 Fingerprint Records, with a Supervisory staff of 1 Inspector for every 3 SIs and 1 DSP for every 3 Inspectors. Here again, furniture and floor accommodation will be determined by actual needs.

6.11 The Photo Records Division will provide a new modern dimension to the Crime Records Bureau. It will maintain five basic sets of photographic records viz.,

- (a) Photographs of all criminals maintained in such indexed sequence as to be accessible by the Criminal number or name or *modus operandi*;
- (b) Photographs of all scenes of crime, material objects seized, stains, mark, vehicles involved in accidents, weapons and weapon marks, unidentified dead bodies;
- (c) Photographs of fingerprints lifted from scenes of crime, weapons, crime vehicles etc. ;
- (d) Microfilm counterparts in the form of microfiche jackets of the physical records maintained in the Descriptive Records Division; and
- (e) Miracode microfilm counterparts of the physical finger-print records maintained in the Fingerprint Records Division.

6.12 The Photo Records Division may be manned by Police officers trained in photography. It may be headed by a Superintendent of Police with a staff of DSSP, Inspectors and S.Is. Furniture and floor accommodation should be provided according to need. The accommodation must be airconditioned against temperature, humidity and dust. The Division should have adequate dark room facilities and equipment to handle black and white and colour photography, photomicrography and microfilm work, including the Miracode record. Special furniture should be provided for storage of the photo records in their different forms in appropriate indexed sequence.

6.13 A great part of the data borne by the Crime Records Bureaux in physical files will also be borne on computer record which will meet a good part of the operational or statistical needs of the different agencies of the Criminal Justice System. However, it will be necessary to go back to official physical records like fingerprints, photographs, conviction reports from courts etc. in order to 'conclusively' establish identity or provide authentic and certified information or photo copies of original records to the different agencies of the Criminal Justice System. Hence it will be important to build up effective coordination arrangements between the computer centre and the Crime Records Bureau as also within the three Divisions of the latter.

6.14 The Crime Records Bureau of the States should be headed by a Director of the rank of DIG in the larger States. The Head of the State Crime Records Bureau should not have any field responsibility and should be directly under the Inspector General of Police so that the Bureau is insulated from the field hierarchy of the Police Force. The Crime Records Bureau should preferably be located in the same building or in the vicinity of the Police Computer Centre and the State Forensic Science Laboratory and the ideal arrangement will be for all these units to be under the unified command of a Special I.G. of Police who will have no field responsibilities.

6.15 The arrangements in regard to the National Crime Records Bureau would broadly follow the arrangements at the State level. At the outset it will be obvious that the National Crime Records Bureau will have to be located in an appropriate and central place in the country preferably in the same place as the National Police Computer Centre. Two possible locations suggested are New Delhi and Hyderabad. Land is available in the campus of the SVP National Police Academy, Hyderabad, and inter-action with this premier training institution makes the Hyderabad location for both the National Crime Record Bureau and the National Police Computer Centre, a particularly attractive proposition. But whether the choice ultimately falls on New Delhi or Hyderabad, it is clear that the Central Fingerprint Bureau has to merge in the National Crime Records Bureau wherever it is located.

6.16 One important point is that the personnel who are drawn into specialist responsibilities for the crime record system from the Collators of Police Stations to the staff of District, State and National Crime Records Bureau should be given an incentive of a substantial special pay in recognition of the technical and complex nature of these responsibilities and for acquiring technical knowledge and special skills in addition to their normal police skills. The scales of special pay for the different categories should be among the best available in Police Departments and should be such as to attract the best talent.

6.17 The Director of the National Crime Records Bureau should be an I.G. level officer, working directly under the MHA. The Heads of its Divisions should be DIG or Superintendent level officers and staffing lower down should follow the scales suggested at the State level, except that at the Supervisory levels, there may be one DSP level supervisor for every 3 Inspector level supervisors in each Division. Accommodation, furniture and equipment may also follow the same pattern as suggested for the State Crime Records.

6.18 The establishment of CRBS at the National and State levels will involve non-recurring expenditure on buildings, vehicles and equipment and recurring expenditure on staff, maintenance and contingencies. The Committee specially recommends that the Government of India provide the funds.

- (a) Under the MHA budget in respect of the recurring and non-recurring expenditure in respect of the CRB of UTs and in respect of the National CRB. Non-recurring expenditure for the National Crime Records Bureau may be of the order of Rs. 50 lakhs (Rs. 25 lakhs for building and Rs. 25 lakhs for equipment and vehicles).
- (b) Under the Police Modernisation Scheme in respect of non-recurring expenditure in the States which may on an average be of the order of Rs. 30 lakhs per State (Rs. 10 lakhs for buildings and Rs. 20 lakhs for equipment and vehicles). Of course, States would be expected to provide the recurring expenditure from their own resources.

6.19 It remains to be added, however, that on consideration of geographical contiguity, operational viability and economy, small States and Union Territories may share a common Crime Records Bureau. Delhi could, of course, have a separate Crime Records Bureau in view of the size and problem of the Metropolitan city. But Union Territories like Chandigarh, Goa or Pondicherry could logically be served by the Crime Record Bureaux of Punjab, Maharashtra and Tamil Nadu respectively. And the small States covered by the North Eastern Council could obviously have a common Crime Records Bureau located at Gauhati.

6.20 One major element in the objective operation of the proposed Crime Records System from the Police Station level upto the National level is an adequate communication network which will enable speedy transmission of data for speedy updating of records at all levels and speedy feed back of up-to-date data, to field operational levels. Field formations should, in particular, be able to get such feed back within minutes where a person or a vehicle or property is detained on suspicion or within hours in the case of investigations and especially in the case of arrests where persons arrested cannot be held for more than 24 hours by the Police. Detentions of arrested persons in remand pending investigation should also be minimised. In practical experience prior criminal records are traced in around twenty to twenty-five per cent of police arrests in the country. A quick feed back of absence of a previous criminal record would facilitate prompt release on bail instead of person being held in detention pending verification. It is, therefore, imperative that communications facilities are built in the Police Department enabling the Police officials to have access to data required in connection with arrests. After discussion with the Director of Police Telecommunications, Ministry of Home Affairs, and others the Committee considered that the following communications infra-structure was essential to the effective use of the Crime Records System.

- (a) VHF telephones in all Police stations linked by District VHF network which will give immediate access to field officers to one another and to the District Crime Bureaux;
- (b) Telephones, teleprinters and Facsimile Transreceivers in all District Headquarters, which will enable exchange of information between the District Crime Bureau and the State Crime Bureau and the State Police Computer Centres; this will require multi-channel Microwave or UHF trunk lines linking all State Headquarters; and
- (c) A linkage of the Microwave or VHF trunk lines of the States into a national grid to enable exchange of information between the National and State Police Computer Centres and the National and State Crime Record Bureaux.

The Committee is given to understand that the building of such communications facilities on a countrywide basis is being projected in full detail by the Committee on Police Modernisation set up by the National Police Commission and hence recommends that this matter may be pursued further on the basis of that Committee's Report.

6.21 In order to ensure systematic implementation of the arrangements proposed at the various levels on a time-bound countrywide integrated programme, the Committee recommends the appointment of an I.G. level officer at the National level and DIG level officers at the State level as officers on Special Duty to formulate the detailed proposals for administrative sanction by the Central and State Governments respectively. These officers may also form a Working Group from among themselves in order to ensure that the formulation of proposals and their implementation proceeds in a uniform and systematic manner throughout the country. The Committee would suggest that the establishment of the National and State Crime Records Bureau should be completed within a few years to correspond with the commencement of operations of the Police Computer network on a national basis.

CHAPTER 7

Summary of Recommendations

- 7.1 The recommendations emerging from the foregoing Chapters are now summarised below :—
- 7.2 The Crime Records System at the Police Station and the District, State and National levels should be reoriented to enable it to be operated by Police Computers installed at the State and Central levels under the National Police Computerisation programme. (Paras 4.7 and 4.12)
- 7.3 In consequence the crime records at different levels will be as follows :—
- (a) *Police stations level*—The Police station copy of the computer input forms viz Forms I, IA, II, III and IV will be accumulated in case-wise order and maintained as a new set of basic crime records at the Police station level. These may be supplemented by such other of the existing crime records with modifications on lines suggested, as will be determined by a study group to be formed in each State. (Para 4.8)
- (b) *District level*—Physical records here may follow the uniform pattern suggested by the 1962 Committee of DIsG CID with the stipulation that they may be generated by the computer from the State level computerised records. (Para 4.9)
- (c) *State level*— This will be in part, a computerised record as already envisaged and initiated under the national computerisation programme (4.9) and in part a physical record system as processed for the State Crime Record Bureau. (Paras 6.8 to 6.13)
- (d) *National level*— This will be partly a computerised record adding to it records circulated by Interpol in respect of international crime (para 3.10) and partly a physical record system as proposed for the National Crime Record Bureau. (Para 6.15)
- 7.4 Statistical data at the State and National levels can be generated from the computerised records at the District and State levels.
- 7.5 Photographic records should be maintained at the Police station and the District, State and National levels. (Para 4.13)
- 7.6 Physical finger-print records, classified by single digits and by 10 digits should be maintained respectively in the District and State levels in all States. (Para 4.14)
- 7.7 These single-digit or 10-digit finger-print records should cover criminals who have been convicted or arrested. In addition, 10-digit finger-prints should be retained at the District level of all persons who have been arrested in the last 5 years. (Para 4.15)
- 7.8 The physical finger-print records at the National level should be a complete duplicate of the records in all the States.
- 7.9 Computerisation of finger-prints at the State and National level cannot dispense with the retention of corresponding physical records. (Para 4.17)
- 7.10 The computerised and physical finger-print record at the National level may be created by the computer by integrating the computerised and physical records for all States. Staffing at State and National levels should be as proposed. (Paras 4.18 and 4.19)
- 7.11 Special input forms to be devised for weeding out useless data. (Para 4.18)
- 7.12 The Miracode microfilm record system for handling the finger-print records should be introduced at the State and National levels in a phased programme. (Paras 4.20 and 4.21)
- 7.13 The powers to collect and retain data for the crime record system should be within the framework of powers to collect and retain the whole range of data that modern science and technology has made available for the prevention and detection of crime. (Para 5.9)
- 7.14 The building of a system of crime records should be within the framework of comprehensive records of data contributed by all agencies of the criminal justice system. (Paras 5.2 and 5.3)
- 7.15 The existing Identification of Prisoners Act, 1920 should be replaced by a new enactment called the "Crime and Offender Records Act" which provides the power needed for collection and retention of the widest possible range of data and for the establishment of Crime Records Bureaux at the State and National levels. (Para 5.10)
- 7.16 A suggested draft of the proposed "Crime and Offender Records Act" is enclosed in Annexure 5(1).
- 7.17 One or more educated constables must be specifically designated in every Police station as Collators whose duties should be as defined. (Paras 6.3 and 6.4)

7.18 The unit handling Crime Records at the District level should be uniformly called the "District Crime Bureau". Its composition, staffing and functions should be as detailed.

7.19 The Crime Records Bureaux at the State and National levels should be organised and functions should be as detailed.
(Paras 6.7 and 6.18)

7.20 Where necessary a common Crime Records Bureau could serve small contiguous States and Union Territories.

7.21 The Crime records system from the Police station to the National level should be supported by communication facilities as described.
(Para 6.20)

7.22 Officers on Special Duty should be appointed at the National and State levels to formulate and implement proposals based on the above recommendations, within an integrated, time-bound, countrywide programme. These officers may also form a Working Group to ensure uniformity and systematic implementation to coincide with the commencement of operations of the Police Computer network on a national basis.

DRAFT

The Crime and Offender Records Act, 1979

PREAMBLE

WHEREAS it is expedient to authorise the recording and retaining of identity and other data and information in regard to crimes and persons involved in them, and use such data and information to aid the prevention and detection of crime, and aid the treatment and control of such persons as aforesaid with a view to reforming them, it is hereby enacted as follows :—

1. *Short title and extent*

- (1) This Act may be called the Crime and Offender Records Act, 1979;
- (2) It extends to the whole of India; and
- (3) It shall come into force at once.

2. *Definitions*

In this Act, unless there is anything repugnant, in the subject or context :

- (a) "Crime and Offender Data" shall include all data in respect of crimes and, in respect of persons involved in crimes, all data relating to their age, family background, educational qualifications, physical measurements, finger-prints, footprints, lip prints, voice prints, dental castings, ordinary photographs, X-ray photographs, samples of hair, sweat, saliva, urine, blood, semen, fibre, dust and any other material produced by or deposited on and removable from any part of the body; and data arising from medical, psychiatric and other similar tests.
- (b) "Authorised Officer" includes an officer of the Police, Probation, Judicial, Correctional Institutions, Prison, Medical or other Department or Agency of the Government and not below such rank, as may be notified by the Central or State Government to exercise powers under this Act.
- (c) "Prescribed" means prescribed by this Act or by Rules made under this Act.

3. Every person whose conduct is the subject-matter of an enquiry, investigation or trial, under the provisions of the Code of Criminal Procedure;

Every person regarding whom a Probation Officer is required to submit a report under the Probation of Offenders Act, 1958;

Every person held in custody in a jail or correctional institution or protective home, set up under the provisions of the Prisons Act, the Children's Act, the Suppression of Immoral Traffic Act, or any such law as may be notified by the Central or State Government for the purposes of this Section; and

Every person who undergoes a medical or psychiatric test or any other similar test under orders from a Court, shall, if so required, allow all or any crime and offender data to be taken by an authorised officer in the circumstances and manner prescribed.

4. *Resistance to the taking of Crime and Offender Data*

- (1) If any person who is required under this Act, to allow crime and offender data to be taken, resists the taking of such data or refuses to allow the same to be taken, it shall be lawful to use all means necessary to secure the taking thereof, provided that samples of blood and semen alone shall not be taken against any person's consent.
- (2) Resistance to the taking of crime and offender data or refusal to allow such data to be taken, subject to the above proviso, shall be deemed to be an offence under Section 186 of the Indian Penal Code.

5. *Recording, Retention and Obtaining of Crime and Offender Data*

- (1) The Central and State Governments shall establish a Central or State Crime Records Bureau, as the case may be, in order to record, retain, collate, analyse and process Crime and Offender data submitted to these bureaus by Authorised Officers.
- (2) Authorised officers shall submit crime and offender data collected by them to the Central or State Crime Records Bureaus in such forms and at such points of time as may be prescribed.
- (3) Authorised officers may seek such crime and offender data as they may need for the effective performance of their functions from the Central or State Crime Records Bureau in such manner as may be prescribed.

6. *Mode of Proof of Crime and Offender Data*

- (1) Subject to the provisions of this Act and the rules made thereunder, a certified copy of any entry in the records of the Central or State Crime Records Bureau, shall in all legal proceedings be received as prima facie evidence of the resistance of such an entry and shall be admitted as evidence of the matters therein recorded in every case where, and to the same extent as, the original entry is by law admissible.

- (2) For purposes of this Section, "certified copy" means a copy of any entry in the records of the Central or State Crime Records Bureau together with a certificate written at the foot of such copy that it is a true copy of such entry and that such entry is contained in the records of the Central or State Crime Records Bureau, such certificate being dated and subscribed by the officer in charge of the Bureau, with his name, official designation and the seal.
- (3) No officer of the Central or State Crime Records Bureau shall in any legal proceedings be compellable to produce in original any record of the Crime Records Bureau, the contents of which can be proved under this Act, or to appear as a witness to prove the matters therein recorded, unless by order of the Court made for special reasons.

7. Protection of Crime and Offender Data from Inaccuracy, Exposure or Misuse

- (1) All crime and offender data shall be protected from inaccuracy and misuse by Central and State Crime Records Bureaus, and by Authorised Officers in possession of such data. Such data shall be used solely for the purposes prescribed and personal data on an offender shall not be exposed to public view except to the extent incidental to his trial in Court.
- (2) It shall be open to any person to inspect and request correction in the manner prescribed, of any crime and offender data relating to him as may be held by the Central or State Crime Records Bureaus, and the onus shall be on such person to prove the accuracy of the correction desired.
- (3) Any person who has access to or custody of crime and offender data, and suffers personal data on any offender to be exposed to public view, save as provided in this Act, shall, on conviction, on the complaint of the offender in question, be punished with imprisonment of either description for a term which may extend to six months and shall also be liable to fine.

8. Power to Make Rules

Without prejudice to the generality of the foregoing provisions, the Central or State Governments may make rules to prescribe--

- (a) the procedures and forms for the taking of crime and offender data by the authorised officers and for the recording, retention, destruction and disposal of such data and also supply of the same to Authorised Officers by the Central or State Crime Records Bureaus,
- (b) procedures to enable persons to seek inspection and secure correction of crime and offender data in respect of them, held by the Central or State Crime Records Bureaus, and
- (c) such other matters as will further the purposes of this Act.

9. Rules to be Laid Before the Lok Sabha and the State Legislative Assembly

Every Rule made by the Central or State Government under this Act shall be laid, as soon as may be, after it is made, before the Lok Sabha or the State Legislative Assembly, as the case may be, while it is in session for a total period of thirty days, which may be comprised in one session or any two successive sessions and if before the expiry of the session in which it is so laid or the session immediately following, the Lok Sabha or the State Legislative Assembly, as the case may be, desires the making of any modification in the Rule or that the Rule should not be made, the Rule shall thereafter have effect in such modified form or be of no effect, as the case may be; so however any such modification or annulment shall be without prejudice to the validity of anything previously done under that Rule.

10. Repeal

- (1) The Identification of Prisoners Act, 1920 (Central Act 33 of 1920) is hereby repealed.
- (2) All crime and offender data recorded under the provisions of that Act shall be deemed to have been recorded under the present Act.

P111, 327
6000—1979

Price : Inland Rs. 6.00
Foreign £ 0.70 or \$ 2.16

PRINTED BY THE MANAGER, GOVT. OF INDIA PRESS, RING ROAD, NEW DELHI-110064
AND PUBLISHED BY THE CONTROLLER OF PUBLICATIONS, DELHI-110006

1979

THIRD REPORT
of the
NATIONAL POLICE COMMISSION



सत्यमेव जयते .

Government of India

January, 1980

THIRD REPORT
OF THE
NATIONAL POLICE COMMISSION

Government of India

January, 1980

DHARMA VIRA
Chairman



D.O. No. 10/30/80-NPC(Ch)Pt. II

राष्ट्रीय पुलिस आयोग

भारत सरकार

गृह मन्त्रालय

नवी मंजिल

लोक नायक भवन

खान मार्किट

नई दिल्ली-110003

NATIONAL POLICE COMMISSION

GOVERNMENT OF INDIA

MINISTRY OF HOME AFFAIRS

9TH FLOOR, LOK NAYAK BHAVAN

KHAN MARKET

NEW DELHI-110003

1st February, 1980

My dear Home Minister,

I have great pleasure in forwarding herewith the Third Report of the National Police Commission which covers items (6), (8) and (9) of the terms of reference and deals with the following subjects :—

- (i) Police and the weaker sections of society.
- (ii) Village police.
- (iii) Special law to meet a situation of widespread disorder and disturbances of public peace in any specified area.
- (iv) Corruption in police.
- (v) Economic offences.
- (vi) Modernisation of law enforcement.
- (vii) Scriptory work in police.

2. I would like to invite special attention to our recommendations regarding items (i), (iii), (iv) and (v) above and point out the need for quick action on those recommendations to meet effectively the developing situation in the country. The availability of a special law as recommended in the Report would greatly help authorities to contain the present situation which, in our view, is likely to pose serious law and order problems in the current economic context.

3. When our earlier two Reports were presented to the Government I had mentioned to your predecessors the desirability of immediate publication of the Reports which would enable the Government to ascertain and appreciate the general reaction of different sections of the public to the proposed reforms in police, some of which are very fundamental and mark a departure from the old Imperial system which has continued even after Independence. I regret to observe that our earlier Reports have not yet been laid before the Parliament and, therefore, not yet released for publication. I would like to reiterate the importance of generating a public debate on the important issues covered in our three Reports which would help the Government to go ahead with the much needed reforms expeditiously with a good measure of public knowledge and acceptance thereof. I, therefore, suggest that the three Reports so far presented by the Commission may all be released for publication soon.

With kind regards.

Yours sincerely,

(Dharma Vira)

Giani Zail Singh,
Home Minister,
Government of India,
New Delhi.

CONTENTS

Chapter

Pages

XIX	Police and the weaker sections of society	1—11
XX	Village Police	12—18
XXI	Special law for dealing with serious and widespread breaches of public peace or disturbance of public order	19—24
XXII	Corruption in police	25—34
XXIII	Economic offences	35—39
XXIV	Modernisation of law enforcement	40—47
XXV	Scriptory work in police	48—50
XXVI	Summary of observations and recommendations	51—61
	Appendices	63—95

CHAPTER XIX

POLICE AND THE WEAKER SECTIONS OF SOCIETY

Weaker Sections defined

19.1 The term "weaker sections of the people" occurs in Article 46 of the Constitution which is reproduced below :—

"46. Promotion of educational and economic interests of Scheduled Castes, Scheduled Tribes and other weaker sections.—

The State shall promote with special care the educational and economic interests of the weaker sections of the people, and, in particular, of the Scheduled Castes and the Scheduled Tribes, and shall protect them from social injustice and all forms of exploitation."

Parameters for determining whether a section of society may be deemed to be weak in comparison with the rest of the society will vary with the purpose for which the weakness is considered relevant. Economic weakness will be relevant while assessing the needs of people requiring relief and ameliorative measures of a pecuniary character. Women, children and the physically and mentally retarded people will get categorised under physical weakness. While formulating measures for providing legal advice and aid to the weaker sections of the community, the Legal Aid Committee headed by Justice V. R. Krishna Iyer identified the classes of persons requiring legal assistance to include (i) the geographically deprived ; (ii) villagers ; (iii) agricultural labourers; (iv) industrial workers; (v) women; (vi) children; (vii) harijans; (viii) minorities and (ix) prisoners. Commissions appointed by some States have adopted different criteria for identifying 'backward classes' for formulating appropriate measures for their betterment in the socio-economic field including educational facilities and appointments in public services as envisaged in the Constitution. While proceeding to examine the special role and responsibility of the police towards weaker sections of the society, we find it would not be possible to evolve precise parameters for identifying and labelling any particular section of the society as weak in absolute terms. We are of the view that it is the relative state of helplessness or defencelessness of a person or class of persons in securing the legal rights to which they are entitled under the law of the land in regard to their life, property and other matters that should determine his or their 'weakness' for this purpose. Those who are subjected to social injustice and different forms of exploitation on account of poverty or ignorance besides age old traditions, customs, beliefs and the interplay of vested interests that have grown around them, would constitute the weaker section as viewed from this angle. We would, therefore, adopt this parameter for the police to identify

the weaker section in any given context and determine police response to their situation in accordance with our observations and recommendations to follow in this Chapter.

19.2 In this definition as indicated in Article 46 itself, Scheduled Castes and Scheduled Tribes would get categorised as weaker sections. The Scheduled Castes constituted 8.25 crores forming 15.04 per cent of the total population of the country as per 1971 census while the Scheduled Tribes constituted 7.5 per cent of the population and numbered 4.12 crores. The Scheduled Castes are not in a majority in any part of the country. They, however, constitute more than 20 per cent of the population in 666 talukas. The Scheduled Tribes are in a majority in 329 talukas and areas have been identified in the country in which 65 per cent of the Scheduled Tribes live. While the Scheduled Castes live interspersed with the other sections of population, Scheduled Tribes live as majority groups in certain identified areas of the country. In fact, there are three States of Nagaland, Manipur and Meghalaya and three Union Territories of Arunachal Pradesh, Dadra and Nagar Haveli, and Mizoram where majority of the population belongs to Scheduled Tribes.

Untouchability

19.3 The socially degraded and economically distressed situation of certain sections of the community under the oppressive heel of the obnoxious practice of "untouchability" in the Hindu fold has come down as a sad feature in our country's life from very ancient times. Several religious savants and social reformers like Ramanuja, Chaitanya, Guru Nanak, Ramakrishna Paramahansa, Swami Vivekananda, Raja Ram Mohan Rai and Swami Dayanand Saraswati had preached for the eradication of this evil but the effect of their appeal and propaganda remained marginal, since it failed to reach the large mass of people in the countryside. A nation-wide community involvement in the campaign for abolition of untouchability got a start when the Indian National Congress at its Karachi session in 1931 passed a resolution adopting it as a policy programme for action, and Gandhiji, the Father of the Nation, commenced the movement for Harijan uplift in a big way. He projected the removal of untouchability as the first and foremost reform in the constructive programme conceived by him as an integral part of the fight for freedom, and stirred the conscience of the country through regular articles in his weekly paper "Harijan" which he started in 1933. The Harijan Sewak Sangh was founded by him and he undertook countrywide tours to propagate its objectives and strengthen it with funds. By the time the

country attained Independence in 1947, the drive against untouchability had found acceptance among all the prominent leaders of the country, thanks to Gandhiji's sustained exhortation and efforts. Several provisions were incorporated in the Constitution of India drawn up in 1950 to secure the abolition of untouchability and promote the educational, economic and social interests of the down-trodden people who had for long years suffered social injustice and exploitation.

19.4 The Untouchability (Offences) Act was enacted in 1955 to penalise the practice of untouchability in any form and punish those who denied social facilities such as access to hotels, places of public entertainment, places of worship, roads, bathing ghats, water sources etc. to any one on grounds of untouchability. Since then prosecutions have been launched under this Act year after year in individual instances in different States as may be seen from the following statement :—

Year	Number of cases registered with the Police		Position of disposal at the end of the year			
	Total	Challaned	Convicted	Acquitted	Compound- ed	Pending
1955	180	180	80	12	12	76
1956	693	599	149	106	156	188
1957	492	415	87	35	85	208
1958	550	477	127	83	92	175
1959	481	401	105	70	82	144
1960	509	438	89	74	122	153
1961	489	438	107	141	138	52
1962	389	338	77	91	81	89
1963	397	316	78	48	80	110
1964	484	425	196	71	67	91
1965	366	321	136	52	46	87
1966	488	447	199	89	85	74
1967	353	313	136	56	55	65
1968	214	184	35	39	53	57
1969	329	272	48	25	70	129
1970	364	291	50	59	107	75
1971	526	439	91	96	138	114
1972	1515	1416	631	253	233	299
1973	2949	2356	1207	312	388	449
1974	1908	1588	669	247	288	384
1975	3528	2588	936	480	611	561
1976*	7047	4530	1188	746	728	1868

*For Andhra Pradesh, Gujarat, Karnataka, Madhya Pradesh, Maharashtra, Pondicherry, Tamil Nadu and Uttar Pradesh.

Considering the total population of Scheduled Castes and Scheduled Tribes in the country the number of prosecutions launched may not be deemed to reflect the actual measure of exploitation and discriminatory practices from which they suffer in the countryside. A spurt in the figures of recorded crime under this head may be attributable to periodic drives launched by enforcement agencies to detect offences under the Act whenever attention gets focussed on this matter through debates in Parliament and State Legislatures, press reports or otherwise.

Protection of Civil Rights Act, 1976

19.5 The Untouchability (Offences) Act was amended in November, 1976 and re-named as Protection of Civil Rights Act with a number of additional provi-

sions to provide for stringent punishment for repeated offences and making all offences under the Act non-compoundable. Before this amendment, a large number of cases had got acquitted or compounded and a substantial number of cases had remained pending disposal in court year after year. Since the victims of offences under this Act are economically weak and socially handicapped, influence and pressure from the accused tend to affect the course of evidence in court proceedings, resulting in either acquittal or compulsive compounding of cases. We hope that the revised provisions in the Protection of Civil Rights Act would help a better enforcement of the Act. In one State we noticed that even after this amendment of 1976, certain cases were allowed to be compounded, presumably because the changed provisions in law were not known to the functionaries concerned. These

cases were subsequently taken up in appeal on this ground. This underlines the need for ensuring that all the agencies concerned with the enforcement of this Act get familiar with its provisions and the scope for its proper enforcement.

Special Courts

19.6 Section 15A(2)(iii) of the Act empowers the State Governments to set up Special Courts for the trial of offences under the Act, but according to information available to us no State Government has yet set up any such Special Court. The large pendency of cases in court may be brought down if Special Courts are set up, and we recommend accordingly.

Collective Fine

19.7 Section 10A of the Act empowers the State Governments to impose collective fine on the inhabitants of an area where the practice of untouchability and its abetment are found rampant. Information available to us does not indicate if this section has been invoked in any State. Even if invoked, this section may lose its sting in actual practice because the persons concerned can evade payment of fine by starting interminable civil litigation on this issue. Government may consider further amending the Act to specify that no appeal or application for writ on an order passed by the State Government for imposing a collective fine under this section shall be entertained by any court until the fine amount is deposited with a specified authority.

Atrocities against Scheduled Castes

19.8 Increased awareness of the Scheduled Castes of their legitimate rights and share in the activities of the community leads to tension in rural areas where the age old social customs and caste hierarchy have still a hold on society. This tension explodes into physical conflict in certain places, resulting in atrocities against Scheduled Castes, which are reported in the Press and also figure in heated debates in the Parliament and State Legislatures from time to time. Figures of crimes committed against Scheduled Castes in different States and Union Territories in the five year period 1974—78 obtained from the Ministry of Home Affairs are furnished in Appendix-I. It may be seen therefrom that the total number of cases reported year-wise have been—

1974	— 8,860
1975	— 7,781
1976	— 5,968
1977	— 10,879
1978	— 14,571

Relatively larger number of cases have been reported from Bihar, Madhya Pradesh, Maharashtra and Uttar Pradesh. The sudden spurt in figures noticed in 1977 may be partly attributable to the lifting of Emergency

and the increasing awareness among the people, particularly in the rural areas, of their potential for asserting and securing their lawful and legitimate rights. However, an increase in the statistics of reported crime need not necessarily mean an increase in the actual occurrence of atrocities as compared to a previous period. It may, on the other hand, indicate that an increasing portion of such atrocities that do occur has been brought to police notice and got registered as cases. It is, however, clear from the existing pattern of atrocities as are reported that this trend would continue in the context of increasing governmental measures like distribution of land to the landless and weaker sections of the society, revision of minimum wages, distribution of house sites, abolition of bonded labour etc., to improve the lot of the poor and downtrodden in the country side, and the continued resistance that the privileged groups in society, particularly in the rural areas, would put up against a change in the existing social and economic set-up. Statistics apart, the extreme violence and cruelty perpetrated by groups of the better placed classes in rural areas against the Scheduled Castes and other strata who seek to free themselves from social injustice and exploitation that have gone on for years, give an indication of the determined efforts of the privileged groups to put down the under-privileged. Atrocities in the old times were more often in the nature of action against a specific individual for a specific contravention of a village custom but the present trend is towards group action against a caste cluster as such rather than an individual. We have had instances in the last three years of a whole cluster of huts of the Scheduled Castes in some villages being destroyed by arson following large scale riotous assault, murder and looting. The existing system of elections induces the candidates to secure the support of large voting groups instead of individuals. Socio-economic factors which encourage the formation of groups or classes will therefore continue to operate for a long time to come. In the recent years we have also seen a new factor emerging in the social struggle in rural areas in which the 'backward classes' have been surging forward to take up positions of power and control in society, knocking down the upper castes who had held sway in such positions all along in the past. In this process of marching forward, the backward classes tend to push back the Scheduled Castes and others who occupy the lowest rung in the social hierarchical ladder. There is greater tension between structural neighbours in this hierarchy than between the top level and the bottom level.

Criteria for identifying Crimes as 'Atrocities'

19.9 In the recording and reporting of crime statistics regarding atrocities on Scheduled Castes, no uniform criteria appear to have been adopted in the States. For example, in Bihar the lack of well defined criteria for this purpose was noticed in November, 1977 and then standing orders were issued specifying that—

- (a) Offences under sections 143/144/145/147/148/149/302/304/307/324/325/326/342/343/344/346/347/354/363/364/365/366/366A/376/377/379/380/382/384/385/386/387/388/389/392/394/395/396/435/

436/447/448/449/450/451/452/453/454/
455/456/457/458 of I.P.C.;

(b) offences under the Protection of Civil Rights Act ; and

(c) offences under Bonded Labour (Abolition) Act.

in which Scheduled Castes and Scheduled Tribes happen to be victims should be treated as atrocities against Scheduled Castes/Tribes. (Property offences will be treated as atrocities if they are not of a professional nature). It was further specified that if the victim as well as the offender in a case happen to belong to Scheduled Caste/Tribe, it should not be treated as a case of atrocity against Scheduled Caste/Tribe; but if some of the offenders are non-Scheduled Caste/Tribe such cases should be treated as atrocities against Scheduled Caste/Tribe. We would recommend that the Ministry of Home Affairs may issue comprehensive guidelines for classifying crimes as atrocities of this kind to ensure proper recording and analysis of all such offences over a period of time on a countrywide basis.

Statistical approach undesirable

19.10 We would like to mention here that an undue emphasis on mere statistical reviews is likely to induce suppression of crime by non-registration of cases. Complaints from individual members of Scheduled Castes regarding isolated instances of victimisation may get ignored by the police unless they are backed by a collective demand from a group for appropriate police action under the law. State Governments also tend to rely on statistics of recorded crimes to claim improved performance in the maintenance of law and order. It is important for all concerned to see the danger of a false statistical picture deluding them into a belief that all is well while in fact atrocities might be continuing without any notice by the police. Police inaction would in turn encourage further atrocities and the situation would thus deteriorate in the field, contrary to statistical claims in Legislature debates.

Complaints against police

19.11 Complaints against the police in their handling of cases arising from atrocities against Scheduled Castes often relate to refusal to register complaints, delayed arrival on the scene, half-hearted action while investigating specific cases, extreme brutality in dealing with accused persons belonging to weaker sections, soft treatment of accused persons from the influential sections, making arrests or failing to make them on malafide considerations, etc.

Special Investigating Cells

19.12 In most States special cells have been constituted in the police department headed by a Special IG or Additional IG or DIG of Police to—

(i) monitor the progress of investigation of cases under the PCR Act or other atro-

cities against Scheduled Castes/Tribes registered in district police stations,

(ii) make inquiries or investigations into complaints from Scheduled Castes/Tribes or other weaker sections of the people that may be received directly in the Cell,

(iii) discuss with the prosecuting staff the progress of cases pending trial to ensure satisfactory marshalling and presentation of evidence in Court,

(iv) collect statistical and other relevant data for reviewing the state of implementation of the PCR Act from time to time ; and

(v) collect intelligence regarding the actual ground situation and identify areas which require special attention for protecting the Scheduled Castes/Tribes and other weaker sections of the people from exploitation and injustice.

19.13 Departmental instructions also exist in several States for treating all cases of atrocities against Scheduled Castes/Tribes as "Special Report Cases" requiring investigation and follow up action by senior police officers of the rank of Deputy Superintendent of Police or above. The special cells have also been formally notified as police stations with Statewide or districtwide jurisdiction as the case may be to facilitate prompt investigation of criminal complaints directly received by them. We recommend the setting up of such special cells in States where they do not exist now, and further recommend that the charter of duties and responsibilities of such special cells in all the States may be amplified where necessary to include all the above-mentioned items and emphasise the importance of collection of intelligence which is most necessary for planning effective counter-measures to deal with this problem.

Composite Cells

19.14 Besides the above-mentioned cell which would function as a part of the police set up in the State, we recommend the constitution of a composite cell at the district level to look into a wide variety of complaints that might emanate from the Scheduled Castes/Tribes, not necessarily linked with criminal offences as such but relatable to lapses in administrative measures meant for their relief. For example, complaints of discriminatory treatment in regard to appointments in Government departments, local bodies, public undertakings, etc., mismanagement of the implementation of welfare and ameliorative measures and utilisation of funds specially meant for the uplift of Scheduled Castes/Tribes, impediments in the enjoyment of land/house sites allotted to Scheduled Castes/Tribes, failure to comply with laws abolishing the bonded labour system or any other similar enactment to provide relief for the weaker sections in general and Scheduled Castes/Tribes in particular, can be promptly and effectively looked into by such a cell functioning at the district level. Since the work of this cell will be mostly in the nature of making

an inquiry after scrutiny of departmental documents and ascertaining the factual position in the field by examining affected persons, it would be desirable to staff this composite cell with senior and experienced officers from the Revenue, Police, Social Welfare, Education, Co-operation and Development departments within the district. It would be further helpful to this cell if an auditor or accounts officer from the local fund audit set up in the State or any other similar agency is also associated with the cell in its inquiry work wherever necessary. For example, a prompt and effective inquiry into allegations of mis-management of the running of a hostel meant for Scheduled Caste boys or allegation of malpractices in the disbursement of subsidies for agricultural or other purposes for the benefit of the weaker sections would need the services of such an auditor or accounts officer. The head of this composite cell at the district level should be an officer of the rank of Sub-Divisional Officer and its work may be overseen and periodically reviewed by a District Committee of which the District Collector could be the Chairman and the District Superintendent of Police could be the Vice-Chairman, with the District Social Welfare Officer and District Education Officer as its members along with some representatives from the public, known for their interest and involvement in social work. A suitably constituted State level Committee under the chairmanship of the Minister in charge of Social Welfare can periodically review the working of the district level cells. The special cell envisaged as part of the police set up for handling inquiries and investigational work connected with the PCR Act and atrocities on Scheduled Castes/Tribes may be referred to as "Special Investigating Cell". The composite cells at the district level which will have a wider charter of duties and responsibilities to look into a variety of complaints relating to the interests of Scheduled Castes/Tribes may be called the District Civil Rights Cell (DCRC). The State level Committee to oversee the working of DCRCs may be called the State Civil Rights Committee (SCRC). The SCRC and the DCRCs may be declared as Committees set up under Section 15A(2)(iv) of the PCR Act and clothed with necessary authority and powers under the relevant rules.

Police action on non-cognizable complaints

19.15 An important cause for the dissatisfaction of the Scheduled Castes and other weaker sections of society about lack of police response to their plight in certain situations is that the police do not take cognisance of their complaints of ill-treatment at the hands of the upper castes in the village community, pleading the excuse that the complaints are non-cognizable under the law. Such complaints usually relate to non-cognizable offence like hurt under section 323 I.P.C., assault under sections 352 or 355 I.P.C. and insult or criminal intimidation under sections 504 or 506 I.P.C. Under the existing law police have no powers to make any inquiry in respect of non-cognizable offences, except with the permission of a magistrate. They have only to make an entry about the complaint in the police station general diary and

advise the complainant to go to a Magistrate for initiating proceedings in court. The poor and helpless victims of such offences, particularly in the rural areas, feel frustrated when the police show their inability to make any kind of inquiry but brusquely ask them to go to a court. These persons have neither the legal knowledge nor the economic resources to set in motion the legal processes in courts directly and therefore they usually reconcile themselves to their unfortunate plight under the overriding power of the influential sections in the village community. A sample survey of the record of complaints lodged in certain police stations selected at random in different States has shown quite a number of non-cognizable complaints being lodged with the police. Their percentage of the total number of complaints (including cognizable offences) lodged at the police stations range from about 35 per cent to 60 per cent. A further study made in this regard by Tamil Nadu Police Research Centre has shown that, among the criminal cases taken up by the Magistrates in different districts, 0.5% alone were on the basis of private complaints directly lodged by the aggrieved party while the rest were based on either police reports or other reports filed by Central Government enforcement agencies, municipal authorities, etc. This analysis clearly discloses that a large number of persons who are turned away from the police stations on the ground that their complaints are non-cognizable do not find it possible to go to courts for action on their complaints which therefore remain unredressed. The accused persons get further encouraged by this absence of any kind of action and the entire atmosphere in the village community tends to become increasingly oppressive towards the weaker sections under the firm belief that the authorities cannot and will not take any action against the aggressor on such complaints.

19.16 In this context we would also like to refer to some aspects of the interesting statistics and conclusions resulting from a study made by the Indian Institute of Public Opinion, New Delhi, in September—December, 1978 on "The image of the Police in India". This study involved inter-action with 4,000 respondents coming from different sections of society spread over four States in different regions of the country. Referring to some common malpractices observed in the police, over 70 per cent of the respondents mentioned the characteristics of "showing partiality towards rich or influential people in cases involving them or reported by them" and "discriminatory treatment against the weaker sections of the community". Over 80% of the respondents belonging to Scheduled Castes/Scheduled Tribes referred to this malpractice.

Amendment of Section 155 Cr. P.C.

19.17 Departmental instructions exist in several States that even non-cognizable complaints received from Scheduled Castes should be inquired into by the police by obtaining permission from the competent Magistrate. This procedure, in our view, would not achieve the desired effect, namely that of restoring the

confidence of the victim of the offence and assuring him of protection by an immediate inquiry into the matter and effectively cautioning the accused persons against repetition of such conduct. Inquiry into a non-cognizable complaint with magisterial permission under the existing provisions in law takes on the character of a formal investigation and therefore gets delayed and prolonged without any perceptible effect on the village situation which would otherwise be brought about by a prompt visit to the village by the police officer immediately on receiving a complaint of this kind. Further, any arrangement secured by executive instructions in which the police take some kind of action on non-cognizable complaints received from a particular class of persons while they do not take any such action on similar complaints received from others might in the long run generate a feeling that certain classes of persons can commit certain type of offences with impunity while others committing the same offences would draw prompt police action. We are of the opinion that police response to a non-cognizable complaint should be specified in the law itself in a manner which would facilitate effective response on either of two grounds; namely, (i) to protect a member of the weaker section from exploitation or injustice or (ii) to prevent a possible breach of public peace that might result from absence of effective action on the complaint of a non-cognizable offence which has the potential for generating public reaction with consequent repercussion on public order. For example, a simple assault involving the members of two different communities might lead to a major communal flare up, if it is not promptly inquired into. If correct facts are not promptly exposed by an immediate inquiry on the spot, malicious rumours or exaggerated versions on hearsay might escalate the situation to serious dimensions. We, therefore, recommend that section 155 of the Code of Criminal Procedure be substituted by a revised section with adequate provisions to facilitate police inquiry as under :

- “155. (1) When information is given to an officer incharge of a police station of the commission within the limits of such station of a non-cognizable offence, he shall enter or cause to be entered the substance of the information in a book to be kept by such officer in such form as the State Government may prescribe in this behalf, and, except when action is taken under sub-section (5), refer the informant to the magistrate.
- (2) Subject to the provisions of sub-section (5), no police officer shall investigate a non-cognizable case without the order of a magistrate having power to try such case or commit the case for trial.
- (3) Any police officer receiving such order may exercise the same powers in respect of the investigation (except the power to arrest without warrant) as an officer incharge of a police station may exercise in a cognizable case.

- (4) Where a case relates to two or more offences of which at least one is cognizable, the case shall be deemed to be a cognizable case, notwithstanding that the other offences are non-cognizable.
- (5) If, on receiving such information as mentioned in sub-section (1), the officer incharge of a police station has reasonable grounds to believe that—
- (a) an immediate inquiry into the facts of the alleged offence would be necessary to prevent a possible breach of public peace or disturbance to public order or tranquillity, or
- (b) the victim of the alleged offence belongs to the weaker sections of the people and an inquiry into the alleged offence would be necessary to protect him from social injustice and exploitation.
- the officer shall, after recording the grounds as aforesaid, proceed to inquire into the facts of the case in the manner provided in sub-sections (7) to (11).
- (6) Before proceeding to inquire into the case as provided in sub-section (5) the officer incharge of the police station shall record the information in the manner provided in sub-section (1) of Section 154 in a separate book to be kept by such officer in such form as the State Government may prescribe in this behalf.
- (7) The record mentioned in sub-section (6) shall also include the grounds as mentioned in sub-section (5).
- (8) While conducting an inquiry under sub-section (5) a police officer may exercise the same powers as an officer incharge of a police station may exercise in a cognizable case for the purpose of summoning witnesses and securing documents or other material evidence but shall not have the power of making arrests or conducting searches without obtaining orders from the magistrate having power to try the case or commit the case for trial.
- (9) The record of the inquiry as aforesaid will be kept in a brief form indicating the action taken, witnesses examined, gist of information and evidence collected and the conclusions reached by the officer making the inquiry.
- (10) If, on completion of an inquiry under sub-section (5) the complainant desires that the matter may be closed by warning the accused person against such conduct as disclosed

during the inquiry, and, having regard to the circumstances of the case, the police officer making the inquiry considers it appropriate to do so, he may warn the accused and obtain an appropriate undertaking from him in such form as the State Government may prescribe in this behalf.

- (11) If the accused person refuses to execute the aforesaid undertaking or if the police officer making the inquiry is of the opinion that it would be appropriate in the interests of justice to have the accused person tried in a court on the basis of available evidence, he may accordingly inform the competent judicial magistrate in a form prescribed by the State Government, whereupon the magistrate shall take cognizance of the offence under clause (b) of sub-section (1) of Section 190."

19.18 The above amendment in the Code of Criminal Procedure would, in our opinion, greatly facilitate appropriate police response to non-cognizable complaints in certain situations, having in view the interests of protection to the weaker sections of the people or the preservation of public peace or both. When the position gets precisely spelt out in law as recommended above it would also facilitate scrutiny of the action taken either by the departmental superiors or by the court at different stages of the inquiry.

19.19 We are aware that the proposed changes in law might generate additional work for the police at the police station level and would, therefore, need additional staff capable of handling inquiries and investigational work. We are separately examining the re-structuring of police hierarchy at different levels which would, *inter alia*, secure larger number of personnel to handle investigational work in police stations. If further additional staff are required to handle inquiries into non-cognizable complaints even to the minimum extent suggested above, Government should not hesitate to sanction additional staff, having regard to the public interests involved and the enormous satisfaction it would secure for the weaker sections of the community in particular.

Land allotment

19.20 A sample survey conducted by the Bureau of Police Research and Development in one of the major States affected by the incidence of atrocities on Scheduled Castes/Tribes has shown that land disputes largely contribute to these crimes. A majority of Scheduled Castes who are engaged in agriculture are landless labourers. State Governments frequently embark on schemes for allotment of land to landless poor in the villages, particularly the Scheduled Castes and Scheduled Tribes. Statistics of land allotment and narration of beneficial measures extended to the landless poor often figure in election eve propaganda, but the actual ground position is known to be not all that satisfactory as claimed. A sample survey conducted at our instance in another major State

afflicted with this problem has brought out the following significant facts :—

- (i) Correct and up-to-date recorded data are not available regarding village common land under the control of the Village Panchayat ;
- (ii) worthwhile plots of village common land are under actual possession of influential elements in the village, without regard to their legal right for such occupation ;
- (iii) unproductive and waste land is usually allotted to landless poor ;
- (iv) wherever cultivable or other utilisable land has been allotted and successfully handed over to the landless poor, influential elements in the village either forcibly occupy the land soon after the formalities are over or reap the harvest when it becomes ripe ;
- (v) in areas where the village upper castes command considerable influence, the allotment of land to the landless remains on paper only and actual possession is never delivered to them ;
- (vi) the allottee usually lacks the economic resources to cultivate the land, and, therefore, has to fall back on the goodwill and support of the upper castes who extend to him some help only on his acceptance of his lower position in the village society ;
- (vii) influential persons in the village secure de-facto possession and use of the land for a disproportionately small consideration, exploiting the economic weakness of the allottee; and
- (viii) the landless poor who get forcibly dispossessed from the land allotted to them by the government authorities do not have the confidence or the means to pursue the matter with a complaint to the relevant authorities including the police.

19.21 Village level functionaries of the Revenue administration wield a lot of influence and power in the actual utilisation and disposal of village lands. Villagers dare not depose against them for fear of repercussions within the village which would include malicious tampering of village land records to their disadvantage, social boycott, etc. Allotment of land to the landless poor is ordered in some States under the provisions of the Zamindari Abolition Act whose primary object when it was enacted was to eliminate the intermediary between the government and the small land holder. This Act does not have appropriate provisions to suit the needs of the present situation for securing to the allottee effective possession of the land allotted to him and effectively preventing any subsequent interference with it by the influential sections in the village. In particular, the procedure for eviction of unauthorised occupants of a piece of

land actually allotted and delivered to a landless labourer is not at all effective and takes on the character of interminable civil litigation which the landless poor cannot possibly think of. The sample survey made by the BPR&D mentioned earlier had found in one State that out of 26,129 landless persons (including 9,490 Harijans) who had been issued possession slips, 950 persons alone had been able to secure physical possession of the land allotted to them.

19.22 Having regard to the situation disclosed by the studies referred to above, we recommend the following remedial measures :—

- (i) There is clear need for a separate comprehensive legislation spelling out the procedure for the allotment of land (house site as well as agricultural land) to landless poor, particularly Scheduled Castes and Scheduled Tribes. This legislation should also indicate a rational order of priority for allotment, keeping in view the needs of the intended social reform. It should also spell out an effective procedure for eviction of unauthorised occupants after the allotment has been duly made under the Act. This is most important. The State itself should assume responsibility to initiate eviction proceedings on the basis of information or intelligence that may be available to it, instead of leaving it to the aggrieved allottee to make a complaint as such.
- (ii) Section 441 IPC relating to criminal trespass may be amended on the lines adopted in Uttar Pradesh. This section, in its application to Uttar Pradesh as substituted by the U.P. Criminal Law Amendment Act, 1961, runs as follows :—

“441. *Criminal trespass*.—Whoever enters into or upon property in possession of another with intent to commit an offence or to intimidate, insult or annoy any person in possession of such property, or, having lawfully entered into or upon such property, unlawfully remains there with intent thereby to intimidate, insult or annoy any such person, or with intent to commit an offence,

or, having entered into or upon such property, whether before or after the coming into force of the Criminal Laws (U.P. Amendment) Act, 1961, with the intention of taking unauthorised possession or making unauthorised use of such property fails to withdraw from such property, or its possession or use when called upon to do so by that another person by notice in writing, duly served upon him, by the date specified in the notice, is said to commit ‘criminal trespass’.”

Such an amendment would definitely facilitate effective police action in suitable cases.

- (iii) Police officers from the local police station should also be associated with the act of formally handing over vacant possession of land to the landless as and when it is done by the Revenue or other authorities directly concerned with it. A brief record should be made in the police station records also about the fact of such handing over and the identity of the parties concerned.
- (iv) It should then be deemed a part of police duties to collect intelligence about violations of such allotment orders and make a report thereof to the Revenue authorities concerned for immediate corrective action under the law. Police should also simultaneously take action for investigating the connected offence of criminal trespass. While police responsibility will be confined to the investigation and prosecution of the offender, his actual eviction from the land will be done by the Revenue or other authorities concerned under the provisions of the existing law or the separate law as proposed earlier. The District Civil Rights Cell mentioned in para 19.14 can effectively check the facts of the alleged unauthorised occupation and assist in the proceedings of the competent authority for restoring possession to the lawful allottee.
- (v) While framing a separate legislation to govern the allotment of land to the landless poor, State Governments might keep in view some of the provisions of Public Premises (Eviction of Unauthorised Occupants) Act, 1971, which appear to be very effective for purposes of eviction of unauthorised occupants.

Police role in the enforcement of laws meant for the benefit of weaker sections

19.23 In their efforts to secure the economic and social uplift of the weaker sections of society the Central and State Governments have enacted a series of legislative measures for such purposes like abolition of bonded labour, liquidation of rural indebtedness, abolition of child labour, assurance of minimum wages, prevention of malpractices in the employment of contract labour, etc. Central enactments like the Bonded Labour System (Abolition) Act of 1976, Minimum Wages Act of 1948, Children (Pledging Labour) Act of 1933, Employment of Children Act of 1938 and some State enactments like the Assam Moneylenders Act of 1934, Bombay Agricultural Debtors Relief Act of 1947, Tamil Nadu Debt Relief Act of 1976, Rajasthan Scheduled Debtors (Liquidation of Indebtedness) Act of 1976 are some examples of such legislation. Relatively few offences under

these Acts are specified as cognisable and therefore the direct role and responsibility of the police in the enforcement of these laws is very limited. Even in this limited sphere we find that the knowledge of the police personnel at the investigating level in police stations is very meagre and there is insufficient perception of the scope of police action in this regard. For example, Rajasthan has reported that there has been no prosecution so far for any offence under the Rajasthan Scheduled Debtors (Liquidation of Indebtedness) Act of 1976 which enumerates cognisable offences. According to information available to us, prosecutions under the Bonded Labour System (Abolition) Act of 1976 have been nil in Assam, Gujarat, Haryana, Himachal Pradesh, Maharashtra, Manipur, Meghalaya, Nagaland and Punjab, while Karnataka, Madhya Pradesh, Orissa, Rajasthan and Uttar Pradesh have registered 95 cases in 1977 and 41 cases in 1978, resulting the prosecution of 69 cases in 1977 and 30 cases in 1978. We consider it would be useful if an exercise is undertaken in each State with reference to the actual ground position to determine whether some more offences under the existing Acts of this kind in the State should be made cognisable to secure a better enforcement of the Act and whether further safeguards could be built into the Act in regard to such cognisable offences to specify that they shall be investigable only by police officers of and above a particular rank and further that the cognizance of such offences by the Court shall be on a complaint from the aggrieved person only. Since the field situation would differ from State to State we recommend that this exercise be undertaken by the State police research centres wherever they exist or by a special study group that may be formed in the State CID to go into this matter. We further recommend that the Police Headquarters in each State should periodically compile and circulate among the field officers a detailed note indicating the scope and responsibility of the police for the investigation of specified offences under these Acts and the procedure connected therewith.

Legal aid to the poor

19.24 Committees at different levels have been set up in some States to provide legal aid and advise to the poor and handicapped people in different situations. It would be useful if senior police officers are also associated with the deliberations of these committees at the district and State levels so that they might take note of any deficiencies or gaps in police action on complaints from the weaker sections and take appropriate corrective measures promptly.

Compensation to victims of motor vehicle accidents—Tamil Nadu Scheme

19.25 One of the situations resulting in considerable distress and hardship to the weaker sections of the community relates to motor vehicle accidents resulting in death or serious injury to persons on the road. Though the Motor Vehicles Act has provisions for compulsory insurance against third party risks and

there are tribunals functioning in each State to determine the quantum of compensation payable to victims of such accidents, the poor people who are mostly involved in such accidents do not have knowledge or resources to comply with the prescribed formalities and pursue the legal proceedings before these tribunals. There is no specified authority in the Government to take care of their interests in such situations and they are left to fend for themselves. The Committee on Juridicare chaired by Justice P. N. Bhagwati which gave its report to the Government of India in August 1977 has, *inter alia*, referred to this problem. It had found that a majority of the persons killed or injured in motor vehicle accidents belong to the weaker sections of the society. From the statistics studied by this Committee it is seen that the person injured or dependents of the victim filed compensation claims in less than 5 per cent of such cases. It is obvious that ignorance of law coupled with inability to comply with legal formalities has denied a large number of victims of such accidents from getting the pecuniary compensation due to them. Among the many measures recommended by Bhagwati Committee to bring substantial relief to these victims one relates to the responsibility that can be taken on by the police to aid the relevant legal processes. We find that a system has been institutionalised in Tamil Nadu in which the police are required to furnish relevant information and data in a prescribed form to the Motor Vehicles Accidents Claims Tribunal as soon as investigation is taken up in any accident case. Copies of these statements are also simultaneously furnished to the district committee of the State Legal Aid and Advice Board which immediately gets into action for initiating the prescribed processes for getting the compensation amount to the victim. From the statistics furnished by the Tamil Nadu State Legal Aid and Advice Board it is seen that the total amount of compensation awarded during the period from 1st January 1979 to 31st October 1979 in respect of motor accident cases has totalled to Rs. 2,76,250 which is a vast improvement over the position as it obtained before the scheme came into operation. We would commend this scheme for adoption in all States and Union Territories.

Cash relief

19.26 We also noticed another scheme in Tamil Nadu for immediate payment of cash relief to the victim or his family in motor vehicle accident cases on the assessment and recommendations of the investigating police officer. This payment is sanctioned through a simple procedure at the district level itself and therefore the cash relief is promptly secured for the victim, on the initiative of the police. This monetary relief may go upto Rs. 1,000 depending on the circumstances of the case, and is without prejudice to any further payment that may be ordered later as compensation by the Motor Vehicles Accidents Claims Tribunal. A copy of G.O. Ms. No. 1530, Home (Transport VI) dated 3rd July, 1978 of the Government of Tamil Nadu detailing this scheme is furnished in Appendix II. We would commend the adoption of this scheme also in all States and Union territories.

Attendance of witnesses

19.27 It has been brought to our notice that the proceedings before the Claims Tribunals got prolonged because of the tendency of witnesses to evade appearance in response to their summons which, under section 110 C of the Motor Vehicles Act has to conform to the civil procedure code. It has been suggested to us that if these tribunals are conferred with the powers of a criminal court in the matter of enforcing the attendance of witnesses, it would facilitate expeditious disposal of their proceedings. We endorse this suggestion.

Recovery of compensation amount

19.28 We would further suggest that section 110 E of the Motor Vehicles Act be amended to provide for the execution of the compensation award as a decree of the court so that the amount can be recovered through court earlier than by the present procedure of recovery of arrears of land revenue.

State Security Commission

19.29 In para 15.46 of Chapter XV of our Second Report we have recommended the setting up of a State Security Commission to oversee the working of the police in certain aspects. The overall quality of police response to complaints from weaker sections in different situations would no doubt be assessed and taken note of by the State Security Commission in the normal course. In our view it might facilitate a better appreciation of police performance in this regard if it could be so arranged that one of the non-official members of the State Security Commission is from the Scheduled Castes/Scheduled Tribes, and we recommend accordingly.

Composition of personnel in the police set up

19.30 The Commission for Scheduled Castes and Scheduled Tribes has sent us some suggestions in response to our questionnaire. Most of the important points made out by them are already met in the arrangements we have proposed in the earlier paragraphs. Among the others an important suggestion is that at least 50% of the posts of Constables and Head Constables and even Sub-Inspectors and Inspectors as far as possible should be filled up by Scheduled Castes and Scheduled Tribes. We have carefully examined all aspects of this suggestion and we feel that, apart from complying with the prescribed quota for appointments of Scheduled Caste/Scheduled Tribe in Government Departments in general which will also include the police, it would not be desirable to specify any fixed percentage as such for staffing the police stations by Scheduled Caste/Scheduled Tribe, since that would go against the fundamental of police philosophy that the police as a system has to function impartially as an agent of law and cannot have any caste approach to any problem. Beyond observing that the composition of the staff in the police system as a whole should reflect the general mix of communities as exist in society and thereby command the confidence of the different sections of society that the system would

function impartially without any slant in favour of any community as such, we would not advise the fixation of any rigid percentages for staffing the police system on the basis of caste or community.

Motivation and orientation of police personnel

19.31 All the recommendations we have so far made relate to the police as a system. We would like to emphasise now that, whatever be the institutionalised arrangements to secure the desired objective, they will fail in practice unless the personnel operating the system are adequately motivated and oriented towards the objectives in view. Whatever be the action taken under the law, a complainant from the weaker sections of society will lose his confidence in the authorities if the police functionaries at the operating level are seen moving with the rich and influential sections in society with undue friendliness and familiarity in marked contrast to his own position. For example, if poor complainants are made to stand in the station veranda while the rich are made to sit in close proximity to the inquiry officer inside, transport and halting arrangements for the inquiry officer are looked after by the accused party, the inquiry officer converses with the accused party or their advocates in the presence of the complainant in a language which may not be understood by the complainant, etc., the police cannot gain the confidence of the complainant and assure him of an impartial disposal of his matter. It is in this context that the conduct and behaviour of the personnel of the system become very relevant and important. It is this aspect that should receive appropriate emphasis and instructions in the training institutions, not only at the stage of initial training of the recruit but also at every subsequent opportunity during in-service training and briefings at seminars, conferences, etc. The trainees should be made aware of the trends of socio-economic changes in our society and psychologically prepared to appreciate this change and pattern their behaviour accordingly. The quality of briefing and instructions imparted in this regard in all training institutions should be carefully assessed by the senior supervisory officers in the training branch and appropriate corrective measures taken wherever called for.

Rectitude and impartiality in investigation

19.32 We would like to utter a note of caution at the end. While we are anxious that every effort must be made by the police system to respond to the expectations of the weaker sections of the people in an effective and meaningful manner to gain their confidence and protect them from injustice and exploitation, we are equally anxious that in showing this response the police should not in any circumstances give the impression that they are partial to any particular community in the eyes of law and against the requirements of truth. We are impelled to make this observation since it has been brought to our notice that some false cases have also been deliberately got up by the rich and influential sections to seek revenge against their enemies in their own class by inducing some members of the Scheduled Castes under their influence to file complaints against the other group and compel the

police in the existing framework to take vigorous action on such complaints. In the present set up the police will be disinclined to reject a case as false if it comes up on a complaint from the Scheduled Caste and is directed against the upper caste. An average police officer, on completing his investigation of any such case, would prefer to leave it to the court to pronounce an opinion about the falsehood of the case rather than to do it himself, even though he may be convinced by

abundant evidence about the falsehood. We would, therefore, like to emphasise that the responsibility of the police to serve the cause of truth as well as justice should not in any way be diluted by their sympathy to the general situation of the weaker sections of the people. The supervisory ranks in the police have a special responsibility to ensure the highest standards of rectitude and impartiality in all investigations undertaken by the police.

CHAPTER XX

VILLAGE POLICE

Introduction

20.1 The Indian Police system as has evolved from pre-Moghul days has tended to concentrate on policing the geographical proximity of seats of power. In the ancient days of kingship maintenance of order as a State responsibility was practically confined to the environs of the palace, with the country-side being looked upon mainly as a hinterland to serve as a source of manpower and revenue for the State. The same pattern continued during the Moghul period when organised policing was confined to areas of residence of the emperor and his chieftains, with the rest of the country-side being held in a state of orderliness by the compulsions of village custom and tradition, supported by the force of opinion of the village community as such, operating through its layers of castes and other groups. The pattern of policing in the rural areas did not change substantially even after the advent of the British Raj. Though they devised a district based structure for general administration with emphasis on collection of revenue, development of the police system was mostly confined to headquarter towns and other urban centres of activity. Village policing as such was mainly looked after by a village based functionary called the village patel (Headman) assisted by a village chowkidar. The spread of the regular police in the rural areas was comparatively thin and the initiative for drawing police attention to any matter of importance in the villages rested mostly with the village based patel (Headman) and the chowkidar. The 1902 Police Commission had examined this system and recommended its continuance more or less in the same form. They had further emphasised the need for the village patel (Headman) and the village chowkidar to bear the primary responsibility for preventing crime in the village and function more as servants of the village community rather than as subordinates of the regular police at the thana level. The following extract from the Commission's report clearly indicates their perception of the village police system :—

“The Commission consider it to be of vital importance to emphasise the responsibility of the village headman, and to hold the village police officer, by whatever name he may be locally known, responsible rather as the subordinate of the village headman and his servant for the performance of police functions. The village headman for police purposes ought, as far as possible, to be the man recognised as headman in respect of the revenue and general administration of the village ; where that is impossible, he ought to be a man of position and influence in the village ; and the District Officer ought to

maintain and strengthen his position and influence. It is necessary to repose a large discretion in him and firmly acknowledge his respectability and authority in the village. The village police officer ought to be a village servant, holding his own place in the life of the village, the subordinate of the village headman, who must be regarded as primarily responsible for crime in the village. The intimate connection and association of both these men with the people must be maintained. Both should discharge their duties as representing the village community, and as responsible to the head of the district. To place the village police officer under the thumb of the station-house officer would be to subvert the system in its essential principles, to get out of touch with the people in their customs, usages and interests, and often to place the dregs of the people over the respectable classes. The village watchman would become the menial servant of the police and probably become unscrupulous in his methods. He would work apart from, and often against, the village head. His intimate knowledge of village affairs would be lost and he would become a very inferior police officer. Both the village headman and the village police officer must be regarded as cooperating with, not subordinate to, the regular police.”

(Para 44)

Post Independence situation

20.2 The position has changed considerably after the country attained independence in 1947. With tremendous increase in welfare oriented activities of the government, several field agencies connected with developmental work started operating within the supervisory fold of the revenue department, and the services of the village patel (Headman) and the village chowkidar were increasingly drawn by these agencies to the practically total exclusion of their policing responsibility as obtained earlier. The village chowkidar in particular came to be looked upon as an omnibus servant in the village at the beck and call of all the government departmental officials visiting the village in the course of their work. Further, with the growth of Panchayati Raj institutions the prestige and power of the village patel (Headman) came down considerably which meant the loss of a prestigious backing for the village chowkidar in his interaction with the village community. Attempts were made and experiments were tried in some States to place the chowkidar either wholly or partially under the Panchayat administration itself

but even this arrangement did not restore to him any position of effective authority within the village because of a number of other deficiencies in his general make up which went uncorrected.

Deficiencies in the present system

20.3 We got sample studies made of the present functioning of the village chowkidar in eight States in different regions of the country and noticed the following deficiencies which seriously affect his working :—

- (i) There are no minimum educational qualifications prescribed for his appointment. In many places he is found to be totally illiterate.
- (ii) There are no prescribed qualifications regarding age. In several places the chowkidars were seen to be very old and physically unfit for any active outdoor work.
- (iii) They have no perception of their responsibility for either collecting information or reporting the available information to the police regarding crimes and criminals. They merely function as carriers of specific messages as and when they emanate from the village patel (Headman) or other governmental functionaries in the village.
- (iv) Their pay is very low and even that is not paid to them regularly. In some States the drawal and disbursement of their pay is on contingent bills only which are drawn once in three or four months.
- (v) Supervisory control over them by the police authorities is generally nebulous with the appointing authority and disciplinary authority being specified in different terms in different States involving the revenue functionaries also.
- (vi) They have tended to become menial servants with little or no capacity for any work on their own initiative. Consequently their capacity for effectively aiding police work in the village has become almost nil.
- (vii) In some States their role as menial servants is very preponderant. In one State it was observed that the local police have a system of getting the village chowkidars to attend the police station by turn every day to be available for all odd jobs of a menial nature.

20.4 Though the village chowkidar has become practically useless as far as regular police work is concerned, a total abolition of this system without an alternate scheme, equally simple and inexpensive, for aiding police work in the villages would create difficulties for the regular police who now have in the village chowkidar at least one contact point, however, inefficient it may be, to attempt collection of information in any specific situation. Since collection of information

is a fundamental requisite of all field work in the police, we appreciate that the police will be greatly handicapped if they do not have at the village level at least one functionary who will have his ears to the ground and be in a position to help them with useful information whenever needed.

Experiments in some States

Orissa

20.5 We have examined in this context some revised arrangements implemented in certain States in the recent years. In Orissa the hereditary officers of the traditional village police were abolished in 1963-64 and replaced by a system of having beat constables to visit villages more frequently and maintain liaison with the police. Financial constraints limited the number of constables sanctioned for this scheme and, therefore, the area to be covered by each constable turned out to be much too large for him to serve the intended purpose effectively. 1,500 constables were appointed to cover 50,000 villages which were earlier serviced by 25,000 chowkidars! The new system was given up as ineffective within two years and another system of appointing Gram Rakhis was introduced. About 11,000 Gram Rakhis were appointed and made to discharge the same functions as were earlier being discharged by the village chowkidar. Because the Gram Rakhi is better educated and better paid than the old chowkidar, the Gram Rakhi system is said to be functioning comparatively better but their number is small and they continue to function under the administrative fold of the Revenue Department.

Karnataka

20.6 In Karnataka a system of village defence parties headed by village dalapatis was statutorily introduced by the Karnataka Village Defence Parties Act of 1964. Under this Act the village defence parties are constituted by the Superintendents of Police in villages or groups of villages as considered necessary with the total strength of the party fixed around 10% of the population of its area subject to a ceiling of 48 members. A person to be appointed as a member of the village defence party should have the following qualifications :

- (i) He should be of age between 20 years and 50 years and should be a resident in the village.
- (ii) He should have passed the 4th standard examination in any language.
- (iii) He should undergo such medical examination as may be prescribed by the Superintendent of Police and found physically fit.
- (iv) He should not be a member of or otherwise associated with any political party or any organisation which takes part in politics or engaged in political activity of any kind.

20.7 The ordinary functions and duties of the village defence party members consist of—

- (a) guarding the village ;
- (b) patrolling for the purpose of prevention of crime ;
- (c) protection of persons and property in the village ;
- (d) assisting, when necessary, the regular police in maintaining public order and peace ; and
- (e) performing such other duties as may be assigned to them from time to time by the State Government or the Superintendent of Police.

20.8 Each village defence party is headed by a dalapati. The dalapati and every member of his village defence party are required under the aforesaid Act to communicate forthwith to the nearest magistrate or the officer-in-charge of the nearest police station any information which he may possess regarding :

- (a) the permanent or temporary residence of any notorious receiver or vendor of stolen property in any village in their jurisdiction ;
- (b) the resort to any place within, or the passage through, such village of any person whom he knows, or reasonably suspects, to be thug, robber and escaped convict or a proclaimed offender ; and
- (c) the commission of, or intention to commit in or near such village any offence, punishable under sections 143, 144, 145, 147, 148, 231, 232, 233, 234, 235, 236, 237, 238, 302, 304, 379, 380, 381, 382, 392, 393, 394, 395, 396, 397, 398, 399, 402, 435, 436, 449, 450, 457, 458, 459, 460, 489A, 489B, 489C and 489D of the Indian Penal Code.

20.9 In regard to unnatural deaths in the village the dalapati is required to pass on information promptly to the officer-in-charge of the nearest police station and—

- (i) arrange for guarding the corpse and its surroundings ;
- (ii) assist the magistrate or the police officer as the case may be, in any inquest, inquiry or investigation which may be held in that behalf ; and
- (iii) when called upon by the police officer, aid him by providing a conveyance for taking the corpse to a hospital for post-mortem examination or arrange for the disposal of unclaimed dead bodies.

20.10 In addition to the duties applicable to all members of the village defence party, the dalapati is in particular required to—

- (i) act under the orders of the officer in charge of the police station and police officers superior to him ;
- (ii) furnish any reports or information called for by such police officers ;
- (iii) keep the officer in charge of the police station constantly informed as to the state of crime and all matters connected with the VDP ;
- (iv) communicate to the officer in charge of the police station any information which he may receive of gangs of robbers, or suspicious persons who have entered his own or any other village, and to co-operate in all matters and ways for the general security of the village ;
- (v) report to the officer in charge of the police station the arrival in his village of suspicious strangers and all information which he may be able to collect regarding such persons ; and
- (vi) in the likelihood of any breach of peace taking place, give immediate intimation to the nearest police station with a view to steps being taken to prevent its occurrence.

20.11 The administrative and disciplinary control over the village defence parties including their dalapatis remains with the Superintendents of Police and the higher police officers.

20.12 Though the Karnataka Village Defence Parties Act was enacted in 1964, the present shape of that system with elaborate provisions detailing the powers, duties and responsibilities of the members of the village defence parties and their dalapatis as described above came into operation in 1975 when the rules were amended for that purpose. Simultaneously the further appointments to the posts of village patels under the old scheme were stopped and their police duties and functions were taken over by the dalapatis. Out of 29,850 villages in the State, 16,254 villages have so far been covered by the new scheme but a sample survey has shown that the performance of the village defence parties has not been uniformly upto the desired level. In some districts where the local officers have shown interest and initiative the village defence parties have been quite active but in several other places the village public do not have a proper perception of the scheme and the scope for its utility to the community. Most of them are inclined to view it as an adjunct of the regular police, made up of full time paid and uniformed staff. The aspect of voluntary participation in village self-defence that is implied in this scheme has not been duly appreciated. Further, it was also noticed that the appointment of dalapatis in certain areas had assumed a political colour. Executive instructions were issued requiring prior consultation with the Government before the Superintendent of Police could

appoint a dalapati in exercise of his own powers under the Act. This arrangement resulted in the withholding of proposed appointments for long periods and the scheme did not get going effectively in several districts on this account. We understand that the executive instructions regarding Government's prior approval have recently been withdrawn. It is too early to assess how far the dalapati and the members of the village defence parties will remain politically neutral in the estimate of the general village community and how far they will be able to carry the overall confidence of the entire community in performing their allotted tasks. As the scheme stands on paper it has the potential for developing into a good arrangement for securing the village community's participation in crime prevention.

Gujarat

20.13 Gujarat has a scheme of Gram Rakshak Dals in which certain villagers conforming to the prescribed qualifications of age, literacy and physical fitness are appointed as members of the Gram Rakshak Dal under the provisions of Section 63(b) of Bombay Police Act, 1951. They perform duties relevant to crime prevention in the village. A Gram Rakshak Dal has on an average about 20 members. The working of the Dal is supervised by Upnaiks and Naiks appointed from the village community. Civilians are also appointed at the taluk and district levels and designated as Taluk Rakshak Dal Officer and District Rakshak Dal Officer respectively. The entire structure of Gram Rakshak Dal in a district comes under the administrative and disciplinary control of the Superintendent of Police assisted by a whole time police officer of the rank of Inspector of Police who is required to coordinate and activate all the Gram Rakshak Dals in the district. An officer of the rank of Superintendent of Police assists the Inspector General of Police at the State level in overseeing the work of Gram Rakshak Dals throughout the State. A sample survey has shown that the scheme has worked fairly well in places where local officers have shown initiative and interest while it has remained dormant in other places. The Home Guards organisation of the State, which has its own command structure outside the police department, covers villages with more than 5,000 population. Gram Rakshak Dals are not organised in these villages. Since Gram Rakshak Dals come within the fold of the police administration, police officers are inclined to associate Gram Rakshak Dals with their work, in preference to Rural Home Guards.

West Bengal

20.14 West Bengal has its scheme of Village Resistance Groups which was started as an experimental measure in some villages in 1950. In the early years of their formation these groups were effective in combating the menace of dacoits and other violent gangs of criminals, but they appear to have become dormant now. The traditional village chowkidar functions under the Panchayat administration and is mostly utilised by them for duties connected with Panchayat work. His contribution to policing tasks is almost nil. We understand that there are proposals under consi-

deration for associating the Resistance Groups also with Panchayats. While these revised arrangements might be viewed as a progressive measure for providing the Panchayat administration with an executive arm for its own work, the resultant loss of facilities for the police to get the village community involved in crime prevention work through the agency of the chowkidar or the Resistance Groups remains as a loss.

Rural Scene

20.15 Before proceeding to evolve a village policing system suitable for the needs of the developing countryside, we would like to draw attention to some statistical dimensions of the present rural scene. Out of a total area of about 33 lakh sq. kms. in the country, about 44 thousand sq. kms. alone fall under the category of urban area, leaving the balance of over 32 lakh sq. kms. in the rural side. The rural population estimated at 50.7 crores is spread over about 5,87,000 villages as compared to about 14 crores of urban population living in about 3,100 towns. A comparative study of the spread of police personnel in the urban and rural areas separately in a few typical States in different regions of the country shows an enormous variation ranging from a ratio of one policeman per 675 of urban population to one policeman per 5,403 of rural population. Areawise the ratio ranges from one police station for an area of 7.9 sq. kms. in urban area to one police station for 1,069.7 sq. kms. in rural area. The Statewise break-up may be seen in the statement in Appendix III. It is obvious that the spread of the police in the rural areas is very thin. In fact it may be said that it is disproportionately thin in the context of the progressively increasing attention that the rural areas are being given in the scheme of overall development of the country. In the context of current social and economic changes the controlling and corrective influence of the family and the community to contain the deviant behaviour of their constituent members is now weak and will get further eroded in the future. The growing awareness of the people in the countryside of the scope for their development and their legitimate share of the output of the country's economy is bound to increase tensions and conflicts in the rural areas. The rising aspirations and expectations of the weaker sections of the community, particularly in the rural areas, are also likely to generate situations of confrontation and conflict. Political battles will be more intensely fought in the rural set up, with the rural electorate progressively realising the importance and strength of its numbers. It is clear that the task of policing the rural areas will have to be given much more attention than now and the police system will have to prepare itself to meet the requirements of the fastly changing rural situation. We are, therefore, of the view that the first essential of police reform on the rural side will be to increase the spread of the regular police in the rural areas and reduce the gap in the density of police presence in the urban area and the rural area as compared to each other. We are examining the norms for locating police stations and their staffing pattern with reference to the area to be covered, population to be served and the tasks to be performed, and our recommendations in that regard will be made separately.

Need for village level assistance in performance of police tasks

20.16 However, facilities for quick transmission of information, mobility, awareness of the mode of working of the police and access to supervisory levels which are available to the urban public do not, and cannot possibly, exist in the same measure in the rural areas. In their absence the regular police will require considerable assistance in rural areas to get a good grip over a prevailing situation and deal with it satisfactorily. Irrespective of the density of police presence in the rural area, the regular police will require some special arrangement at the village level to secure information relevant to police tasks and also bring about a measure of involvement of the village community in the performance of these tasks. The village chowkidari system as exists now in several States was originally rendering some assistance to the regular police in this regard, but owing to several deficiencies in the working of that system as detailed earlier, it has now ceased to be useful. In the new schemes that have been introduced in Karnataka, Gujarat and West Bengal, the emphasis has shifted to the functioning of a group as distinct from the functioning of an individual at the village level. While the groups may be successful in certain specific situations, the important task of serving as a source of information and a point of contact to remain in touch with the ground situation in the village has necessarily to be performed by an individual, rooted to the village with his ears to the ground. We, therefore, feel that the village chowkidari system should not be given up altogether but should be made to function effectively by eliminating the existing deficiencies and, what is more important, linking it effectively with the functioning of a group also at the village level. While the services of an individual functionary like the chowkidar would be required on a continuing basis to keep a general vigil in the village from the police angle, the services of a group as such may be required only at intervals in specified situations. For example, arranging crime prevention and relief work in a cyclone or flood affected area, organising preventive measures against movements of dacoit gangs that might be suspected at any particular time, arranging preventive patrols against sabotage of communication lines or other vital installations that might lie in the rural area when there is a threat of such sabotage, etc., are tasks for the performance of which a village level defence group would be more effective than a lone village chowkidar.

Self policing by the community

20.17 We would also like to emphasise that the arrangement of having a village chowkidar and a village level defence party should be viewed as a nucleus around which the concept of 'self-policing' by the community should be built and developed further. In this view of the matter, it is very important to avoid in this arrangement any feature which would make it appear that the village chowkidar or the village defence group is a mere adjunct of the regular police. They should on the other hand be made to function as volunteer agencies, aided and supported by the governmental agencies. This aspect of the matter has

to be constantly kept in view while devising details of the new set up.

20.18 We also notice that as far as the institution of village chowkidar is concerned many State Police Commissions have more or less recommended its continuance with better qualifications for the appointment of chowkidars and improved facilities for their working. Most of the State Study Groups which were set up in connection with our studies have also adopted a more or less similar view.

Chowkidari system to be retained, with additions and modifications

20.19 Having regard to the overall requirements of policing tasks in rural areas and the need for assistance from a whole time village based individual as well as specially constituted groups of individuals who may be mobilised on specified occasions, we recommend that the existing chowkidari system may be retained with the following provisions built into the system :—

- (i) Minimum age limit of 20 years for appointment and maximum age limit of 60 years for remaining in service may be adopted.
- (ii) Ability to read and write the regional language should be insisted upon.
- (iii) He should be a resident of the village. Preference should be given to a person having some avocation in the village which would give him the means of reasonable livelihood without total dependence on the remuneration he might get from Government.
- (iv) He may be assigned some village common land for cultivation and enjoyment of its produce, subject to his continued functioning as chowkidar satisfactorily.
- (v) He should be under the administrative control of the Police Department and should be paid through them on a regular monthly basis.
- (vi) His pay should be fixed at a reasonable level which would appear attractive by the standards of village economy. We notice that a 'Rural Police Committee' constituted by the Government of Bihar which went into this question and gave its report in April, 1977 has recommended a scale of Rs. 75—125 for the chowkidars in that State.
- (vii) He should not be involved in the performance of tasks concerning other Government departments. If the other departments require the services of a similar village level functionary for their purposes, they should be separately appointed and administered by them.

(viii) His duties will include—

- (a) general maintenance of vigil in the village from the point of view of crime prevention; and
 - (b) being alert and sensitive to any intelligence regarding village affairs which are likely to lead to a law and order situation and pass on such intelligence promptly to the regular police.
- (ix) He should also have powers to arrest and detain persons who may be either caught red handed while committing certain specified offences in the village or may be found in possession of property in circumstances which create the suspicion of the commission of any of the specified offences. The chowkidar will hand over to the regular police without delay any person so arrested along with the property seized from him, if any. The offences in respect of which this power of arrest may be conferred may be specified as those coming under sections 267, 277, 295, 295A, 296, 302, 304, 307, 308, 324, 326, 332, 333, 379, 380, 382, 392, 393, 395, 396, 399, 431, 432, 435, 436, 454 and 456 of the Indian Penal Code.

Interaction between police and chowkidar

20.20 In the day-to-day working of the chowkidari system, the police station staff should not look upon the chowkidar as a subordinate menial to do their bidding. He should be encouraged and briefed from time to time with adequate information and advice from officers of the level of Sub-Inspector and above to discharge his crime prevention duties effectively. The existing practice noticed in some States of making the village chowkidars attend weekly parades in police stations as a matter of routine does not appear desirable from this point of view, as it lends itself to the misuse of chowkidars as menials. This practice should be given up.

Village defence parties

20.21 Besides the village chowkidar there should be village defence parties organised in such a manner that they can be got together whenever an occasion needs their services for collective action to deal with any specific situation in the village. They may be organised for one village or a group of villages as may be found operationally convenient. One of the members of the village defence party should be designated as the dalapati who will function as their leader. The village chowkidar shall, ex-officio, be a member of the village defence party. We recommend that the organisation and set-up of the village defence party and the dalapati including the procedure for their appointment and administrative control and their duties and responsibilities may be broadly on the lines of the Karnataka pattern as detailed in paragraphs

6 to 11 above, with the following provisions built into the scheme :—

- (i) The normal duties of the chowkidar in his capacity as chowkidar as distinct from a member of the village defence party shall also be guided and supervised by the dalapati.
- (ii) The chowkidar's services shall also be available to the dalapati in the discharge of his own duties.
- (iii) The services of the chowkidar and also the members of the village defence party may be utilised for the service of summons and securing the presence of witnesses for the proceedings before Gram Nyayalayas (village courts) whose set-up we have recommended in Chapter XVI of our Second Report.
- (iv) The statutory powers of arrest and seizure of property recommended for the chowkidar shall also be exercisable by the dalapati.
- (v) The dalapati, the chowkidar and other members of the village defence party shall be deemed to be public servants for the purposes of the Indian Penal Code. They shall all be provided with badges of office along with identification cards containing their photographs, for facility of identification.
- (vi) While the chowkidar will be a kind of whole time functionary with monthly remuneration, members of the village defence parties including the dalapati will function on a volunteer basis. They shall, however, be reimbursed their out-of-pocket expenses, if any, incurred in specific situations. This payment should be through a simple procedure at the police station level itself where adequate funds must be provided. They should also be paid some appropriate daily allowance when called upon to perform any duty outside their resident village.

20.22 Any good work done by the village defence parties should be promptly recognised by adequate rewards or other means which will reflect public appreciation of their work.

20.23 Members of village defence parties and the dalapatis should be adequately trained and briefed periodically regarding their functions, the prevailing state of crime and other police problems. This exercise of briefing should be supervised carefully by senior police officers of the rank of Deputy Superintendent of Police from time to time.

Village police and Panchayat administration

20.24 While the administrative control over the village defence parties and dalapatis will remain with the police, it would be desirable to associate a functionary at the Panchayat Union or Block level

in the Panchayat administration in exercising supervision over the work of dalapatis. The Secretary of the Panchayat Union or an officer comparable in status to the Block Development Officer who may be associated with the Panchayat administration at that level should be empowered to supervise the working of all dalapatis and village defence parties in his jurisdiction and keep the Sub-Divisional Police Officer informed of deficiencies, if any. Close liaison must be maintained between the Sub-Divisional Police Officer and the Block level Panchayat functionary to ensure the functioning of the village defence parties and the dalapatis in a manner which will effectively serve the cause of the common good for the village community. While on one hand a rigid departmentally constituted structure might make the village police set-up tend to lose touch with the village community, on the other hand a total involvement of the Panchayat administration in managing the village police set-up might politicise the system to an extent which may prejudice its functioning impartially on the side of law. We have, therefore, to devise a *via media* which would ensure a certain degree of participation by the Panchayat administration in running the village police set-up without unduly exposing it to political pulls and pressures. In proposing a system of administrative control and supervision within the police from the level of Deputy Superintendent of Police upwards and also latterly associating the Panchayat Union functionary in overseeing the work of village defence parties and dalapatis, we hope the requirements of the situation would be met in adequate measure.

Interaction between regular police and village police

20.25 The dalapati, the village defence party and the chowkidar, who together constitute the village police set-up as envisaged above would need adequate facilities and incentives for the proper performance of their tasks. They should all be made to feel proud and satisfied that they are doing a worthwhile job in the common cause of the village community. In their day-to-day interaction with the police these functionaries in the village police set-up should not be made to feel that they are totally subordinate to the police staff at the police station level. The accent

should be on cooperation and assistance to the police station staff and not on mere obedience to their commands. Interaction at the police station level should not be prejudiced by notions of hierarchical superiority. A proper atmosphere for the effective functioning of the proposed village police set-up can be secured only if the supervisory ranks in the police realise the importance of this aspect of the matter and accordingly brief and guide their own subordinates from time to time.

Facilities for village police—telephone and cycle

20.26 We consider it would be a very helpful arrangement for prompt exchange of information relevant to their tasks if a residential telephone is provided for the dalapati in each village defence party wherever technically feasible. In fact this telephone can function in the manner of a Public Call Office which would also facilitate its use by the other members of the village community in an emergency. Such a facility would greatly enhance the status of the dalapati and his utility to the village community.

20.27 Government may consider the grant of an advance to help purchase of cycles by the members of the village defence parties including the chowkidar. The grant of a small allowance to the chowkidar for the maintenance of his cycle may also be considered.

Comprehensive legislation

20.28 The scheme of village policing as detailed above envisages a comprehensive set up including the village chowkidar, village defence parties and the dalapati with appropriate administrative and supervisory control measures to secure the ultimate objective of the system, namely, effective involvement of the village community in self-defence, besides cooperating with the regular police in the performance of police tasks. Village chowkidars are at present functioning in some States under a separate Act enacted a long time ago. Village defence parties have been set up in a few States under some recent legislation. We recommend the legislation of a separate comprehensive Act by the State Governments to set up a village police system including both as proposed.

CHAPTER XXI

SPECIAL LAW FOR DEALING WITH SERIOUS AND WIDESPREAD BREACHES OF PUBLIC PEACE OR DISTURBANCE OF PUBLIC ORDER

Crime scene

21.1 Increasing violence is seen as the most disturbing feature of the contemporary law and order situation in the country. Newspapers frequently report details of violent incidents involving large groups of agitators who clash with the police while articulating some issue of discontent and frustration. Police action to restore order in such situations frequently involves the use of force, including fire arms on some occasions, which in turn draws adverse public reaction and escalates tension and hostility between the public and the law enforcement agency. Rising prices, growing unemployment, increasing poverty among sizeable sections of the people, increasing migration to cities from rural areas with consequent growth of city slums and severe squeeze and pressure on living accommodation, inadequate and irregular transport services, frequent disruption in the availability of essential commodities, etc., are among the various factors that induce violent behaviour among the affected people. The stress and strain of daily life which get sharpened by these economic factors also induce violent outburst by groups of people when they get emotionally involved in a communal situation. Communal riots arising from Hindu-Muslim differences or caste Hindu-Harijan friction continue to occur in different parts of the country. Any observer of the present crime scene in the country would immediately pause and wonder with anxiety and concern whether all these occurrences indicate a definite trend towards a total break-down situation or can be ignored as a temporary passing phenomenon. A close look at some relevant facts would help us to get a perception of the future situation as it seems to be emerging.

21.2 It is well known that a substantial volume of crimes, particularly those occurring in rural areas, is not reported to the police for a variety of reasons, and even among those reported a good number of cases are not registered by the police on account of several factors which we shall be referring to in another chapter. Even allowing for all this deficiency in the figures of crimes as ultimately recorded by the police, it is seen that cognizable crimes investigated by the police have shown a markedly increasing trend over the last 15 years. A statement showing the total cognizable crimes under the Indian Penal Code reported year-wise from 1953 upto 1978 is furnished in Appendix IV. In this period of 25 years crime has increased by 108% as compared to an increase of about 76% in population. Volumes of reported crime per one lakh of population has touched the highest figure of 205.4 in 1978 and the apparent trend is towards a further increase.

Rise in violent crimes

21.3 When the figures of different categories of crime are separately analysed, it is seen that violent crimes like murder, dacoity, robbery, rape, kidnapping and abduction and riot have increased at a much faster rate than non-violent crimes like burglary, theft, criminal breach of trust, cheating, etc., as indicated by the following figures :—

Year	1953	1961	1971	1978
Violent crimes	49,578	55,726	1,24,380	1,48,606
Non-violent crimes	4,03,946	3,74,730	5,33,334	6,35,861

In the period 1953—78 violent crimes have increased by about 200% as compared to 57% in the case of non-violent crimes.

21.4 Incidence of industrial disputes, strikes and lock-outs has shown an increasing trend as indicated in the statement furnished in Appendix V.

21.5 Incidence of unrest among students have also been increasing as may be seen from the statement furnished in Appendix VI. The student community is fast expanding. The number of pupils in classes 9 to 12 rose to 87 lakhs in 1977-78 compared to 28.9 lakhs in 1960-61. Students in the University stage numbered 29.7 lakhs in 1977-78 compared to 8.9 in 1960-61.

Growing unemployment

21.6 Employment opportunities have not kept pace with the spread of education and the growing number of people seeking employment. In 1972 there were 68.96 lakhs of job seekers on the registers of Employment Exchanges in the country among whom 32.74 lakhs were in the category of 'educated unemployed'. The corresponding figures in June 1979 were 137.2 lakhs and 69.4 lakhs respectively, indicating an increase of 100% in 7 years. Prolonged unemployment, particularly among the educated whose aspirations and expectations are higher, would inevitably lead to frustration and anger which in turn would tend to induce deviant behaviour leading to crime. Crimes tend to be violent if discontent, frustration and anger are among the causative factors.

Poverty

21.7 Economic activity in the country has substantially increased with implementation of developmental and welfare measures after independence but the distribution of economic benefits among the

mass of people has been uneven, resulting in 48% of the population in rural areas and 41% in urban areas remaining below poverty line, as estimated in 1977-78. In numerical terms it comes to the staggering figure of 290 millions. The economic future for these sections appears bleak with the persistent inflationary trend in prices. The rate of inflation in 1979-80 is reckoned as 23%.

Population growth

21.8 Our population growth will continue to pose problems for a long time to come. From a population of 36.1 crores in 1951 we reached 54.8 crores in 1971. The estimated figure for 1979 is 64.6 crores and we are likely to reach 96 crores by 2000 A.D. Even if the most effective birth control measures are adopted, their effect in securing an ultimate balance in the total population in different age groups can be realised only after 15 or 20 years have passed. In the meanwhile the population will continue to grow with a significant increase in the proportion of the younger age groups consequent on a substantial reduction in child mortality owing to improved medical and health services. The following figures indicate the trend in this regard :—

Age Group	Percentage of population					
	1951		1961		1971	
	M.	F.	M.	F.	M.	F.
0—14	37.1	37.9	40.9	41.2	41.9	42.2
15—24	18.9	19.1	16.3	17.1	16.5	16.6
25—59	38.5	37.2	37.3	35.9	35.7	35.2
60+	5.5	5.8	5.5	5.8	5.9	6.0

A preponderance of younger people coupled with the depressing economic factors as detailed earlier is most likely to promote increasing violence in crimes.

Urbanisation

21.9 Migration of people from rural areas to urban centres has been progressively increasing as may be seen from the statement in Appendix VII which shows a much faster growth rate of the urban population as compared to the rural population. A larger volume of the population getting under the stresses and strains of urban life is bound to lead to increased crime.

Communal clashes

21.10 We have already pointed out in chapter XIX the increasing trend in the occurrence of atrocities against the weaker sections of the community, particularly in the rural areas. Apart from incidents arising from caste Hindu-Harijan friction, we have been witnessing periodic occurrence of communal riots involving Hindus and Muslims in different parts of the country. Despite repeated emphasis laid on

anticipatory intelligence and timely preventive measures to avoid communal clashes, they have continued to occur at regular intervals resulting in heavy damage to life and property accompanied by acrimony and bitterness all round. We are nowhere near the stage when such communal clashes can be described as things of the past. Every year the Central Government and the State Governments find it necessary to warn the district authorities to be vigilant in this regard. It appears that for quite some time to come the administration will have to be in constant preparedness to deal with the problem of communal violence which has shown no signs of abating.

Group conflicts

21.11 Agitational politics have become a recurrent feature of the public life in our country. Political activity is constantly aimed at winning elections of one kind or another, and elections have come to mean the securing of votes by appealing to groups of voters on some ground or the other, relevant to the formation of such groups. Inter-group conflicts will, therefore, continue to be a feature on the election scene. Group conflicts mostly lead to violence.

Border States

21.12 International politics and the situation on the country's frontier will make the border States sensitive and vulnerable to law and order problems of a serious nature. The present situation in the North-East is a pointer in this regard. The traditional and conventional rituals and procedures of the normal law will not be adequate to meet the developing situation in such sensitive areas.

Extremist activities

21.13 We have also to reckon with the functioning of some extremist groups in the country which are committed to the ideology of violence as a means to subvert the existing system. The extraordinary situation resulting from extremist activities in different parts of the country will also require special provisions in law for the maintenance of public peace and order which are most essential for sustaining a democratic system under constant attack by such violent elements.

Failure of cases in court

21.14 We would at this stage draw attention to an analysis we have seen of the disposal of certain categories of criminal cases in courts from 1971 to 1976 as furnished in the statement in Appendix VIII. Though a substantial percentage of crimes involving violence has been put in courts on conclusion of police investigation, percentage of their conviction in court has been consistently low. Crimes not involving violence have fared slightly better in this regard. Violent crimes are chargesheeted in court mostly on the basis of oral evidence. Witnesses in such cases are usually subjected to considerable pressure and influence from the side of the accused, and their conduct and behaviour while deposing in the court

affect the disposal of the case. In non-violent property crimes like burglary and theft, evidence is mostly based on recovery of identifiable property and, therefore, the disposal in court is less subject to influences and pressures on witnesses.

21.15 We had a sample study made of the ultimate disposal of criminal cases that arose from the serious communal riots of Sholapur in 1967 and Bhiwandi and Jalgaon in 1970. The following table shows the position :—

	Number of cases		
	Sholapur (1967)	Jalgaon (1970)	Bhiwandi (1970)
1. Reported	38	11	162
2. Charge sheeted in court	15	6	35
3. Convicted	5	3	8
4. Discharged or acquitted	10	3	27
5. Referred as undetected	23	5	125
6. Referred as mistake of fact	..	..	2

Most of these cases took more than two years for disposal in court. In fact one case went on for 4½ years before ending in acquittal.

21.16 We also had a sample survey made of the field situation in a dacoity infested area in a major State. It was noticed that out of 320 crimes like murder, dacoity, robbery, rape, kidnapping, etc., which were disposed of in Sessions Courts in this area in the period from 1st January, 1978 to 31st August, 1978, only 29 were convicted while 291 were acquitted. As many as 130 among the total of 320 cases had taken more than three years for disposal from the date the case was registered by the police to the date of disposal in court. Percentage of acquittal increased with the delay in disposal. From the material gathered in this survey we have reasons to believe that the persistent occurrence of dacoities and other crimes of violence in this area coupled with the protracted and ineffective manner in which the criminals are ultimately dealt with through the normal processes of law has induced the local authorities to resort to the physical elimination of desperate and violent criminals by seeking them out from their hideouts and dealing with them in 'encounters', with the tacit approval and acceptance by the villagers concerned. The number of dacoits killed during encounters in the whole of this State were 145 in 1974, 243 in 1975, 512 in 1976, 204 in 1977 and 359 in 1978.

21.17 The ultimate failure of cases in court arising from violent crimes has the psychological effect of generating criminal confidence and feeling among the accused that they can continue to commit such offences and no harm will ultimately come to them.

S/21 HA/79—4

Need for special law

21.18 It is clear from all these considerations that the administration has to be fully geared to handle situations in which violent crimes are most likely to increase, intensity of physical harm and damage done to persons and property will be more, and there will be widespread disturbances to public order and breaches of public peace. Comprehensive measures for effectively dealing with such situations of public unrest and disorder will involve different departments of the administration, but the police as the law enforcement agency will be primarily concerned with the task of preserving public order and enforcing law effectively whenever specific violations of law occur. The present style of police functioning in the event of communal outbursts or other serious breaches of public peace has been more in the nature of a fire fighting operation focussed on the immediate objective of restoring order on the spot. Police operations have not been successful in effective follow-up action through the processes of investigations and court trials to bring home to the law-breakers the penal consequences of their action. Investigations get seriously hampered by the reluctance of witnesses to speak in evidence against the accused persons who, even if arrested by the police, get easily enlarged on bail under the existing law and wield threatening influence on the witnesses. Further, the evidence normally available in such situations does not always establish a direct nexus between the offences and the real instigators to the extent required under the existing law and procedure to attract penal notice. Criminal liability of individuals when they participate in group violence is difficult to establish under the existing law which is essentially designed to deal with acts based on individual knowledge and intention. The consequent ineffectiveness of the existing processes of law is an important cause for the continued prevalence of criminal attitudes and behaviour of the law breakers. The legislative armoury should be specially designed and strengthened to facilitate effective police action in such situations.

Nature of special law

21.19 Article 352 of the Constitution provides for the proclamation of Emergency in an extreme situation in which the security of India or any part of the territory thereof is threatened by war or external aggression or internal disturbance. Prior to the Constitution (42nd Amendment) Act of 1976 any proclamation of Emergency under this article had to cover the whole of India and could not be restricted to any part of the territory. The 42nd Amendment has made it possible for Emergency provisions to be restricted to a part of the country which may be affected in the manner described in the article. In our view of the law and order situation of the country as it has developed now we would need some special provisions in law, which would lie between the provisions in normal law applicable to ordinary crime situation on one side and the stringent provisions of an Emergency on the other. These special provisions should be made available in a comprehensive Central legislation which could be invoked and applied to any specified area as and when necessary. An area may

be deemed to be a disturbed area and proclaimed as such for this purpose by a State Government if it is satisfied that there is extensive disturbance of the public peace and tranquility in that area by reason of—

- (i) differences, or disputes between members of different religious, racial, language or regional groups or castes or communities, or
- (ii) occurrence of acts of sabotage or other crimes involving force or violence, or
- (iii) a reasonable apprehension of the likelihood of occurrence of sabotage or other crimes as aforesaid.

21.20 Some States have special laws to deal with goondas and other anti-social elements in a disturbed situation but they mostly relate to preventive measures by way of externment and preventive detention. Special requirements of law enforcement in regard to investigations and trials are not satisfactorily met in these State enactments.

Requirements of special law

21.21 We now proceed to identify some important requirements of the law enforcement agency at three stages, namely the first stage of preventive action, the second stage of investigation and the third stage of court trial, to deal effectively with a situation of widespread disturbances of public order or breaches of public peace arising from communal clashes, group conflicts or otherwise, in any specific area.

Preventive arrests—Amendment of section 151 Cr.P.C.

21.22 Preventive measures assume special importance in a situation of serious threat to public order. Any amount of anticipatory intelligence work will be of no avail unless the related preventive measures become possible and prove effective. In most situations the police would need to take into preventive custody those persons who are likely to commit or instigate the commission of offences affecting the peace of the locality. Preventive arrests of this kind are now made under section 151 Cr.P.C. but this section does not empower the police to secure magistrate's permission for continued detention of the person beyond 24 hours. Magistrate's orders for remanding an arrested person to custody for longer periods upto 60 days (or even upto 90 days in cases involving serious offences as specified in Cr.P.C.) can be obtained under section 167 Cr. P.C. which can, however, be resorted to only when the police have taken up investigation of a specific offence alleged to have been committed by the accused. In regard to persons taken into preventive custody under section 151 Cr. P.C. the police may not always be able to cite any specific offence already committed because the preventive arrest will mostly be based on intelligence regarding the likelihood of commission of some offences by the accused person. In practice the police manage to secure remand custody of persons arrested under section 151 Cr. P.C. by showing them as involved in

some specific offences or as wanted for intended security proceedings under section 107 Cr. P.C. but the basis for such action is weak in law and the strategy fails against influential accused who move the courts and get the benefit of law as it stands. The residents of the affected locality know very well the identity of the local unruly elements and mischief makers who get active in a disturbed situation. When they see that these elements, though arrested by the police initially as a preventive measure, succeed in coming out of custody after 24 hours and freely move about in a defiant manner, the public lose their confidence in the law enforcement machinery and feel apprehensive and demoralised. The police must have a duly recognised procedure in law for taking into preventive custody the unruly elements in such a situation for at least 15 days, within which time the situation might get contained or diffused. For this purpose we recommend that section 151 Cr. P.C. may be substituted by a new section which will be self-contained and provide for a brief remand to custody for reasons which should stand scrutiny by a magistrate, on the following lines :—

“Section 151 : (1) A police officer knowing of a design to commit any cognizable offence may arrest, without orders from a magistrate and without a warrant, the person so designing, if it appears to such officer that the commission of the offence cannot be otherwise prevented.

Provided that a person arrested under sub-section (1) shall be produced before the officer-in-charge of a police station, if the officer arresting such person, is himself not the officer-in-charge of the police station.

(2) If the officer-in-charge of the police station has reasonable grounds to believe that the detention of a person arrested under sub-section (1) is necessary for a period longer than twenty-four hours from the time of arrest, by reason of that

- (i) the person is likely to continue the design to commit the cognizable offence referred to in sub-section (1) after his release; or
- (ii) conditions continue to exist in which the being at large of such arrested person is likely to result in a breach of the public peace, or the commission of a cognizable offence,

the officer-in-charge of the police station shall produce such arrested person before a magistrate together with a report in writing stating the reasons for the continued detention of such person for a period longer than twenty-four hours.

Provided that in computing the period of twenty-four hours from the time of arrest, the time spent on journey to take the arrested person from the police station to the court of the magistrate, shall be excluded.

(3) A magistrate before whom such arrested person is produced by an officer-in-charge of the police station, after satisfying himself that there are grounds for the continued detention of such person beyond a period of twenty-four hours, may remand such person to such custody as the magistrate may think fit.

Provided that no person shall be detained under this section for a period exceeding 15 days from the date of arrest of such person."

Preventive detention

21.23 Persistent tension in the affected area may sometimes require the preventive measures to include detention of potential mischief-makers and anti-social elements for a longer period than 15 days. Without having to resort to an elaborate preventive detention law which may provide for the detention of persons for much longer periods, even exceeding 3 months, it would greatly help the law enforcement agency if a simplified procedure is authorised in law for detaining a person in preventive custody for a period not exceeding 3 months for valid reasons. Under Article 22 of the Constitution preventive detention for a period not exceeding 3 months can be authorised through a simple procedure without involving Advisory Boards.

21.24 Legal provisions should be available for externment of bad characters and undesirable persons from specified areas for specified periods.

Instigators and riotous mob

21.25 Instigation and abetment take different forms, some crude and some sophisticated, in an emotionally charged atmosphere in an area affected by widespread disorder. An inflammatory speech delivered in a distant place but addressed to a specific group in the effected area might provoke violent action and reaction. After having set in motion an emotional response to a provocative speech, the leading members of an agitating group might either remain in the background or go away to a distant place when the actual agitation starts. The existing definitions in the Indian Penal Code regarding abetment, unlawful assembly and the liability of the abettors and members of an unlawful assembly for the ultimate unlawful acts committed by sections of the assembly, imply geographical proximity and directly intended involvement in the actual commission of the offence to a degree which does not obtain in reality in regard to several accused in situations of this kind. We have, therefore, to evolve in law new definitions for a riotous mob and instigators thereof and also spell out their criminal liability for various acts in different situations that actually occur.

Sabotage of public property

21.26 When widespread disorders and breaches of peace occur, public property becomes the first target of attack by the anti-social elements. Railway property, State transport buses, buildings accommodating public offices, etc., frequently suffer damage

during such disturbances. Public property is picked up for first attack in preference to private property in the belief that there will be no aggrieved individual as such to complain and pursue the matter through processes of law. It is, therefore, necessary to define public property in precise terms in the law itself and make the act of 'sabotage' in respect of such property a specific offence under the law.

21.27 Possession and use of fire-arms and explosives would require to be brought under tighter control and check.

Restrictions on bail release

21.28 Investigation of specific offences that occur in a situation of widespread disorder and breaches of peace will require collection of oral evidence from several eye witnesses. These witnesses will be nervous and afraid to come forth with their evidence until they feel secure and confident that the administration has full control over the situation and will firmly put down the unruly conduct of violent elements in the locality. In this context the arrest of accused persons involved in specific offences becomes important. If it happens that these persons, after being arrested by the police, are able to secure prompt release on bail from courts and move about openly flaunting their influence and power, it will shake the confidence of the witnesses and prejudice the course of investigation. It is, therefore, necessary that the provisions in law regarding bail should be appropriately tightened to avoid bail releases which may be prejudicial to public peace and interests of justice.

Special Courts

21.29 Special Courts must be established for dealing with offences that are committed in a disturbed area. Even now we have some enactments under which Special Courts are constituted but in practice these Special Courts merely amount to whole time courts exclusively dealing with a particular category of offences, with no change in the procedures for trial. In our view a Special Court will be of no great significance unless it has some special procedures also, having regard to the ultimate object in view.

Mens rea—Presumptions in evidence

21.30 In a seriously disturbed situation mischief-makers and anti-social elements tend to act openly in groups rather than as individuals in isolation. Evidence in such cases will, therefore, be relatable to group activity rather than individual misconduct. The normal requirements of *mens rea* which may be applicable in regard to ordinary crimes will create serious difficulties for the prosecution if they are applied in the same measure to the crimes committed by riotous mobs or sections thereof. We should, therefore, have provisions in law raising some presumptions in evidence as it appears against the accused during trial and placing the burden on him to rebut the presumption. Such presumptions are already recognised in several laws relating to economic

offences but they are not available in respect of offences relating to public peace and order. This deficiency has to be made good.

21.31 Minimum sentences have to be prescribed in law for offences that are committed in a disturbed area.

Law Commission's view

21.32 While recommending special provisions in law covering the stage of investigation as also the stage of trial in regard to Economic Offences, the Law Commission, in their Forty-Seventh Report (1972), had expressed their view in the following terms :—

“These offences, affecting as they do the health and wealth of the entire community, require to be put down with a heavy hand at a time when the country has embarked upon a gigantic process of social and economic Planning..... The legislative armoury for fighting socio-economic crimes, therefore, should be furnished with weapons which may not be needed for fighting ordinary crimes.

(Para 3.13)

* * *

Hence, if legislation applicable to such offences, as a matter of policy, departs from legislation applicable to ordinary crimes in respect of the traditional requirements as to *mens rea* and the other substantive matters as well as on points of procedure, the departure would, we think, be justifiable.”

(Para 3.17)

In our perception of the law and order problems of the country, a similar view would be fully justified in regard to special legislative measures for effective law enforcement in an area seriously disturbed by widespread disorder and breaches of public peace. Continued dependence on normal law in conformity with traditional procedures for dealing with the fastly developing situation in the country would, in our opinion, be highly risky and make us slide downhill, rendering it increasingly difficult for the law enforcement machinery to find its feet and assert itself in the cause of public order and national security.

21.33 We have already identified in paragraphs 21.21 to 21.31 the special requirements of law enforcement in a disturbed area as aforesaid. We recommend that section 151 Cr. P.C. may be immediately amended on the lines indicated in para 21.22. For meeting the other requirements we recommend the enactment of a special Central legislation which could be invoked as and when required by any particular situation in any part of the country. We have furnished in

Appendix IX a draft for this proposed legislation under the name ‘Disturbed Areas (Criminal Law Amendment) Act’ for Government’s immediate consideration. Since the Special Courts envisaged under this Act would also take care of the different situations and offences mentioned in the Disturbed Areas (Special Courts) Act, 1976, the repeal of the latter Act has also been proposed in the new Act.

21.34 We are aware that any special law with provisions for firm and severe handling of law and order situation would carry with it the scope for misuse of powers by the enforcement agency to harass innocent people. We have, therefore, included a provision in the proposed law to penalise specifically any *mala fide* exercise of authority by a public servant purporting to act under the law.

Conclusion

21.35 In conclusion it is stated that the proposed special law will provide for—

- (i) notification of any specific area disturbed by widespread disorder and breach of peace as a ‘proclaimed area’ to which certain provisions of the Act will apply;
- (ii) suitable definitions of ‘riotous mob’, ‘instigator’, ‘public property’ and ‘sabotage’ to identify crimes connected with them;
- (iii) control over movements of persons in the proclaimed area;
- (iv) tighter control over possession and use of arms and explosives;
- (v) externment of bad characters from a specified area;
- (vi) preventive detention for a period not exceeding three months;
- (vii) attachment of criminal liability to instigators for unlawful acts committed by riotous mobs on their instigation;
- (viii) Special Courts to deal with offences under the Act as also other specified offences;
- (ix) presumption regarding culpable mental state unless rebutted by the accused;
- (x) presumptions regarding some aspects of evidence arising from documents;
- (xi) tightening the provisions regarding ‘bail’; and
- (xii) fixing time limits for the completion of investigations and commencement of proceedings in court.

CHAPTER XXII

CORRUPTION IN POLICE

Introduction

22.1 Corruption in police, as in any other branch of public administration, is closely linked with the scope for exercise of power to the advantage or disadvantage of someone or the other. It is, however, qualitatively different in police because of the predominance of extortion and harassment as compared to collusive corruption that prevails in several other departments, particularly those connected with collection of taxes or issue of permits and licences. Further, because of the large spread of police personnel and their day to day interaction with the general population in a variety of situations, their malpractices and corruption attract immediate notice and draw mounting criticism from different sections of the public.

Police Commission of 1902-03

22.2 As a law enforcement agency, the police system even from ancient times has always carried with it the scope for *maia fide* exercise of powers and consequent corruption. The Police Commission of 1902-03 found strong evidence of widespread corruption in the police particularly among Station House Officers throughout the country. The following extract from their report gives a revealing picture of the position as seen by them :—

“The forms of this corruption are very numerous. It manifests itself in every stage of the work of the police station. The police officer may levy a fee or receive a present for every duty he performs. The complainant has often to pay a fee for having his complaint recorded. He has to give the investigating officer a present to secure his prompt and earnest attention to the case. More money is extorted as the investigation proceeds. When the officer goes down to the spot to make his investigation, he is a burden not only to the complainant, but to his witnesses, and often to the whole village. People are harassed sometimes by being compelled to hang about the police officer for days, sometimes by having to accompany him from place to place, sometimes by attendance at the police station, sometimes by having him and his satellites quartered on them for days, sometimes by threats of evil consequences to themselves or their friends (especially to the women of the family) if they do not fall in with his view of the case, sometimes by invasion of their houses by low-caste people on the plea of search-

ing for property, sometimes by unnecessarily severe and degrading measures of restraint. From all this deliverance is often to be bought only by payment of fees or presents in cash.”

(Para 25)

Post-Independence developments

22.3 In the period of British rule, corruption was generally confined to lower ranks of practically all Government agencies in the field among whom the revenue and the police were the most influential. It was common knowledge that the Patwari, Kanungo, Naib Tehsildar, Tehsildar, Sub-Inspector of Police and Inspector of Police in most places were living beyond their means through corrupt and oppressive practices which generally alienated them from the people. In a sense it suited the British Government to have a lower level bureaucracy so alienated from the people but completely loyal to the rulers. Corruption in public services touched the high water mark during the period of the Second World War of 1939—45. The enormous spurt in Government expenditure on war efforts including supplies and contracts of large value processed on an emergency basis without the thoroughness of peace time supervision and check created unprecedented opportunities for corruption and acquisition of wealth by doubtful means at all levels including the higher ranks. Police corruption also spread wider and higher. Several Police Commissions appointed in the States after Independence found unmistakable evidence of corruption in the police everywhere. The Kerala Police Reorganisation Committee (1960), the West Bengal Police Commission (1960-61), the Bihar Police Commission (1961), the Punjab Police Commission (1961-62), the Maharashtra Police Commission (1964), the Madhya Pradesh Police Commission (1965-66), the Delhi Police Commission (1967-68), the Assam Police Commission (1969—71), the Uttar Pradesh Police Commission (1970-71), the Tamil Nadu Police Commission (1971) and the Rajasthan Police Reorganisation Committee (1972) have all referred to the continued prevalence of this evil in the police system. What the Police Commission said in 1903 would more or less apply fully even to the present situation. If any thing, the position has worsened with more rampant corruption in Police today with the active connivance of numerous local Dadas and unprincipled men in public life.

22.4 A sub-committee of the Conference of Inspectors General of Police held in 1962 to examine the problem of corruption in police gave their report in 1964,

identifying several factors in police working which gave scope for corrupt practices and recommending a number of administrative and legal measures for plugging the loopholes and securing better supervision over police performance for the avoidance of these malpractices. The detailed recommendations of this Committee were duly forwarded to the State police agencies. The last occasion when this problem was discussed by a professional group was in February 1977, when the State Anti-Corruption Bureau officers met in a Conference specially convened by the Central Bureau of Investigation to tackle the problem of corruption linked with malpractices in government departments that affected the common man and were a source of harassment to him in daily life. The recommendations of this Conference were circulated to the State Governments in letter No. 218/1/77-AVD. II dated 16th February, 1977 of the Department of Personnel and Administrative Reforms.

Present situation

22.5 The study made by the Indian Institute of Public Opinion, New Delhi in September—December 1978, referred to in para 19.16 of this report, has disclosed that among the several factors responsible for sullyng the police image in India, corruption among the policemen was given the highest priority by 74% among the respondents who were spread over four districts in different regions of the country. During our tours in several States we were repeatedly told by different sections of the public about police malpractices which were becoming increasingly oppressive and extortionist in character. If, despite the attention given to this problem by several Commissions over the last several years, the disease has continued to exist in the system with no sign of abatement, it is apparent that all the remedial measures so far thought of and the extent of their actual implementation in the field have not touched some important aspects of the core of this problem.

Scope for malpractices

22.6 The scope for corruption and allied malpractices arises at several stages in the day to day working of the police. A few typical situations are listed below, for illustration :

- (1) Bribe demanded and received for registering a case and proceeding with investigation.
- (2) Bribe connected with arrest or non-arrest of accused and release or non-release on bail.
- (3) Bribe for providing unauthorised facilities for persons in custody.
- (4) Extorting money by threatening persons, particularly the ill-informed and weaker sections of society, with conduct of searches, arrests and prosecution in court on some charge or the other

- (5) Unauthorised interference in civil matters between two parties and securing a disposal favourable to one party by threatening the other party with violence and involvement in a criminal case.
- (6) Fabricating false evidence during investigation of cases and implicating innocent persons or leaving out the guilty persons on *mala fide* considerations.
- (7) Extortion of periodic payments as 'hafta' from shopkeepers, platform vendors, brothel keepers, promoters of gambling dens, etc.
- (8) Obtaining free entertainment and services from hotels, cinema houses, shops, transport services, etc., on threat of prosecution for infringement of a variety of rules and regulations.
- (9) Collusion with hoarders, black marketeers, and smugglers and tipping them off with advance information about any intended raids or searches.
- (10) Extortion of the bribe while verifying character and antecedents in connection with passport applications, government appointments, etc.
- (11) Demand and acceptance of bribes for dropping action against violators of traffic rules and regulations.
- (12) Bribery at the stage of recruitment to police.

Facility for supervisory officers to handle this problem

22.7 Most of these malpractices can be substantially reduced by a system of surprise checks and inspections and effective supervision by honest and well-motivated officers at the different levels of command within the hierarchy itself. It is the quality and effectiveness of this supervision that matters much more than the mere availability of rigid rules and regulations governing the police performance. We discussed this problem with some senior police officers who had functioned as Inspectors General of Police and Directors of the Anti-Corruption Bureau in some States. One point that was forcefully brought out during discussions was that the reward and punishment mechanism of the system has become totally ineffective because of increasing political interference and, therefore, the senior officers, however, determined and committed they might be to the cause of anti-corruption work, find themselves unable to deal with corrupt officers who have political contacts and are able to draw political intervention on their behalf whenever anything is attempted to be done to discipline them. The patent inability of a superior officer to deal with a known corrupt subordinate immediately lowers his prestige in the department and in-

duces other subordinates also to seek and develop political contacts as a protective cover to escape punishment for their malpractices. We have already pointed out in our Second Report the growing evil of political interference in the working of police and have recommended some remedial measures to insulate the police system from such interference. It is by now common knowledge that the present working of the political system in our country with the periodic involvement of the machinery of various political parties in different types of elections necessarily forges links between political parties and sources of money in different sections of society. This nexus between money power and political power inevitably generates unhealthy contacts down the line between different levels of administration on one side and political party functionaries on the other. *Mala fide* exercise of power at different levels in the police is induced by such links. The problem of police corruption cannot, therefore, be satisfactorily tackled unless these links are broken. We earnestly believe and trust that the implementation of the measures suggested in chapter XV of our Second Report would go a large way in promoting an appropriate climate for effectively dealing with the problem of corruption in police.

22.8 We would like to underline the important principle that the basic responsibility for maintaining the honesty of the force and weeding out the corrupt elements should rest on the supervisory levels in the force and they should be enabled to discharge this responsibility effectively. In this context, their capacity to punish the dishonest personnel should not be diluted in any manner, and likewise their capacity to place honest officers in important and sensitive posts should not also be interfered with. The arrangements we have suggested in our Second Report regarding a fixed tenure for the Chief of Police and for insulating the police system from extraneous pulls and pressures would be greatly helpful in securing this facility for the supervisory ranks.

District Superintendents of Police and officers in charge of police stations—their postings

22.9 A lot of corrupt practices in the police are centered round the activities at the police station level under the command of the officer in charge of the police station. It is at this level that the system is most vulnerable to pulls and pressures from extraneous sources in the day to day working of the police. Honesty and integrity in the performance of police tasks are largely determined by the quality of officers at the level of police station. It is common knowledge now that postings of officers at this level are rarely left to the district Superintendent of Police but are regulated by instructions, mostly oral and sometimes written, from the Government. To secure honesty and integrity for the system as a whole it is important that the postings of officers in charge of police stations should be the exclusive responsibility of the district Superintendent of Police and likewise the Chief of Police should have the exclusive responsibility for selecting and posting Superintendents of Police in charge of districts. We have already recommended in chapter XV of our

Second Report that statutory provisions should be built into the Police Act conferring the powers of transfer/suspension of police personnel on appropriate authorities within the department itself, which would render null and void any such order emanating from an outside authority. This arrangement should obviously cover first postings also.

Weeding out corrupt officers—compulsory retirement

22.10 It is well known that some officers acquire a reputation for corruption by their continued dishonest practices over a long time but they escape punishment for want of satisfactory evidence to pinpoint and bring home any specific charge against them. We recommend that the provisions in the service rules for compulsory retirement after the completion of 20 years of service should be resorted to without hesitation to weed out officers with corrupt reputation. Evidence regarding this reputation should be assessed by a suitably constituted high level committee in the police headquarters whose satisfaction on the adequacy of material for this purpose should be held final and acted upon. A senior representative from the State Judiciary or the Law Department of the State may be associated with this high level committee to ensure an objective assessment of the available material. This committee should function as a Standing Committee and go through this exercise every year without fail. In the case of compulsory retirement ordered on an assessment report from this committee an appeal may lie to the Government except in cases where the compulsory retirement was ordered by the Government itself when the appeal shall lie to the State Security Commission mentioned in our Second Report. There shall be only one appeal and the matter shall be deemed closed after the disposal of that appeal. It would be desirable to lay down a time limit of three months for the disposal of such appeals.

Article 311(2)(c) of the Constitution

22.11 We would further recommend that in extreme cases where the stipulated minimum number of years of service may not have been crossed, action for weeding out corrupt officers should be taken by availing the provisions of article 311(2)(c) of the Constitution. To avoid any doubt regarding the legal propriety of such action under this Article, we would recommend that sub-clause (c) of the proviso to this Article may be amended to read as under :

“(c) Where the President or the Governor, as the case may be, is satisfied that in the interest of the security of the State or the maintenance of integrity in public services in the State it is not expedient to hold such an inquiry.”

The case of an officer who comes to repeated notice for extortion of bribes by harassing poor and innocent persons who, because of their weak situation, are afraid to depose against the officer to bring home a specific charge of bribery against him, and the case of an officer who has a very unsatisfactory record of service with repeated entries regarding his dishonesty and inefficiency but has managed to remain in service

with the help of extraneous influence or pressure may be taken as examples of extreme cases, which, in our view, would merit action as proposed above.

Action under Conduct Rules to check acquisition of property

22.12 There should be constant interaction and exchange of intelligence between the Chief of Police and the Head of the State Anti-corruption Bureau to identify officers of doubtful integrity and plan conjoint action for collection of intelligence to expose their corruption. For this purpose the Chief of Police should freely use his powers under the Conduct Rules to demand from a suspect officer a complete statement of his assets, movable and immovable either owned in his name or in the name of any member of his family, either acquired from his own resources or from the resources of his family members. The relevant provision in the Conduct Rules applicable to officers of the All India Services is reproduced below :—

“16(5) The Government or any authority empowered by it in this behalf may, at any time, by general or special order, require a member of the Service to furnish within a period specified in the order, a full and complete statement of such movable or immovable property held or acquired by him or on his behalf or by any member of his family as may be specified in the order and such statement shall if so required by the Government or by the authority so empowered, include details of the means by which, or the source from which, such property was acquired.

Explanation I : For the purposes of this rule, the expression movable property includes *inter alia* the following property, namely :—

- (a) jewellery, insurance policies the annual premia of which exceeds one thousand rupees or one-sixth of the total annual emoluments received by the member of the Service from the Government, whichever is less, shares, securities and debentures ;
- (b) loans advanced by or to such member of the Service, whether secured or not ;
- (c) motor cars, motor cycles, horses or any other means of conveyance ; and
- (d) refrigerators, radios, radiograms and television sets.

Explanation II : For the purposes of this rule, “lease” means, except where it is obtained from, or granted to, a foreign national or foreign mission or a foreign organisation controlled by, or associated with, foreign missions, or a person having official dealings with the member of the Ser-

vice, a lease of immovable property from year to year or for any term exceeding one year or reserving a yearly rent.”

The Conduct Rules applicable to the State police personnel in different ranks may be suitably amended to incorporate a provision on the above lines where it does not exist.

Recruitment procedures

22.13 We have reasons to believe that large bribes are demanded and accepted even at the stage of selection of recruits to the police at different levels in certain places. Anyone who joins the police after having had to pay a heavy bribe to somebody involved either directly or indirectly in the recruitment processes can hardly be enthused to remain honest when he takes up his field duties on completion of training. His mind will invariably turn to different modes of making money in the discharge of his duties, if not for his immediate personal gain, at least to repay his borrowings, if any, at the time of recruitment. A whole system based and built on such recruits can hardly remain clean. It is, therefore, most important that the highest standards of rectitude and straightforward dealings are maintained at the stage of recruitment and training. Personnel for manning these branches in the police should be especially selected with reference to their record of honesty, integrity and commitment to genuine police work, and enabled and encouraged to function without interference. In this context we are aware that while training is accepted as a total responsibility of the police system itself, different procedures have been devised in some States for recruitment at various levels below the IPS, involving non-officials and functionaries outside the police department in the exercise of selecting recruits. Such procedures for recruitment will remain open to extraneous pulls and pressures, even if the police system gets insulated from such forces as envisaged in our Second Report. We, therefore, recommend that the procedures for recruitment to any level other than the Indian Police Service should be evolved within the police system itself. Our recommendations in regard to recruitment to the Indian Police Service will be furnished separately.

Assessment of anti-corruption work done by supervisory officers

22.14 While assessing the qualities of the supervisory officers at various levels, the positive action taken by the officer to detect the corrupt elements under his charge and deal with them effectively should be specifically commented upon. A new column with an appropriate heading should be included for this purpose in the Annual Confidential Report.

Integrity certificate

22.15 The formats in vogue at present for the recording of annual confidential reports on the work and conduct of personnel in Government departments contain a separate column captioned ‘Integrity’ against which the reporting officer is required to record a

positive opinion one way or the other about the integrity of the officer reported on and also certify to his honesty and integrity if there is nothing on which a contrary opinion may be held. During discussions on this subject several officers emphasized before us that this system of recording an integrity certificate in the annual confidential report has actually become a farce, and many officers who are known to have a corrupt reputation continue to get annual certificates of integrity in their favour merely because the reporting officer would not like to be called on to explain in detail the various reasons which might prompt him to withhold the certificate of integrity. Formation of an opinion regarding an officer's integrity is usually based on a variety of grounds, the cumulative effect of which may only be to raise some suspicion or cast a shadow. It would not always be possible for a reporting officer to explain to the satisfaction of another officer why he felt doubtful about his subordinate officer's integrity. So long as the matter rests on doubts and suspicion only it would be difficult to be precise and convincing in furnishing the grounds for such doubts and suspicion, particularly in cases where the quantum of doubt and suspicion is of very slight degree. We consider it would not be fair either to the administration or to the reporting officer to compel him to record a certificate of integrity in favour of the subordinate officer merely because the reporting officer's reservation in this regard is based on grounds which he finds difficult to describe in precise and convincing terms. The 'benefit of doubt' in such a situation should not go to the subordinate officer. We, therefore, recommend a revision of the existing system to leave the matter open to the reporting officer to comment on the subordinate officer's integrity either for or against him depending on whatever material may be within his knowledge. If he has no grounds to express an opinion either this way or that he should be free to record that 'he has no material to express a precise opinion on the officer's integrity'. In short, in the revised arrangement the reporting officer would have three options; one will be to record a positive certificate of integrity if he is convinced that the reported officer enjoys a good reputation and has performed his work with honesty and rectitude, the second will be to say that he has no material to express a precise opinion on the reported officer's integrity at that stage, and the third will be to say specifically that the reported officer lacks integrity, if the reporting officer becomes aware of any material to suspect the former's integrity.

22.16 If annual entries regarding an officer's integrity are recorded in the manner suggested above, there will be no need to obtain a special certificate of integrity at the time of an officer's promotion if he has a consistently good record with positive entries of integrity to his credit. But in cases where the entries do not disclose a precise assessment of integrity, a special certificate of integrity should be called for from the officer who is designated as reviewing officer for the purpose of his annual confidential report, and in the case of officers of the rank of Inspector of Police and above an additional certificate of integrity should be obtained from the Head

S/21 HA/79—5

of the State Anti-corruption Bureau. The certificate of integrity furnished at that stage would reflect an overall assessment of the officer's entire record of service from the point of view of integrity and would not be limited to the particular year in which the certificate is furnished.

Head of the State Anti-corruption Bureau

22.17 In our relentless fight against corruption in public services which include the police, it is important to ensure the highest standards of rectitude in the functioning of the State Anti-corruption Bureau. We have reasons to believe that the staff of this bureau in some States have come to include a few officers of doubtful integrity and they pollute the entire working of the bureau and sully its image among the public services. In the first place we have to ensure that the very posting of an officer as the Head of the Anti-corruption Bureau is attended by objective considerations of his fitness and suitability for the post. In line with the procedure we have earlier recommended for the appointment of the Chief of Police in a State we suggest that the posting of the Head of the State Anti-corruption Bureau should be from a panel of IPS officers of that State cadre prepared by a committee of which the Central Vigilance Commissioner will be the Chairman and the Secretary in the Department of Personnel and A.R. at the Centre, the Head of the Central Bureau of Investigation, the State Vigilance Commissioner (or in his absence the Chief Secretary of the State) and the existing Head of the State Anti-corruption Bureau will be members. Posting of the other staff for the Bureau should be left to the Head of the Bureau.

Conduct of senior officers

22.18 The tempo of anti-corruption work within the department will largely depend on the initiative and seriousness of purpose shown by the senior officers. If their conduct in day-to-day administration and the manner in which they treat and move with known corrupting elements in society do not inspire confidence among the subordinates from the angle of integrity, it will be very difficult to sustain effective anti-corruption work in their charge. Senior officers whose time is mostly taken up in the management of their own private business in the shape of farms or other property to the prejudice of their regular official duties can hardly inspire and enthuse the subordinate officers to remain straight and honest in all their dealings. We would, therefore, like to underline the special responsibility of the senior cadres in police to function effectively as champions of integrity and cleanliness in all that they do.

Pendency of disciplinary proceedings

22.19 We have also noticed that the prolonged pendency of disciplinary proceedings initiated on a corruption charge against an officer and the consequent laxity in its disposal encourage a belief that one can get away with corruption if one can manage to protract the inquiry on some ground or the other. Unless disciplinary action is swift and severe, its

deterrence will not be felt by the corrupt elements in the organisation. We are examining the entire process of disciplinary action in the police and would be making our recommendations regarding necessary reforms in that matter separately.

Power of arrest—Corruption and malpractices arising therefrom

22.20 We would now like to deal with certain police powers which involve the exercise of considerable discretion in the day-to-day working of the police and, therefore, give scope for corruption and malpractices accompanied by extortion and harassment to the public. The power of arrest is the most important in this category and deserves a close look from the angle of reducing the scope for several attendant malpractices.

22.21 Section 41 Cr.P.C. details the various categories of persons whom any police officer may arrest without warrant or an order from a Magistrate. The most important category is spelt out in sub-clause (a) of clause (1) which refers to any person 'who has been concerned in any cognizable offence or against whom a reasonable complaint has been made, or credible information has been received, or a reasonable suspicion exists, of his having been so concerned'. From the moment a case is registered by the police on a cognizable complaint, they get the power to arrest any person who may be 'concerned in that offence', either on the basis of the complaint itself or on credible information otherwise received. It is under this provision in law that the police make a large number of arrests every day throughout the country. The number of persons arrested for offences under the Indian Penal Code and other local and special laws throughout the country year-wise from 1969 to 1977 have been as under :—

Year	Arrests under I.P.C.	Arrests under local and special laws
1969	10,34,268	29,68,855
1970	11,15,081	33,43,897
1971	11,30,857	30,17,424
1972	12,26,436	26,03,873
1973	13,80,530	26,87,183

Year	Arrest under I.P.C.	Arrest under local and special laws
1974	14,74,217	27,43,321
1975	14,25,086	34,10,645
1976	14,07,725	34,45,162
1977	15,38,515	28,26,118 (provisional)

It is significant that arrests under the local and special laws are about twice as many as the arrests for offences under the Indian Penal Code. Offences under the Penal Code are usually based on individual complaints which might provide some immediate and direct cause for arrest, and the arrests made in that connection would also to some extent satisfy the aggrieved persons. On the other hand most arrests under local and special laws relate to offences under the Excise Act, Prohibition Act, Arms Act, Gambling Act, Suppression of Immoral Traffic Act, Motor Vehicles Act etc., in which cases are registered, not on complaints from aggrieved parties as such but on information and intelligence available to the police in their field work. Thus a very large number of persons arrested every year would view the police as having acted harshly on their own information and not on the direct complaint of any particular aggrieved person. A large number of discretionary arrests of this type not only affects police image generally among the public, but also provides considerable scope for malpractices and highhandedness. It is also significant that, in a period of 9 years, even arrests on specific complaints of offences under the Indian Penal Code have increased by 50 per cent.

22.22 It is further significant that among the arrested persons about 92 per cent are new offenders which means that every year an increasing number of persons are made to experience the trauma of arrest for the first time, and the adverse image of police spreads wider on this account.

Quality of arrests

22.23 We had a sample study made of the quality of arrests effected in one State during the three year period 1974—76 and found the following position:—

	1974	% age	1975	% age	1976	% age
1. Total number of persons arrested	1,50,448		1,55,954		1,43,940	
2. Number involved in IPC offences	2,950	2.0	3,492	2.2	2,856	1.8
3. Number against whom security proceedings were launched	40,887	27.2	46,063	29.6	45,698	31.8
4. Number prosecuted under minor section of City Police Act	94,346	62.9	96,078	61.6	86,248	60.0
5. Number against whom action was dropped	5,026	3.3	6,367	4.1	6,450	4.5
6. Number against whom cases were under investigation	7,039	4.6	3,954	2.5	2,958	1.5

It is obvious that a major portion of the arrests were connected with very minor prosecutions and cannot, therefore, be regarded as quite necessary from the point of view of crime prevention. Continued detention in jail of the persons so arrested has also meant avoidable expenditure on their maintenance. In the above period it was estimated that 43.2 per cent of the expenditure in the connected jails was over such prisoners only who in the ultimate analysis need not have been arrested at all.

22.24 The fear of police essentially stems from the fear of an arrest by the police in some connection or other. It is generally known that false criminal cases are sometimes engineered merely for the sake of making arrests to humiliate and embarrass some specified enemies of the complainant, in league with the police for corrupt reasons.

Definition of cognizable offence

22.25 Apart from the inducement to make arrests on corrupt or other mala fide considerations, several policemen appear to think that an arrest is mandatory under the law while investigating a cognizable case. A variety of reasons have tended to encourage this view among the policemen generally. In the first place, the very definition of a cognizable offence as given in section 2(c) of the Cr. P. C. is based on the police power to arrest without warrant. Whether an offence should be deemed cognizable or not has to be determined on considerations whether or not it is desirable to make it investigable by the police without orders from a Magistrate. The emphasis should really be on police competence for investigation and not on the power of arrest. The question of arrest arises only after an investigation has been taken up, and it is only an incidental task in the entire exercise of investigation. Before the Cr. P. C. was amended in 1973, the First Schedule did not specifically mention whether an offence was cognizable or non-cognizable but merely referred to the fact whether or not the police may arrest without warrant. This irrationality was set right when the Cr. P. C. was amended in 1973 and the cognizable or non-cognizable nature of each offence was specifically mentioned as such in column 4 of the First Schedule. This amendment in the First Schedule was apparently omitted to be reflected in the definition of cognizable offence in section 2(c) which continues to refer to the power of arrest without warrant, while in fact the First Schedule makes no such reference at all now. We, therefore, recommend that section 2(c) of Cr. P. C. be amended to read as under :—

- (c) "cognizable offence" means an offence which is specified as such in the First Schedule and "cognizable case" means a case arising from such an offence or a case in which a police officer may under any other law for the time being in force arrest without warrant.

Likewise section 2(1) of Cr. P. C. may be amended to read as under :—

- (1) "non-cognizable offence" means an offence which is specified as such in the First

Schedule and "non-cognizable case" means a case arising from such an offence.

The amendments proposed above would not in any way abridge the power of arrest presently available to police officers under sections 41 and 157 Cr. P. C. but would underline the fact that a case is deemed cognizable not because of the power of arrest but because of police competency to investigate it.

Amendment of section 170 Cr.P.C.

22.26 Section 170 Cr. P.C. is another provision which induces a belief that the accused must be arrested in every non-bailable case and should be forwarded in custody to the competent Magistrate. In fact, some Magistrates in several places are known to insist on the production of the accused along with the chargesheet filed by the police. The rationale of the process of arrest in the investigation of a case is the necessity to bring about a measure of restraint on the movements of the accused person to secure his continued presence for the entire legal proceedings connected with the investigation. In most police cases this restraint is brought about by a formal arrest followed by release on bail either by the police officer himself or by the court. There are certain types of investigation—for example, those handled by the Central Bureau of Investigation—in which no arrests are made at the stage of investigation, but after the chargesheets are filed the accused are summoned by the court for taking part in the subsequent legal proceedings. In our view section 170 Cr. P.C. requires amendment to remove the impression that an accused must necessarily be arrested by the police in certain types of cases. We would recommend the amended section to read as under, along with the marginal heading—

Bond for appearance of accused and witnesses, when evidence is sufficient.

170(1) If, upon an investigation under this chapter, it appears to the officer-in-charge of the police station that there is sufficient evidence or reasonable ground to forward a report to a Magistrate for taking cognizance under clause (b) of sub section (1) of section 190 of an offence alleged to have been committed by a person, such officer shall, if the aforesaid person is not in custody, take security from him for his appearance before the officer or Magistrate on a day fixed and for his attendance on further days as may be directed by the officer or Magistrate.

The form for taking security from the accused as per the above section may be specified as in

Appendix IXA and added as form No. 28A between the existing form Nos. 28 and 29 in the Second Schedule.

22.27 Apart from a legal perception of the necessity to make arrests in cognizable cases, the police are also frequently pressed by the force and expectations of public opinion in certain situations to make arrests, merely to create an impression of effectiveness. Press reports about sensational cases invariably end up with a comment on the arrests made by the police. The fact that "no arrests have been made" in any particular case is held against the police. Debates in Parliament and State Legislatures regarding law and order matters tend to give undue importance to the number of arrests without an objective assessment of the quality and effectiveness of police investigation as a whole. Government tends to rely on figures of arrests to meet the criticism from the opposition. We are pointing out this aspect of the matter with the hope that the debates in the Parliament and State Legislatures as also Press reports would take due note of the likely repercussions of undue emphasis on the number of arrests made by police in various situations, and evaluate effectiveness of police action on objective considerations.

Guidelines for making arrests

22.28 While the existing powers of arrest may continue to be available to the police to enable their effective handling of law and order and crime problems, we feel it would be useful to lay down some broad guidelines for making arrests. An arrest during the investigation of a cognizable case may be considered justified in one or other of the following circumstances :—

- (i) The case involves a grave offence like murder, decoity, robbery, rape etc., and it is necessary to arrest the accused and bring his movements under restraint to infuse confidence among the terror stricken victims.
- (ii) The accused is likely to abscond and evade the processes of law.
- (iii) The accused is given to violent behaviour and is likely to commit further offences unless his movements are brought under restraint.
- (iv) The accused is a habitual offender and unless kept in custody he is likely to commit similar offences again.

It would be desirable to insist through departmental instructions that a police officer making an arrest should also record in the case diary the reasons for making the arrest, thereby clarifying his conformity to the specified guidelines. There may be quite many cases in which it would be adequate either during or at the end of the investigation to take a bond from the accused on the lines indicated in the amended form of section 170 Cr. P. C. as proposed in para

22.26 above, without having to make a formal arrest. This arrangement in law would, in our view, considerably reduce the scope for malpractices and harassment arising from arrests.

Release on bail

22.29 The process of releasing an arrested person on bail is another exercise in law attended by several malpractices. Here again the wording of some sections in Chapter XXXIII of Cr.P.C., particularly the proviso to section 436(1) and section 441(1), seems to draw a distinction between a release on bail and a release on one's own bond, implying thereby that a release on bail would always require some sureties. This interpretation of law works to the great disadvantage of the poor and weaker sections of the people who get arrested by the police in some connection or the other and are thereafter made to languish in jail for months and sometimes even years merely because they are unable to get sureties for their bail release. The Supreme Court judgement in Criminal Miscellaneous Petition No. 1649 of 1978 in the case of Moti Ram and others Vs. State of Madhya Pradesh has taken note of this legal lacuna and advised the necessary legal reform. The 78th report of the Law Commission (February, 1979) has recommended amendments in law to—

- (i) make references to "bail" include references to a person released on bond without sureties where such release is permitted by court ;
- (ii) provide for release on bond without sureties in sections 395(3) and 439(1)(a) Cr. P. C. ;
- (iii) provide for discretion to the police officer and the court to release a person on bond without sureties even in regard to non-bailable offences under section 437(1) Cr. P. C. ; and
- (iv) create a new offence in the Indian Penal Code for punishing the failure of a person to appear and surrender to custody in conformity with a bond executed by him.

We wholly endorse the recommendations of the Law Commission in this regard.

Amendment of Section 437 Cr.P.C.

22.30 While on one hand the above amendments in law would secure release on bail for a larger number of persons than at present, we are anxious that it should not on the other hand enable hardened criminals to escape restraint on their movements which may be very necessary in the context of certain situations. We are aware of many instances in several States in which hardened professional criminals after getting released on bail in a case under investigation or trial had committed further offences while on bail, and again got released on bail after the second arrest ! To provide for such cases we recommend that the

following proviso be added under sub section(3) of section 437 Cr.P.C.—

“Provided that before ordering the release on bail of such person, the Court shall have due regard to—

- (a) the likely effect on public order and public peace by the release of such person, and
- (b) his conduct after release on bail on a previous occasion, if any,

as may be brought to the notice of the Court by the police officer investigating the case in connection with which the aforesaid person was taken into custody.”

Use of handcuffs

22.31 The threat of putting handcuffs on a person under arrest is another source of corruption and harassment. There have been complaints that police use handcuffs not merely to prevent a possible escape from custody but also to humiliate the arrested person either from a desire for revenge or inducement from the complainant or *mala fide* directions from the higher levels or a desire to extort money. We appreciate the need to leave a good measure of discretion at the operational level regarding the use of handcuffs. Police Manuals invariably prescribe stringent punishment including dismissals in the case of escape from police custody. Police officers would normally not like to take any risk by not handcuffing an arrested accused while escorting him. We feel that the operational requirements in this regard can be met reasonably, avoiding at the same time the scope for indiscriminate or *mala fide* use of handcuffs, if some guidelines are laid down for observance by the police in this matter. We have seen the following guidelines in the Karnataka Police Manual :—

- “(1) No person shall be handcuffed who, by reason of age, sex or infirmity can be easily and securely kept in custody without handcuffs.
- (2) No person arrested by a Police Officer or remanded to custody by a Magistrate, on a charge of having committed a bailable offence shall be handcuffed, unless for some special reasons, it is believed that he is likely to escape.
- (3) When an accused is in court during the trial he must be held to be in the custody of the court. If an accused is so dangerous that it is necessary to handcuff him, representation should be made to the court and the court will issue proper instructions in the matter. Accused persons while in court during trial should not be handcuffed except after obtaining instructions of the court.
- (4) Undertrial prisoners and other accused persons shall not be handcuffed and chained, unless there is a reasonable expectation, either from the heinous nature of the crimes

with which they are charged or from their character or behaviour that such persons will use violence or will attempt to escape or that an attempt will be made to rescue them. The same principle shall be applied to convicts proceeding in public places in police custody. The decision as to whether handcuffs and chains should be used or not will ordinarily lie with the Station House Officer, or in his absence, with the Officer next below him in seniority. As far as possible, the police escort shall in each case, be sufficiently strong to prevent such persons escaping or giving undue trouble.

- (5) Whenever accused, but unconvicted persons are handcuffed, the fact and the reasons for it should be stated in the Sentry Relief Book.
- (6) Undertrial prisoners or accused persons in hospital should not be handcuffed except in consultation with the Medical Officer. In no case should prisoners or accused persons who are aged and bed-ridden in hospital or women prisoners, juvenile prisoners or civil prisoners be handcuffed or fettered.”

The above guidelines appear quite comprehensive and we commend their adoption in all States and Union Territories.

Contingent expenditure in police stations

22.32 We would like to mention at the end an important deficiency at the police station level which encourages corruption and compels even honest officers to wink at certain corrupt practices of their subordinates. This deficiency relates to the totally inadequate financial resources in the shape of a duly authorised imprest amount in a police station to meet the expenditure on several legitimate needs of the station. In practically all the States that we have toured, the police station staff have emphatically brought to our notice the gross inadequacy of stationery even to meet the minimum needs of scriptory work at the police station and the unrealistically low amounts that are sanctioned for expenditure on feeding prisoners in police custody, transport of dead bodies from distant places for post-mortem examination at the station headquarters, refreshment and transport charges for witnesses who attend court, etc. A variety of such financial responsibilities have necessarily to be borne at the police station level in day-to-day work and the absence of an authorised advance for this purpose compels the police to secure the required money by dishonest means. Complainants in specific cases are usually pressed to meet a good part of such expenditure connected with their cases and in the process they get harassed by police. Resort to unauthorised sources for meeting legitimate expenditure leads quickly to downright corruption for personal benefit. Several police officers have told us in confidence that such expenses run upto Rs. 300 p.m. in some heavy stations. The financial needs of a police station for all legitimate to expenditure on contingencies should be realistically assessed and adequate funds should be provided at the station

level to eliminate this cause for corruption which, it is depressing to see, is engulfing honest officers also.

Protection to honest officers

22.33 While the system may be efficiently geared to detect and punish the corrupt elements, it is equally important to ensure that the system protects the honest personnel from the machinations of the corrupt elements within the system and outside, who find such personnel a hindrance to their way of life. It has been brought to our notice that several police officers

have been maliciously involved in criminal proceedings launched on private complaints from the side of the accused in specific cases. There are provisions in law like section 197 Cr.P.C. which afford a certain measure of protection against vexatious prosecution of public servants in matters arising from the discharge of their duties, but these provisions do not appear to be sufficient to secure the desired protection for honest officers in a variety of situations. We are separately examining appropriate amendments to the Cr.P.C. and the Police Act in this regard.

CHAPTER XXIII

ECONOMIC OFFENCES

Introduction

23.1 Before the advent of the modern age of science and technology, Indian economy was very largely agricultural and rural in character. Crimes, as perceived by the common people in the midst of this economy, were related to the person and property of individuals. Elaborate provisions were incorporated in the Indian Penal Code to deal with offences like murder, dacoity, robbery, burglary, theft, rape, assault, etc., which affected individuals. Investigation technique, procedural laws and rules of evidence were also evolved in a manner relevant to these offences only. But with progressive industrialisation and increasing urbanisation, governmental activities became complex and involved several regulatory measures and financial controls over trade and commerce. The sweep and depth of governmental control over several facets of public life and activities increased, particularly after Independence, under a socialist democratic government committed to development and welfare of the people as a whole. Revenue for the fast increasing government expenditure had to be collected through a system of taxes and excise duties which tended to cover larger and larger groups of people and categories of goods with every passing year. Individual traders, artisans and craftsmen were pushed to the background by trading groups, industrial companies and commercial combines. All these developments have given rise to a new type of crimes by the promoters of these groups to secure undue financial gain by circumventing or evading the various fiscal laws and regulatory measures. Perpetrators of these crimes are among the generally well to do classes in the field of trade, commerce and industry, aided in some cases by the dishonest and corrupt elements in the governmental machinery which runs the controlling system. Tax evasion, manipulation of stocks and shares, frauds in licences and permits, profiteering, blackmarketing, hoarding, adulteration of drugs, food stuff, and other essential commodities are examples of this new type of crimes which have come to be increasingly noticed. By their very nature these crimes have no overt aggressive physical aspect as the traditional crimes like murder, dacoity or theft have, but are committed in a highly organised manner involving a lot of background activities and sophisticated methods under a facade of law abiding life to escape detection. These crimes involve high economic stakes and the offenders gain at the enormous expense of the government and the community as a whole. Since these crimes occur softly and quietly and do not directly and perceptibly affect any particular individual as such, the public do not tend to view them as grave offences though in fact they seriously disrupt the economic structure of the country. The police, who have all along developed their expertise and investigation technique to handle the traditional crimes

affecting an individual's person and property, find themselves inadequately equipped with training, knowledge, experience or facilities to handle effectively this new class of crimes, which may be called Economic Offences.

Importance of investigation of economic offences

23.2 Hoarding and blackmarketing are the primary cause for the periodic spurt in prices which mostly affects the economically weaker sections of society. Artificial shortages of certain essential commodities are brought about by these offences and create a lot of distress to the common people. Cheating and embezzlement in provident fund accumulations in an industrial unit affect a large number of its low paid employees. Frauds in co-operative societies cause loss to a large number of share holders. Instances can be cited in history where the economic distress of the people was among the principal causes for revolutions which brought about changes in the prevailing political system itself. It is also known that smuggling operations which are linked with economic offences provide scope for espionage activities across the country's border. Anti-national and anti-social activities tend to merge in this area of economic offences and further sharpen their serious implications for the country as a whole.

23.3 The accused persons involved in most of these economic offences wield a lot of influence in administrative and political circles because of their financial power, and this circumstance delays and ultimately defeats the progress of the connected criminal cases whenever they are instituted. The annual reports of the Central Bureau of Investigation furnish details year after year about criminal cases that are dragged on in courts by the dilatory tactics of accused. Their report for 1978 refers to these delays and mentions that '42 cases are pending trial for over 10 years, during which some of the prosecution witnesses have either died or could not be traced at their old addresses and thus much evidence has been lost'. Failure in dealing with economic crimes generates cynicism among the ordinary people who tend to exclaim that the rich and influential can get away with non-payment of taxes, dishonest trade practices etc., which help them make more and more money, while the processes of criminal law are severe with the ordinary people who happen to commit ordinary crimes in situations of economic distress. To restore the confidence of the ordinary man in the efficacy of the rule of law it is most important to ensure that these economic offences are effectively handled by the police and accused persons concerned are demonstrably brought to book.

Santhanam Committee

23.4 The Santhanam Committee on Prevention of Corruption (1962—64), while examining the law and procedure relating to corruption, had identified some offences which affect the community as a whole, and pointed out the inadequacy of the Indian Penal Code to deal with them satisfactorily. These offences were broadly classified by the Committee under the following categories :—

- (1) Offences calculated to prevent or obstruct the economic development of the country and endanger its economic health ;
- (2) Evasion and avoidance of taxes lawfully imposed ;
- (3) Misuse of their position by public servants in making of contracts and disposal of public property, issue of licences and permits and similar other matters ;
- (4) Delivery by individuals and industrial and commercial undertakings of goods not in accordance with agreed specifications in fulfilment of contracts entered into with public authorities ;
- (5) Profiteering, black-marketing and hoarding ;
- (6) Adulteration of foodstuffs and drugs ;
- (7) Theft and misappropriation of public property and funds ; and
- (8) Trafficking in licences, permits, etc.

The Committee pointed out the desirability of amending the Indian Penal Code with new provisions to deal with these offences.

Law Commission

23.5 The Law Commission dealt with this question in their Twenty-Ninth Report (1966) and observed that such offences were better left to be dealt with by special and self-contained enactments instead of being incorporated in the Indian Penal Code. Subsequently in their Forty-Seventh Report (1972) the Law Commission had examined and made recommendations regarding the trial and punishment of social and economic offences to enable swift and drastic penal action in proved cases so that it might act as a deterrent against commission of such offences. The following extracts from their Report indicate their approach to this matter :—

“3.12. Two very important aspects of social and economic offences have to be emphasised in this context—the gravity of the harm caused to society and the nature of the offences themselves. The gravity of the harm is not easily apparent ; but is, nevertheless, undeniable. The nature of the offences is peculiar, in the sense that they are planned and executed in secrecy by shrewd and dexterous persons with sophisticated means. The public welfare is gravely affected ; but detection is unusually difficult.

3.13. These offences, affecting as they do this health and wealth of the entire community, require to be put down with a heavy hand at a time when the country has embarked upon a gigantic process of social and economic planning. With its vastness in size, its magnitude of problems and its long history of poverty and subjugation, our Welfare State needs weapons of attack on poverty, ill nourishment and exploitation that are sharp and effective in contrast with the weapons intended to repress other evils. The legislative armoury for fighting socio-economic crimes, therefore, should be furnished with weapons which may not be needed for fighting ordinary crimes. The damage caused by socio-economic offences to a developing society could be treated on a level different from ordinary crimes. In a sense, anti-social activities in the nature of deliberate and persistent violations of economic laws could be described as extra-hazardous activities, and it is in this light that we approach the problem.”

Following their recommendations some important enactments dealing with social and economic offences like Essential Commodities Act, Foreign Exchange Regulation Act, Central Excise and Salt Act, Customs Act and Prevention of Food Adulteration Act were suitably amended to shift the burden of proof on the accused in certain matters of evidence and prescribe minimum punishments for certain offences.

Economic Offences Wing of the C.B.I.

23.6 In pursuance of the Santhanam Committee's recommendations, a separate wing of the Central Bureau of Investigation was developed as the Economic Offences Wing with adequate investigating and supervisory staff to deal with—

- (a) Cases under the Customs Act, the Central Excise Act, the Income Tax Act, the Opium and Dangerous Drugs Act, the Companies Act, the Gold Control Rules and other similar enactments involving economic offences ;
- (b) Cases of smuggling having wide ramifications or international connections ; and
- (c) Important cases of income-tax evasion.

While the primary responsibility for the enforcement of the economic laws continues to rest with the concerned departments like Income Tax, Central Excise and Customs, Chief Controller of Imports and Exports Directorate of Enforcement, etc., the services of the Economic Offences Wing are utilised to take up those cases having wide ramifications and calling for inquiries beyond the purview of a single enforcement department. The Economic Offences Wing works in close consultation with the different enforcement departments and generally takes up cases only on specific reference from them. While the record of this wing of the CE has been impressive, its charter of duties and responsibilities has confined it to those economic offences

relatable to matters dealt with by the Central Government. Economic offences relating to matters within the purview of States like evasion of sales-tax, contravention of control orders regarding movement of essential commodities within a State, co-operative society frauds, etc., do not fall within the purview of CBI and have to be dealt with by the State police agencies only.

Economic Offences Wing in the State police

23.7 A special unit of the State police to deal with economic offences connected with hoarding, profiteering, smuggling, etc., was first created in 1944 in Bengal under the name of Enforcement Branch. It may be recalled that Bengal was stricken with a terrible famine in 1943 in which over 3 million people are said to have died of starvation. The Enforcement Branch of West Bengal has expanded over the years and now functions under a Deputy Inspector General of Police at headquarters with district units in the field. Apart from offences connected with hoarding and blackmarketing it also deals with trafficking in licences and permits and cases of misappropriation of public funds. Bihar had a special unit started in its CID in 1965 to deal with smuggling, hoarding and blackmarketing of essential commodities. In Uttar Pradesh an Economic Intelligence and Investigation Wing was created in the C.I.D. in 1970 to deal with cases relating to cheating, forgery, embezzlement, tax evasion, hoarding, smuggling, blackmarketing and manipulation of stocks and shares. It is significant that though the proposal for the creation of this unit emanated in 1967 from the then Director of Vigilance in the State, the ultimate sanction of the unit got delayed till 1970 because of a change of government in the intervening period and the apparent inclination of the government at that time to shelve this problem. This underlines the fact that successful handling of economic crimes may sometimes get handicapped by lack of political will in government. Uttar Pradesh unit was subsequently expanded and it now functions as a separate branch of the C.I.D. headed by a Deputy Inspector General of Police with field units in four important centres in the State. The quality of work turned out by this unit may be gauged from the fact that in the period 1974—78 it has successfully worked out cases having a total financial involvement of about Rs. 4½ crore.

23.8 The importance of establishing special units in the State C.I.D. for the investigation of economic offences was highlighted in the conference of the Deputy Inspectors General of Police, C.I.D., from all States in 1973 which cited the experience of a few States in this field. Since then a number of other States have also established either a separate Economic Offences Wing in the State Police set up or created a cell in the State C.I.D. to deal with such offences. We have ascertained the pattern of working of these wings in different States and the quality of cases handled by them. We would commend the pattern adopted in Assam where they have a Bureau of Investigation (Economic Offences) headed by an officer of the rank of Additional Inspector General of Police and staffed by officers drawn from the Police, Sales-Tax, Transport,

Forest, Excise, Agriculture, Supply and Audit departments. It is the composite nature of the inquiry staff in this organisation that increases its effectiveness in the investigation of economic offences requiring a deep probe into several matters affecting more than one department. This Bureau which started functioning from November 1975 is reported to have detected tax evasion to the tune of about 1.2 crore rupees out of which unpaid tax of about 22 lakh rupees has also been recovered, besides launching criminal prosecutions in several instances. Investigation of economic offences requires an expertise to be developed with a capacity for intelligent scrutiny of voluminous documents with a full perception of the different means adopted by tax evaders to circumvent the law. For handling investigations of this kind a composite investigating team with officers drawn from different departments would be more effective than a wholly police-oriented team. We, therefore, recommend that the States which have not set up such special wings so far may do so now, and the staffing of this wing in all the States may be on the composite pattern as adopted in Assam. Officers of this wing should have authority to scrutinise departmental records without any procedural delay for verifications of information or for purposes of an investigation as such. Financial considerations should not deter the State Governments in setting up these wings since it has been amply demonstrated in the case of CBI and a few States that the cost of the additional staff is more than offset by the gain to the State exchequer by way of recovery of concealed income, besides heavy fines realised through courts.

Economic Offences Wing and CID

23.9 It would be advantageous from the point of view of building up expertise and optimising the utilisation of the investigating staff if the Economic Offences Wing functions under the overall charge of the Special Inspector General of Police or Additional Inspector General of Police who is in charge of the State CID. This arrangement would ensure effective cooperation and exchange of intelligence between this wing and the crime branch of the CID which would normally be investigating important crimes (other than economic offences) having Statewide ramifications. It may very well happen that a crime syndicate is simultaneously behind certain types of economic offences as well as other professional crimes arising from the running of gambling dens, brothel houses, etc. The activities of such syndicates can be exposed only by investigations that are accompanied by a complete pooling of intelligence available from different sources and handled by different branches in the CID. This would be ensured by the Economic Offences Wing working alongside the CID as recommended.

Economic offences categorised

23.10 We visualise the following offences as falling under the category of economic offences to be handled by the proposed special units in the State police :—

- (i) Hoarding, smuggling and blackmarketing in essential commodities.

- (ii) Contravention of controls and regulatory measures imposed by the State Governments regarding movement of essential commodities.
- (iii) Dealing with spurious drugs.
- (iv) Adulteration of food grains and other essential commodities.
- (v) Defalcation and misappropriation in co-operative societies.
- (vi) Misappropriation of agricultural and industrial subsidies.
- (vii) Theft of power and water, particularly organised cases involving large scale and continued pilferage.
- (viii) Evasion of taxes, in which organised activity is suspected.
- (ix) Any other offence calculated to prevent or obstruct the economic development of the country and endanger its economic health.

Some offences under the special enactments dealing with the above matters are already cognizable by the police under the law, and the police have a direct responsibility to investigate them on specific information or complaint received by them. However, during investigation of such cases considerable evidence may have to be secured from documents which in the normal course would have been dealt with by the different enforcement departments concerned. For example, a co-operative society fraud case would require scrutiny of several registers and returns which would be within the knowledge and/or custody of the co-operative department. A proper understanding and appreciation of the evidence arising from such documents would require the help of the departmental officers concerned. It is, therefore, advisable that while taking up investigation of such cases the police keep in touch with the concerned departments and take their assistance.

Training

23.11 The investigating staff to man the Economic Offences Wing would require to be trained specially to get a good grip over the different procedural and penal provisions in the different economic laws and also get an insight into the different ways in which the economic offenders operate. At present the C.B.I. conducts a small training course for their own investigating officers in the Economic Offences Wing which is also attended by a few investigating officers deputed from the States from time to time, but the syllabus of this course is oriented towards economic offences relevant to matters dealt with by the Central Government. It may not be practicable for the CBI training scheme to cover adequately the details of local and special laws in different States dealing with economic offences of relevance and interest within each State. We would, therefore, recommend that a small training course may be developed in the Police training institution in each State which can be conveniently attended in larger numbers by the investigating staff of the State Economic Offences Wing. Lectures on appropriate subjects

can be arranged at this course from senior officers of the different departments in the State dealing with the various subjects like sales-tax, entertainment tax, agricultural loans, subsidies, etc.

Co-operative Society frauds

23.12 We would like to draw special attention to the importance of prompt and proper investigation of co-operative society fraud cases. We have seen the position in Uttar Pradesh where a separate cell was created in the State CID in November 1971, with specially sanctioned investigating and prosecuting staff to handle a large number of co-operative society fraud cases which were then pending in different police stations in the State. From its inception till 31st August 1978, this cell conducted 4405 investigations resulting in 3205 chargesheets in court. The accused persons include Cashiers, Managers and Secretaries of Co-operative Banks, Supervisors, Accountants and Development Officers in the Co-operative department and an Assistant Registrar of Co-operative Societies. Disposal of cases in courts has been very slow but among the cases disposed of 81% have ended in conviction which is an index to the high quality of investigations. These investigations have revealed embezzlement of about Rs. 10 crore. From the statistical statements relating to the co-operative movement in 14 States and 2 Union Territories published by the Reserve Bank of India it is seen that there were 3,16,147 co-operative societies in all, through which loans to the extent of Rs. 6,659 crore had been advanced in 1976-77. In this period a total of 4,538 cases of embezzlement were detected in these co-operative societies involving a total amount of Rs. 6,30,79,000. It is not certain that every one of these cases developed as a police case because an embezzlement case is usually looked into departmentally in the first instance by the co-operative department and they refer it to the police only after their departmental scrutiny is completed. This process itself takes quite some time and in many cases police investigation starts more than a year or two after the embezzlement had actually occurred. The course of investigation gets obstructed by the pressure and influence brought by the accused—as they do in most cases of this kind—from political circles and other vested interests who share the benefit of these crimes. The process of investigation gets further prolonged because of the time consumed in collecting together various documents and getting them scrutinised carefully with the assistance of an auditor to appreciate the evidence. All this exercise ultimately results in bad delay by the time the court trial starts against the accused, and the intended deterrence of criminal action against him for his misconduct is practically lost by this time. The large number of co-operative societies spread all over the country in the context of enormous developmental and welfare measures initiated by the government at various levels and the enormous amount of government money that flows through the co-operative channels by way of loans and advances provide considerable scope for misappropriation and fraud resulting in the denial of the intended facilities for the public actually needing them. In such a context the importance of prompt and speedy investigation of co-operative society fraud cases to secure a measure

of deterrent effect against the commission of such crimes cannot be over-emphasised. A concerted drive in all the States to expose the embezzlement in Co-operative Societies, recover large amounts of embezzled money from the accused concerned and get the powerful and influential accused duly convicted in court, would put down this crime considerably and enable the financial benefit of co-operative movement to reach the sections for whom it is really intended.

Fine to be linked with ill-gotten gains of the offender

23.13 In para 7.20 of their Forty-seventh report (1972) the Law Commission had recommended that the minimum fine for an economic offence should not be less than the amount of the ill-gotten gains of the offender arising from the offence committed by him. We, however, notice that no amendment has been made in individual economic enactments like the Essential Commodities Act or Drugs and Cosmetics Act or the Prevention of Food Adulteration Act etc., to give effect to this recommendation. This omission may be made good now with appropriate amendments in the different laws concerned.

Forfeiture of property of economic offenders

23.14 We would further recommend that the scope of the Smugglers and Foreign Exchange Manipulators (Forfeiture of Property) Act, 1976 (SAFEMFOPA) may be enlarged to cover economic offenders also. In regard to a public servant we have adequate provisions in section 5(1)(e) of the Prevention of Corruption Act to hold him guilty of criminal misconduct if he cannot satisfactorily account for his possession of pecuniary resources or property disproportionate to his known sources of income. We feel that this concept in law may be extended to the pecuniary resources or property owned by economic offenders also. It is well known that many economic offenders operate behind the scene but move about openly in society with all refinement and sophistry, adequate financial means, support and influence all round, and manage to escape the clutches of law by taking advantage of the difficulties inherent in the existing legal procedures in bringing home any charge of a specific offence against them directly. The preamble to SAFEMFOPA itself refers to the fact that smugglers and foreign exchange manipulators are augmenting their ill-gotten gains by violations of wealth-tax, income-tax or other laws or by other means and have thereby been increasing their resources for operating in a clandestine manner. This description would equally apply to economic offenders, particularly those dealing in adulteration of drugs,

essential commodities etc. We, therefore, recommend that the scope of SAFEMFOPA may be enlarged by—

- (i) appropriately amending the heading and preamble of the Act, to include economic offenders ;
- (ii) including a person convicted under certain specified economic offences like Essential Commodities Act, Prevention of Food Adulteration Act and Drugs and Cosmetics Act in the category described in section 2(a) of the Act ;
- (iii) including under section 2(b) of the Act any person in respect of whom an order of detention has been made under the provisions of the Prevention of Blackmarketing and Maintenance of Supplies of Essential Commodities Ordinance, 1979 or any similar law for the preventive detention of hoarders and black-marketeers ; and
- (iv) including in the definition of "illegally acquired property" in section 3(1)(c) of the Act any property in the possession of the person which is disproportionate to his known sources of income and for which he cannot satisfactorily account.

State Security Commission to oversee the Economic Offences Wing

23.15 We would like to record a note of caution at the end by pointing out that, under the guise of acting on some informations relatable to an alleged economic offence, the Economic Offences Wing has the obvious scope for causing harassment to innocent persons also if it is motivated by *mala fide* considerations or functions under *mala fide* directions. Searches and arrests may be resorted to without adequate grounds with the only intention of causing embarrassment and humiliation, whether or not the matter is ultimately pursued in court. It is most necessary to guard against such possible malpractices. The working of the Economic Offences Wing should, therefore, be specially overseen by a body which would command the overall confidence of the public. In our view the State Security Commission envisaged in our Second Report could appropriately perform this overseeing role. Apart from periodic monitoring of the work of this wing, an assessment of results achieved every year may also be made by the State Security Commission and a report laid before the State Legislature.

CHAPTER XXIV

MODERNISATION OF LAW ENFORCEMENT

Introduction

24.1 Law enforcement in a developing democratic society presents several complex problems which cannot be met adequately by a mere quantitative increase of police personnel. Increasing sophistication and finesse that attend crimes in a free society, extended operations of fast moving criminals and organised gangs with ramifications over large areas transcending the borders of districts, States and even the country, increasing expectations of the public regarding prompt and effective police response to any situation of violence or distress and the necessity to secure scientific evidence that will stand scrutiny in the legal system require the police to harness science and technology to aid efficient police performance. These, in fact, are the imperatives for modernisation of the law enforcement agency. In practical terms this implies improved facilities for communication, transport, computerised study and assistance from forensic science.

Historical

24.2 The development of forensic institutions in India during the British rule remained confined to isolated attempts to establish offices for dealing with specific problems. Chemical Examiner's Laboratories were thus set up at Madras (1849), Calcutta (1853), Agra (1864) and Bombay (1870) to furnish opinion in poisoning cases. The first Finger Print Bureau—in fact, it was the first Bureau in the world—was established at Calcutta in 1897 and similar Bureaux followed in other regions of the country later. The real progress of forensic science as a whole has largely been a post-Independence development. The first Forensic Science Laboratory was established in Calcutta in 1952 followed by another such laboratory in Bombay in 1958. The progress quickened further in the sixties, and we now have 15 Forensic Science Laboratories in the States besides 4 under the Centre in addition to several Finger Print Bureaux and offices of Examiners of Questioned Documents.

Central aid

24.3 Recognising the need for improving police efficiency in the context of the developing situation in the country as a whole, the Ministry of Home Affairs started a scheme in 1969 for providing financial assistance to the State Governments for modernisation of their police forces. Till 1973-74 the pattern of assistance was 25% grant-in-aid and 75% loan. Thereafter it was changed to 50% grant and 50% loan on the recommendations of the Sixth Finance

Commission. Under this scheme, the States are eligible for assistance to acquire—

- (i) data processing machines for crime records, statistics and accounts,
- (ii) equipment for forensic science laboratories and for other scientific aids to investigation,
- (iii) equipment for Finger Print Bureaux,
- (iv) equipment for Centres for examination of Questioned Documents,
- (v) wireless equipment, capital expenditure on expansion of line communication including teleprinter services and wireless patrol vans,
- (vi) equipment for training institutions, and
- (vii) vehicles—for improved mobility.

The statement in Appendix X shows that an amount of Rs. 43.841 crore has been given as Central aid to the State Governments from 1969-70 to 1977-78, under this scheme.

Response from States

24.4 The pattern of matching response from the State Governments in financing modernisation of their police forces may be seen from the statement in Appendix XI which shows that from 1969-70 to 1977-78 all the State Governments put together had spent only Rs. 21.76 crore as compared to the Central Government's aid amounting to Rs. 43.841 crore in the same period. We would like to emphasise the need for a greater involvement of the resources of the State Governments in modernising their police forces.

24.5 A category-wise analysis of expenditure on modernisation from 1971-72 to 1975-76 shows that out of a total of about Rs. 30 crore allotted by the Central Government, Rs. 14 crore has gone towards expansion of wireless, Rs. 9 crore towards purchase of vehicles and Rs. 7 crore towards expansion of forensic science facilities. A few States have utilised the Central assistance for construction of buildings also. We would recommend priority for acquisition of scientific equipment in preference to construction of buildings from the Central grant.

Monitoring

24.6 There is no arrangement at the Centre for periodic monitoring of the extent and quality of modernisation effected in the States, particularly in

regard to projects specifically linked with the Central grant. We recommend the constitution of a Central team with representatives from the Ministry of Home Affairs, Bureau of Police Research & Development and the Institute of Criminology and Forensic Science to visit the States once in two years and assess the actual ground position in this regard. The quantum of Central assistance to the States may be decided with due regard to the assessment reports of this team.

24.7 We find that the scheme for Central assistance for modernisation continued upto 1978-79 only and there was no allotment at all in 1979-80. Considering the vast ground yet to be covered in the modernisation of State Police Forces we recommend the continuance of Central assistance scheme for another 10 years with substantial increase in allotment, and the position may be reviewed thereafter.

Sampath Committee

24.8 We constituted a Committee of experts drawn from the disciplines of tele-communication, computer, forensic science, police and general administration under the chairmanship of Professor S. Sampath, Member, Union Public Service Commission, to assist us in assessing the progress of modernisation of the police in the country as a whole and determining the requirements of further development and improvement in this regard. The detailed constitution of this Committee is furnished in Appendix XII.

24.9 We received the report of this Committee on 13th November, 1979 and have carefully gone through their observations and assessment. We are separately forwarding to the Ministry of Home Affairs a copy of this Committee's Report for such use as they may make of the large volume of information and data collected by the Committee and incorporated in their Report. Our observations and recommendations in the following paragraphs relate to some important and basic aspects of modernisation, including those referred to by the Sampath Committee.

Communication

24.10 An efficient communication system which will ensure speed, accuracy and integrity of transmission is a fundamental requisite for the satisfactory performance of police tasks in the context of present day crimes and other law and order problems. Prevention and detection of crimes within the limits of one police station frequently calls for quick exchange of information with functionaries in neighbouring police station limits and even beyond, and a co-ordinated handling of the entire matter with guidance and directions from a supervisory level extending over a district or a range. Public order situations frequently arise on issues which have a Statewide spread and require handling under close supervision and guidance from the State Police Chief himself. It is, therefore, imperative that the police force is provided with a satisfactory intra-departmental communication network which will enable, when the occasion demands, a direct hot line communication from the State police headquarters to

any remote part of the State where an operational police unit might be engaged in handling a law and order situation. The police wireless network plays a very important role in this context.

24.11 Use of wireless communication for police purposes linking a few States was started in 1946 and consolidated in 1949 by the establishment of the Directorate of Coordination (Police Wireless) and wireless links between Delhi and the headquarters of several States which in turn were similarly linked with the headquarters of their districts. These links operated on High Frequency (HF) channels which facilitated transmission of messages through code signals. The next stage of improvement in this facility was in 1964 when Very High Frequency (VHF) channels supported by repeater stations were introduced and the headquarters in districts were enabled to have communication of speech, as different from mere coded message, with subordinate units within the district. Control rooms were established in major cities and linked with mobile patrol vans by VHF in the urban police wireless network. In this development about 70% of the police stations have been connected by VHF with their respective district headquarters.

UHF and Micro wave channel for police

24.12 Police wireless has all along developed as an independent communication system meeting the growing needs on the above lines. In the next stage of expansion when the police sought frequencies in the Ultra High range (UHF) and Micro wave Band for having direct speech on multi-channels between the State police headquarters and the different units in the districts, they have come across an objection from the Posts & Telegraphs department who, as the national carrier of all communications, have been insisting on providing this communication facility in the higher range from the P&T network itself without allowing a further expansion of the independent police wireless network. The development of UHF and Micro wave channels in police wireless has, therefore, been held up for quite some time on this account. In the case of Tamil Nadu police who had come up with a proposal for a micro wave set up in 1972, the P&T agreed as a special case in view of their inability at that point of time to provide the desired facilities within the time frame and cost as envisaged in the Tamil Nadu police proposal. The micro wave project in Tamil Nadu has proved a big success and has helped greatly in the efficient supervision and control over performance of police tasks all along the line.

24.13 There was prolonged correspondence between the Ministry of Communications and Ministry of Home Affairs in regard to a similar proposal for the police and para-military forces in the North-Eastern region which went up to Prime Minister's notice and P&T clearance was finally conveyed in Prime Minister's letter No. 1808/PMO/78 dated 1st September, 1978 to the Chief Minister of Assam. We understand that a similar proposal put up by Rajasthan Police is still awaiting clearance from the P&T who appear to have reservations in agreeing to this expansion of the police wireless network as a general measure.

24.14 Since we consider this facility to be very important and necessary for the police, we discussed this matter in a meeting attended by the Director of Police Tele-communications, the Wireless Adviser to the Government of India, and a senior Deputy Director General of the P&T representing the Ministry of Communications to see if an agreed approach could be evolved. Important points stressed by the Ministry of Communications at this meeting were that—

- (i) P&T would be able to meet all the requirements of police wireless in the UHF and Micro wave channels, in view of the progressive development of the P&T network itself; and
- (ii) the development of an independent multi-channel network by the police would duplicate the demand for sophisticated equipment including some imported items, and this would cause difficulties in view of the present limited production potential in the country.

From the police side it was argued that there was need for an independent police wireless network including multi-channel facilities, not on account of any inability of P&T to meet police requirements but because of the desirability of having a dependable alternate communication system on a nationwide basis in the interests of national security in an emergency in which the P&T may fail owing to personnel problems or other reasons. The representative of the Ministry of Communications frankly conceded that he could only argue on the basis of the technical competence and capacity of the P&T to meet police requirements but it was for the Government to decide the matter if it was pressed on grounds of national security. In the context of the present situation in the country and the likely law and order developments in the future we are convinced that the police should have their own independent wireless network, including multi-channel facility on an integrated basis linking all the State police agencies with the Centre, to be able to function as a dependable alternate communication channel for meeting the requirements of any emergency. Time and again the police wireless system has proved its dependability in several emergent situations arising from cyclone, floods or other natural calamities in different parts of the country. The Chief Election Commissioner has particularly referred to its immense utility at the time of elections. Further, police efficiency is closely linked with the proper functioning of its command control structure in which the fact of proper and correct receipt of an order or instruction by a subordinate unit is as important as the issue of the order or instruction from the commanding unit. Responsibility for ensuring the completion of this process of issue of a command and its proper receipt by the unit that is commanded has to be borne by the system itself; otherwise it cannot function properly. We are, therefore, convinced that in the interests of national security as well as police efficiency, the police wireless network should develop its own independent multi-channels for communication through UHF and micro-wave. It has already the infra-structure for speech channels between the different units within

a district. It can be easily extended to provide similar links between the State headquarters and any point in the districts through higher frequency channels. We, therefore, recommend that the police may be immediately allotted the necessary frequencies in the category of UHF and Micro wave range to facilitate the expansion of the police wireless set up in the different States as proposed.

Coordination with P&T

24.15 In developing an independent UHF and micro-wave network, it might be possible for the police to structure and locate their equipment in such a manner as would facilitate meshing with the P&T network at certain points which would enable the two systems help each other on a reciprocal basis in temporary failure situations. We suggested that the P&T and the Directorate of Coordination (Police Wireless) might get together and discuss this aspect of the matter and determine the modalities for bringing about this coordination in the field.

Facsimile transmission

24.16 We visualise that the expanding needs of police communication in future would include channels for teleprinter circuits connecting all the districts with the State headquarters and also facilities for transmission of finger prints, photographs and other matter in facsimile. The availability of multi-channels in the UHF and Micro wave range for the police wireless would facilitate this expansion. We understand that an experimental link established between Madras and Madurai for facsimile transmission of finger prints and photographs has been found extremely useful by the Tamil Nadu police.

Teleprinter

24.17 It may be seen from the statement in Appendix XIII that some States have lagged behind in providing teleprinter links between the State capital and the districts. We recommend the early teleprinter coverage of all the districts and the introduction of cryptographic machine for transmission of classified information.

Portable pocket sets

24.18 As an extension of the VHF network linking control rooms and mobile vans and the police stations we would recommend the provision of portable pocket sets for police officers on patrol duty so that they might be in constant touch with the police station or the control room as the case may be and secure speedy and adequate police response to any situation noticed by them.

Production and supply of equipment

24.19 The Bharat Electronics Ltd. (BEL) is the Central Government undertaking which now functions as the national production agency for wireless sets and the police have been getting their equipment from them only. We notice that from 1973-74 their supply of equipment to the police has steadily declined and fallen

far short of the projected demands as may be seen from the following statement :—

Year	Sets supplied
1961-62	251
1965-66	961
1969-70	2750
1970-71	4253
1971-72	6650
1972-73	7607
1973-74	5522
1974-75	4606
1975-76	2949
1976-77	2115
1977-78	530
1979-80	1800 (Forecast)
1980-81	1800 (Forecast)

It has also been brought to our notice that the small size portable set (R.P. 3001) produced by BEL is too cumbersome and heavy for police use and they have not designed anything more suitable for the police. It also appears that the high band VHF transreceiver (GH 750) produced by them has not satisfactorily met police requirements. It is apparent that the selection and priorities in production by the BEL are primarily determined by the needs of Ministry of Defence and, therefore, the police requirements are not adequately met. This deficiency will seriously affect the development of police communication. The possible alternatives for resolving this difficult situation are—

- (a) a separate captive factory which, we are advised, is a viable proposition ; or
- (b) dedicating an adequate part of the available capacity of BEL, preferably a complete self-contained unit of the organisation, to police needs ; or
- (c) farming out standard designs to selected Electronics Corporations set up by various State Governments, or selected industrial units in the private sector having collaboration with leading manufacturers abroad.

Related to this, is the need for a pragmatic policy of import of both equipment and know-how that will offset the time lag arising from development of indigenous capability. We recommend that the Ministry of Home Affairs might quickly examine these alternatives in consultation with BEL and the Electronics Corporations set up by some State Governments and evolve a production plan which would adequately meet police requirements without delay. Considerable time has already been lost from 1974 and any further stagnation in the development of police wireless on this account would be most unfortunate.

Control Room

24.20 A control room is a must for generating speedy and adequate police response to any situation in urban areas. We recommend that the scheme of control rooms with attendant patrol vans may be introduced in all cities with a population exceeding one lakh. The staffing pattern and the provision of equipment for the control rooms may broadly conform to the guidelines issued by the Directorate of Coordination (Police Wireless) in their publications entitled 'City Police Tele-communication Systems' and 'Working of City Control Rooms', which have been circulated to all the States.

Allotment of HF & VHF frequencies to police

24.21 It has been brought to our notice that the allotment of frequencies to the police even in the HF and VHF categories has not been upto their requirements. They now have 510 frequencies (HF 365 and VHF 145) and by extensive mutual sharing these have been made to yield 1400 channels by accepting a certain level of interference from each other. The requirements of Police Communications are varied and their communication ranges are from a few hundred metres to thousands of kilometres. The total number of static terminals is around 15,000 and the total holding of wireless sets of all types by the Centre and the States has exceeded 50,000. At present there is acute shortage of frequencies and only 9 additional HF frequencies have been allotted in the recent past against a demand of 209 HF frequencies. We recommend that the wireless planning and co-ordination wing of the Ministry of Communications which, we understand, is presently engaged in the preparation of a revised frequency allocation plan for the country might take a realistic view of police requirements and allot them the adequate frequencies for management and optimum utilisation by the Directorate of Coordination (Police Wireless).

Training

24.22 The expanding network of police wireless will require adequate numbers of properly trained personnel for operating different varieties of equipment. From the Sampath Committee's report it is seen that there are only about 1,600 personnel for maintaining about 58,000 wireless sets as against a requirement of about 5,000 personnel. At present training of wireless personnel is arranged at the Central Police Radio Training Institute run by the Directorate of Coordination (Police Wireless) and a few other State Police Radio Centres. However, the total capacity of all these institutions is only about 50% of the current training demands. Further, the types of courses run by these centres do not cover the wide variety of training that should be given to the tradesmen, technical hands, supervisory levels and management cadres. We understand that a proposal for enlarging the set-up of the Central Police Radio Training Institute is pending with the Ministry of Home Affairs from 1975. We recommend that this proposal be immediately considered and appropriate decisions taken to improve the existing training facilities which are obviously far below the requirements. We would also recommend the enlargement of the Directorate of Coordination (Police Wireless)

to include a Forward Planning branch with necessary technical staff to coordinate and manage the proper development of the police wireless network throughout the country in an integrated manner, taking advantage of the multi-channel facilities which we have recommended earlier.

Radio Workshop

24.23 Another deficiency brought to our notice is the absence of adequate repair facilities in the wireless set-up in different States. Satisfactory maintenance of sophisticated equipment bought at considerable cost requires proper attention. We recommend the setting up of a fully-equipped Central Workshop in the headquarters of each State to be supplemented by regional workshops wherever called for.

Forensic Science

Investigating Officer's kit box

24.24 Scientific aids to the detection of crime cover a wide variety of services ranging from the sophisticated forensic science laboratories to a small simple equipment at the police station level for lifting finger prints. The ultimate impact of these services on the quality of investigations is determined by the extent of awareness of their availability and utility by the investigating staff at the police station level. From the information available in reports and returns from the States it is seen that some minimum equipment for scientifically identifying and picking up clues like finger prints, blood stains, etc., is available at most police stations in the form of an Investigating Officer's Kit Box. However, a sample survey of the actual field conditions in a few States has shown that these boxes are very much deficient in their prescribed contents and whatever little is available is lying in apparent disuse. An attempt was made in the Bureau of Police Research and Development in January 1973 to standardise the contents of these kit boxes but the exercise was ultimately given up in June 1975 with the comment that the States might be left to determine this matter on their own. In most States the arrangement for purchase and supply of these boxes to police stations was centralised and handled in the State Police headquarters in the first instance. In the absence of a simplified procedure for the periodic replenishment of the contents of the box, they have gone to rot in several stations. The position in this regard should be reviewed in each district and appropriate procedures evolved for local purchase and replenishment to bring these boxes to effective use, particularly in rural police stations which are beyond the immediate reach of experts from specialised units like the Finger Print Bureau or the Forensic Science Laboratory which are mostly located in urban centres.

Scene of Crime Vehicle

24.25 The next level of scientific aids is made available through the Scene of Crime Vehicles which are located in the district headquarters or other important towns and manned by a few experts for handling finger prints and a few other clues susceptible to simple chemical tests and photography. These vehicles are

now available in Maharashtra, Madhya Pradesh, Karnataka, Andhra Pradesh, Tamil Nadu, Kerala, Haryana, Uttar Pradesh, Himachal Pradesh and Nagaland. The Bureau of Police Research and Development had evolved a model pattern of staff and equipment for this vehicle which was circulated to all States with their letter No. 35/10/73-BPR&D dated 18th January, 1977. We would commend the adoption of this pattern and establishment of such vehicles in as many centres as possible having regard to the volume of crime occurring in different parts of a district or range.

State Laboratory

24.26 Forensic science laboratory aid is available to the police through 4 Central Forensic Science Laboratories set up by the Central Government at New Delhi, Calcutta, Hyderabad and Chandigarh and 15 State Forensic Science Laboratories set up by State Governments at Bombay, Madras, Ahmedabad, Jaipur, Lucknow, Calcutta, Sagar, Hyderabad, Gauhati, Patna, Madhuban, Bangalore, Bhubaneswar, Srinagar and Trivandrum. The States of Himachal Pradesh, Punjab, Meghalaya, Nagaland, Manipur, Tripura and Sikkim and all the Union Territories have no laboratory of their own. Their needs are served by the nearest Central or State Forensic Science Laboratory. From the present spread of these laboratories we find a good case for locating a Central Forensic Science Laboratory in the western region and another in the north-eastern region.

24.27 In some States a few allied units like the Chemical Examiner's Laboratory, State Handwriting Bureau, Fire Arms Examination Section, etc., are functioning separately outside the fold of the State Forensic Science Laboratory. Integrated development and progress in all these institutions would become possible only if they are brought under the fold of the State Forensic Science Laboratory, and we recommend accordingly.

Regional Laboratory

24.28 Proximity of a Forensic Science Laboratory greatly promotes Forensic Science consciousness among the investigating staff and induces greater use of scientific aids in crime investigations. We find a few regional laboratories set up in Gujarat, Maharashtra and Tamil Nadu which have been doing very useful work in the field. The staff and equipment for these regional laboratories need not duplicate all the disciplines in the main laboratory of the State but may be limited to such examinations as frequently arise in the normal crime work of the State. From the statistics of cases handled by the different divisions of various laboratories it is seen that maximum references are dealt with by the divisions dealing with chemicals (including alcohol), toxicology, documents and photography. Special units dealing with these items may be started in the regional laboratories. The Scene of Crime Vehicles located at the headquarters of the regional laboratories could also include the experts from the laboratory while visiting scenes of crime wherever feasible.

Pendency of cases

24.29 We find a large number of police cases kept pending for receipt of reports from Forensic Science Laboratories in some States. Details of pendency as reported by the State police authorities are furnished in Appendix XIV. A good number of cases are seen pending for more than one year even. The adequacy of staff to handle the growing volume of work in these laboratories may be examined by the State Governments concerned and appropriate corrective measures taken. In this context we would also draw attention to the norms of work and staffing pattern for Forensic Science Laboratories that have recently been evolved by a Sub Committee in the Bureau of Police Research and Development which the Ministry of Home Affairs may communicate to the State Governments for their guidance.

Research Fellowship

24.30 The Ministry of Home Affairs started a scheme in 1969 for the annual award of 12 fellowships for undertaking post-graduate research work in different branches of forensic science. The amount payable under this scheme is Rs. 400 per month with a contingency grant of Rs. 1,500 per annum. The fellowship has a tenure of three years and is expected to lead to a Ph. D. in the subject chosen. The recipients include a number of members of the staff in teaching institutions in Universities, research institutions under the CSIR, units of the Indian Institute of Technology and the Forensic Science Laboratories. Though the awards are decided after due scrutiny by a Screening Committee chaired by the Director (Training) in the Bureau of Police Research and Development, there appears no proper documentation of the ultimate result of the research carried out by the awardees. There is no arrangement for monitoring their work and bringing together the result of all the research studies facilitated by this scheme. No information is available whether the awardees successfully completed their projects and secured the Ph.D. as envisaged. We recommend that the ultimate results achieved by the research studies under the scheme should be properly followed up and documented in the Institute of Criminology and Forensic Science.

Indian Academy of Forensic Sciences

24.31 The Indian Academy of Forensic Sciences which was established in 1961 has a membership of about 400 among the forensic scientists throughout the country and functions as a private academic body contributing to the development of forensic science. Apart from periodically conducting professional meetings it publishes a half yearly journal with articles of professional interest, particularly from the research angle. It gets an annual grant of about Rs. 4,000 from the Ministry of Home Affairs. The President of the Academy has brought to our notice its poor financial condition and the genuine need for substantial financial help from the Government to carry on its research activities. The half yearly journal of this Academy is the only scientific research journal covering this field and its publication alone is said to cost the Academy over Rs. 5,000 a year. We understand that many

scientific papers deserving publication have had to be left out because of inadequate resources and the consequent limitation of the journal's publication to two issues in a year. We recommend that the Ministry of Home Affairs might substantially increase the annual grant to this Academy, after making a realistic assessment of its financial needs including the additional amount that would be required to make its journal a quarterly instead of half yearly.

Finger Print—Single Digit Bureau

24.32 Most States have their own finger print bureau and the few smaller States and Union Territories which do not have bureaux of their own are served by the bureau in a neighbouring State. Besides the State Bureaux, there is a Central Finger Print Bureau at Calcutta for recording finger prints of Inter-State criminals. We have already recommended in para 17.5 of our Second Report the computerisation of finger prints in all the State Finger Print Bureaux and the Central Finger Print Bureau. While these bureaux are helpful in tracing the previous antecedents of any person whose ten digit impressions are available, their aid to the Investigating Officer gets severely limited if chance finger impressions alone are available from a scene of crime and there is no particular suspect person whose full finger impressions require to be verified. Comparison of chance prints with the prints of known criminals will be possible only when finger prints are recorded under the Single Digit System. The Single Digit Bureau is a very useful adjunct of the fullfledged Finger Print Bureau and should be developed in all important urban areas with a relatively large number of resident bad characters. Single Digit Bureaux are now available in a few places in West Bengal, Uttar Pradesh, Haryana, Gujarat, Karnataka, Madhya Pradesh, Orissa, Andhra Pradesh, Rajasthan, Tamil Nadu, Punjab, Kerala, Delhi and Pondicherry. Tamil Nadu and Haryana have the largest spread of Single Digit Bureaux covering all the district headquarters. We recommend a similar pattern for all the States and Union territories. The Single Digit Bureaux and the State level Finger Print Bureau should all function under the fold of the State Forensic Science Laboratory set-up.

Administrative control

24.33 In most States the Forensic Science Laboratory comes within the administrative set-up of the Inspector General of Police. In a few States they function as separate units under the direct charge of the Home Department. In our view it would make for a coordinated and professionalised development of the forensic science set-up in the State if it functions under the administrative control of the Inspector General of Police. This will also facilitate optimum utilisation of the personnel, transport and other equipment with the police by the forensic experts in their field work.

Central Forensic Science Service

24.34 Item 65 of the Union List in the Seventh Schedule of the Constitution refers to "Union agencies and institutions" for—(a) professional, vocational or technical training, including the training of police

officers ; or (b) the promotion of special studies or research ; or (c) scientific or technical assistance in the investigation or detection of crime. In fulfilment of this responsibility, the Central Government maintains a number of institutions like the National Police Academy, Central Detective Training Schools, Central Forensic Science Laboratories etc. Presently the institutions dealing with scientific aids to the detection of crime do not all come under the same organisation. The Bureau of Police Research and Development controls the Central Forensic Science Laboratories at Calcutta, Hyderabad and Chandigarh, the units of the Government Examiner of questioned Documents at Simla, Calcutta and Hyderabad and the Central Detective Training Schools at Chandigarh, Calcutta and Hyderabad. The Central Bureau of Investigation controls the Central Forensic Science Laboratory at Delhi and the Central Finger Print Bureau at Calcutta. The Institute of Criminology and Forensic Science functions directly under the Ministry of Home Affairs. Some of these institutions date back to very early days in the development of Indian police. The Office of the GEQD, Simla was started in 1906. The career prospects of the personnel in these institutions have varied greatly. A number of directly recruited scientists in the rank of Assistant Director (1,100—1,600) have already reached the maximum of their scale and have no prospects of promotion for a long time to come in the present set up of some of these institutions. A suggestion has been made to us that some of these institutions at the Centre should be merged into one set up and a kind of apex body should be evolved to over-see research all over the country. We consider that while a merger might be welcome purely as a measure for promoting a hierarchically conceived career structure, it might prejudice the academic growth of these institutions which have been pursuing their respective disciplines with dedication over several years. In our view a simultaneous functioning of academic bodies horizontally structured with a minimum hierarchical cover is preferable to a vertically structured system, if the academic culture of these institutions is to be preserved. A better solution for the improvement of career prospects of the young scientists who join these different organisations would be to evolve a Central service which may be called the "Central Forensic Science Service" with a cadre structure suitably designed to cover the staff needs of all these institutions put together and also provide for different pay scales appropriate to the length of service. Members of this service may fill posts in all the Central Forensic Science Laboratories, units of the GEQD, Central Detective Training Schools, scientific wing of the ICFS, NPA, BPR&D and Central Finger Print Bureau. The number of such personnel according to the present staffing pattern of these institutions comes to about 100 and this number can constitute a viable Central service. It may be noted that at the time of the Third Central Pay Commission (1973), the total strength of the Indian Ordnance Factories Service (Non-Technical) was 96 and that of Military Lands and Cantonment Service was 95. The constitution of the proposed service may provide for inter-transfer of officers above a particular seniority between the different institutions. This arrangement in our view would help in preserving the independent academic culture of each of these institutions and simultane-

ously providing for better career prospects by inter-institutional transfer of personnel. A wing of the Bureau of Police Research and Development under a senior functionary drawn from this service can perform the coordinating role for the development of the forensic science institutions. Apart from direct recruitment of scientists from the open market, another possible source of recruitment for the new service could be the cadre of young scientists working in the State Forensic Science Laboratories. We project the idea of the Central Forensic Science Service with broad features as outlined above and recommend that the modalities for constituting this service and determining its structure and spelling out different modes of recruitment and other service conditions may be gone into by a special committee which may be set up by the Ministry of Home Affairs. This new service would also set a pattern for the determination of service conditions of the staff in the State Forensic Science Laboratories and their allied units.

Computers

24.35 In chapter XVII of our Second Report we have recommended the setting up of the District Crime Record Bureaux, State Crime Record Bureaux and the National Crime Record Bureau for collecting, storing and analysing a large variety of data connected with different purposes of the different wings of the criminal justice system including the police. The efficient functioning of the information network envisaged in that recommendation is totally dependent on the availability of computer facilities, at least at the State level and the national level. The Ministry of Home Affairs launched a scheme of financial aid from 1975-76 for installing computers for police use in the States in a phased programme. Nine States have so far been supplied with computers designed and manufactured by the Electronics Corporation of India, Hyderabad. The timely setting up of a Directorate of Coordination (Police Computer) in the Ministry of Home Affairs has helped the implementation of this programme in a coordinated manner. We recommend the continuance of this scheme and its completion as early as possible to cover all the States and meet the requirements of the proposed Crime Record Bureaux.

Transport

24.36 The importance of mobility to secure police efficiency cannot be over-emphasised. The public expect police response to be visibly prompt to gain confidence in a disturbed situation. We recommend that the provision of transport for the police at different levels from the police station upwards may be on the following lines :—

- (i) A jeep should be supplied to each police station. Where the officer in charge of a police station is an Inspector of Police, the Sub-Inspectors in-charge of traffic and law and order work may additionally be provided with motor-cycles.
- (ii) Jeeps should be supplied to Inspectors in-charge of circle.

- (iii) Sub-Divisional police officers should be provided with a pick-up van.
- (iv) Superintendents of Police and higher officers should be provided with cars or jeeps, whichever would be more suitable for the type of their field duties and responsibility. A jeep would be more useful to an officer mostly engaged in law and order work.
- (v) Armed police units in the district should be supplied with vehicles at the rate of one for 25 men.
- (vi) Vehicular needs of specialised agencies like Forensic Science Laboratory, Finger Print Bureau, etc. should be determined separately on the merits of each case.

24.37 Police personnel should be encouraged with grants or loans on easy terms for equipping themselves with some kind of transport and also paid a suitable monthly allowance for their maintenance.

Transport workshop

24.38 We have noticed that a large number of police vehicles remain out of commission in several States for want of adequate facilities for quick repairs. Lack of attention to ordinary repairs in time leads to a major break-down in many instances. A survey of the ground position of vehicles in the different States as reported by the Sampath Committee shows that about 10 to 15 per cent of vehicles in most States

are lying off the road undergoing repairs. It takes about three months on an average for the repairs of a vehicle to be attended to. 7 per cent of the vehicles are lying condemned and no replacement has been made. 15 per cent of the vehicles are fit for condemnation. This is a very sorry state of affairs and needs rectification. We would recommend the setting up of separate police motor workshops at least at the range level for expeditious handling of all repair work for police vehicles in each range. The publication of the Bureau of Police Research and Development entitled 'Fleet Management for the Police' (1976) may be referred to for guidance regarding the pattern of staff and equipment for these workshops.

Manpower economy

24.39 We have also examined whether as a result of all these measures of modernisation it will be possible to economise on the manpower requirements of the police. It is seen that, excepting the computer, the other facets of modernisation are not designed to provide a substitute for the men in the performance of any particular task but are meant only to aid better performance by the same men. The computer facilities as envisaged in the development programme are meant to provide a new system for collection, analysis and recording of a large volume of data relevant to the police and other wings of the criminal justice system. Such a comprehensive analysis is at present not being carried out by any body and, therefore, the possibility of the computer replacing a body of men does not arise. There is, therefore, very little scope for economising on manpower, merely on account of the modernisation as envisaged.

CHAPTER XXV

SCRIPTORY WORK IN POLICE

Introduction

25.1 Scriptory work in the police department, as in most departments of the Government, has vastly increased in the recent years. In fact complaints are repeatedly heard from the public as well as the police that police functionaries, who should rightly be devoting a large part of their time to field work having interaction with public, have to remain glued to their office tables by the increasing volume of scriptory work that has devolved on them. While a certain quantum of scriptory work is inescapable for meeting the requirements of recording information, supervision and control, the position needs a critical study and rectification when the increasing load of scriptory work crosses the optimum limit and becomes prejudicial to the satisfactory performance of field duties for which the police are primarily intended. We proceed to examine in the following paragraphs the scope for reducing scriptory work in police from this point of view.

Station General Diary

25.2 A General Diary is required to be maintained by the officer in charge of a police station under section 44 of the Police Act of 1861 or a similar provision in the Police Act of a State, as the case may be. Section 44 of the Police Act prescribes the diary for recording therein 'all complaints and charges preferred, the names of all persons arrested, the names of complainants, the offences charged against them, the weapons or property that shall have been taken from their possession or otherwise, and the names of the witnesses who shall have been examined'. In actual practice, in most of the States, the General Diary has come to acquire an omnibus character and whatever happens at the police station, important or otherwise, is being recorded in the General Diary. For example, the Police Regulations in one State specify the following matters to be recorded in General Diary :—

- (1) Report of the morning parade with a note of the cause of absence of any officer or man.
- (2) Verification of cash balance and inspection of arms and the malkhana by the officer-in-charge.
- (3) Distribution of daily duties and grant of casual leave.
- (4) Department and return of police officers on and from duty, transfer or leave.
- (5) Reports of the performance of all duties, e.g. beat duty, process-serving, inspection and investigation.

- (6) Transfer of charge of the police station or the station writer's duties.
- (7) Postings and relief of sentries.
- (8) Receipt and disbursement of cash.
- (9) The fact that the police have taken possession of any property together with brief details of such property and of the action taken to dispose it of.
- (10) Arrests made at the police station.
- (11) The arrival or departure of prisoners with a statement, in the case of departing prisoners, of the reasons for imposing or not imposing handcuffs.
- (12) Admission of prisoners to bail at the Station.
- (13) Reports of offences, with number of check receipt, distance and direction from the station of the village from which the offence is reported; and, in the case of cognizable offences, the number of offences reported from that village up to date during the year.
- (14) Reports of all occurrences which under the law have to be reported or which may require action on the part of the police or the magistracy, or of which the district authorities ought to be informed.
- (15) Action taken on reports.
- (16) Details of papers received and despatched.
- (17) Inspections of the station by gazetted officers and inspectors.
- (18) On the 1st and 16th of every month a statement of all property taken possession of by the police and present in the malkhana pending disposal.
- (19) On the 1st and 16th a list of outstanding references and orders.

The result of the above order is a tremendous increase in the scriptory work at the police station.

Police Manual to be revised

25.3 Quite a number of points included in the above list would normally find mention in the case diary written for the investigation of the connected specific cases. Their entry in the General Diary means avoidable duplication of scriptory work. A good part of scriptory work at the police station level will get

reduced if the Station General Diary is strictly limited to the purpose envisaged in law. The tendency to regard it as a kind of register for making contemporaneous entries about various happenings in the police station indicates a basic distrust of the police version of any event without a supporting record in the General Diary. We are convinced that this unreasonable and unrealistic insistence on corroborative entries in the Station General Diary for all happenings in a police station has actually resulted in the police station staff getting into the habit of making false entries in the General Diary and, what is worse, becoming insensitive to such falsehood in their daily work ! We, therefore, recommend that the departmental instructions in the Police Manuals regarding the writing up of the Station General Diary may be scrutinised from this angle and the volume of matter to be recorded therein may be reduced substantially and confined to realistic levels.

25.4 Apart from the General Diary which is prescribed in the Police Act, there are a number of other registers and returns prescribed in the Police Manuals relating to the day-to-day work in police stations and other units. All the connected provisions in the Manuals may be scrutinised and suitably revised to limit scriptory work to what is really relevant and important in the present context of police work and realities in the field.

Case diary

25.5 The police record of statements made by witnesses examined during investigation of specific cases and the writing of Case Diaries involve considerable scriptory work which has to conform to the requirements of law as spelt out in sections 161 and 172 Cr.P.C. We are separately examining the need for amendments in the Cr.P.C. for speeding up investigations and trials generally and our recommendations in that regard will cover the above said sections also.

Periodical returns

25.6 Another cause for increasing scriptory work arises from the periodical returns and statements that are prescribed for submission from the police station level upwards. A study in Kerala in 1973 revealed that a total number of 150 different types of registers and records were required to be maintained at the police station in addition to the preparation of 121 periodical returns ! In fact, this type of work has a tendency to proliferate and a new return is prescribed on the slightest need for getting some information, however, temporary its value and significance may be. In Delhi, a study disclosed that the number of such returns increased by 70 per cent in a period of 5 years from 1973 to 1978. However, we notice that this strain on the police station staff who have no separate ministerial assistance has been taken note of by some State police forces who have tried to rationalise and reduce the scriptory work. A Committee set up by Karnataka police in 1974 reviewed the position and found that out of a total number of 268 returns, 141 could be discontinued. A similar study made in U.P. resulted in the discontinuance of 170 proforma in 1978. It appears that when once a return or pro-

forma gets prescribed in some context, it continues to exist even though it might have lost its utility. It has been noticed in many cases that such returns are neither made use of nor even properly filed in many offices receiving them. There is, therefore, need for a periodical review of all such returns and records by a Standing Committee once in two years. We recommend that such Committees may be formed in every State Police Headquarters which should include, among others, a couple of officers from the police station level and Circle Inspector level, for examining if the periodicity of some of the returns could be altered or some of the returns could be lumped together or even discontinued. The Committee could also devise suitable proformae to standardise the collection of data and reduce the load of repetitive scriptory work.

Miscellaneous complaints

25.7 Besides investigating specific cases registered at the police station, the officer in charge of the police station is frequently required to send reports on miscellaneous complaints which pour into the police station in the form of applications or petitions as they are called. There is a growing tendency at different levels in the supervisory structure from Government downwards to call for reports on a variety of applications or petitions. This tendency, in our view, needs to be corrected. A proper scrutiny of the application or petition in the first instance by the recipient officer should enable him take a proper decision whether to call for a report thereon from the lower levels or leave it to them for disposal, in their judgment and discretion. In this context we would also like to draw attention to the instructions issued to the Central Government departments in the Government of India, Ministry of Home Affairs O.M. No. 151/1/65-AVD dated 19th February, 1965 that no action is to be taken on anonymous or pseudonymous complaints. We commend the adoption of this policy in all States in regard to anonymous and pseudonymous complaints.

Statistical cell at Police Headquarters

25.8 Quite often repeated references are made from the State police headquarters to the subordinate police units at the level of sub-division, circle and police station for a variety of statistical data and other information for answering questions raised in the Parliament or State Legislature. In many instances the required information might already be available or could easily be compiled from the data and information in the police headquarters itself; but for want of adequate scrutiny at the initial stage at the higher level a lot of avoidable scriptory work is generated at the lower levels. It would be helpful if a small statistical cell is established at the State police headquarters to handle such matters with due awareness and appreciation of the material already available at the headquarters. The same statistical cell can also be of considerable assistance in handling any analytical work that might be necessitated by the studies undertaken by the State Police Research Cell, if any. The quality of work turned out by this cell, with particular reference to the original work done by it without creating avoidable scriptory work at the lower levels, could be

periodically assessed and appropriate corrective measures taken.

Delegation of financial powers

25.9 A certain volume of scriptory work presently generated by the existing administrative procedures for obtaining financial sanctions for creation of posts, purchase of stores, maintenance and repairs of police buildings, vehicles etc., can be considerably reduced by streamlining these procedures and delegating more powers to the departmental authorities at appropriate levels. Our recommendations in this regard will be indicated in the chapter relating to the administrative structure.

Station inspections

25.10 It has been strongly emphasised before us that repeated inspections of the subordinate police units by a number of supervisory ranks causes a lot of scriptory work at the police station level and pins down the executive staff to continuous table work at the expense of their legitimate field duties. In our view it would be needless duplication of work to have a system of inspections in which the same degree of scrutiny is exercised by more than one supervisory officer. It would be adequate if a detailed inspection of the police station is periodically conducted by officers at the sub-divisional level. The administrative cadres at the higher levels may confine themselves to an overall assessment of the quality of police performance at the circle level and above. Their visits to police stations should be more to acquaint themselves with the actual field conditions and difficulties of the operating staff rather than to do a fault finding exercise in the name of inspection. This distinction in the purpose, content and quality of visits and inspections at different levels should be carefully understood and appreciated by the supervisory ranks.

Furnishing copies of prosecution documents to accused

25.11 When a prosecution is launched in court on the basis of a charge-sheet filed by the police, the Magistrate is responsible under section 207 Cr.P.C. for furnishing to the accused copies of a number of specified documents including the statements of witnesses recorded by the police and other documentary evidence on which the prosecution proposes to rely. In some States this task of furnishing copies of documents to the accused is still handled by the police under a local arrangement, in view of section 173(7) Cr.P.C. which states that the police officer investigating the case may furnish to the accused copies of the

specified documents if he 'finds it convenient so to do'. In the absence of additional staff to handle this job, the executive police officers find themselves tied down to a lot of scriptory work on this account. To avoid delay in furnishing copies to the accused and also to guard against any risk to the safety of the documents and their content by their passing through several hands in the process of transmission between the police and the court it would be desirable, in our view, for the police themselves to handle this task; but to enable them do so they should be sanctioned adequate staff for this specific purpose, and we recommend accordingly.

Stenographic assistance to supervisory ranks

25.12 The supervisory ranks in the police hierarchy, particularly at the level of Inspectors and sub-divisional officers, who do not have a fullfledged office to give them ministerial assistance, should be provided with adequate stenographic assistance for expeditious handling of their scriptory work.

Typewriters and taperecorders

25.13 Provision of mechanical aids like typewriters and taperecorders at the police station level would be very helpful in reducing the load of scriptory work presently borne by the investigating staff. We are glad to notice that some States like Maharashtra, Karnataka and Punjab have already taken steps to provide typewriters to police stations. We commend this progressive measure to all States and further recommend that the investigating staff may also be encouraged to buy such aids wherever possible by giving them loans or grants for the initial purchase and paying them a monthly allowance for their maintenance. A system of payment of typewriting allowance to the investigating staff is in vogue in the Central Bureau of Investigation in the recent years and we commend it to the State police agencies as well.

Police press

25.14 Scriptory work is rendered easier by the availability of standard proformae in printed forms for the making of certain records. We found in a number of States that, though the proformae were standardised, the supply of printed formats was very irregular and the police had to make their own private arrangements for securing the required stationery which in turn led to other malpractices. Adequate supply of the standardised forms and registers for police use should be ensured by developing a separate press for the police department, if the Government press is found unable to cope with the requirements.

CHAPTER XXVI

SUMMARY OF OBSERVATIONS AND RECOMMENDATIONS

Police and the weaker sections of society

26.1 For determining the special role and responsibility of the police towards weaker sections of the society, it would not be possible to evolve precise parameters for identifying and labelling any particular section of the society as weak in absolute terms. It is the relative state of helplessness or defencelessness of a person or class of persons in securing the legal rights to which they are entitled under the law of the land in regard to their life, property and other matters that should determine his or their 'weakness' for this purpose. Those who are subjected to social injustice and different forms of exploitation on account of poverty or ignorance besides age old traditions, customs, beliefs and the interplay of vested interests that have grown around them, would constitute the weaker section as viewed from this angle. We would, therefore, adopt this parameter for the police to identify the weaker section in any given context and determine police response to their situation in accordance with our observations and recommendations in this Chapter.

(Para 19.1)

26.2 State Governments may set up Special Courts under section 15A(2)(iii) of the Protection of Civil Rights Act to bring down the large pendency of cases in court.

(Para 19.6)

26.3 Government may consider further amending the Act to specify that no appeal or application for writ or an order passed by the State Government for imposing a collective fine under section 10A shall be entertained by any court until the fine amount is deposited with a specified authority.

(Para 19.7)

26.4 In the recording and reporting of crime statistics regarding atrocities on Scheduled Castes, no uniform criteria appear to have been adopted in the States. The Ministry of Home Affairs may issue comprehensive guidelines for classifying crimes as 'atrocities' to ensure proper recording and analysis of all such offences over a period of time on a country wide basis.

(Para 19.9)

26.5 An undue emphasis on mere statistical reviews is likely to induce suppression of crime by non-registration of cases. Complaints from individual members of Scheduled Castes regarding isolated instances of victimisation may get ignored by the

police unless they are backed by a collective demand from a group for appropriate police action under the law. State Governments also tend to rely on statistics of recorded crimes to claim improved performance in the maintenance of law and order. It is important for all concerned to see the danger of a false statistical picture deluding them into a belief that all is well while in fact atrocities might be continuing without any notice by the police. Police inaction would in turn encourage further atrocities and the situation would thus deteriorate in the field, contrary to statistical claims in Legislature debates.

(Para 19.10)

26.6 Special Cells may be set up in the police department in each State to :—

- (i) monitor the progress of investigation of cases under the PCR Act or other atrocities against Scheduled Castes/Tribes registered in district police stations,
- (ii) make inquiries or investigations into complaints from Schedule Castes/Tribes or other weaker sections of the people that may be received directly in the cell,
- (iii) discuss with the prosecuting staff the progress of cases pending trial to ensure satisfactory marshalling and presentation of evidence in court,
- (iv) collect statistical and other relevant data for reviewing the state of implementation of the PCR Act from time to time, and
- (v) collect intelligence regarding the actual ground situation and identify areas which require special attention for protecting the Scheduled Castes/Tribes and other weaker sections of the people from exploitation and injustice.

(Para 19.12)

26.7 Besides the above-mentioned cell which would function as a part of the police set up in the State, a composite cell may be constituted at the district level to look into a wide variety of complaints that might emanate from the Scheduled Castes/Tribes, not necessarily linked with criminal offences as such but relatable to lapses in administrative measures meant for their relief. Since the work of this cell will be mostly in the nature of making an inquiry after scrutiny of departmental documents and ascertaining the factual position in the field by examining affected persons, it

would be desirable to staff this composite cell with senior and experienced officers from the Revenue, Police, Social Welfare, Education, Cooperation and Development departments within the district. It would be further helpful to this cell if an auditor or accounts officer from the local fund audit set up in the State or any other similar agency is also associated with the cell in the inquiry work wherever necessary.

(Para 19.14)

26.8 The head of this composite cell at the district level should be an officer of the rank of Sub-Divisional Officer and its work may be overseen and periodically reviewed by a District Committee of which the District Collector could be the Chairman and the District Superintendent of Police could be the Vice-Chairman, with the District Social Welfare Officer and District Educational Officer as its members along with some representatives from the public, known for their interest and involvement in social work.

(Para 19.14)

26.9 A suitably constituted State level Committee under the chairmanship of the Minister in charge of Social Welfare can periodically review the working of the composite cells in districts.

(Para 19.14)

26.10 The special cell envisaged as part of the police set up for handling inquiries and investigational work connected with the PCR Act and atrocities on Scheduled Castes/Tribes may be referred to as "Special Investigating Cell". The composite cell at the district level which will have a wider charter of duties and responsibilities to look into a variety of complaints relating to the interests of Scheduled Castes/Tribes may be called the District Civil Rights Cell (DCRC). The State level Committee to oversee the working of DCRCs may be called the State Civil Rights Committee (SCRC). The SCRC and the DCRCs may be declared as committees set up under Section 15A(2)(iv) of the PCR Act and clothed with necessary authority and powers under the relevant rules.

(Para 19.14)

26.11 An important cause for the dissatisfaction of the Scheduled Castes and other weaker sections of society about lack of police response to their plight in certain situations is that the police do not take cognizance of their complaints of ill-treatment at the hands of the upper castes, pleading the excuse that the complaints are non-cognizable under the law. Such complaints usually relate to non-cognizable offences like hurt under section 323 I.P.C., assault under sections 352 or 355 I.P.C. and insult or criminal intimidation under sections 504 or 506 I.P.C. Police response to a non-cognizable complaint should be suitably specified in law to facilitate effective response on either of two grounds; namely, (i) to protect a member of the weaker section from exploitation or injustice or (ii) to prevent a possible breach of public peace that might result from absence of effective

action on the complaint of a non-cognizable offence which has the potential for generating public reaction with consequent repercussion on public order. Section 155 of the Code of Criminal Procedure may be amended on the lines indicated in the report to facilitate this response by police.

(Para 19.15 and para 19.17)

26.12 A sample survey has disclosed several deficiencies in the scheme of allotment of land to the landless poor who include a large number of Scheduled Castes. The following remedial measures are suggested :—

- (i) There is clear need for a separate comprehensive legislation setting out the procedure for the allotment of land (house site as well as agricultural land) to landless poor, particularly Scheduled Castes and Scheduled Tribes. This legislation should also spell out an effective procedure for eviction of unauthorised occupants after the allotment has been duly made under the law. The State itself should assume responsibility to initiate eviction proceedings on the basis of information or intelligence that may be available to it, instead of leaving it to the aggrieved allottee to make a complaint as such.
- (ii) Section 441 IPC relating to criminal trespass may be amended on the lines adopted in Uttar Pradesh.
- (iii) Police officers from the local police station should also be associated with the act of formally handing over vacant possession of land to the landless as and when it is done by the Revenue or other authorities directly concerned with it. A brief record should be made in the police station records also about the fact of such handing over and the identity of the parties concerned.
- (iv) It should then be deemed a part of police duties to collect intelligence about violations of such allotment orders and make a report thereof to the Revenue authorities concerned for immediate corrective action under the law. Police should also simultaneously take action for investigating the connected offence of criminal trespass. While police responsibility will be confined to the investigation and prosecution of the offender, his actual eviction from the land will be done by the Revenue or other authorities concerned under the provisions of the existing law or the separate law as proposed earlier.
- (v) While framing a separate legislation to govern the allotment of land to the landless poor, State Governments might keep in view some of the provisions of Public Premises (Eviction of Unauthorised Occupants) Act, 1971, which appear to be very effective for

purposes of eviction of unauthorised occupants.

(Para 19.22)

26.13 Police headquarters in each State should periodically compile and circulate among the field officers a detailed note indicating the scope and responsibility of the police for the investigation of specified offences under several Central and State Acts meant for the economic and social uplift of the weaker sections of the society like the Bonded Labour System (Abolition) Act of 1976, Minimum Wages Act of 1948, Assam Moneylenders Act of 1934, Rajasthan Scheduled Debtors (Liquidation of Indebtedness) Act of 1976, etc.

(Para 19.23)

26.14 One of the situations resulting in considerable distress and hardship to the weaker sections of the community relates to motor vehicle accidents resulting in death or serious injury to persons on the road. A system has been institutionalised in Tamil Nadu in which the police are required to furnish relevant information and data in a prescribed form to the Motor Vehicle Accident Claims Tribunal as soon as investigation is taken up in any accident case. Copies of these statements are also simultaneously furnished to the district committee of the State Legal Aid and Advice Board which immediately gets into action for initiating the prescribed processes for getting the compensation amount to the victim. The Tamil Nadu State Legal Aid and Advice Board has reported that the total amount of compensation awarded during the period from 1st January, 1979 to 31st October, 1979 in respect of motor accident cases has totalled to Rs. 2,76,250 which is a vast improvement over the position as it obtained before the scheme came into operation. This scheme is commended for adoption in all States and Union Territories.

(Para 19.25)

26.15 There is also another scheme in Tamil Nadu for immediate payment of cash relief to the victim or his family in motor vehicle accident cases on the assessment and recommendations of the investigating police officer. This payment is sanctioned through a simple procedure at the district level itself and, therefore, the cash relief is promptly secured for the victim, on the initiative of the police. This monetary relief may go upto Rs. 1,000 depending on the circumstances of the case, and is without prejudice to any further payment that may be ordered later as compensation by the Motor Vehicle Accident Claims Tribunal. This scheme is also commended for adoption in all States and Union territories.

(Para 19.26)

26.16 Motor Vehicle Accident Claims Tribunals may be conferred with the powers of a criminal court for enforcing attendance of witnesses.

(Para 19.27)

26.17 Section 110 E of the Motor Vehicles Act may be amended to provide for the execution of the compensation award as a decree of the court so that the amount can be recovered through court earlier than by the present procedure of recovery of arrears of land revenue.

(Para 19.28)

26.18 In the Second Report of the Commission the setting up of a State Security Commission has been recommended to oversee the working of the police in certain aspects. The overall quality of police response to complaints from weaker sections in different situations would be assessed and taken note of by the State Security Commission in the normal course. It might facilitate a better appreciation of police performance in this regard if it could be so arranged that one of the non-official members of the State Security Commission is from the Scheduled Castes/Scheduled Tribes.

(Para 19.29)

26.19 Beyond observing that the composition of the staff in the police system as a whole should reflect the general mix of communities as exist in society and thereby command the confidence of the different sections of society that the system would function impartially without any slant in favour of any community as such, we would not advise the fixation of any rigid percentages for staffing the police system on the basis of caste or community.

(Para 19.30)

26.20 Police personnel at different stages of training may be motivated and oriented to deal with the problems of weaker sections with due understanding and sympathy.

(Para 19.31)

Village police

26.21 Though the village chowkidar has become practically useless as far as regular police work is concerned, a total abolition of this system without an alternate scheme, equally simple and inexpensive, for aiding police work in the villages would create difficulties for the regular police who now have in the village chowkidar at least one contact point, however, inefficient it may be, to attempt collection of information in any specific situation. Since collection of information is a fundamental requisite of all field work in the police, the police will be greatly handicapped if they do not have at the village level at least one functionary who will have his ears to the ground and be in a position to help them with useful information whenever needed.

(Para 20.4)

26.22 The village chowkidari system should not, therefore, be given up altogether but should be made to function effectively by eliminating the existing deficiencies and, what is more important, linking it effectively with the functioning of a group also at the village level. While the services of an individual functionary like the chowkidar would be required on

a continuing basis to keep a general vigil in the village from the police angle, the services of a group as such may be required only at intervals in specified situations. For example, arranging crime prevention and relief work in a cyclone or flood affected area, organising preventive measures against movements of dacoit gangs that might be suspected at any particular time, arranging preventive patrols against sabotage of communication lines or other vital installations that might lie in the rural area when there is a threat of such sabotage, etc., are tasks for the performance of which a village level defence group would be more effective than a lone village chowkidar.

(Para 20.16)

26.23 The existing chowkidari system may be retained and strengthened with the following provisions built into the system :—

- (i) Minimum age limit of 20 years for appointment and maximum age limit of 60 years for remaining in service may be adopted.
- (ii) Ability to read and write the regional language should be insisted upon.
- (iii) He should be a resident of the village. Preference should be given to a person having some avocation in the village which would give him the means of reasonable livelihood without total dependence on the remuneration he might get from Government.
- (iv) He may be assigned some village common land for cultivation and enjoyment of its produce, subject to his continued functioning as chowkidar satisfactorily.
- (v) He should be under the administrative control of the Police Department and should be paid through them on a regular monthly basis.
- (vi) His pay should be fixed at a reasonable level which would appear attractive by the standards of village economy.
- (vii) He should not be involved in the performance of tasks concerning other Government departments. If the other departments require the services of a similar village level functionary for their purposes, they should be separately appointed and administered by them.
- (viii) His duties will include—
 - (a) general maintenance of vigil in the village from the point of view of crime prevention; and
 - (b) being alert and sensitive to any intelligence regarding village affairs which are likely to lead to a law and order situation and pass on such intelligence promptly to the regular police.

- (ix) He should also have powers to arrest and detain persons who may be either caught red handed while committing certain specified offences in the village or may be found in possession of property in circumstances which create the suspicion of the commission of any of the specified offences. The chowkidar will hand over to the regular police without delay any person so arrested along with the property seized from him, if any.

(Para 20.19)

26.24 Besides the village chowkidar there should be village defence parties organised in such a manner that they can be got together whenever an occasion needs their services for collective action to deal with any specific situation in the village. They may be organised for one village or a group of villages as may be found operationally convenient. One of the members of the village defence party should be designated as the dalapati who will function as their leader. The village chowkidar shall, *ex officio*, be a member of the village defence party. The organisation and set up of the village defence party and the dalapati including the procedure for their appointment and administrative control and their duties and responsibilities may be broadly on the lines of the Karnataka pattern as detailed in paragraphs 20.6 to 20.11 of the report.

(Para 20.21)

26.25 While the administrative control over the village defence parties and dalapatis will remain with the police, it would be desirable to associate a functionary at the Panchayat Union or Block level in the Panchayat administration in exercising supervision over the work of dalapatis.

(Para 20.24)

26.26 It would greatly facilitate prompt exchange of information relevant to their tasks if a residential telephone is provided for the dalapati in each village defence party wherever technically feasible. In fact this telephone can function in the manner of a Public Call Office which would also facilitate its use by the other members of the village community in an emergency. Such facility would greatly enhance the status of the dalapati and his utility to the village community. Government may consider the grant of an advance to help purchase of cycles by the members of the village defence parties including the chowkidar. The grant of a small allowance to the chowkidar for the maintenance of his cycle may also be considered.

(Para 20.26 and Para 20.27)

26.27 The scheme of village policing as detailed in this report envisages a comprehensive set up including the village chowkidar, village defence parties and the dalapati with appropriate administrative and supervisory control measures to secure the ultimate objective of the system, namely, effective involvement of the village community in self-defence, besides

co-operating with the regular police in the performance of police tasks. Village chowkidars are at present functioning in some States under a separate Act enacted a long time ago. Village defence parties have been set up in a few States under some recent legislation. We recommend the legislation of a separate comprehensive Act by the State Governments to set up the village police system including both as proposed.

(Para 20.28)

Special law for dealing with serious and widespread breaches of public peace or disturbance of public order

26.28 It is clear from a close assessment of the present crime trends that the administration has to be fully geared to handle situations in which violent crimes are most likely to increase, intensity of physical harm and damage done to persons and property will be more, and there will be widespread disturbances to public order. The present style of police functioning in the event of communal outbursts or other serious breaches of public peace has been more in the nature of a fire fighting operation focussed on the immediate objective of restoring order on the spot. Police operations have not been successful in effective follow-up action through the processes of investigations and court trials to bring home to the law-breakers the penal consequences of their action. Investigations get seriously hampered by the reluctance of witnesses to speak in evidence against the accused persons who, even if arrested by the police, get easily enlarged on bail under the existing law and wield threatening influence on the witnesses. Further, the evidence normally available in such situations does not always establish a direct nexus between the offences and the real instigators to the extent required under the existing law and procedure to attract penal notice. Criminal liability of individuals when they participate in group violence is difficult to establish under the existing law which is essentially designed to deal with acts based on individual knowledge and intention. The consequent ineffectiveness of the existing processes of law is an important cause for the continued prevalence of criminal attitudes and behaviour of the law breakers. The legislative armoury should be specially designed and strengthened to facilitate effective police action in such situations.

(Para 21.18)

26.29 In the context of the law and order situation of the country as it has developed now, we would need some special provisions in law, which would lie between the provisions in normal law applicable to ordinary crime situation on one side and the stringent provisions of an Emergency on the other. These special provisions should be made available in a comprehensive Central legislation which could be invoked and applied to any specified area as and when necessary. An area may be deemed to be a disturbed area and proclaimed as such for this purpose by a State Government if it is satisfied that there is extensive

disturbance of the public peace and tranquillity in that area by reason of—

- (i) differences, or disputes between members of different religious, racial, language or regional groups or castes or communities, or
- (ii) occurrence of acts of sabotage or other crimes involving force or violence, or
- (iii) a reasonable apprehension of the likelihood of occurrence of sabotage or other crimes as aforesaid.

(Para 21.19)

26.30 Section 151 Cr.P.C. may be amended to enable the police get the arrested person remanded to custody for a period not exceeding 15 days in any case, as a preventive measure.

(Para 21.22)

26.31 A special law to deal with widespread disorder and breaches of public peace should provide for—

- (i) notification of any specific area disturbed by widespread disorder and breach of peace as a 'proclaimed area' to which certain provisions of the Act will apply;
- (ii) suitable definitions of 'riotous mob', 'instigator', 'public property' and 'sabotage' to identify crimes connected with them;
- (iii) control over movements of persons in the proclaimed area;
- (iv) tighter control over possession and use of arms and explosives;
- (v) externment of bad characters from a specified area;
- (vi) preventive detention for a period not exceeding three months;
- (vii) attachment of criminal liability to instigators for unlawful acts committed by riotous mobs on their instigation;
- (viii) Special Courts to deal with offences under the Act as also other specified offences;
- (ix) presumption regarding culpable mental state unless rebutted by the accused;
- (x) presumption regarding some aspects of evidence arising from documents;
- (xi) tightening the provisions regarding 'bail' and
- (xii) fixing time limits for the completion of investigations and commencement of proceedings in court.

A draft for the proposed special law which may be called "The Disturbed Areas (Criminal Law Amendment) Act" is furnished in Appendix IX of the report.

(Para 21.35)

Corruption in police

26.32 Several administrative and legal measures for plugging the loopholes and securing better supervision over police performance for the avoidance of corruption and allied malpractices have been recommended to the States following the Conference of Inspectors General of Police and the Heads of State Anti-Corruption Bureaux. Most of these malpractices can be substantially reduced by a system of surprise checks and inspections and effective supervision by honest and well motivated officers at different levels of command within the hierarchy itself. However, the reward and punishment mechanism of the system has become totally ineffective because of increasing political interference and, therefore, the senior officers, however, determined and committed they might be to the cause of anti-corruption work, find themselves unable to deal with some corrupt officers who have political contacts and are able to draw political intervention on their behalf whenever anything is attempted to be done to discipline them. The patent inability of a superior officer to deal with a known corrupt subordinate immediately lowers his prestige in the department and induces other subordinates also to seek and develop political contacts as a protective cover to escape punishment for their malpractices. We earnestly believe and trust that the implementation of the measures suggested in chapter XV of our Second Report to insulate the police system from political interference would go a large way in promoting an appropriate climate for effectively dealing with the problem of corruption in police.

(Para 22.7)

26.33 The basic responsibility for maintaining the honesty of the force and weeding out the corrupt elements should rest on the supervisory levels in the force and they should be enabled to discharge this responsibility effectively. In this context, their capacity to punish the dishonest personnel should not be diluted in any manner, and likewise their capacity to place honest officers in important and sensitive posts should not also be interfered with.

(Para 22.8)

26.34 To secure honesty and integrity for the system as a whole it is important that the postings of officers in charge of police stations should be the exclusive responsibility of the district Superintendent of Police and likewise the Chief of Police should have the exclusive responsibility for selecting and posting Superintendents of Police in charge of districts.

(Para 22.9)

26.35 The provisions in the service rules for compulsory retirement after completion of 20 years of service should be resorted to without hesitation to weed out officers with corrupt reputation. Evidence regarding this reputation should be assessed by a suitably constituted high level committee in the police headquarters whose satisfaction on the adequacy of material for this purpose should be held final and acted upon. A senior representative from the State Judiciary or the Law Department of the State may be associated with this high level committee to ensure

an objective assessment of the available material. This committee should function as a Standing Committee and go through this exercise every year without fail. In the case of compulsory retirement ordered on an assessment report from this Committee an appeal may lie to the Government except in cases where the compulsory retirement has been ordered by the Government itself when the appeal shall lie to the State Security Commission envisaged in our Second Report. There shall be only one appeal and the matter shall be deemed closed after the disposal of that appeal. It would be desirable to lay down a time limit of three months for the disposal of such appeals.

(Para 22.10)

26.36 In extreme cases where the stipulated minimum number of years of service may not have been crossed, action for weeding out corrupt officers should be taken by availing the provisions of Article 311(2)(c) of the Constitution. To avoid any doubt regarding the legal propriety of such action under this Article, we would recommend that sub-clause (c) of the proviso to this Article may be amended to read as under :—

“(c) Where the President or the Governor, as the case may be, is satisfied that in the interest of the security of the State or the maintenance of integrity in public services in the State it is not expedient to hold such an inquiry.”

(Para 22.11)

26.37 There should be constant interaction and exchange of intelligence between the Chief of Police and the Head of the State Anti-Corruption Bureau to identify officers of doubtful integrity and plan conjoint action for collection of intelligence to expose their corruption. For this purpose the Chief of Police should freely use his powers under the Conduct Rules to demand from a suspect officer a complete statement of his assets, movable and immovable either owned in his name or in the name of any member of his family, either acquired from his own resources or from the resources of his family members.

(Para 22.12)

26.38 The Conduct Rules applicable to the State police personnel in different ranks may be suitably amended to incorporate a provision on the lines of Rules 16(5) of the All India Services (Conduct) Rules, where it does not exist.

(Para 22.12)

26.39 It is most important that the highest standards of rectitude and straightforward dealings are maintained at the stage of recruitment and training. Personnel for manning these branches in the police should be specially selected with reference to their record of honesty, integrity and commitment to genuine police work, and enabled and encouraged to function without interference.

(Para 22.13)

26.40 Procedures for recruitment to any level in the police (other than the Indian Police Service, regarding which our recommendations will be made separately) should be evolved within the police system itself without involving non-officials or functionaries outside the police department.

(Para 22.13)

26.41 While assessing the qualities of supervisory officers at various levels, the positive action taken by the officer to detect the corrupt elements under his charge and deal with them effectively should be specifically commented upon. A new column with an appropriate heading should be included for this purpose in the Annual Confidential Report.

(Para 22.14)

26.42 The present arrangement of recording the integrity certificate in the Annual Confidential Report may be revised to give the reporting officer three options; one will be to record a positive certificate of integrity if he is convinced that the reported officer enjoys a good reputation and has performed his work with honesty and rectitude, the second will be to say that he has no material to express a precise opinion on the reported officer's integrity at that stage, and the third will be to say specifically that the reported officer lacks integrity, if the reporting officer becomes aware of any material to suspect the former's integrity.

(Para 22.15)

26.43 If annual entries regarding an officer's integrity are recorded in the manner suggested above, there will be no need to obtain a special certificate of integrity at the time of an officer's promotion if he has a consistently good record with positive entries of integrity to this credit. But in cases where the entries do not disclose a precise assessment of integrity, a special certificate of integrity should be called for from the officer who is designated as reviewing officer for the purpose of his annual confidential report, and in the case of officers of the rank of Inspector of Police and above an additional certificate of integrity should be obtained from the Head of the State Anti-Corruption Bureau.

(Para 22.16)

26.44 In line with the procedure we have earlier recommended for the appointment of the Chief of Police in a State we suggest that the posting of the Head of the State Anti-Corruption Bureau should be from a panel of I.P.S. officers of that State cadre prepared by a committee of which the Central Vigilance Commissioner will be the Chairman and the Secretary in the Department of Personnel and Administrative Reforms at the Centre, the Head of the Central Bureau of Investigation, the State Vigilance Commissioner (or in his absence the Chief Secretary of the State) and the existing Head of the State Anti-Corruption Bureau will be members. Posting of the other staff for the Bureau should be left to the Head of the Bureau.

(Para 22.17)

26.45 The tempo of anti-corruption work within the department will largely depend on the initiative and seriousness of purpose shown by the senior officers. If their conduct in day-to-day administration and the manner in which they treat and move with known corrupting elements in society do not inspire confidence among the subordinates from the angle of integrity, it will be very difficult to sustain effective anti-corruption work in their charge. Senior officers whose time is mostly taken up in the management of their own private business in the shape of farms or other property to the prejudice of their regular official duties can hardly inspire and enthuse the subordinate officers to remain straight and honest in all their dealings. We would, therefore, like to underline the special responsibility of the senior cadres in police to function effectively as champions of integrity and cleanliness in all that they do.

(Para 22.18)

26.46 Several policemen are under an erroneous impression that an arrest is mandatory under the law while investigating a cognizable case. A sample study has disclosed that a major portion of arrests made by the police is really not justified from the point of view of crime prevention. There is a clear case for reducing the number of arrests in police work. This will also reduce the scope for allied corruption.

(Para 22.23 & Para 22.25)

26.47 Sections 2(c) and 2(l) Cr.P.C. should be amended to remove the emphasis on arrest in the definition of cognizable and non-cognizable offences.

(Para 22.25)

26.48 Section 170 Cr.P.C. may be amended to remove the impression that it is mandatory to make an arrest in non-bailable cases. In the amended form as recommended in the report, the section would also provide for taking security from an accused for appearance before the investigating officer or the court, without a formal arrest as such.

(Para 22.26)

26.49 Guidelines may be laid down for making arrests as indicated in the report. Departmental instructions may insist that a police officer making an arrest should also record in the case diary the reasons for making the arrest, thereby, clarifying his conformity to the specified guidelines.

(Para 22.28)

26.50 We endorse the recommendations in the 78th Report of the Law Commission regarding release on bail.

(Para 22.29)

26.51 While on one hand the suggested amendments in law would secure release on bail for a larger number of persons than at present, we are anxious that it should not on the other hand enable hardened criminals to escape restraint on their movements which

may be very necessary in the context of certain situations. We are aware of many instances in several States in which hardened professional criminals after getting released on bail in a case under investigation or trial had committed further offences while on bail, and again got released on bail after the second arrest! To provide for such cases we recommend that the following proviso be added under sub-section (3) of section 437 Cr. P.C.—

“Provided that before ordering the release on bail of such person, the Court shall have due regard to—

- (a) the likely effect on public order and public peace by the release of such person, and
- (b) his conduct after release on bail on a previous occasion, if any,

as may be brought to the notice of the Court by the police officer investigating the case in connection with which the aforesaid person was taken into custody.”

(Para 22.30)

26.52 Guidelines may be issued for the use of handcuffs on arrested persons, on the lines indicated in the report.

(Para 22.31)

26.53 Police stations may be provided with adequate imprest amount to meet a variety of contingent expenditure in day to day work. It is very important to remove this deficiency in police stations since it compels even honest officers to wink at certain malpractices by their subordinate officers which in turn breed downright corruption for personal gain.

(Para 22.32)

Economic offences

26.54 Tax evasion, manipulation of stocks and share, frauds in licences and permits, profiteering, black-marketing, hoarding, adulteration of drugs, food stuff, and other essential commodities are examples of economic offences. By their very nature these crimes have no overt aggressive physical aspect as the traditional crimes like murder, dacoity or theft have, but are committed in a highly organised manner involving a lot of background activities and sophisticated methods under a facade of law abiding life to escape detection. These crimes involve high economic stakes and the offenders gain at the enormous expense of the government and the community as a whole.

(Para 23.1)

26.55 Failure in dealing with economic crimes generates cynicism among the ordinary people who tend to exclaim that the rich and influential can get away with non-payment of taxes, dishonest trade practices etc., which help them make more and more money, while the processes of criminal law are severe with the ordinary people who happen to commit ordinary crimes in situations of economic distress. To

restore the confidence of the ordinary man in the efficacy of the rule of law it is most important to ensure that these economic offences are effectively handled by the police and accused persons concerned are demonstrably brought to book.

(Para 23.3)

26.56 A separate economic offences wing may be set up in the State police on the pattern adopted in Assam where they have a Bureau of Investigation (Economic Offences) headed by an officer of the rank of Additional Inspector General of Police and staffed by officers drawn from the Police, Sales-Tax, Transport, Forest, Excise, Agriculture, Supply and Audit departments. It is the composite nature of the inquiry staff in this organisation that increases its effectiveness in the investigation of economic offences requiring a deep probe into several matters affecting more than one department.

(Para 23.8)

26.57 Financial considerations should not deter the State Governments in setting up these wings since it has been amply demonstrated in the case of CBI and a few States that the cost of the additional staff is more than off set by the gain to the State exchequer by way of recovery of concealed income, besides heavy fines realised through courts.

(Para 23.8)

26.58 It would be advantageous from the point of view of building up expertise and optimising the utilisation of the investigating staff if the Economic Offences Wing functions under the overall charge of the Special Inspector General of Police or Additional Inspector General of Police who is incharge of the State CID.

(Para 23.9)

26.59 A small training course may be developed in the Police training institution in each State which can be conveniently attended by the investigating staff of the State Economic Offences Wing. Lectures on appropriate subjects can be arranged at this course from senior officers of the different departments in the State dealing with the various subjects like sales-tax, entertainment tax, agricultural loans, subsidies, etc.

(Para 23.11)

26.60 A concerted drive in all the States to expose the embezzlement in Co-operative Societies, recover large amounts of embezzled money from the accused concerned and get the powerful and influential accused duly convicted in court, would put down this crime considerably and enable the financial benefit of co-operative movement to reach the sections for whom it is really intended.

(Para 23.12)

26.61 In their Forty-seventh report (1972) the law Commission had recommended that the minimum fine for an economic offence should not be less than the amount of the ill-gotten gains of the offender arising from the offence committed by him. We, however, notice that no amendment has been made in individual economic enactments like the Essential Commodities

Act or Drugs and Cosmetics Act or the Prevention of Food Adulteration Act etc., to give effect to this recommendation. This omission may be made good now with appropriate amendments in the different laws concerned.

(Para 23.13)

26.62 The scope of the Smugglers and Foreign Exchange Manipulators (Forfeiture of Property) Act, 1976 (SAFBMFOPA) may be enlarged to cover economic offenders also by—

- (i) appropriately amending the heading and preamble of the Act, to include economic offenders ;
- (ii) including a person convicted under certain specified economic offences like Essential Commodities Act, Prevention of Food Adulteration Act, and Drugs and Cosmetics Act in the category described in section 2(a) of the Act ;
- (iii) including under section 2(b) of the Act any person in respect of whom an order of detention has been made under the provisions of the Prevention of Blackmarketing and Maintenance of Supplies of Essential Commodities Ordinance, 1979 or any similar law for the preventive detention of hoarders and black-marketeers ; and
- (iv) including in the definition of "illegally acquired property" in section 3(1)(c) of the Act any property in the possession of the person which is disproportionate to his known sources of income and for which he cannot satisfactorily account.

(Para 23.14)

26.63 The State Security Commission envisaged in our Second Report should specially oversee the working of the Economic Offences Wing, assess the results achieved every year and make an annual report in this regard to be laid before the State Legislature.

(Para 23.15)

Modernisation of law enforcement

26.64 From 1969-70 to 1977-78 all the State Governments put together had spent only Rs. 21.76 crore as compared to the Central Government aid amounting to Rs. 43.841 crore in the same period for modernising their police forces. There is need for a greater involvement of the resources of the State Governments in this matter.

(Para 24.4)

26.65 Priority may be given for acquisition of scientific equipment in preference to construction of buildings from the Central grant given to States.

(Para 24.5)

26.66 A Central team may be constituted with representatives from the Ministry of Home Affairs, Bureau of Police Research & Development and Institute of Criminology & Forensic Science to visit the

States once in two years and assess the actual ground position in regard to modernisation of the State police. The quantum of Central assistance to the States may be decided with due regard to the assessment reports of this team.

(Para 24.6)

26.67 The Central assistance scheme which operated upto 1978-79 should be continued for another ten years with substantial increase in allotment.

(Para 24.7)

26.68 In the interests of national security as well as police efficiency, the police wireless network should develop its own independent multi-channels for communication through UHF and micro-wave and they may be immediately allotted the necessary frequencies in this range for providing links between with State headquarters and any point in the districts.

(Para 24.14)

26.69 Teleprinter links should be made to cover all the districts and cryptographic machine should be introduced for transmission of classified information.

(Para 24.17)

26.70 Portable pocket sets should be provided to police officers on patrol duty.

(Para 24.18)

26.71 The Bharat Electronics Limited which is now the sole supplier of wireless equipment for the police has not been able to meet their requirements fully from 1974 because of priority accorded to the needs of the Ministry of Defence. Ministry of Home Affairs may quickly examine the following three alternatives and arrange for a satisfactory source of supply of equipment for the police—

- (a) a separate captive factory ; or
- (b) dedicating an adequate part of the available capacity of BEL, preferably a complete self-contained unit of the organisation, to police needs ; or
- (c) farming out standard designs to selected Electronics Corporations set up by various State Governments, or selected industrial units in the private sector having collaboration with leading manufacturers abroad.

(Para 24.19)

26.72 Control rooms with attendant patrol vans should be introduced in all cities with a population exceeding one lakh.

(Para 24.20)

26.73 Proposals for the expansion of the Central Police Radio Training Institute and the enlargement of the Directorate of Coordination (Police Wireless) to include a Forward Planning Branch which are now pending consideration of the Ministry of Home Affairs may be quickly decided to implement the expansion plans.

(Para 24.22)

26.74 A fully equipped Radio Workshop may be set up in the headquarters of each State and supplemented by regional workshops wherever called for.

(Para 24.23)

26.75 Investigating Officer's Kit Boxes which are lying in disuse in police stations should be brought up to date in their contents by localised arrangements and put to effective use.

(Para 24.24)

26.76 Scene of Crime Vehicles may be developed and made available in all district headquarters and other important towns.

(Para 24.25)

26.77 Two more Central Forensic Science Laboratories may be established, one in the western region and another in the north-eastern region.

(Para 24.26)

26.78 Some allied Units like the Chemical Examiner's Laboratory, State Handwriting Bureau, Fire Arms Examination Section, etc., which are functioning separately in certain States should all be brought under the fold of the State Forensic Science Laboratory.

(Para 24.27)

26.79 Regional laboratories may be established to handle certain types of tests which frequently arise in the normal crime work of the State. These regional units may have staff and equipment to deal with chemicals (including alcohol), toxicology, documents and photography.

(Para 24.28)

26.80 The ultimate results achieved by the research studies under the Research Fellowship Scheme of the Ministry of Home Affairs should be properly followed up and documented in the Institute of Criminology and Forensic Science.

(Para 24.30)

26.81 The annual grant given to the Indian Academy of Forensic Sciences by the Ministry of Home Affairs may be increased substantially to meet its financial needs and enable its journal to be issued quarterly instead of half yearly.

(Para 24.31)

26.82 Single Digit Finger Print Bureaux should be developed in all district headquarters. The Single Digit Bureaux and the State level Finger Print Bureau should all function under the fold of the State Forensic Science Laboratory set up which in turn should be under the administrative control of the Inspector General of Police.

(Para 24.32)

26.83 A 'Central Forensic Science Service' may be set up with a cadre structure suitably designed to provide the personnel for the science wing in the staff of the Bureau of Police Research and Development, Institute of Criminology and Forensic Science, National Police Academy, Central Detective Training Schools, Units of the Government Examiner of Questioned Documents, Central Finger Print Bureau and all Central Forensic Science Laboratories. Modalities for constituting this service and determining its structure and spelling out different methods of recruitment and other service conditions may be gone into by a special committee which may be set up by the Ministry of Home Affairs.

(Para 24.34)

26.84 The existing scheme of Central financial aid to the States for a phased programme of installing computers for police use may be continued to cover all the States very early and meet the requirements of the State Crime Record Bureau and National Crime Record Bureau as recommended in our Second Report.

(Para 24.35)

26.85 The provision of transport for the police at the different levels from the police station upwards may be on the following lines :—

- (i) A jeep should be supplied to each police station. Where the officer in charge of a police station is an Inspector of Police, the Sub Inspector in charge of traffic and law and order work may additionally be provided with motor-cycle.
- (ii) Jeeps should be supplied to Inspectors in charge of circle.
- (iii) Sub-Divisional police officers should be provided with a pick-up van.
- (iv) Superintendents of Police and higher officers should be provided with cars or jeeps, whichever would be more suitable for the type of their field duties and responsibility. A jeep would be more useful to an officer mostly engaged in law and order work.
- (v) Armed police units in the district should be supplied with vehicles at the rate of one for 25 men.
- (vi) Vehicular needs of specialised agencies like Forensic Science Laboratory, Finger Print Bureau, etc. should be determined separately on the merits of each case.

(Para 24.36)

26.86 Police personnel should be encouraged with grants or loans on easy terms for equipping themselves with some kind of transport and also paid a suitable monthly allowance for their maintenance.

(Para 24.37)

26.87 A survey of the ground position of vehicles in the different States shows that about 10 to 15% of vehicles in most States are lying off the road undergoing repairs. It takes about three months on an average for the repairs of a vehicle to be attended to. 7% of the vehicles are lying condemned and no replacement has been made. 15% of the vehicles are awaiting condemnation. This is a very sorry state of affairs and needs rectification. We recommend the setting up of separate police motor workshops at least at the range level for expeditious handling of all repair work for police vehicles in each range.

(Para 24.38)

Scriptory work in police

26.88. The Station General Diary which was introduced by the Police Act of 1861 has now come to be regarded as a kind of general purpose register in the police station to record a large variety of information and notes to provide corroboration for the police version of any matter. Enormous scriptory work developed on this account may be avoided by revising the instructions in the Police Manual and limiting the entries in the Station General Diary to the purpose spelt out in the Police Act.

(Para 25.3)

26.89 Several other provisions in the Police Manuals which prescribe a number of other registers and returns relating to the day to day work in police stations may be scrutinised and suitably revised to limit scriptory work to what is really relevant and important in the present context of police work and realities in the field.

(Para 25.4)

26.90 A Standing Committee may be formed in every State Police Headquarters which should include, among others, a couple of officers from the police station level and Circle Inspector level, for examining if the periodicity of some of the returns could be altered or some of the returns could be lumped together or even discontinued. The Committee could also devise suitable proformae to standardise the collection of data and reduce the load of repetitive scriptory work.

(Para 25.6)

26.91 We would like to draw attention to the existing instructions in the Central Government that no action is to be taken on anonymous or pseudonymous complaints. We commend the adoption of this policy in all States in regard to anonymous and pseudonymous complaints.

(Para 25.7)

26.92 A small statistical cell may be constituted at the State police headquarters to compile information from the material already available in police headquarters whenever required for answering Parliament or State Legislature questions, without making unnecessary references to the subordinate units in the field.

(Para 25.8)

26.93 Repeated inspections of police stations by several officers in the hierarchy generate a lot of
S/21 HA/79--9

scriptory work. It would be adequate if a detailed inspection of the police station is periodically conducted by officers at the sub-divisional level. The administrative cadres at the higher levels may confine themselves to an overall assessment of the quality of police performance at the circle level and above. Their visits to police stations should be more to acquaint themselves with the actual field conditions and difficulties of the operating staff rather than to do a fault finding exercise in the name of inspection.

(Para 25.10)

26.94 Adequate staff should be sanctioned for the police to handle the scriptory work arising from having to furnish copies of prosecution documents to the accused under Section 173(7) Cr.P.C.

(Para 25.11)

26.95 The supervisory ranks in the police hierarchy, particularly at the level of Inspectors and sub-divisional officers who do not have a full-fledged office to give them ministerial assistance, should be provided with adequate stenographic assistance for expeditious handling of their scriptory work.

(Para 25.12)

26.96 Provision of mechanical aids like typewriters and taperecorders at the police station level would be very helpful in reducing the load of scriptory work presently borne by the investigating staff. They may also be encouraged to buy such aids wherever possible by giving them loans or grants for the initial purchase and paying them a monthly allowance for their maintenance. A system of payment of typewriting allowance to the investigating staff is in vogue in the Central Bureau of Investigation in the recent years and we commend it to the State police agencies as well.

(Para 25.13)

26.97 Adequate supply of the standardised forms and registers for police use should be ensured by developing a separate press for the police department, if the Government press is found unable to cope with the requirements.

(Para 25.14)

Sd/-
(DHARMA VIRA)
Chairman.

Sd/-
(N. KRISHNASWAMY REDDY)
Member.

Sd/-
(K. F. RUSTANJI)
Member.

Sd/-
(N. S. SAKSENA)
Member.

Sd/-
(M. S. GORE)
Member.

Sd/-
(C. V. NARASIMHAN)
Member Secretary.

NFW DELHI,
31st January, 1980.

APPENDICES

APPENDIX I

Number of cases of crimes against members of Scheduled Castes in the various States/Union Territories during 1974, 1975, 1976, 1977 and 1978

Sl. No.	Name of State	Number of cases reported				
		1974	1975	1976	1977	1978
1.	Andhra Pradesh	22	27	34	102	110
2.	Assam . . . . .	..	..	..	..	1 (Upto Sept.)
3.	Bihar	258	263	621	681	1489 (Upto Oct.)
4.	Gujarat	352	184	203	331	540
5.	Haryana	1	25	11	26	66
6.	Himachal Pradesh	Nil	Nil	15	42	66
7.	Jammu & Kashmir	9	21	3	Nil	..
8.	Karnataka	Nil	55	79	59	376
9.	Kerala	493	331	254	233	767
10.	Madhya Pradesh	1578	1587	1829	3366	3240
11.	Maharashtra	277	263	211	570	1053
12.	Orissa	24	25	14	69	135
13.	Punjab	Nil	167	147	84	83
14.	Rajasthan	18	100	71	261	886
15.	Tamil Nadu	35	7	18	54	65 (Excluding Mar.— Oct.)
16.	Tripura	Nil	Nil	Nil	Nil	..
17.	Uttar Pradesh	5791	4656	2447	4974	5660
18.	West Bengal	2	70	6	7	5 (Upto Aug.)
19.	Delhi	Nil	Nil	5	3	14
20.	Pondicherry . . . . .	..	..	..	9	14
21.	Dadra & Nagar Haveli . . . . .	..	..	..	8	1
TOTAL		8860	7781	5968	10879	14571

Information in respect of remaining State/Union Territories is NIL.

SOURCE : National Integration Division, Ministry of Home Affairs.

Item No. 8

GOVERNMENT OF TAMILNADU

ABSTRACT

ACCIDENTS —Traffic Accidents—Persons killed or injured in accidents involving buses plying in this State—Payment of —Cash Relief —Ordered.

G.O. No. Ms. 1530, Home (Transport VI), dated 3rd July, 1978.

ORDER

At present compensation on behalf of passengers and others killed or injured in accidents in which buses are involved, has to be obtained from the Motor Vehicles Accidents Claims Tribunal. This process not only involves delay, but also causes considerable hardship and expenditure to the poor victims or their families.

2. With the growth of vehicle population on the road in this State, there is also unfortunate growth in the number of persons killed or maimed by motor vehicles. Calamity strikes a family all of a sudden and it sometimes takes away its bread-winner. In such cases, the tragedy which strikes the family is real and immediate relief is necessary to the victims or their families. The Government, therefore, have had under consideration for sometime past the question of giving immediate cash grant to the victims, particularly in the case of fatal accidents by a simple procedure and without enquiring into the responsibility for the accident or the quantum of compensation that would be admissible to them later on through statutory machinery. The Government have decided that such cash relief is necessary. With the above subjects in view, the Government direct that persons killed or injured in accidents within the State involving buses of State Transport Undertakings or private operators registered in this State as also buses registered in other States but plying within this State, be paid cash relief on the scales mentioned in paragraph 2 of the Annexure, to enable the victim or their families (in the case of fatal accidents) to defray medical and other immediate expenses.

3. The cash grant will be sanctioned from a fund to be instituted for the purpose called the Chief Minister's Accident Relief Fund. For this purpose, one per cent (1) of the total annual receipts under the Motor Vehicles Tax is to be transferred to the Chief Minister's Accident Relief Fund. The Government direct that an amount of Rs. 50.00 lakhs (Rupees Fifty lakhs) only shall be transferred from the Motor Vehicles Tax Receipts at the beginning of every year (financial year) and adjustments based on audited actuals of receipts made in the third year from the year of drawal. For the year 1978-79 an amount of Rs. 50.00 lakhs shall be transferred immediately. The adjustment in receipt of this year will be made in the amount to be transferred for the year 1980-81.

4. The expenditure on contribution to the Chief Minister's Accident Relief Fund from the Motor Vehicles Tax Receipts is debitable to "241—Taxes on vehicles-A. Taxes on vehicles"—

ae. Transfers from Reserve B Fund and Deposit Accounts	}	New minor/Group/Sub/detail- ed heads to be opened.
I. Non-Plan		
AA. Contribution to Chief Minister's Accident Relief Fund		

23. Inter-Account Transfer's.

The transfer of the Contribution from the Motor Vehicles Tax Receipts, may be credited under deposit section to the following head of account:—

- (a) Deposits and Advances.
- (b) Deposits NCT bearing interest.

848. Other deposits.

ac. Miscellaneous deposits.

BE. Chief Minister's Accident Relief Fund (New sub-head to be opened).

5. The Transport Commissioner, Madras is authorised to open an account with the State Bank of India or any one of the Nationalised Banks, in the name of "Chief Minister's Accident Relief Fund". He shall draw the amount ordered in paragraph 3 above and credit it into the account.

6. The expenditure sanctioned in paragraph 3 above constitutes an item of "New Service" and the approval of the Legislature will be obtained in due course. Pending approval of the Legislature, the adjustment will be made initially by an advance from the Contingency Fund, orders regarding which will be issued from Finance (B.G.I.) Department.

The Transport Commissioner should send the application in the prescribed form to the Finance (B.G.I.) Department for sanction of an advance from the Contingency Fund.

7. The detailed instructions for the administration of the scheme are appended to this order.

8. The above order shall take retrospective effect from 20th February, 1978.

9. The Collectors of Districts are requested to give adequate publicity to the above scheme within their jurisdiction.

10. This order issues with the concurrence of Finance Department *vide* its U.O. No. 1539/FS/P/78, dated 3rd July, 1978.

ANNEXURE

The Scheme for the grant of relief to the victims or to the families of the victims of the bus accidents will be implemented by the Transport Commissioner, Madras through the Collector of the district in which the accident takes place.

1. The Scheme will cover accidents involving buses of State Transport Undertakings/or Private Operators registered in this State as also buses registered in other States but plying within this State.

2. The cash relief will be sanctioned to the victims or their families (in the case of fatal accidents) on the following scales:—

Serial number and particulars (1)	Amount of cash to be paid (2)	To whom it should be paid (3)
(1) Death due to accident.	Rs. 1,000 (Rupees one thousand only)	To the husband/wife, eldest son of the deceased or in other cases, to the eldest male member of the family with whom the deceased was last residing.
(2) Permanent total disability or loss of two eyes or loss of two limbs or loss of one eye and one limb.	Rs. 800 (Rupees eight hundred only)	To the injured person or his nominee.
(3) Loss of one eye or one limb.	Rs. 400 (Rupees four hundred only)	To the injured person or his nominee.
(4) Other injuries	Rs. 50 (Rupees fifty only)	To the injured person or his nominee.

3. The cash relief will be purely *ex-gratia* and will not affect any compensation which the victim or victim's family will get from the Motor Accidents Claims Tribunal or the Insurance Company and will not also be related to the Victim's financial status or existing insurance cover. The cash grant will be paid both to passengers and non-passengers involved in the accidents within the State.

4. The cash relief will be met from Chief Minister's Accident Relief Fund for which Transport Commissioner will be Treasurer and in-charge of rendering accounts.

5. The Scheme will be implemented by the District Collectors. The sanction shall be accorded by the Collectors in the districts on the recommendations of the Superintendents of Police. In the case of Madras City, the sanction shall be accorded by the Collector of Madras, on the recommendations of the Deputy Commissioner of Police (Traffic.) The sanction shall be accorded in Form V. The acknowledgement of the Payee shall be obtained in Form VI.

6. The following procedure will be followed to ensure prompt payment of Cash Relief to the victim or his family:—

(i) Immediately after an accident occurs, the Police officer who is investigating into the accident, will send a special report (in duplicate) in the self-contained proforma prescribed in Forms I, II and III to the Superintendent of Police (Traffic) direct for grant of cash relief to the victim or victim's family.

(ii) On receipt of the above-report, the Superintendent of Police (Deputy Commissioner of Police Traffic in the case of Madras city) should record his recommendation in both the copies of the report in Form IV and forward them to the Collector immediately.

(iii) On receipt of the recommendation of the Superintendent of Police [Deputy Commissioner of Police (Traffic) in the case of Madras city], the Collector should examine the case and sanction cash relief to the persons specified in the Table under paragraph (2) above. If deemed necessary the Collector can make further enquiries before issuing the sanction orders.

(iv) On the basis of this sanction, the amount will be withdrawn by the Collectors from the allocation under the Chief Minister's Accident Relief Fund and Deposited in Post Office Savings Bank Account to be opened in the name of the beneficiaries and the pass book handed over to the beneficiaries under acknowledgement in the acquittance. The certificate in Form VII should be signed by the Collector and attached to each sanction order.

7. The amount required for the payment of cash grant to victims of accidents or their families will be allocated to each District Collector from the Chief Minister's Accident Relief Fund every quarter, taking into account the number of accidents that occurred in that particular district during the previous year. This allocation will be done by the Transport Commissioner, Madras.

8. The District Collectors are authorised to open a Personal Deposit Account in their names and account for the receipts and expenditure separately under a new head of account to be opened subject to the usual audit and verification. The Collectors are authorised to draw and disburse the money from the above account to the claimants on the basis of the sanction order to be issued by them from 1st July, 1978. The Collectors are requested to maintain a separate ledger account indicating the amount placed at their disposal for this purpose from time to time, the disbursement made by them for the relief of victims of Traffic accidents or their families from time to time and the balance available in the account. ** ** *

9. The Collectors should send monthly statement of receipts and expenditure from the Fund to the Transport Commissioner, Madras for accounting purposes. They should also send to the Transport Commissioner, Madras a quarterly progress report showing:— (a) the amount placed at his disposal for the implementation of the schemes at the beginning of the quarter; (b) the amount spent by him during the quarter; and (c) the balance available. The allocation for the next quarter to the Collector will be made by the Transport Commissioner, Madras having regard to the balance amount available with the Collector.

10. The Transport Commissioner, Madras, will send a consolidated report every quarter giving the following details:—

- (1) Number of deaths for the cash relief of Rs. 1,000.
- (2) Number of cases of total disability/permanent disability.
- (3) Cases of loss of an eye or limb.
- (4) Number of cases of other injuries.

(True extract)

Sd/—
Section Officer.

FORM II

Declaration to be signed by the victim/victim's legal heir or Nominee (in the event of Death)

1. I/We hereby declare and warrant the truth of the foregoing particulars in every respect. I/We agree that if I/We have made, or if I/We shall make false or untrue statement, suppression or concealment my/our right to compensation shall be forfeited.
2. I/We hereby declare that I am/We agree to accept the amount as *ex-gratia* relief given by the Government of Tamil Nadu under the "Scheme of award of cash relief in accidents involving buses of State Transport Undertakings and Private Operators" and I/We hold the Government indemnified in the event of any claim under this Scheme being made against the Government by any other person or persons.

Date:

Signature

Signature of two witnesses:

Witness No. 1

Witness No. 2

FORM III

Relief Recommended:

I recommend the payment of Cash Relief of a sum of Rs. (Rupees) to Thiru/Selvi/Thirumathi.

Signature and Seal of
the Police Officer investigating
into the accident.

FORM IV

I recommend the grant of a sum of Rs. (Rupees) to Thiru/Selvi/
Thirumathi.

Signature and Seal of
the Superintendent of Police
District

FORM V

Sanctioned grant of Cash Relief of a sum of Rs. (Rupees) to Thiru/Selvi/
Thirumathi,

Signature and Seal of
the Collector

FORM VI

Received a sum of Rs. (Rupees

Signature of the Claimant.

FORM VII

Certified that a sum of Rs. (Rupees) has been disbursed to Thiru/Selvi/
Thirumathi as per the sanction accorded above, by depositing the amount in the Post Office Savings Bank Account No.

Signature and Seal of
the District Collector

GOVERNMENT OF TAMIL NADU

ABSTRACT

ACCIDENT:— Traffic Accidents—Persons killed or injured in accidents involving lorries, cars, Motor-cycles etc., plying in this State—Payment of Cash relief—ordered.

Home Department

G.O. Ms. No. 232 dated 24th January, 1979.

Read again:

G.O. Ms. No. 1530, Home, dated 3rd July, 1978.

ORDER:

In the G.O. read above, the Government sanctioned a scheme for payment of cash relief to victims or to the families of persons killed or injured in accidents within this State involving buses of State Transport Undertakings or Private Operators registered in this State and also buses registered in other States but plying in this State, to enable them to defray medical and other immediate expenses in cases of fatal accidents. The quantum of relief and the procedure for payment was also prescribed in the Government Order read above. As an outcome of the issue of the above orders, Government have been receiving representations for payment of relief to the victims or families of persons killed or injured in accidents within the State involving other vehicles viz., lorries, cars, motor-cycles; etc.

2. The Government have examined the above representations. They direct that the scheme sanctioned in G.O. Ms. 1530 Home dated 3rd July, 1978, be extended to cover accidents involving all transport and non-transport vehicles plying in this State. The above order shall take effect from the date of issue of this order.

3. This order issues with the concurrence of the Finance Department *vide* its U.O. No. 4175/H2/79-1 dated 19-1-79.

(By order of the Governor)
H. M. SINGH
Commissioner and Secretary to
Government

NATIONAL POLICE COMMISSION

Statement showing the spread of police in urban and rural areas

Si. No.	States	Areas in sq. kms. as per 1971 census report		Population in 1976 as per expert committee on population projections		Number of Police Stations		Sanctioned strength of police personnel		Average area in sq. kms. covered by one police station		Average population covered by one police station		Police population ratio	
		Urban	Rural	Urban	Rural	Urban	Rural	Urban	Rural	Urban	Rural	Urban	Rural	Urban	Rural
1.	Assam	435.0	78088.0	1709500	15816200	55	73	2532	2927	7.9	1069.7	31082	216660	1:675	1:5403
2.	Gujarat	4614.9	191369.1	8592600	21168600	121	282	6676	13310	38.1	678.6	71013	75066	1:1287	1:1590
3.	Karnataka	3135.1	188637.9	8274200	24097000	214	320	7294	9201	14.6	589.5	38664	75303	1:1134	1:2619
4.	Madhya Pradesh	2855.1	439985.9	8274900	39317300	284	570	7789	13840	10.1	771.9	29136	68977	1:1062	1:2840
5.	Maharashtra	6151.0	301611.0	18286000	37373500	367	344	1284	14637	16.8	876.7	49826	108643	1:1424	1:2553
6.	Orissa	1658.4	154123.6	2260400	22192500	104	223	2572	4494	15.9	691.1	21734	99517	1:878	1:4938
7.	Tamil Nadu	5893.5	124175.5	14163400	30106900	265	568	11638	12171	22.2	218.6	53446	53005	1:1217	1:2473
8.	Uttar Pradesh	2845.0	291568.0	13959100	82670000	351	667	12465	16638	8.1	437.1	39769	123943	1:1119	1:4968

NOTE:—A Police Station is classified as an urban police station in the above statement if it is located in any one of the following areas:—

- (i) Municipal Corporation
- (ii) Municipal Area
- (iii) Town Committee
- (iv) Notified Area Committee
- (v) Cantonment Board.

Statement showing reported cognizable crimes under IPC

Year	Cases under IPC	Volume per one lakh of population
1953	6,01,964	166.7
1954	5,56,912	154.2
1955	5,35,236	148.2
1956	5,85,217	162.1
1957	5,81,371	149.0
1958	6,14,184	148.6
1959	6,20,326	146.9
1960	6,06,367	140.5
1961	6,25,651	143.0
1962	6,74,466	148.9
1963	6,58,830	143.5
1964	7,59,013	159.6
1965	7,51,615	154.4
1966	7,94,733	159.4
1967	8,81,981	172.5
1968	8,62,016	164.7
1969	8,45,167	157.5
1970	9,55,422	173.7
1971	9,52,581	172.0
1972	9,84,773	174.8
1973	10,77,181	187.0
1974	11,92,277	202.7
1975	11,60,520	193.2
1976	10,90,887	177.9
1977	11,85,791	195.1
1978	12,73,564	205.4

SOURCE : Crime in India published by the Central Bureau of Investigation/Bureau of Police Research and Development.

APPENDIX V

Industrial Disputes classified by Strikes and Lockouts, 1961—78

Year	No. of Disputes			No. of Workers involved			No. of Man-days lost ('000)		
	Strikes	Lock-outs	Total	Strikes	Lock-outs	Total	Strikes	Lock-outs	Total
1	2	3	4	5	6	7	8	9	10
1961	1,240	117	1,357	4,32,336	79,524	5,11,860	2,969	1,950	4,919
1962	1,396	95	1,491	5,74,610	1,30,449	7,05,059	5,059	1,062	6,121
1963	1,364	107	1,471	4,90,701	72,420	5,63,121	2,229	1,040	3,269
1964	1,981	170	2,151	8,75,905	1,27,050	10,02,955	5,724	2,001	7,725
1965	1,697	138	1,835	8,89,360	1,01,798	9,91,158	4,617	1,853	6,470
1966	2,353	203	2,556	12,62,224	1,47,832	14,10,056	10,377	3,469	13,846
1967	2,433	382	2,815	13,39,617	1,50,729	14,90,346	10,565	6,583	17,148
1968	2,451	325	2,776	14,64,992	2,04,302	16,69,294	11,078	6,166	17,244
1969	2,344	283	2,627	16,86,943	1,39,923	18,26,866	15,477	3,571	19,048
1970	2,598	291	2,889	15,51,530	2,76,222	18,27,752	14,749	5,814	20,563
1971	2,478	274	2,752	14,76,203	1,38,937	16,15,140	11,803	4,743	16,546
1972	2,857	386	3,243	14,74,656	2,62,081	17,36,737	13,748	6,796	20,544
1973	2,958	412	3,370	23,58,206	1,87,396	25,45,602	13,862	6,764	20,626
1974	2,510	428	2,938	27,09,838	1,44,785	28,54,623	33,643	6,619	40,262
1975	1,644	299	1,943	10,32,609	1,10,817	11,43,426	16,706	5,195	21,901
1976	1,241	218	1,459	5,50,477	1,86,497	7,36,974	2,790	9,947	12,737
1977	2,691	426	3,117	19,12,247	2,80,788	21,93,035	13,410	11,910	25,320
1978	2,667	410	3,077	14,59,764	2,11,811	16,71,575	14,274	12,507	26,781

(Provisional)

SOURCE : Indian Labour Statistics, 1977.

Statistics of Incidents of Student Unrest 1968—77

Year	Total No. of incidents	No. of violent incidents
1968	2665	644
1969	3064	895
1970	3861	1859
1971	4380	1408
1972	6365	2528
1973	5551	1677
1974	11540	2339
1975	3847	732
1976	1190	519
1977	7520	1146

SOURCE : Ministry of Home Affairs.

APPENDIX VII

Projected Annual Population by rural and urban as on 1st March, 1971—91 : India

(In thousands)

	Total	Growth rate in percentage	Urban	Growth rate in percentage	Rural	Growth rate in percentage
1971	547,137		108,880		438,257	
1972	559,417	1.7	112,443	3.27	446,974	1.99
1973	571,756	2.2	116,124	3.27	455,632	1.94
1974	584,150	2.2	119,868	3.22	464,282	1.90
1975	596,597	2.1	123,675	3.17	472,922	1.86
1976	609,094	2.1	127,605	3.18	481,489	1.81
1977	621,630	2.0	131,537	3.08	490,093	1.79
1978	634,193	2.0	135,590	3.08	498,603	1.74
1979	646,779	2.0	139,704	3.03	507,075	1.70
1980	659,387	1.95	143,812	2.94	515,575	1.68
1981	672,014	1.91	148,112	2.99	523,902	1.62
1982	684,627	1.88	152,393	2.70	532,229	1.59
1983	697,214	1.84	156,734	2.85	540,480	1.55
1984	709,800	1.81	161,196	2.85	548,604	1.95
1985	722,416	1.78	165,650	2.76	556,766	1.48
1986	735,094	1.75	170,248	2.78	564,846	1.45
1987	747,801	1.73	174,911	2.74	572,890	1.42
1988	760,507	1.70	179,709	2.74	580,799	1.38
1989	773,245	1.67	184,496	2.66	588,749	1.38
1990	786,049	1.66	189,359	2.64	596,690	1.35
1991	798,958	1.64	194,386	2.65	604,572	1.32

SOURCE : Ministry of Home Affairs—Report of the Expert Committee on Population Projections.

APPENDIX VIII

Statement showing percentage of cases charge-sheeted by police in Court and percentage of cases ending in conviction

A—Percentage of cases charge-sheeted by police to the total number of cases in which investigation was completed.

B—Percentage of cases that ended in conviction in court to the total number of cases in which trials were completed.

	1971		1972		1973		1974		1975		1976	
	A	B	A	B	A	B	A	B	A	B	A	B
<i>Crimes involving violence</i>												
Riots	73.9	30.4	75.2	29.2	75.2	35.7	73.8	32.8	78.8	32.8	79.9	32.9
Rape	76.9	39.1	77.5	40.9	79.6	44.3	78.6	42.5	79.4	41.1	81.3	41.6
Kidnapping & abduction .	61.0	34.9	61.6	35.3	61.5	40.3	61.3	38.3	62.2	36.9	64.5	39.4
Dacoity	56.8	36.4	57.5	38.3	59.2	55.1	60.2	37.5	61.0	36.1	63.5	38.7
Robbery	49.1	46.4	50.8	45.0	52.2	48.5	51.5	46.0	52.9	47.2	54.2	48.3
<i>Crimes not involving violence</i>												
Burglary	30.1	67.7	30.6	68.8	33.5	59.8	32.6	68.0	34.2	70.8	35.2	65.3
Thefts	36.4	73.6	36.4	74.6	37.1	64.6	38.0	75.1	37.6	74.7	37.8	57.4

SOURCE : Crime in India, 1971, 1972, 1973, 1974, 1975 and 1976 published by the Bureau of Police Research and Development.

*The Disturbed Areas (Criminal Law Amendment) Act***Arrangement of Sections****CHAPTER I**

1. Short title, extent and commencement.
2. Definitions.

CHAPTER II**PROCLAIMED AREAS**

3. Power to declare any area as proclaimed area.
4. State Government to authorise officer subordinate to it as competent authority.
5. Power to declare a place as a prohibited place.
6. Power to search persons in proclaimed area.
7. Power to make orders regarding conduct of persons in proclaimed area.
8. Loitering.
9. Competent authority may order persons to stay within doors during specified periods.
10. Punishment for violation of orders under section 144 of the Code in proclaimed areas.
11. Power to order deposit of arms, ammunition etc.
12. Power to search, detain and seize arms etc., in proclaimed areas.
13. Punishment for being in possession of arms etc., without license.

CHAPTER III**POWER TO IMPOSE RESTRICTIONS FOR PREVENTION OF DISORDER**

14. Power to prohibit certain acts.
15. Power to take possession of place etc.
16. Externment.
17. Externment not to exceed one year.
18. Power to make order detaining certain persons.
19. Execution of detention orders.
20. Power to regulate place and conditions of detention.
21. Detention orders not to be invalid or inoperative on certain grounds.
22. Power in relation to absconding persons.
23. Grounds of order of detention to be disclosed to persons affected by the order.
24. Maximum period of detention.
25. Revocation of detention order.
26. Grounds of detention severable.

**CHAPTER IV
OFFENCES AND PENALTIES**

27. Being member of a riotous mob.
28. Punishment for instigation.
29. Punishment for instigation when riotous mob indulges in grave offences.
30. Preparation to commit rioting.
31. Sabotage.
32. Punishment for sabotage.
33. Sabotaged property.
34. Punishment for receiver of sabotaged property.
35. Punishment for committing prejudicial act.
36. Competent authority may compel furnishing of information.
37. Authority not to disclose information without permission.
38. Punishment for assisting offenders.
39. Punishment for giving financial aid to any illegal activity.
40. Punishment for threatening witnesses etc.
41. Driver or his Assistant or owners of goods transport vehicles not to carry more persons than authorised.
42. Public servant to exercise lawful authority.

**CHAPTER V
OF SPECIAL COURTS AND SPECIAL PROCEDURES**

43. Constitution of Special Courts.
44. Jurisdiction of Special Courts.
45. Presumption of culpable mental state.
46. Presumption as to documents in certain cases.
47. Limitations for investigation.
48. Provisions regarding bail.

**CHAPTER VI
SUPPLEMENTAL**

49. Offences under the Act to be cognizable, non-bailable and non-compoundable.
50. Protection of action taken in good faith.
51. Power to make rules.
52. Repeal of the Disturbed Areas (Special Courts) Act 1976 (No. 77 of 1976).

THE DISTURBED AREAS (CRIMINAL LAW AMENDMENT) ACT

Preamble

An Act to provide for the effective prevention and control, and the speedy investigation and trial of certain offences committed in areas where public peace and order are seriously disturbed, and to provide for preventive detention for reasons connected with the maintenance of public order, or the maintenance of services and supplies essential to the community.

CHAPTER I

1. *Short title, extent and commencement:*

- (i) This Act may be called the Disturbed Areas (Criminal Law Amendment) Act.
- (ii) It extends to the whole of India.
- (iii) It shall come into force on such date as the Central Government may, by notification in the official gazette, appoint in this behalf.

2. *Definitions:* In this Act, unless there is anything repugnant in the subject or context,—

- (a) “appropriate Government” means as respects a detention order made by the Central Government or a person detained under such order, the Central Government, and as respects a detention order made by a State Government or an officer subordinate to a State Government or as respects a person detained under such order, the State Government.
- (b) “Code” means the Code of Criminal Procedure, 1973 (2 of 1974).
- (c) “Competent authority” means an officer of the State Government authorised by it under section 4 to perform the functions of a competent authority under this Act.
- (d) “Detention Order” means an order made under section 18 of this Act.
- (e) “instigator” means any person, or body of persons, who by means of any act or by words spoken or written, or by signs or by visible representation or otherwise, instigates an assembly of persons, whether unlawful or not, to become a riotous mob.
- (f) “prejudicial act” means any act which is intended, or is likely :
 - (i) to promote feelings of enmity and hatred between different classes of persons in India;
 - (ii) to cause fear or alarm to the public or to any section of the public;
 - (iii) to instigate directly or indirectly the use of criminal force against public servants generally or any class of public servants, or any individual public servant;
 - (iv) to instigate or incite directly or indirectly the commission, or abetment of an offence punishable under any of the offences mentioned in the schedule to this Act.
- (g) “proclaimed area” means an area proclaimed as such under section 3 of this Act.
- (h) “prohibited place” means a place declared as such under section 5 of this Act.
- (i) Public property includes any property which is created out of the funds of the Government of India, or the Government of a State, or any local authority, or any property which is generally available to the public at large, as a utility, or any premises or place to which at the material time the public have, or are permitted to have access whether on payment or otherwise.
- (j) “Riotous mob” means an unlawful assembly as defined in section 141 of the Indian Penal Code, if that assembly, or one or more persons or groups composing that assembly, indulge in or attempt to indulge in:
 - (i) the use of force or violence, or
 - (ii) wilfully causing damage of a destructive nature to public and other property, or
 - (iii) acts which cause or are calculated to cause fear, alarm and annoyance to the general public or a section thereof, or
 - (iv) conduct which is such as likely to pose danger to the security of any person or group of persons, or
 - (v) acts prejudicial to the maintenance of public order, and supplies and services essential to the community, or
 - (vi) the commission or abetting the commission of any prejudicial act.

Explanation :

- I. For an assembly to be deemed as a riotous mob, it is not necessary that every member of the assembly should indulge in any of the activities mentioned in this section.
 - II. An assembly which may not be a riotous mob to start with, can become one later on, if it indulges in any of the activities mentioned in this section.
- (k) State Government in relation to a union territory means the Administrator thereof.
- (l) Scheduled offence means an offence included in the schedule to this Act, and shall include such offences as may be notified by the State Government in this behalf.

CHAPTER II
PROCLAIMED AREAS

3. *Power to declare any area as proclaimed area*

(1) Where a State Government is satisfied that there is or there are reasonable grounds to apprehend that there is likely to be, in any area, within the State, extensive disturbance of the public peace and tranquillity by reasons of:—

(i) differences, or disputes between members of different religious, racial, language or regional groups or castes or communities, or

(ii) occurrence of acts of sabotage or other crimes involving force or violence, or

(iii) a reasonable apprehension of the likelihood of occurrence of sabotage or other crimes as aforesaid.

it may by notification in the official gazette or in urgent and compelling circumstances by any other method considered adequate in its opinion, declare such area as proclaimed area.

(2) A notification issued under sub-section (1) in respect of any area shall specify the period during which the area shall, for the purpose of this section, be a proclaimed area.

Provided that the period specified in such notification shall not, in the first instance, exceed three months, but the State Government may amend such notification to extend such period from time to time by any period not exceeding three months at any one time, if in the opinion of the State Government there continues to be in such area such disturbance of public peace and tranquility as is referred to in sub-section (1).

4. *State Government to authorise officer subordinate to it as competent authority*

The State Government may by an order published in the official gazette, or in urgent and compelling circumstances in any other manner considered adequate by it, authorise any officer under its control to perform the functions of a competent authority under this Act.

The competent authority shall perform its functions in respect of such areas as the State Government may by order direct.

5. *Power to declare a place as a prohibited place*

A competent authority may, in a proclaimed area, declare

(i) any place belonging to or used for the purpose of Government or any local authority or,

(ii) any railway, road way or channel or other means of communication by land or water (including any works or structures being part thereof or connected therewith), or

(iii) any place used for sewage, gas, water, or electricity works (including any transmission towers, or transmission lines, water mains and other structures and fixtures being part thereof or connected therewith).

as a prohibited place, on the ground that damage thereto could be detrimental to the maintenance of supplies and services essential to the community.

Such declaration shall be made by notification in the official gazette or by proclamation and a copy of the notification or proclamation in respect of the place declared as a prohibited place shall be affixed to it in English and in the vernacular of the locality.

6. *Power to search persons in proclaimed area*

Any police officer, not below the rank of a Sub-Inspector of Police, or any other person authorised in this behalf by the competent authority may search any person entering or seeking to enter, or being in, or leaving or passing over or seeking to pass over a proclaimed area, and any vehicle, vessel or article brought in by such person, and may for the purpose of the search detain such person, vessel, vehicle or article.

Provided that the duration of such detention is limited to such time as may be necessary for making the search.

Provided further that no female shall be searched except by a female and with due regard to decency.

7. *Power to make orders regarding conduct of persons in proclaimed area*

(1) Without prejudice to the provisions of any other law for the time being in force, a competent authority, in regard to a proclaimed area, may make orders for—

(a) controlling or regulating the admission of persons to, and the conduct of persons in, and in the vicinity of, such area,

(b) requiring the presence of any person or class of persons in such area, to be intimated to any prescribed authority, specified in the said order, and,

(c) prohibiting any person or class of persons from being in possession or control of any article specified in the said order.

(2) Whoever contravenes any order made under this section, without just and sufficient cause, shall be punished with imprisonment for a term which may extend to three years, but shall not except for reasons to be recorded in writing, be less than one year, and shall also be liable to fine.

8 *Loitering*

- (1) No person loitering in, or in the vicinity of, any prohibited place shall continue to loiter in, or in that vicinity after being ordered to leave it, by a police officer, or any other person authorised in this behalf by the competent authority.
- (2) Whoever contravenes the provision of this section without just and sufficient cause shall be punished with imprisonment for a term which may extend to one year, or with fine or with both.

9. *Competent authority may order persons to stay within doors during specified periods*

- (1) A competent authority may, in a proclaimed area, by order, direct that, subject to any specified exemption, no person present within a specified area, shall between such hours as may be specified, be out of doors except under the authority of a written permit granted by a specified authority or person.
- (2) Whoever contravenes an order made under sub-section (1) of this section without just and sufficient cause shall be punished with imprisonment for a term which may extend to one year, but shall not except for reasons to be recorded in writing be less than four months or with fine or with both.

10. *Punishment for violation of orders under section 144 of the Code in the proclaimed areas*

Notwithstanding anything contained in any law for the time being in force, whoever contravenes an order under section 144 of the Code, if that order is in respect of any person or thing or any matter relating to a proclaimed area under this Act, shall be punished with imprisonment for a term which may extend to three years but shall not except for reasons to be recorded in writing be less than one year and shall also be liable to fine.

11. *Power to order deposit of arms, ammunition, etc.*

- (1) Notwithstanding anything contained in any law for the time being in force, a competent authority either by a general or special order direct, any person or class of persons, or all persons, in a proclaimed area, to deposit forthwith all arms, ammunition, explosives and corrosive substance, with the nearest police station, whether such person have a licence to keep such arms, ammunition, explosives, corrosive substance, or not.

Provided that a competent authority may exempt any individual or class of individuals from the operation of such order.

- (2) Whoever contravenes the provisions of an order made under this section, shall be punished with imprisonment of either description for a term which may extend to three years, but shall not except for reasons to be recorded in writing be less than one year and shall also be liable to fine.

Explanation : The words arms, ammunition, and explosives will have the same meaning as in the Indian Arms Act, 1959, and the Indian Explosives Act respectively.

12. *Power to search, detain and seize arms etc. in proclaimed areas*

Notwithstanding anything contained in any law for the time being in force, if an officer in charge of a police station has reason to believe,

- (a) that any person residing in the limits of his jurisdiction within a proclaimed area has in his possession any arms or ammunition, or explosives or corrosive substance, for any unlawful purpose; and
- (b) that such person cannot be left in the possession of any arms or ammunition or explosive or corrosive substance without danger to the public peace or safety,

the officer in charge of the police station may himself or by another officer, not below the rank of a sub-Inspector of Police authorised in this behalf by the officer in charge, search the house or premises occupied by such person, or in which the officer in charge has reason to believe that such arms or ammunition, or explosives or corrosive substance are, or is to be found, and may have such arms ammunition explosives or corrosive substance, if any, seized, and detain the same in safe custody for such period as he thinks necessary although the person may be entitled by virtue of any law for the time being in force to have the same in his possession.

13. *Punishment for being in possession of arms etc. without licenses*

Whoever within a proclaimed area has in his possession any arms, ammunition, explosives or corrosive substance without any license, shall be punished with imprisonment of either description for a term which may extend to five years but shall not except for reasons to be recorded in writing be less than two years and shall also be liable to fine.

CHAPTER III

POWER TO IMPOSE RESTRICTIONS FOR PREVENTION OF DISORDER

14. *Power to prohibit certain acts*

- (1) (i) A competent authority in areas under his jurisdiction may, whenever and for such time as he may consider necessary, for the preservation of public peace or public safety by a notification publicly promulgated or addressed to individuals, prohibit at any town, village or place or in the vicinity of any such town, village or place in a proclaimed area—
 - (a) the carrying of arms, cudgels, swords, spears, bludgeons, guns, knives, sticks or lathis, or any other article, which is capable of being used for causing physical violence,
 - (b) the carrying of any corrosive substance or explosives,
 - (c) the carrying, collection and preparation of stones or other missiles or instruments or means of casting or impelling missiles,

- (d) the exhibition of persons or corpses of figures or effigies thereof,
- (e) the public utterance of cries, singing of songs, playing of music,
- (f) delivery of harangues, the use of gestures or threats, and the preparation, exhibition or dissemination of pictures, symbols, placards or any other object or thing which may in the opinion of such authority lead to a breach of public peace.

(ii) If any person goes armed with any such article or carries any corrosive substance or explosive or missile in contravention of such prohibition, he shall be liable to be disarmed or the corrosive substance or explosive or missile shall be liable to be seized from him by any police officer, and the article, corrosive substance, explosive or missile so seized shall be forfeited to the Government.

(iii) The competent authority may also, by order in writing, prohibit in a proclaimed area any assembly or procession whenever and for so long as he may deem such prohibition to be necessary for the preservation of the public peace.

Provided that no such prohibition ordered by an authority subordinate to the State Government shall remain in force for more than fifteen days without the sanction of the State Government.

(iv) The competent authority may, by public notice: in a proclaimed area temporarily reserve, for any public purpose any street or public place and prohibit persons from entering the area so reserved, except under such conditions as may be prescribed by such authority.

- (2) Whoever disobeys an order lawfully made under this section, or abets the disobedience thereof, shall be punished with imprisonment for a term which may extend to three years, but shall not except for reasons to be recorded in writing, be less than six months, and shall also be liable to fine.

15. *Power to take possession of place etc.*

- (1) In order to prevent or suppress any riot or grave disturbance of peace in a proclaimed area, a competent authority or any other officer empowered in this behalf by the State Government, in areas under his control may temporarily close or take possession of any building or place, and may exclude all or any persons therefrom, or may allow access thereto to such persons only and on such terms as he shall deem expedient.
- (2) If the lawful occupier of such building or place suffers substantial loss or injury by reason of the action taken under sub-section (1), he shall be entitled, on application made to the authority or officer referred to in sub-section (1) within one month from the date of such action, to receive reasonable compensation for such loss or injury, unless such action was in the opinion of such authority or officer rendered necessary either by the use to which such building or place was put, or intended to be put, or by the misconduct of persons having access thereto.
- (3) In the event of any dispute regarding the quantum of reasonable compensation referred to in sub-section(2), the lawful occupier of such building or place shall have the right to appeal to the District Judge having jurisdiction over the area in which the building or place is located, within 30 days of the receipt of the order of the competent authority or officer assessing the compensation.
- (4) Whoever contravenes a reasonable direction given under sub-section(1), without just and sufficient cause, shall be punished with imprisonment for a period of one year, and shall also be liable to fine.

16. *Extermment*

- (1) Whenever it shall appear to a competent authority in a proclaimed area, that—
 - (a) the movements or acts of any person are causing or calculated to cause alarm, danger or harm to person or property, or
 - (b) there are reasonable grounds for believing that such person is engaged or is about to be engaged in the commission of an offence involving force or violence or an offence punishable under Chapters VIII, XVI and XVII of the Indian Penal Code or any of the offences under this Act, or any abetment of any such offence, and when in the opinion of such authority witnesses are not willing to come forward to give evidence in public against such persons by reason of apprehension on their part as regards the safety of their person or property, the said authority may, by an order in writing duly served in the manner prescribed, direct such person to conduct himself as shall seem necessary in order to prevent violence and alarm, or to remove himself outside the area within the local limits of his jurisdiction or such area and any district or districts or any part thereof, contiguous thereto, by such route and within such time as the said authority may prescribe and not to enter or return to the said area or the area and such contiguous districts or part thereof, as the case may be, from which he was directed to remove himself.
- (2) Whoever—
 - (a) in contravention of a direction issued to him under sub-section (1) enters or returns without permission to the area, or any district or districts or part thereof, from which he was directed to remove himself;
 - (b) enters or returns to any such area or district aforesaid or part thereof with permission granted by a competent authority but fails, contrary to the provisions thereof, to remove himself outside such area at the expiry of the temporary period for which he was permitted to enter or return or on the earlier revocation of such permission, or having removed himself at the expiry of such temporary period or on revocation of the permission, enters or returns thereafter without fresh permission.

shall on conviction, be punished with imprisonment for a term which may extend to two years, but shall not, except for reasons to be recorded in writing, be less than six months, and shall also be liable to fine.

- (3) If a person to whom a direction has been issued under sub-section (1) to remove himself from an area—
 - (i) fails to remove himself as directed; or
 - (ii) having so removed himself, except with the permission in writing of the authority making the order [as provided in sub-section (4)] enters the area within the period specified in the order.
 the authority concerned may cause him to be arrested and removed in police custody to such place outside the area as the said authority may in each case prescribe.

- (4) (a) The authority making an order under sub-section (1) may in writing permit any person in respect of whom such orders have been made to enter or return to the area, including any contiguous districts or part thereof, from which he was directed to remove himself, for such temporary period and subject to such conditions as may be specified in such permission, and may require him to enter into a bond with or without surety for the due observance of the conditions imposed.

Provided that the authority aforesaid may at any time revoke any such permission.

- (b) Any person who with such permission enters or returns to such area shall observe the conditions imposed, and at the expiry of the temporary period for which he was permitted to enter or return, or on the earlier revocation of such permission, shall remove himself outside such area, or the area and any contiguous districts or part thereof, and shall not enter section (1) of this section, without a fresh permission.
- (c) If such person fails to observe any of the conditions imposed, or to remove himself accordingly, or having so removed himself enters or returns to the area, or the area and any contiguous districts or part thereof, without fresh permission, the authority concerned may cause him to be arrested and removed in police custody to such place outside the area as that authority may in each case prescribe.

17. *Exemption not to exceed one year*

A direction made under section 16 of this Act, not to enter any particular area, or such area and any district or districts or any part thereof contiguous thereto as the case may be, shall be for such period as may be specified therein and in no case exceed a period of one year from the date on which the person removes himself or is removed from the area, district or districts or parts aforesaid.

18. *Power to make order detaining certain persons*

- (1) The Central Government or the State Government may—

(a) if satisfied with respect to any person that with a view to preventing him from—

- (i) acting in any manner prejudicial to the maintenance of public order, or
- (ii) acting in any manner prejudicial to the maintenance of supplies and services essential to the community, or
- (iii) committing or abetting the commission of any prejudicial act, or
- (iv) instigating or abetting the instigation of an assembly of five or more persons to become a riotous mob, or
- (v) committing or abetting the commission of an offence of sabotage or an offence of receiving sabotaged property, or
- (vi) indulging in the unlawful manufacture, sale and distribution of fire-arms or any other explosive substance,

it is necessary to do so, make an order directing that such person be detained.

- (2) A competent authority in a proclaimed area may, if satisfied as provided in sub-section (1), exercise the power conferred by the said sub-section.
- (3) When any order is made under this section by a competent authority as mentioned in sub-section (2), he shall forthwith report the fact to the State Government to which he is subordinate together with the grounds on which the order has been made and such other particulars as in his opinion have a bearing on the matter, and no such order shall remain in force for more than twenty days after the making thereof unless in the meantime it has been approved by the State Government.
- (4) When any order is made or approved by the State Government under this section, the State Government shall, within seven days, report the fact to the Central Government together with the grounds on which the order has been made and such other particulars as in the opinion of the State Government have a bearing on the necessity for the order.

19. *Execution of detention orders*

A detention order may be executed at any place in India in the manner provided for the execution of warrants of arrest under the Code.

20. *Power to regulate place and conditions of detention*

Every person in respect of whom a detention order has been made shall be liable—

- (a) to be detained in such place and under such conditions including conditions as to maintenance, discipline and punishment for breaches of discipline, as the appropriate Government may, general or special order, specify; and
- (b) to be removed from one place of detention to another place of detention whether within the same State, or in another State, by order of the appropriate Government;

Provided that no order shall be made by a State Government under clause (b) for the removal of a person from one State to another State except with the consent of the Government of the other State.

21. *Detention orders not to be invalid or inoperative on certain grounds*

No detention order shall be invalid or inoperative merely by reason—

- (a) that the person to be detained there under is outside the limits of the territorial jurisdiction of the Government or officer making the order, or
- (b) that the place of detention of such person is outside the said limits.

22. *Power in relation to absconding persons*

- (1) If the Central Government or the State Government, or the competent authority acting under sub-section (2) of section 1, as the case may be, has reason to believe that a person in respect of whom a detention order has been made has absconded or is concealing himself so that the order cannot be executed, that Government or competent authority may—
- (a) make a report in writing of the fact to a Metropolitan Magistrate or a Judicial Magistrate of the first class having jurisdiction in the place where the said person ordinarily resides; and thereupon the provisions of Sections 82 to 86 both inclusive of the Code shall apply in respect of the said person and his property as if the order directing that he be detained were a warrant issued by the Magistrate;
- (b) by order notified in the official Gazette direct the said person to appear before such officer, at such place and within such period as may be specified in the order; and if the said person fails to comply with such direction he shall, unless he proves that it was not possible for him to comply therewith and that he had, within the period specified in the order, informed the officer mentioned in the order of the reason which rendered compliance therewith impossible and of his whereabouts, be punishable with imprisonment for a term which may extend to one year or with fine or with both.
- (2) Notwithstanding anything contained in the Code, every offence under clause (b) of sub-section (1) shall be cognizable.

23. *Grounds of order of detention to be disclosed to persons affected by the order*

- (1) When a person is detained in pursuance of a detention order, the authority making the order shall, as soon as may be, but ordinarily not later than ten days and in exceptional circumstances and for reasons to be recorded in writing, not later than fifteen days, from the date of detention, communicate to him the grounds on which the order has been made and shall afford him the earliest opportunity of making a representation against the order to the appropriate Government.
- (2) Nothing in sub-section (1) shall require the authority to disclose facts which it considers to be against the public interest to disclose.
- (3) On receipt of the representation mentioned in sub-section (1), the appropriate Government shall, after considering the materials placed before it and after calling for such further information as it may deem necessary, pass appropriate orders within two months from the date of detention and communicate them to the detained person.

24. *Maximum period of detention*

The maximum period for which any person may be detained in pursuance of any detention order made under sub-section (1) of section 18 and which, in a case where so required under this Act, has been approved under sub-section (3) of section 18 shall be three months from the date of detention.

Provided that nothing contained in this section shall affect the power of the appropriate Government to revoke or modify the detention order at any earlier time.

25. *Revocation of detention order*

- (1) Without prejudice to the provisions of Section 21 of the General Clauses Act, 1897 (10 of 1897), a detention order may, at any time, be revoked or modified—
- (a) notwithstanding that the order has been made by a competent authority as mentioned in sub-section (2) of section 1, by the State Government to which that authority is subordinate or by the Central Government.
- (b) notwithstanding that the order has been made by a State Government, by the Central Government.
- (2) The expiry or revocation of a detention order shall not bar the making of another detention order under section 18 against the same person on grounds relating to fresh facts that may have arisen after the expiry or revocation of the earlier detention order.

26. *Grounds of detention severable*

Where a person has been detained in pursuance of an order of detention under section 18 which has been made on two or more grounds, such order of detention shall be deemed to have been made separately on each of such grounds and accordingly—

- (a) such order shall not be deemed to be invalid or inoperative merely because one or some of the grounds is or are—
- (i) vague,
- (ii) non-existent,
- (iii) not relevant,
- (iv) not connected or not proximately connected with such person, or
- (v) invalid for any other reason whatsoever,

and it is not therefore possible to hold that the Government or officer making such order would have been satisfied as provided in section 18 with reference to the remaining ground or grounds and made the order of detention;

- (b) the detaining authority making the order of detention shall be deemed to have made the order of detention under the said section, after being satisfied as provided in that section with reference to the remaining ground or grounds.

CHAPTER IV
OFFENCES AND PENALTIES

27. *Being member of a riotous mob*

- (1) Whoever in a proclaimed area wilfully joins a riotous mob, or being in a mob continues to remain therein after that mob has become a riotous mob, is said to be a member of the riotous mob.
- (2) Whoever is a member of a riotous mob shall be punished with imprisonment of either description for a term which may extend to one year, or with fine or with both.

28. *Punishment for instigation*

Whoever in a proclaimed area, is an instigator shall be punished with imprisonment of either description for a term which may extend to three years but shall not except for reasons to be recorded in writing, be less than one year and shall also be liable to fine.

29. *Punishment for instigation when riotous mob indulges in grave offences*

Whenever in a proclaimed area, any or all members of an assembly of persons who had become a riotous mob commit any or all the offences of murder, arson, dacoity, or rape, the instigator upon whose instigation the said assembly of persons had become a riotous mob, shall be punished with imprisonment of either description for a period of seven years, but shall not except for reasons to be recorded in writing be less than four years and shall also be liable to fine.

30. *Preparation to commit rioting*

Whoever in a proclaimed area makes any preparation for committing rioting shall be punished with imprisonment of either description for a term which may extend to three years but shall not except for reasons to be recorded in writing be less than one year and shall also be liable to fine.

Explanation : The term rioting used in this section will have the same meaning as in section 146 of the Indian Penal Code (XLV of 1860).

31. *Sabotage*

Whoever does any act with intent to impair the efficiency or impede the working of, or to cause loss, damage or destruction to—

- (a) any building, installation or other property, used in connection with the production, distribution or supply of water, light, power or energy;
- (b) any sewage works;
- (c) any mine or factory;
- (d) any laboratory or installation where scientific or technological research is conducted;
- (e) any means of public transportation or of telecommunication or any building, installation or other property used in connection therewith;
- (f) any educational institution;
- (g) any place of workshop is said to commit sabotage.

For the purpose of this section, an educational institution means—

- (i) "School" including any institution recognised as such by the Central Government or the State Government;
- (ii) any University established by law in India and includes "Colleges" affiliated to Universities, autonomous colleges, Intermediate Colleges, and such Technical Institutions of collegiate status, as are recognised as such by the Central Government or the State Government; and
- (iii) any other institution whether recognised or not which imparts academic, professional, or technical education.

32. *Punishment for Sabotage*

- (1) Whoever, in a proclaimed area, commits sabotage shall be punished with imprisonment for a term which may extend to seven years but shall not except for reasons to be recorded in writing be less than three years and shall also be liable to fine.
- (2) Where any person is prosecuted for an offence under this section and it is proved that he was present in or in the neighbourhood of any such building, installation or other property, or works, or mine or factory or laboratory or installation or any means of public transportation or telecommunication or building or installation or any other property used in connection therewith, and was in possession of any instrument, implement or other material capable of doing any act which is likely to impair the efficiency of, or impede the working of, or cause damage to, such building, installation, property, works, factory, laboratory, installation or means of public transportation or of telecommunication, or any other property used in connection therewith, it shall be presumed that he was so present with the intention of committing an offence under this section and the burden of proving that he had no such intention, shall be on him.

33. *Sabotaged property*

Sabotaged property means property the possession of which has been transferred by, or in consequence of, any such act committed in a proclaimed area, as is referred to in section 31 of this Act.

34. *Punishment for receiver of sabotaged property*

Whoever dishonestly receives or retains or voluntarily assists in concealing or disposing of, or making away with any sabotaged property, knowing or having reason to believe, the same to be sabotaged property shall be punished with imprisonment for a term which may extend to three years but shall not except for reasons to be recorded in writing be less than one year and shall also be liable to fine.

35. *Punishment for committing prejudicial act*

Whoever, without lawful authority or excuse, does any prejudicial act, in a proclaimed area, shall be punished with imprisonment of either description for a term which may extend to three years but shall not except for reasons to be recorded in writing be less than one year and shall also be liable to fine.

36. *Competent authority may compel furnishing of information*

- (1) A competent authority may by order require any person residing or found in a proclaimed area to furnish or produce to any specified authority, or person any such information or article in his possession as may be specified in the order, being information or an article which that authority considers it necessary or expedient in the interests of public order or public safety to obtain or examine.
- (2) Whoever fails to furnish or produce any information or article in compliance with an order made under sub-section (1) shall be punishable with imprisonment for three years or with fine or both.

37. *Authority not to disclose information without permission*

- (1) No person who obtains any information in accordance with the provisions of this Act or rules made thereunder shall, otherwise than in connection with the execution of the provisions of this Act, or any order made in pursuance thereof, disclose that information to any other person, except with permission granted by the competent authority.
- (2) Whoever contravenes the provisions of this section shall be punished with imprisonment for a term which may extend up to two years or with fine or with both.

38. *Punishment for assisting offenders*

Any person who knowing or having reasonable cause to believe that any other person has committed any act or omitted to do an act, which commission or omission would be an offence under the provisions of this Act, gives that other person any assistance with intent thereby to prevent, hinder or otherwise interfere with his arrest, trial or punishment for the said offence, shall be punished with imprisonment for a term which may extend up to three years but shall not except for reasons to be recorded in writing be less than one year and shall also be liable to fine.

39. *Punishment for giving financial aid to any illegal activity*

Whoever knowingly expends or supplies any money in furtherance or in support of an act which is an offence under this Act, or any order made thereunder, shall be punished with imprisonment of either description for a term which may extend to three years, but shall not except for reasons to be recorded in writing be less than one year and shall also be liable to fine.

40. *Punishment for threatening witnesses etc.*

Whoever threatens any person,

- (i) who is, or is likely to be, a witness in any prosecution for an offence under this Act, or in any trial before a special court constituted under this Act, or
- (ii) who has in his possession or knowledge any material document or other information which if produced before an investigating officer, or a court, could be used as evidence in the investigation for an offence under this Act, or in a trial before a special court constituted under this Act,

with any injury to his person or property or to the person or property of any one in whom that person is interested, with intent to cause harm to that person, or to compel that person to refrain or withdraw from being a witness in such investigation or trial, or to prevent that person from producing such material, document or information before the investigating officer or court as mentioned aforesaid,

shall be punished with imprisonment which may extend up to three years but shall not except for reasons to be recorded in writing be less than one year, and shall also be liable to fine.

41. *Driver or his Assistant or owners of goods transport vehicles not to carry more persons than authorised*

Whoever being a driver or his assistant or an owner of a goods transport vehicle carries or causes to be carried in the vehicle in a proclaimed area more persons than authorised under the Motor Vehicles Act or rules made thereunder, shall be punished with imprisonment for a term which may extend up to one year or with fine or both.

42. *Public servant to exercise lawful authority*

Whoever being a public servant or any other person authorised to act by a competent authority under any provisions of this Act, or orders made thereunder, (a) exercises the lawful authority vested in him under this Act in a mala fide manner, which causes or is likely to cause harm or injury to any person or property, or (b) wilfully omits to exercise lawful authority vested in him under this Act and thereby fails to prevent a breach of public order or disruption in the maintenance of services and supplies essential to the community.

shall be punished with imprisonment which may extend up to three years or with fine or with both.

Provided that notwithstanding anything contained in the Code, no court shall take cognisance of an offence under this section except with the previous sanction of the State Government.

CHAPTER V
OF SPECIAL COURTS AND SPECIAL PROCEDURES

43. *Constitution of Special Courts*

- (1) The State Government may, by notification in the Official Gazette, constitute as many Special Courts as may be necessary in or in relation to such proclaimed area or areas as may be specified in the notification, for the purpose of providing speedy trial of scheduled offences committed in any proclaimed area, either during the period when such area remains a proclaimed area, or, during a period as may be specified by the State Government, in the aforesaid notification, but not exceeding three months before the date of publication of the notification in respect of the proclaimed area as provided in section 4.
- (2) A Special Court shall consist of a single judge who shall be appointed by the High Court upon a request made by the State Government.

Explanation : In this sub-section, the word "appoint" shall have the meaning given to it in the Explanation to section 9 of the Code.

- (3) A person shall not be qualified for appointment as a judge of a Special Court unless he is qualified for appointment as a judge of a Court of Session established under section 9 of the Code.
- (4) Notwithstanding anything contained in sub-section (3), a person shall not be eligible for being appointed as, and for being, a Judge of a Special Court in any State after he has attained the age at which Sessions Judges in that State have to retire from service.

44. *Jurisdiction of Special Courts*

- (1) Notwithstanding anything contained in the Code or any other law, a scheduled offence committed in any proclaimed area at any time during the period during which it is a proclaimed area shall be triable, whether during or after such period, only by the Special Court constituted in or in relation to the proclaimed area in which the offence has been committed.
- (2) When trying any scheduled offence, a Special Court may also try any offence other than the scheduled offence with which the accused may, under the Code, be charged at the same trial if the offence is connected with the scheduled offence.
- (3) A special Court established under this Act may hold its sittings at any place within the local area in which it is established.
- (4) A Special Court may take cognisance of any scheduled offence—
 - (a) Where under the Code such offence is an offence triable exclusively by a Court of Session, upon its being committed to it under section 209 of the Code as if the Special Court were a Court of Session;
 - (b) in any other case, upon a police report of the facts together with a certificate from the public prosecutor to the effect that the offence is triable exclusively by the Special Court.
- (5) Where a scheduled offence is an offence triable exclusively by a Court of Session under the Code, a Special Court shall have all the powers of a Court of Session and shall try each offence as if it were a Court of Session, so far as may be in accordance with the procedure prescribed in the Code for trial before a Court of Session.
- (6) Where a scheduled offence is an offence which is punishable with imprisonment for a term exceeding three years but which, according to the provisions of the Code, is not an offence triable exclusively by a Court of Session, a Special Court may on taking cognisance of the offence perform the functions of a Magistrate under section 207 of the Code and thereafter try such offence so far as may be in accordance with the procedure prescribed in the Code for trial before a Court of Session as if the Special Court were a Court of Session and the case had been committed to it for trial under the provisions of the Code.
- (7) Where a scheduled offence is punishable with imprisonment for a term not exceeding three years or with fine or with both, a Special Court may, notwithstanding anything contained in sub-section (1) of section 260 or section 262 of the Code, try the offence in a summary way in accordance with the procedure prescribed in the Code and the provisions of sections 263 to 265 of the Code, shall so far as may be, apply to such trial.

Provided that when, in the course of a summary trial under this sub-section, it appears to the Special Court that the nature of the case is such that it is undesirable to try it summarily, the Special Court shall recall any witness who may have been examined and proceed to re-hear the case in the manner provided by the provisions of the Code for the trial of such offence and the said provisions shall apply to and in relation to a Special Court as they apply to and in relation to a Magistrate.

Provided further that in the case of any conviction in a summary trial under this section, it shall be lawful for a Special Court to pass a sentence of imprisonment for a term not exceeding two years.

- (8) A Special Court may, with a view to obtaining the evidence of any person suspected to have been directly or indirectly concerned in, or privy to, an offence, tender a pardon to such person on condition of his making a full and true disclosure of the whole circumstances within his knowledge relating to the offence and to every other person concerned whether as principal or abettor in the commission thereof and any pardon so tendered shall, for the purpose of section 308 of the Code, be deemed to have been tendered under section 307 thereof.

45. *Presumption of culpable mental state*

In any prosecution for any offence under this Act or for any offence triable by a special court established under this Act, which requires a culpable mental state on the part of the accused, the court shall presume the existence of such mental state but it shall be a defence for the accused to prove the fact that he had no such mental state with respect to the act charged as an offence in that prosecution.

Explanation : In this section "culpable mental state" includes intention, motive, knowledge of a fact or the belief in, or reason to believe, a fact.

For the purposes of this section, a fact is said to be proved only when the court believes it to exist beyond reasonable doubt and not merely when its existence is established by a preponderance of probability.

46. *Presumption as to documents in certain cases*

Where any document is produced by any person or has been seized from the custody or control of any person, in either case, under this Act or under any other law and such document is intended by the prosecution in evidence against him or against him and any other person who is tried jointly with him, the court shall—

- (a) presume, unless the contrary is proved, that the signature and every other part of such document which purports to be in the handwriting of any particular person or which the court may reasonably assume to have been signed by, or to be in the handwriting of, any particular person, is in that person's handwriting; and also
- (b) presume, unless the contrary is proved, the truth of the contents of such document.

47. *Limitation for Investigation*

- (1) Notwithstanding anything contained in the Code, no special court shall take cognizance of an offence triable by it under this Act after the expiry of the period of 90 days which shall commence—
 - (a) On the date of the offence; or
 - (b) where the date of commission of the offence was not known to the person aggrieved by the offence or to any police officer, the first day on which such offence comes to the knowledge of such person or to any police officer, whichever is earlier; or
 - (c) where it is not known by whom the offence was committed, the first day on which the identity of the offender was known to the person aggrieved by the offence or to the police officer making investigation into the offence, whichever is earlier; or
 - (d) in respect of a prosecution for an offence under section 42 of this Act from the date the State Government accords sanction for each prosecution.
- (2) In computing the period of limitation, the day from which such period will be computed, shall be excluded.

48. *Provisions regarding bail*

Notwithstanding anything contained in the Code, no person accused or convicted of any offence triable by a Special court established under this Act shall, if in custody, be released on bail or on his own bond unless

- (a) the prosecution has been given an opportunity to oppose the application for such release, and
- (b) the court is satisfied that there are reasonable grounds for believing that he is not guilty of such offence.

CHAPTER VI
SUPPLEMENTAL

49. *Offences under the Act to be cognizable, non-bailable and non-compoundable*

Every scheduled offence when committed in a proclaimed area shall be cognizable, non-bailable and non-compoundable.

50. *Protection of action taken in good faith*

No suit or other legal proceeding shall lie against the Central Government or a State Government and no suit, prosecution or other legal proceeding shall lie against any person for anything in good faith done or intended to be done in pursuance of this Act.

51. *Power to make rules*

The Central Government or the State Government, as the case may be, may, by notification in the official gazette, make rules for carrying out the purposes of this Act.

52. *Repeal of the Disturbed Areas (Special Courts) Act, 1976 (No. 77 of 1976)*

The Disturbed Area (Special Courts) Act 1976 (No. 77 of 1976) is hereby repealed.

Notwithstanding such repeal anything done, or any action taken under the said Act shall be deemed to have been done or taken under the corresponding provisions of this Act.

THE SCHEDULE

[See Section 2(1)]

1. All offences under this Act.
- 45 of 1860 2. Offences under the following provisions of the Indian Penal Code—
Section 120B;
Sections 143 to 145, 147, 148, 151 to 155, 157 158 and 160;
Sections 182, 183, 186 to 190;
Sections 193 to 195, 199, 201 to 203, 211 to 214, 216, 216A and 225;
Sections 295 to 298;
Sections 302, 303, 304, 307, 308, 323 to 335, 341 to 348, 352 to 358, 363 to 369 and 376;
Sections 379, 380, 382, 384 to 387, 392 to 399, 402, 411, 412, 426, 427, 431, 435, 436, 440, 447 to 462;
Sections 504 to 506 and 509;
- 54 of 1955 3. Offences under the following provisions of the Arms Act, 1959—
Sections 25 to 30;
- 4 of 1884 4. Offences under the following provisions of the Indian Explosives Act, 1854—
Sections 6(3) and 8(2).

FORM 28 A

Bond for appearance of accused

(See Section 170)

I (name), of (place) having been informed of an investigation presently being conducted in a case of..... police station, in the matter of offence(s) under section(s)....., alleged to have been committed by me, do hereby bind myself to attend at.....before the officer in charge of..... police station, or in the court of....., ato' clock on the..... day of....., and on further days as may be directed by the officer or court on which any investigation or trial is held in the matter of the offence(s) alleged to have been committed by me and in case of my making default therein, further bind myself to forfeit to Government the sum of rupees.....

Dated this.....day of.....1980.

Signature.

(Strike out whichever is not applicable)

APPENDIX X

Statement showing the total amount of Loan/Grant-in-aid sanctioned to the State Governments for Modernisation of their Police Forces during 1969-70 to 1977-78

(Rs. in lakhs)

Sl. No.	Name of the State	1969-70	1970-71	1971-72	1972-73	1973-74	1974-75	1975-76	1976-77	1977-78	Total
1.	Andhra Pradesh	5.25	13.25	52.00	46.00	30.67	10.00	35.64	49.00	70.44	312.25
2.	Assam	..	2.00	50.00	37.00	32.68	35.00	26.00	21.00	26.00	229.68
3.	Bihar	3.25	10.00	62.00	34.00	2.53	26.00	33.00	26.00	17.30	214.08
4.	Gujarat	2.50	3.25	24.50	22.50	19.42	50.00	37.00	20.00	41.36	220.53
5.	Haryana	1.00	5.00	14.00	24.00	22.70	17.00	15.00	10.80	15.00	124.50
6.	Himachal Pradesh	..	..	15.00	21.50	9.48	15.00	12.00	10.00	11.13	94.11
7.	Jammu & Kashmir	4.00	10.00	60.00	31.25	..	..	10.58	4.70	13.00	133.53
8.	Kerala	4.00	3.75	21.00	54.00	54.50	26.00	20.00	19.00	20.00	222.25
9.	Madhya Pradesh	5.00	5.00	54.00	64.50	22.13	65.00	35.83	45.00	25.57	322.03
10.	Maharashtra	5.00	1.00	35.50	50.50	20.65	46.30	35.00	66.00	45.00	304.95
11.	Manipur	..	..	10.00	1.25	..	14.50	10.00	5.20	7.45	48.40
12.	Meghalaya	..	..	..	..	13.00	8.00	6.80	18.00	12.46	58.26
13.	Karnataka	2.50	1.75	17.50	23.50	19.76	30.00	30.00	30.00	63.05	218.06
14.	Nagaland	..	..	..	4.00	..	16.00	11.00	10.30	..	41.30
15.	Orissa	3.00	8.00	50.50	46.50	32.99	10.00	22.00	19.00	22.00	213.99
16.	Punjab	3.00	3.00	21.00	23.00	27.00	36.00	13.00	20.00	16.35	162.35
17.	Rajasthan	4.15	10.00	50.00	61.00	40.00	51.70	38.00	35.00	61.57	351.42
18.	Tamil Nadu	2.50	10.00	50.50	61.25	65.00	45.00	66.00	82.00	18.54	400.79
19.	Tripura	..	..	10.00	11.25	3.00	12.50	7.77	8.00	5.35	57.87
20.	Uttar Pradesh	3.60	5.00	52.00	42.00	47.00	20.00	55.00	47.00	55.84	327.44
21.	West Bengal	1.25	9.00	50.50	41.00	21.64	66.00	40.33	36.00	42.59	308.31
22.	Sikkim	..	..	..	..	..	..	5.00	3.00	10.00	18.00
TOTAL		50.00	100.00	700.00	700.00	484.15	600.00	564.95	585.00	600.00	4384.10

SOURCE : Ministry of Home Affairs.

APPENDIX XI

Statement showing Central financial assistance given to State Governments and the expenditure incurred on equipment, vehicles and staff by them from their own budgetary resources under the scheme for modernisation of police forces for the years 1969—78

(Rs. in lakhs)

Sl. No.	Name of the State	Central assistance given from 1969-70 to 1977-78	Expenditure incurred from State Budgetary resources from 1969-70 to 1977-78
1	2	3	4
1.	Andhra Pradesh	312.25	158.41
2.	Assam	229.68	153.23
3.	Bihar	214.08	1.58
4.	Gujarat	220.53	82.02
5.	Haryana	124.50	256.27
6.	Himachal Pradesh	94.11	22.69
7.	Jammu & Kashmir	133.53	15.95*
8.	Kerala	222.25	83.27
9.	Karnataka	218.06	152.18
10.	Maharashtra	304.95	33.97
11.	Madhya Pradesh	322.03	234.17
12.	Manipur	48.40	37.07
13.	Meghalaya	58.26	38.13
14.	Nagaland	41.30	78.91
15.	Orissa	213.99	36.74
16.	Punjab	162.35	123.53
17.	Rajasthan	351.42	116.64
18.	Tamil Nadu	400.79	201.27
19.	Tripura	57.87	58.70
20.	Uttar Pradesh	327.44	231.46
21.	West Bengal	308.31	59.89**
22.	Sikkim	18.00	..
TOTAL		4384.10	2176.08

*As at the end of 1974-75.

**Only for the period 1975—78.

SOURCE : Ministry of Home Affairs.

APPENDIX XII

No. 5/5/78-MS NPC

GOVERNMENT OF INDIA
NATIONAL POLICE COMMISSION
(MINISTRY OF HOME AFFAIRS)
Vigyan Bhavan Annexe,
New Delhi-110011.

July 11, 1978.

To
The Chief Secretaries of all State Governments and Union Territory Administrations.

Sir,

SUBJECT : Committee for examining measures for modernising law enforcement and related matters.

One of the subjects under examination by the National Police Commission relates to the measures for modernising law enforcement, evaluating and improving scientific laboratories and agencies for research and development of scientific aids for policing and evaluating and improving police communication network including wireless and computers--vide item 8 of the terms of references mentioned in the Government of India, Ministry of Home Affairs' Resolution No. VI-24021/36/77-GPA I, dated 15th November, 1977.

2. Having regard to the importance of this subject for the development of police in India and the need for proper evaluation and assessment of considerable volume of scientific data in this connection, the Commission has requested a committee as constituted below to go into this matter and make recommendations:—

- | | |
|--|------------------------|
| 1. Prof. S. Sampath, Member, UPSC, New Delhi. | <i>Chairman</i> |
| 2. Shri C. P. Joshi, Director, Police Telecommunications and Inspector General (Comm.) Border Security Force, New Delhi. | <i>Member-convenor</i> |
| 3. Shri N. Krishnaswamy, Director of Vigilance and Anti-corruption, Madras. | <i>Member</i> |
| 4. Shri S. N. Mitra, Chief Engineer, All India Radio, New Delhi. | <i>Member</i> |
| 5. Shri H. L. Bami, Director, Central Forensic Science Laboratory, CBI, New Delhi. | <i>Member</i> |
| 6. Shri T. Ananthachari, Director of Coordination, Police Computers, New Delhi. | <i>Member</i> |
| 7. Shri M. L. Mehta, Secretary to Chief Minister, Govt. of Rajasthan, Jaipur. | <i>Member</i> |
| 8. Shri S. S. Ahluwalia, Deputy Secretary, Ministry of Home Affairs, New Delhi. | <i>Member</i> |
| 9. Shri V. N. Channa, Director, NPC, New Delhi. | <i>Member</i> |

3. While examining this matter, the committee will :—

- study the steps taken in different States for modernising law enforcement;
- evaluate the work of police communications, the computer network, scientific laboratories and agencies in the States and the Centre for coordination, research and development;
- assess the impact of modernisation programme so far implemented and examine whether modernisation can be speeded up;
- examine the measures, legal as well as administrative that are needed to eliminate the existing constraint and practical difficulties in the effective use of scientific and technological facilities in police work;
- examine the steps to be taken to bring about optimum utilisation of resources for effecting modernisation;
- examine to what extent, as a result of modernisation of police forces, streamlining of its functioning and its restructuring, it would be possible to economise in manpower in the various areas of its activities; and
- examine the lines on which future development and progress of modernisation can be programmed.

4. The committee has been requested to make its recommendations within three months.

5. I am to request that the State Govts./Union Territory Administration may please advise the Inspector General of Police and other State officials concerned with this subject to co-operate with this committee and furnish it with such information and data as may be required for expeditious completion of its work.

Yours faithfully,

Sd/-

(C. V. NARASIMHAN)
Member Secretary

APPENDIX XIII

S. No.	Names of States/Union Territories	No. of Districts	No. of districts connected by teleprinters
1	2	3	4
1.	Andhra Pradesh	21	5
2.	Assam	10	8
3.	Bihar	32	Nil
4.	Gujarat	18	5
5.	Haryana	11	6
6.	Himachal Pradesh	12	4
7.	Jammu & Kashmir	10	2
8.	Karnataka	19	19
9.	Kerala	13	3
10.	Madhya Pradesh	44	6
11.	Maharashtra	26	1
12.	Manipur	6	Nil
13.	Meghalaya	3	4
14.	Nagaland	6	2
15.	Orissa	17	5
16.	Punjab	12	12
17.	Rajasthan	26	5
18.	Sikkim	4	Nil
19.	Tamil Nadu	14	14
20.	Tripura	3	Nil
21.	Uttar Pradesh	56	1
22.	West Bengal	15	12
23.	Andaman & Nicobar Islands	2	Nil
24.	Arunachal Pradesh	5	Nil
25.	Chandigarh	1	Nil
26.	Delhi	5	5
27.	Goa	3	Nil
28.	Lakshadweep	1	Nil
29.	Mizoram	3	Nil
30.	Pondicherry	1	Nil
	TOTAL	399	119

SOURCE : Sampath Committee's report.

NATIONAL POLICE COMMISSION

Statement regarding Police cases which were pending as on 31-12-1977 for receipt of reports from experts/laboratories

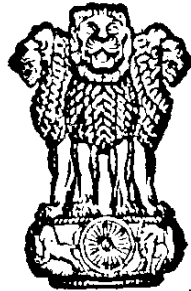
Sl. No.	States/UT	Central Forensic Science Laboratory					State Forensic Science Laboratory					Other Experts				
		No. of cases in which report was pending	Period of pendency from the date on which reference with sample was made				No. of cases in which report was pending	Period of pendency from the date on which reference with sample was made				No. of cases in which report was pending	Period of pendency from the date on which reference with sample was made			
			below 3 months	3 to 6 months	6 to 12 months	Over 1 year		below 3 months	3 to 6 months	6 to 12 months	Over 1 year		below 3 months	3 to 6 months	6 to 12 months	Over 1 year
1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17
1.	Assam	..	..	..	..	..	32	3	1	5	23	44	4	6	10	24
2.	Haryana	..	..	..	..	..	562	150	164	203	45	..	..	..	..	..
3.	Himachal Pradesh	3	2	..	1	..	..	..	..	..	..	316	138	82	71	25
4.	Karnataka	7	3	3	1	..	1107	316	398	211	182	217	60	113	30	14
5.	Madhya Pradesh	..	..	..	..	..	480	392	88	..	..	16	16	..	..	..
6.	Maharashtra	..	..	..	..	..	3689	1327	916	935	511	33090	7464	2842	3399	19385
7.	Manipur	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..
8.	Nagaland	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..
9.	Punjab	43	21	13	7	2	109	94	10	3	2	4544	3275	1185	80	4
10.	Rajasthan	2	..	..	2	..	174	126	31	12	5	210	63	49	72	26
11.	Sikkim	..	..	..	..	..	..	..	..	..	..	2	1	1	..	..
12.	Tamil Nadu	23	6	5	10	2	1626	773	653	182	18	2034	692	537	200	605
13.	Uttar Pradesh	15	2	5	3	5	31	10	6	8	7	557	164	122	109	162
14.	Arunachal Pradesh	2	..	..	..	2	..	..	..	..	..	..	..	..	..	..
15.	Chandigarh	12	..	4	8	..	..	..	..	..	..	28	18	6	4	..
16.	Delhi	532	234	174	120	4	30	19	9	2	..	563	398	126	37	2
17.	Mizoram	3	..	3	..	..	..	..	..	..	..	1	..	..	1	..
18.	Pondicherry	..	..	..	..	..	..	..	..	..	..	7	5	2	..	..
19.	Tripura	3	1	1	1	..	1	..	..	..	1	3	1	..	1	1

NOTE : No information has been received from other States/U.Ts.

PHD. 330
6000—1980 (DSK. II)

Inland : Rs. 4.75 per copy
Foreign : £ 0.56 or \$ 1.71 per copy

FOURTH REPORT
of the
NATIONAL POLICE COMMISSION



सत्यमेव जयते

Government of India

June, 1980

FOURTH REPORT
of the
NATIONAL POLICE COMMISSION

Government of India

June, 1980

CONTENTS

<i>Chapter</i>		<i>Pages</i>
XXVII	Investigation	1—11
XXVIII	Court trial	12—22
XXIX	Prosecuting agency	23—25
XXX	Industrial disputes	26—31
XXXI	Agrarian problems	32—36
XXXII	Social legislation	37—40
XXXIII	Prohibition	41—45
XXXIV	Summary of observations and recommendations	46—60
	Appendices	61—81

CHAPTER XXVII

INVESTIGATION

The Code of Criminal Procedure

27.1 Investigative powers and responsibilities of the police of India are laid down in the Code of Criminal Procedure which along with the Indian Penal Code and the Indian Evidence Act forms the bedrock of the criminal justice system of the country. The Code of Criminal Procedure was first enacted in 1861 under British rule and later substituted by fresh Codes successively enacted in 1872 and 1882. It was the fourth Code of Criminal Procedure of 1898 that spelt out the framework of investigational procedures which has remained more or less unaltered to this day as far as the police are concerned, and is embodied in the revised Code of Criminal Procedure, 1973 which came into force on 1st April, 1974. The Law Commission has dealt with certain aspects of procedural reform in criminal law in some of its reports. The Thirty-seventh Report of the Law Commission (December, 1967) examined for the first time the provisions of the Code of Criminal Procedure, 1898 and made recommendations section by section from section 1 to section 176. When the Law Commission was reconstituted in 1968, it took up the matter from the point at which it was left by the previous Commission and recommended in its Forty-first Report (September, 1969) the enactment of a revised Code of Criminal Procedure. The legislative exercise taken up in pursuance of its recommendations finally resulted in the present Code of Criminal Procedure, 1973.

Law Commission's approach

27.2 The major problems of reform as viewed by the Law Commission in its Thirty-seventh Report were—

- (a) separation of the judiciary and the executive ;
- (b) abolition of the jury trial ;
- (c) simplification of the various categories of trials ;
- (d) Magistrates in Presidency Towns ;
- (e) abolition or retention of the ordinary original criminal jurisdiction of High Courts ;
- (f) the law of arrest ;
- (g) the law of search and seizure ; and
- (h) the duty to give information about offences.

(Para 31)

It, therefore, happened that in the above view of the matter, the reports of the Law Commission did not

adequately deal with several other aspects of procedure which created difficulties for the police while conducting investigation in the field. Compliance of certain provisions in law proved unrealistic and difficult in actual investigations and, therefore, led to the adoption of certain improper methods and practices by investigating officers to meet the requirements of case law as it developed over several years. In this process the ultimate disposal of cases in the court also suffered. Complainants and witnesses in cases were inconvenienced and harassed by the elaborate procedures and practices that developed in the investigational work of the police. In the course of our tours in States and discussions with judges, magistrates, lawyers, police officers, general administrators and representative sections of the public, we have identified some aspects of the present procedural law relating to investigations where there is urgent need and ample scope for meaningful reform to make investigations conform to the real situations in the field and help in the expeditious conduct of investigations with minimum inconvenience to persons who may be concerned in specific cases as complainants, witnesses or accused persons. We proceed in the following paragraphs to deal with the reforms identified from this angle.

Non-registration of complaints at police stations

27.3 A complaint often heard against the police is that they evade registering cases for taking up investigation when specific complaints are lodged at the police station. In the study conducted by the Indian Institute of Public Opinion, New Delhi, regarding "Image of the Police in India" referred to in para 15.9 of our Second Report, over 50% of the respondents have mentioned "non-registration of complaints", as a common malpractice in police stations. Among the several malpractices it is ranked third, the first two places being taken by (i) showing partiality towards rich or influential people in cases involving them or reported by them, and (ii) shielding goondas and other criminal elements concerned in gambling dens, illicit distillation, etc. This malpractice of non-registration arises from several factors, including the extraneous influences and corruption that operate on the system, besides the disinclination of the staff to take on additional load of investigational work in the midst of heavy pressure of several other duties. Among all such factors the most important one which, in our view, accounts for a substantial volume of crime going unregistered is the anxiety of the political executive in the State Government to keep the recorded crime figures low so as to claim before the State Legislature, the public and the press that crime is well controlled and is even going down as a result of 'efficient' police

administration under their charge. The Chiefs of Police and other senior police officers also find it easy and convenient to toe the line of the Government in developing such a statistical approach for assessing the crime situation and evaluating police performance. As a consequence, this attitude permeates the entire hierarchy down the line and is reflected at the police stations in their reluctance and refusal to register cases as and when crimes are brought to their notice. The scope for removing this malpractice from the police system can be gauged by the examples we have in Uttar Pradesh in 1961, 1962, 1970 and 1971 and in Delhi in 1970 when the State Government and the Union Territory administration and the Chiefs of Police at that time took a bold and realistic stand in this matter and started a drive for free registration of crimes. The police stations readily responded to this lead given from the top with the result the recorded crime figures showed a big leap and reflected the real crime situation more accurately. For example, the total cognizable crime registered in Delhi in 1970 marked an increase of 81% over the figures of 1969 while the increase under the head 'robbery' was as high as 725% ! Apart from the malady of non-registration arising from these factors, police officers are also known to evade registering a case by merely pointing out that the offence has taken place in the jurisdiction of some other police stations. On this account alone the victim of an offence is made to run from pillar to post to locate the particular police station which has jurisdiction and then plead with them to register the case. Section 154 Cr. P.C. clearly spells out the legal responsibility of the officer-in-charge of a police station to register a case in the form of a First Information Report as soon as information or complaint about a cognizable offence is laid at the police station. This section itself does not refer to jurisdictional competence of the police station, while the subsequent section (Section 156) which empowers the police officer to take up investigation refers to the jurisdiction aspect.

First Information Report

27.4 First Information Reports recorded under section 154 Cr. P.C. have drawn a number of court rulings which have tended to give undue importance to the omission of any salient fact in the First Information Report as lodged with the police, even if such omission were to be the natural outcome of the disturbed or confused state of mind of the complainant when he came to the police station. The evidentiary importance attached to the First Information Report, as distinct from statements recorded during investigation which are precluded from being tendered in evidence for the prosecution, has led to the malpractice of police officers delaying the recording of First Information Report in its natural form and compiling it in a made up manner after taking advice from persons with experience in procedural law. We consider it desirable that even when the First Information Report is lodged at the Police Station, the officer-in-charge of the Police Station is enabled in law to question the informant or complainant and ascertain such further details as may be necessary to clarify any point arising

from the First Information Report and include such details in making the record as prescribed in section 154 *before* proceeding to take up investigation. The proforma for recording the First Information Report and further details as envisaged above can be suitably devised by the State Government to cover a variety of data relevant to the offence reported.

Reporting Centres

27.5 While the investigative responsibility may rest at the Police Station level, we feel it would be desirable to enable some constituent units of a Police Station—for example, a police outpost—to register a First Information Report as and when an information or complaint about an offence is lodged with them direct. Apart from police outposts which are presently established in several States, we may in due course develop a system of reporting centres also, particularly in urban areas, where some specified residents of a locality of the type of wardens who function in a Civil Defence set up may also be empowered to register First Information Reports and pass them on to the Police Station concerned for taking up investigation.

27.6 To facilitate the arrangements contemplated in paragraphs 27.4 and 27.5 above and to underline the police responsibility for registering a case as soon as information or complaint of a cognizable offence is received by them, whether or not the place of occurrence lies in their jurisdiction, we recommend that section 154 Cr. P.C. may be amended to read as under :—

“154. (1) Every information relating to the commission of a cognizable offence, if given orally to an officer-in-charge of a police station or such other police officer of a constituent unit attached to that station as may be notified by the State Government in this behalf, shall be reduced to writing by him or under his direction, and be read over to the informant ; and every such information, whether given in writing or reduced to writing as aforesaid, shall be signed by the person giving it, and the contents thereof shall be entered in a book to be kept by such officer in such form as the State Government may prescribe in this behalf.

(2) While receiving the written information or recording the oral information under sub-section (1), the police officer may elicit from the person giving the information such details as may be required to clarify any matter connected with or arising from the information and record these particulars in the form prescribed in sub-section (1).

(3) A copy of the information and other details as recorded under sub-sections (1) and (2) shall be given forthwith, free of cost, to the informant.

- (4) Any person aggrieved by refusal on the part of a police officer as mentioned in sub-section (1) to record the information referred to in the said sub-section may send the substance of such information in writing and by post to the Superintendent of Police concerned who, if satisfied that such information discloses the commission of a cognizable offence, shall either investigate the case himself or direct investigation to be made by any police officer subordinate to him, in the manner provided by this Code, and such officer shall have all the powers of an officer-in-charge of the police station in relation to that offence.
- (5) A police officer, other than an officer in charge of a police station, who records the information and other details under sub-sections (1) and (2) shall forthwith transmit the record to the officer-in-charge of the police station to which he is attached.
- (6) The officer-in-charge of the police station who himself records the information and other details under sub-sections (1) and (2) or receives such record under sub-section (5), shall proceed to deal with the case as provided in sections 156 and 157 if he has jurisdiction to investigate it or, if he has no such jurisdiction, transmit the record expeditiously to the officer-in-charge of the police station having such jurisdiction."

Inadequate staff for investigational work

27.7 Another complaint frequently heard from the public in regard to crimes, particularly those involving loss of property, is about the inability of police officers to pursue investigation from day-to-day with a sense of commitment and determination to check all available clues for locating the offender and recovering the stolen property. Apart from the initial visit of a police officer to the scene of crime and his inquiries with some witnesses on the first day of investigation, the complainants very rarely observe evidence of continued investigational work by the police in respect of their cases. A sample survey made at our instance in six States in different parts of the country has revealed that an average investigating officer is able to devote only 37 per cent of his time to investigational work while the rest of his time is taken up by other duties connected with maintenance of public order, VIP bandobust, petition inquiries, preventive patrol and surveillance, court attendance, collection of intelligence and other administrative work. According to statistics available from 13 States, it is seen that in 1977 there were 28,061 Investigating Officers (of the rank of Inspector, Sub-Inspector and Assistant Sub-Inspector) to handle a total of 34,31,933 cognizable crimes reported during the year which means that an average Investigating Officer had to handle about 122 cases per year. The State-wise break-up of these figures is furnished in Appendix I. The wide variations noticed in some States are due to some local laws like Prohibition Act which account

for a large number of cases. The pattern of incidence of cognisable crimes under the Indian Penal Code and the local and special laws may be seen in the statement at Appendix II. The enormous burden of investigational workload that falls on the available investigating officers is too heavy to be borne with any reasonable efficiency. There is urgent need for increasing the cadre of Investigating Officers. We shall be examining in a separate chapter the restructuring of police hierarchy to secure, *inter alia*, a larger number of officers to handle investigational work. We shall then be formulating a yardstick indicating the quantum of investigational work that can be efficiently handled by one officer. The feasibility of earmarking some staff for exclusively attending to investigational work will also be dealt with in that Chapter.

Scientific aids

27.8 In Chapter XXIV of our Third Report, we have recommended provision of adequate transport to police officers functioning at the level of police station, circle and sub-division. We have also recommended the strengthening of forensic science laboratory facilities and scientific aids to the detection of crime. Implementation of these recommendations would greatly improve the quality and quickness of investigations at different levels. In Chapter XXV of the same Report we have recommended the provision of mechanical aids like typewriters and tape recorders at the police station level which would greatly help in reducing the load of scriptory work presently borne by the investigating staff. We have also pointed out the need for adequate supply of printed forms and standardised stationery for proper handling of a variety of documentation and scriptory work that is generated during investigations. We are aware that improper and indifferent maintenance of police records has in some cases resulted in the previous antecedents of professional criminals being lost sight of by the police while examining their complicity in fresh cases. The introduction of computers and other arrangements for the maintenance of crime records as suggested in Chapter XXIV of the aforesaid Report would remove this deficiency in the investigational work of the police.

Identification parade

27.9 There is at present no provision in the Cr.P.C. governing the conduct of identification parades in the course of investigation. Such parades are usually conducted before Magistrates in accordance with the criminal rules of practice in the State. While the conduct of an identification parade before a Magistrate with due observance of certain precautions would make the result of identification parade become credit-worthy as a substantive piece of evidence in the case during trial, there are several occasions when an identification parade **has to be held by a police officer himself** in the course of investigation merely as a step in the process of investigation to know the identity of relevant persons and then proceed further to ascertain clues and connected facts concerning them. We consider it would be desirable to have an enabling provision in the Cr.P.C. to facilitate the conduct of

such identification parades by the Investigating officer himself in the course of an investigation. For this purpose, we recommend that section 37 Cr.P.C. may be amended to read as under :—

Public when to assist Magistrates and police

“37. Every person is bound to assist a Magistrate or police officer reasonably demanding his aid—

- (a) in the taking or preventing the escape of any other person whom such Magistrate or police officer is authorised to arrest; or
- (b) in the prevention or suppression of a breach of the peace; or
- (c) in the conduct of an identification parade to aid an investigation, inquiry or trial under this Code; or
- (d) in the prevention of any injury attempted to be committed to any railway, canal, telegraph or public property.”

Place of examination of witnesses

27.10 Section 160 Cr.P.C., which gives the power to an investigating police officer to summon any person to appear before him for being examined, stipulates that a male person under the age of fifteen years or any woman shall not be required to attend at any place other than a place in which such male person or woman resides. The other persons who are normally summoned to police stations for being examined as witnesses feel greatly inconvenienced when they are asked to come to the police station repeatedly for being examined by different officers in the hierarchy. We consider it would greatly help cordial police-public relationship if the examination of witnesses is conducted, as far as practicable, near the scene of offence or at the residence of the witnesses concerned or at some convenient place nearby. This arrangement might be secured by the issue of appropriate departmental instructions. Having said this, we would further like to observe that the insistence of examination of witnesses, particularly women witnesses, at their residences in preference to a police station is more to avoid inconvenience to them by having to be absent from the house for a long time than to strengthen or recognise any impression that a police station is a place to be avoided by the public, particularly by the women. In fact we are very anxious that the entire police philosophy, culture and attitude should be such as to make a police station appear and function as a ready source of relief for any person in a distress situation, more so in regard to the weaker sections of society.

Examination of a witness or accused—Presence of third party

27.11 We have been told of the difficulty faced by police officers by the insistence of some accused persons, particularly the rich and influential, that their

lawyers should be present by their side when they are examined by the police. Examination of a person either as a witness or accused by a police officer in the course of an investigation relates to the facts within the exclusive knowledge of the person concerned and there is really no need for him at that stage to have the immediate assistance of anybody else by his side to be able to answer the questions put by the Investigating officer. Further, the facts put before a witness or accused by the Investigating officer and the facts ascertained from a witness or accused in the course of his examination have to be kept confidential at the stage of investigation and it might prejudice the course of investigation if they get known to a third party and several others through that party. We, therefore, consider it desirable to make a specific provision in law that when a person is examined by a police officer under section 161 Cr.P.C. no other person shall, except in the exercise of powers under the law, have the right to be present during such examination.

Examination of witness—Record of their statements

27.12 Sections 161 and 162 Cr.P.C. deal with the procedure for examination of witnesses by the police, recording of their statements and the use to which they may be put in subsequent trial. Voluminous case law has built up on these two sections over several years, the effect of which has been to underline the following legal requirements :—

- (i) The statement of a witness, if the police officer decides to record it, shall be recorded in detail in the first person even as the witness goes on making his statement.
- (ii) The statement so recorded cannot be used for any purpose other than the sole purpose of *contradicting* the witness at some stage during trial, if his deposition in court happens to differ from that statement.

27.13 In actual practice, the full statement of a witness becomes available to the investigating officer only after a process of detailed examination combined with verification of facts mentioned by the witness and also confrontation with other witnesses wherever necessary, particularly when the same incident is spoken to by more than one witness. Further, section 161(3) gives discretion to the police officer to record or not to record the statement of a person examined by him. The Law Commission itself has recognised the need for this discretion as otherwise the police officer will be obliged to record the statement of each and every person from whom he may be making an inquiry in the course of an investigation, and such an insistence on scriptory work would throw an impossible burden on him besides wasting time. It is only *after* examining a witness that the police officer would be able to appreciate whether or not the statement of the witness is material enough to be recorded.

27.14 The Code of Criminal Procedure 1973 has done away with the procedure of preliminary enquiries by magistrates in cases exclusively triable by a

Sessions Court. Before this Code came into force, the procedure envisaged the examination of material witnesses twice over, once by the committing Magistrate and later by the Sessions Judge. Thus, for the same witness, we would have three sets of statements on record, one recorded by the police during investigation, the second recorded by the committing Magistrate and the third recorded by the Sessions Judge. It is a basic principle of justice that the findings of the trying judge should be based on what the witnesses actually depose before him, but the availability of detailed statements from the same witnesses before another forum recorded on an earlier occasion provides scope for arguments based on *contradictions*, however, trivial or natural they might be in the circumstances of any particular case. We consider it wholly improper if not unjust for the conclusions in judicial proceedings to be largely determined by contradictions in evidence by a mechanical or routine comparison of the statements made separately by the witness before different authorities instead of by probabilities flowing from the evidence. The Code of Criminal Procedure, 1973 has rightly eliminated one unnecessary stage of recording the detailed statement of a witness by the committing Magistrate. We would now recommend a further step to do away with the detailed recording of statement as made by a witness in the course of investigation, and substitute in its place a revised arrangement in which the investigating officer can make a record of the facts as ascertained by him on examination of a witness. This shift in emphasis from the statement made by the witness to the statement of facts ascertained from the witness would imply that the statement could be in third person in the language of the investigating officer himself. This statement of facts as recorded by the investigating officer would be adequate to assess the evidentiary value of the different witnesses and accordingly cite them in the charge sheet, if and when it is laid in court on conclusion of investigation.

27.15 When the statement as described above becomes a statement of facts as ascertained and recorded by the investigating officer, it loses its significance to serve as an earlier statement made by the witness himself in his own language and, therefore, the question of using that statement for contradiction or corroboration would not arise. The present provisions in section 162 Cr.P.C. relating to the restricted use of the statements of witnesses would, therefore, become redundant.

27.16 Under the present provisions of section 162, a police officer is precluded from obtaining the signature of a person on the statement recorded from him. It has been emphatically represented to us by several police officers that this provision in law operates to their great disadvantage and induces a general feeling among witnesses that they are not in any way bound by the statement recorded by the police and that they could freely deviate from it at a subsequent stage without attracting any penal notice.

27.17 It has also been brought to our notice that the phenomenon of prosecution witnesses turning hostile is becoming increasingly common in the context

of pressures and influences which operate from the side of the accused person and that it is becoming increasingly difficult to check this tendency. We find that on the recommendation of the Law Commission in its Forty-First Report (September 1969), a provision was introduced in the Code of Criminal Procedure Bill, 1970 to authorise the police officer to obtain the signature of a witness on the statement recorded from him in cases where the witness can read the statement so recorded, but the Joint Committee of Parliament felt that this provision may lead to abuse and, therefore, rejected it.

27.18 We have carefully examined all aspects of this matter from the point of view of the police officer as well as the person whose statement is recorded. In cases where a witness is reported by the police to have turned hostile during proceedings in Court, it may very well be that his statement in court is his own genuine statement while his earlier statement as recorded by the police was an embellishment made up by the police themselves without regard to what the witness had told them earlier. A police malpractice brought to our notice in this connection is the habit of some police officers to be very cursory in their examination of certain witnesses and then proceed to make a detailed record of the witness's statement, assuming it to be what they would like it to be in the context of statements of other witnesses already recorded. It is imperative that we put down this malpractice to ensure the honesty and cleanliness of investigations. We are of the view that a great measure of credibility could be imparted to the statement of facts as recorded by the police officer after examination of a witness, if we provide in law that a copy of the statement so recorded shall, if desired by the witness, be handed over to him under acknowledgement. In the eyes of law this position would be slightly different from obtaining his signature on the very statement itself, but would be a sufficient safeguard to ensure that the record as made by the police officer is not in deviation from what the witness had told him. In recommending this arrangement, we have in mind a similar arrangement that already exists for the delivery of a search list prepared under section 100 Cr.P.C. to the occupant of the place searched or the person searched.

27.19 To give effect to the revised arrangements proposed in paragraphs 27.11 and 27.14 to 27.18 above, we recommend that sections 161 and 162 Cr.P.C. may be amended to read as under :—

Examination of witnesses by police

"161. (1) Any police officer making an investigation under this Chapter, or any police officer not below such rank as the State Government may, by general or special order, prescribe in this behalf, acting on the requisition of such officer, may examine orally any person supposed to be acquainted with the facts and circumstances of the case.

(2) Such person shall be bound to answer truly all questions relating to such case put to him by such officer, other than

questions the answers to which would have a tendency to expose him to a criminal charge or to a penalty or forfeiture.

(3) When a person is examined by a police officer under this section, no other person shall, save in the exercise of powers under this Code, have the right to be present during such examination.

(4) The police officer may reduce into writing a statement of facts ascertained from a person in the course of an examination under this section; and if he does so he shall make a separate and true record of the statement of facts ascertained from each such person.

Statement of facts disclosed to police not to be signed

162. No statement of facts ascertained by a police officer from any person in the course of an investigation under this chapter, shall, if reduced to writing, be signed by the aforesaid person; but a copy of such statement duly authenticated by the police officer recording it shall be delivered under acknowledgement to the person on whose examination such statement was recorded, if so desired by that person."

Case diary

27.20 In view of the amendment we have proposed to section 161 to make the statement recorded under that section a statement of facts ascertained from the witness as distinct from a statement as made by him, section 172 relating to the case diary also would require a corresponding amendment to reflect this shift in emphasis. We recommend that the revised section 172 Cr.P.C. may read as below :—

Diary of proceeding in investigation

172. (1) Every police officer making an investigation under this Chapter shall day by day enter his proceedings in the investigation in a diary, setting forth the time at which the information reached him, the time at which he began and closed his investigation, the place or places visited by him and a statement of the circumstances ascertained through his investigation; and also attach to the diary for each day copies of statement of facts, if any, recorded under section 161 in respect of the person or persons whose examination was completed that day.
- (2) Any Criminal Court may send for the police diaries of a case under inquiry or trial in such court, and may use such diaries, not as evidence in the case, but to aid it in such inquiry or trial.
- (3) Neither the accused nor his agents shall be entitled to call for such diaries, nor shall he or they be entitled to see them merely because they are referred to by the

Court; but, if they are used by the police officer who made them to refresh his memory, or if the Court uses them for the purpose of contradicting such police officer, the provision of section 145 of the Indian Evidence Act, 1872 shall apply.

Search witnesses

27.21 Section 100 Cr.P.C. prescribes the procedure for the conduct of searches generally. It is a legal requirement under the provisions of this section that two or more independent and respectable inhabitants of the locality in which the place to be searched is situated shall attend and witness the search. Though sub-section (5) of this section states that 'no person witnessing a search under this section shall be required to attend the court as a witness of the search unless specially summoned by it', a practice has developed on the basis of some court rulings for the prosecution to get the search witnesses invariably examined to avoid the risk of adverse inference from their non-examination. This single practice has stood in the way of members of the public from associating themselves freely with the executive action of the police, particularly when they involve searches which would invariably draw them into the court hall and expose them to considerable inconvenience and harassment arising from court rituals and procedures, not to speak of malicious cross examination by some defence counsel. Several local and special laws, which confer police with powers of search, invariably stipulate that the searches shall be conducted in conformity with the Code of Criminal Procedure. This requirement immediately brings all searches under the local and special laws also within the purview of the case law mentioned earlier and the police are obliged to seek the help of some members of the public to figure as search witnesses as and when searches are conducted. Enforcement of Prohibition Act throws up several such situations and the police come to depend on a few residents of the police station limits to figure as search witnesses in more than one case. The malady of 'stock witnesses' is thus born and exposes the police to sharp criticism in court on this account. We strongly feel that the principle embodied in sub-section (5) of section 100 Cr.P.C. that the search witnesses shall not be required to attend the court unless specially summoned by it should be strictly implemented in practice, if necessary by further amending the provisions of this section to underline the importance of this principle. Further, we are also of the view that while section 100 Cr.P.C. might be applicable to searches generally, a search conducted by an investigating officer under section 165 Cr.P.C. stands on a separate footing, specially when the proposed search is based on some confidential information received by him in the course of investigation and there is risk of leakage of this information if he starts enquiring from the neighbours to locate witnesses for search. In such situations it should be legally made possible for the police officer to take the assistance of a public servant (other than a police officer) having jurisdiction over the area to be present and witness the proposed search. We, therefore, recommend that sub-sections (4) and (5)

Intimation to be sent about arrest

50 A—When any person has been arrested and is being held in custody in a police station, he shall be entitled to have intimation of his arrest and of the place where he is being held sent to one person reasonably named by him without delay or where some delay becomes unavoidable in the process of investigation, with no more delay than is unavoidable.

Third degree methods

27.26 Police are frequently criticised for their use of third degree methods during investigations while examining suspected or accused persons. Police brutality in their handling of suspects is referred to in some context or the other in the literature on police forces in several countries of the world, and the Indian police system is no exception. Interrogation of a person, whether he be a witness or suspect or accused, is a difficult and delicate exercise for any police officer and calls for enormous patience and considerable understanding of human psychology. He has to question the witness/suspect/accused at great length, putting before him the facts already secured by the investigating officer, confront him with the statements already made by other witnesses and ascertain from him a full version of all the relevant facts within his knowledge. From an initial position of total reluctance to divulge the facts known to him—which reluctance stems from a variety of factors like fear of repercussion under the law, disinclination to depose against a fellow member of the community, etc.—he has to be taken through a process of intensive questioning, including confrontation with other witnesses, to a point where he himself would desire to make a full disclosure of facts as known to him and thereby feel resolved of the conflicts in his mind. Any process of interrogation implies the questioning of a person more than once with reference to a variety of facts with which he may be confronted in succession. This process will, therefore, result in the building up of some kind of pressure on the mental state of the person questioned. This, in our view, is inevitable in any process of interrogation but when it crosses the limits of a mere pressure of facts building on the mind of the interrogated person and gets into the domain of physical pressure being applied on him in any form, it becomes despicable. Unfortunately several police officers under pressure of work and driven by a desire to achieve quick results, leave the path of patient and scientific interrogation and resort to the use of physical force in different forms to pressure the witness/suspect/accused to disclose all the facts known to him. While law recognises the need for use of force by the police in the discharge of their duties on some specified occasions like the dispersal of a violent mob or the arrest of a violent bad character who resists the arrest, etc., the use of force against an individual in their custody in his loneliness and helplessness is a grossly unlawful and most degrading and despicable practice that requires to be condemned in the strongest of terms, and we do

so. Nothing is so dehumanising as the conduct of police in practising torture of any kind on a person in their custody. Police image in the estimate of the public has badly suffered by the prevalence of this practice in varying degrees over several years. We note with concern the inclination of even some of the supervisory ranks to countenance this practice in a bid to achieve quick results by short-cut methods. Even well meaning officers are sometimes drawn towards third degree methods because of the expectation of some complainants in individual cases that the suspects named by them should be questioned by the police with some kind of pressure ! We consider it most important for improving police image that the senior officers and the supervisory ranks in the police deem it their special responsibility to put down this practice at the operational level in police stations and elsewhere. Some remedial measures are indicated below :—

- (i) Surprise visits to police stations and similar units by the senior officers would help the immediate detection of persons held in unauthorised custody and subjected to ill-treatment. Malpractices, if any, noticed during such visits should be met by swift and deterrent punishment.
- (ii) A Magistrate or Judge before whom an arrested person is produced by the police for remand to custody should be required by administrative rules of criminal practice to question the arrested person specifically if he has any complaint of ill-treatment by the police, and if he has any complaint the Magistrate or Judge should get him medically examined and take appropriate further action.
- (iii) In Chapter X of our First Report, we have already recommended a scheme for mandatory judicial inquiries into complaints of death or grievous hurt caused while in police custody. We earnestly believe that such an arrangement would itself act as an effective check against the continuance of third degree methods in police work.
- (iv) Supervisory ranks, including the senior levels of command in the police and the Government, should strictly eschew a purely statistical approach while evaluating police performance. Any administrative review of a kind which is likely to induce the subordinate ranks to adopt *ad hoc* and short-cut methods to show results should be avoided. Adequate emphasis should be laid on the honesty and cleanliness of investigations and the adoption of proper methods while handling all the connected work.
- (v) Training institutions should pay special attention to the development of interrogation techniques and imparting effective instructions to trainees in this regard.

Remand to police custody

27.27 Under the present provisions in law when an accused person is arrested by the police in the course of investigation they can examine him in their custody for a very limited period only and are required to produce him before a Magistrate within 24 hours of arrest. Under section 167 Cr. P. C. an arrested person who is produced before a Magistrate is generally remanded to judicial custody unless he is released on bail. Remand to police custody at that stage is very exceptional. In actual practice police officers find it difficult to complete the examination of the accused person within such a short time after his arrest. The fact that they cannot hold on to him for more than 24 hours and whatever information they expect to ascertain from him to be secured within that period makes them adopt several malpractices including the use of third degree methods to pressure the accused person. We are convinced that if the average police officer is assured of adequate time and facility for patiently examining an accused person and pursuing the examination from point to point through a process of simultaneous verification of facts mentioned by the accused, it would facilitate a proper examination of the accused person without resort to questionable methods involving pressure tactics. This would become possible if the police can secure the remand of an arrested person to police custody for a few days under orders from a Magistrate. When the accused remains in police custody under specific orders from a Magistrate, the scope for using third degree methods while interrogating him in such custody would get greatly reduced since he would be liable for production before Magistrate on expiry of the brief custody. In the light of the present phraseology of section 167 Cr. P. C., some conventions and practices have developed in several States for the Magistrates not to grant police custody unless the Investigating Officer pleads that the accused has already made a confession and his continued custody with the police is necessary to take him from place to place and recover property. This peculiar requirement of convention and practice drives police officers to make false statements before the Magistrate while in fact the accused would not have made any such confession and they would merely be requiring to verify several facts mentioned by him and continue with his examination. We would, therefore, recommend that the existing sub-sections (3) and (4) of section 167 which imply that remand to police custody should be exceptional may be deleted and a new sub-section (3) may be added to facilitate remand to police custody in the interest of investigation whenever required.

Remand by Executive Magistrates

27.28 Section 167 Cr.P.C. as amended by the Code of Criminal Procedure (Amendment) Act of 1978 facilitates the production of an arrested accused before an Executive Magistrate in situations 'where a Judicial Magistrate is not available'. A situation of non-availability of a Judicial Magistrate is not likely to arise in reality since there is bound to be some Judicial Magistrate or the other having jurisdiction over the area

concerned. What is likely to happen in a situation of serious disturbance of law and order is that a large number of accused persons may get arrested by the police within a short time and, if the Judicial Magistrate having jurisdiction over the place is situated far away, the exercise of producing the large number of arrested persons before him may involve the local police officers in long journeys and take away a good part of police transport and personnel on this work alone, to the detriment of other important preventive work on the law and order side. In such situations a large number of Executive Magistrates will usually be available in the neighbourhood and it will be convenient for the police to produce all the arrested accused before such Magistrates and obtain the initial remand. We, therefore, recommend that the amendment introduced in 1978 may be further modified to meet the real requirements of situations as described above.

27.29 For the purposes mentioned in paragraphs 27.27 and 27.28 above, we recommend the following amendments to section 167 Cr. P.C. :—

- (i) Sub-section (4) may be deleted, and existing sub-sections (5) and (6) may be renumbered as (4) and (5).
- (ii) Existing sub-sections (2A) and (3) may be substituted by fresh sub-sections as furnished below.

“(2A) Notwithstanding, anything contained in sub-section (1) or sub-section (2), the officer in charge of the police station or the police officer making the investigation, if he is not below the rank of a sub-inspector, may, if the urgency of a situation so requires and the circumstances render it difficult for the police officer to produce the accused expeditiously before a Judicial Magistrate, transmit to the nearest Executive Magistrate, on whom the powers of a Judicial Magistrate or Metropolitan Magistrate have been conferred, a copy of the entry in the diary hereinafter prescribed relating to the case, and shall, at the same time, forward the accused to such Executive Magistrate, and thereupon such Executive Magistrate, may, for reasons to be recorded in writing, authorise the detention of the accused person in such custody as he may think fit for a term not exceeding seven days in the aggregate; and on the expiry of the period of detention so authorised, the accused person shall be released on bail except where an order for further detention of the accused person has been made by a Magistrate competent to make such order; and, where an order for such further detention is made, the period during which the accused person was detained in custody under the orders made by an Executive Magistrate under this sub-section, shall be taken into account in computing the period specified in paragraph (a) of the proviso to sub-section (2) :

Provided that before the expiry of the period aforesaid, the Executive Magistrate shall transmit to the nearest Judicial Magistrate the records of the case together with a copy of the entries in the diary relating to the case which was transmitted to him by the officer in charge of the police station or the police officer making the investigation, as the case may be.

- (3) Detention in the custody of the police may be authorised under this section by a Magistrate, including an Executive Magistrate acting under sub-section (2A), if, after hearing the police officer making an investigation under this Chapter, the Magistrate is satisfied that detention in police custody would be in the interest of investigation and would enable the police officer verify expeditiously the facts arising from the examination of the accused person and examine him further for clarification in the light of such verification.

Provided that detention in police custody authorised under this section shall not exceed fifteen days in any case”.

Police stations and officers in charge thereof—definition

27.30 In our First Report we have indicated the need to develop a police constable as a potential investigating officer, and suitably devise the recruitment, training and promotion procedures to enable him rise to higher levels of responsibilities. We would be dealing with this matter at greater length in our chapter on the Restructuring of Police Hierarchy. The existing section 2(o) Cr. P.C. stipulates that a Constable may not function as an officer-in-charge of a police station unless the State Government specially directs. In view of our intention to upgrade the personality and potential of a Constable we consider it would be desirable to remove this discrimination spelt out in law. Section 2(o) may be amended to omit a pointed reference to a Constable as such but retain the power of the State Government to notify the officer-in-charge of a police station.

27.31 Apart from the regular police stations in the districts, we have special investigating units in the CID, Anti-Corruption Bureau, Harijan Cell, etc., whose staff perform investigating duties under the Cr. P.C. Offices of these units are formally declared as police stations but by executive orders their investigational responsibility is confined to certain specified classes of cases. This functional limitation does not have authority in law. We consider it desirable that section 2(s) be amended to make such functional limitation possible. Such an amendment would also facilitate establishment of special police stations for dealing with a communal riot situation or any other similar public order problem or for investigating economic offences as recommended in Chapter XXIII of our Third Report.

27.32 For the purposes mentioned in paragraphs 27.30 and 27.31 above, clauses (o) and (s) of section 2 Cr. P.C. may be amended to read as under :—

Definitions

2. In this Code, unless the context otherwise requires,—

(a) ** ** **
 ** ** **

- (o) “Officer incharge of a police station” includes, when the officer in charge of the police station is absent from the station house or unable from illness or other cause to perform his duties, the police officer present at the station house who is next senior and not less than such rank as may be specified by the State Government in this behalf;

 ** ** **
 ** ** **

- (s) “police station” means any post or place declared generally or specially by the State Government to be a police station, with its jurisdiction extending over any local area as may be specified by the State Government in this behalf; and shall also include any post or place which may be so declared specially for dealing with particular cases or classes of cases arising from such local area as may be specified by the State Government in this behalf.

Confessions—Their admissibility in evidence

27.33 The existing law relating to confessions before the police has been agitating the minds of police officers for a long time. Section 25 of the Indian Evidence Act completely prohibits any confession made to a police officer from being proved against a person accused of any offence. This total ban on the entry of a confessional statement recorded by a police officer into the arena of judicial proceedings has placed the police at a great disadvantage as compared to several other enforcement agencies who also handle investigational work leading to prosecutions in court. This provision in the Evidence Act which was enacted in 1872 bears relevance to the then situation in which the police were practically the only enforcement agency available to the Government and they had acquired notoriety for the adoption of several gross mal-practices involving torture and other pressure tactics of an extreme nature to obtain confessions from accused persons. More than 100 years have rolled by since then. We are aware that the police are still not totally free from adopting questionable practices while interrogating accused persons, but one cannot possibly deny that the greater vigilance now exercised by the public and the press, growing awareness of citizens about their individual rights under the law and increasing earnestness and commitment of the senior levels of command in the police structure to put down such mal-practices have all tended to reduce the prevalence of such practices in the police to a lesser degree than before. We have also to take note of

the fact that after the enactment of the Indian Evidence Act, several other law enforcement agencies besides the police have also come up in the field. Officials of the Income-tax, Central Excise and Customs departments have wide powers of search and seizure which can be followed by investigative processes leading to prosecutions in Court. The Directorate of Enforcement which deals with contraventions of the Foreign Exchange Regulation Act is another agency with similar powers. Members of the Railway Protection Force also have similar powers to make arrests and launch prosecutions in specified situations concerning railway property. Confessions recorded by the investigating staff of these agencies are not hit by the provisions of section 25 of the Evidence Act and are therefore freely admitted in evidence in prosecutions launched by them. This distinction in law between the police and the other enforcement agencies is viewed as highly derogatory by all police officers and makes them feel that they as a whole community are deliberately distrusted in law. We have also been told of some instances in which the non-admissibility of confessions made to the police in the presence of a large village community, which knew the confession to have been made voluntarily, lowered the image and prestige of the police in the estimate of the community when they were later told that the Court would not accept the confession. After a careful consideration of all aspects of this much debated question we feel that the stage has arrived now for us to take a small positive step towards removing this stigma on the police and make it possible for a confession made before a police officer to enter the arena of judicial proceedings, if not as substantive evidence, at least as a document that could be taken into consideration by the court to aid it in an inquiry or trial in the same manner as now provided in regard to case diaries under section 172(2) Cr. P.C. and the confession of a co-accused under section 30 of the Evidence Act. We are also of the view that this approach to the evidentiary admissibility and value of a confession made before a police officer should apply not only to the police but to all persons in authority before whom a confession may be made. If the Evidence Act reflects this approach to confessions as a class, it would largely remove the present feeling of the police that they have been unjustly discriminated against in law. In our view of the matter as explained above, we would recommend that sections 26 and 27 of the Evidence Act may be deleted and the existing section 25 may be substituted by a new section as detailed below :—

Confession to a person in authority not to be used as evidence

25. A confession made by a person may be proved in any judicial proceedings against that person; but such a confession made to any person in authority other than a judicial officer acting in his judicial capacity shall, if proved, not be used as evidence against the person making the confession but may be taken into consideration by the Court to aid it in an inquiry or trial in the manner provided in section 30 of this Act and section 172 of the Code of Criminal Procedure, 1973

Provided that when any fact is discovered to as discovered in consequence of a confession made or information given to any person in authority other than a judicial officer acting in his judicial capacity, so much of such confession or information as relates distinctly to the fact thereby discovered may be used as evidence against the person making the confession or giving the information.

*Explanation :—*For purposes of this section, 'judicial officer' means a Judge, Judicial Magistrate, Metropolitan Magistrate, Special Judicial Magistrate or Special Metropolitan Magistrate appointed under the Code of Criminal Procedure, 1973, and includes a Judge of the Supreme Court or a High Court.

27.34 We would like to add for clarification that the above changes in the Evidence Act are not intended to and will not, in our opinion, affect the admissibility of confessions made before officers of such departments like the Income Tax or Central Excise or Directorate of Enforcement for purposes of their departmental adjudication proceedings. The limitations spelt out in the amendments proposed by us would apply to prosecutions in criminal courts, whichever agency might launch the prosecution.

Supervision

27.35 While closing this Chapter we would like to state that the comprehensive amendments in procedural law and Evidence Act as proposed above would not by themselves bring about noticeable improvement in the quality of investigations unless the supervisory ranks in the police hierarchy pay adequate attention to the detailed supervision over the progress of individual investigations. Unless adequate interest in this regard is evinced at every supervisory level, the quality of output of investigational work at the police station level will not improve to the desired levels of public satisfaction. The quality and quantum of supervisory work done in regard to crime investigations as distinct from mere ad hoc maintenance of public order from day to day on a 'somehow' basis should be carefully assessed for each supervisory rank and taken due note of for his career advancement. Effective supervision of an investigation would call for—

- (i) a test visit to the scene of crime,
- (ii) a cross check with the complainant and a few important witnesses to ensure that their version has been correctly brought on police record and that whatever clues they had in view have been pursued by the police,
- (iii) periodic discussion with the investigating officer to ensure continuity of his attention to the case, and
- (iv) identification of similar features noticed in other cases reported elsewhere, and coordinated direction of investigation of all such cases.

CHAPTER XXVIII

COURT TRIAL

Rising pendency

28.1 The Supreme Court of India and the High Courts in the States lie at the apex of the judicial establishment of the country which, for purposes of dealing with criminal cases, consists of a number of courts presided over by Sessions Judges, Metropolitan Magistrates and Judicial Magistrates at different places in each State. With the coming into force of the Code of Criminal Procedure, 1973 the separation of the judiciary from the executive as envisaged in Article 50 of the Constitution has been effected throughout the country. Procedures for the conduct of criminal trials in different courts are elaborately laid down in the Code of Criminal Procedure which has largely adopted the Anglo-Saxon approach and style in working the judicial system. Owing to undue emphasis laid on rigid rituals in this system, proceedings in courts have become protracted and disposals have become tardy over the last several years. Compared to about 2 lakh criminal cases under the Indian Penal Code pending in courts in 1962, there are over 10 lakh such cases pending in courts now. Including cases under the local and special laws there were about 21 lakh cases pending trial in courts at the end of 1977. In the period from 1962 to 1977 incidence of cognizable crime under the Indian Penal Code has risen by 82.5% while the pendency of the same category of cases under trial in the same period has risen by 473.0%. The figures furnished below show the position from 1971 to 1977 :—

Indian Penal Code, Special Acts and Local Acts (Cognizable offences) cases disposed of by Courts.

(In Lakhs)				
S. No.	Year	Cases instituted under IPC, Local & Special Acts	Disposal (cases in which trials were completed)	Cases pending trial at the end of the year
1.	1971	32.61	31.43	11.51
2.	1972	27.57	24.96	13.08
3.	1973	29.64	26.49	15.45
4.	1974	30.27	26.80	17.79
5.	1975	36.93	33.80	19.71
6.	1976	37.03	34.94	20.02
7.	1977	31.57	29.41	21.20

It is obvious that the disposal of cases in Courts has not kept pace with the institution of fresh cases for trial year after year with the result that the entire judicial machinery has got clogged up and the pro-

tracted disposal of cases has diluted the desired deterrence on the criminal elements in society.

28.2 From the information available in the Department of Justice (Ministry of Law, Justice and Company Affairs) the pendency of cases in courts in the States which have noticeable pendency was as under on 30-9-1978 :—

State	Sessions Court (in Units)*		State/ Union Territory	Magisterial Courts (No. of cases)	
	Pen- dency as on 30-9-78	%age of total pen- dency in the country		Pen- dency as on 30-9-78	%age of total pen- dency in the country
Uttar Pradesh	34,598	41.8	West Bengal	8,01,025	17.0
Bihar	22,433	27.1	Maharashtra	6,03,308	12.8
Rajasthan	3,895	4.7	Uttar Pradesh	5,95,255	12.6
Maharashtra	3,258	3.9	Bihar	5,06,137	10.7
Madhya Pradesh	3,064	3.7	Gujrat	4,53,221	9.6
West Bengal	2,694	3.3	Delhi	3,16,841	6.7
Assam	1,850	2.2	Madhya Pradesh	3,14,942	6.7
Punjab	1,741	2.1	Rajasthan	2,77,185	5.9
Orissa	1,326	1.6	Orissa	1,65,583	3.5
Tamil Nadu	1,157	1.4	Tamil Nadu	1,49,273	3.2
			Assam	1,45,025	3.1

*1 Unit = 1 trial case or 5 revisions/appeals.

28.3 A few States appear to have a strikingly larger pendency in courts as compared with others. We made a sample study of the disposal of Sessions cases in a crime infested district in one of these States. Out of a total 320 cases disposed of in Sessions court during 8 months in a year, 29 ended in conviction while 291 ended in acquittal. As many as 130 cases, which included 21 murders, 58 attempts at murder, 17 dacoities and 9 robberies, took more than 3 years for disposal, reckoning the time from the date of registration of First Information Report. It was also noticed that the longer a case took for disposal the more were the chances of its acquittal. Protracted proceedings in courts followed by acquittal in such heinous crimes tend to generate a feeling of confidence among the hardened criminals that they can continue to commit crimes with impunity and ultimately get away with it all at the end of leisurely and long drawn legal battles in courts which they can allow their defence counsel to take care of. Such a situation is hardly assuring to the

law abiding citizens and needs to be immediately corrected by appropriate measures even if they should appear drastic and radical.

Law Commission

28.4 The Law Commission in its Seventy-Seventh Report (November, 1978) has dealt with the problem of delays in court trials and made some recommendations to improve matters. In our view of the matter, these recommendations relate mostly to administrative measures including supervision and inspection by the judicial hierarchy. Some changes in law have also been suggested but they appear peripheral. In our view the entire philosophy and procedural conduct that attend the present working of the legal system, particularly in regard to court trials, would need a detailed examination for revamping the system to make it conform to the expectations of the common people to secure speedy and inexpensive justice which would appear meaningful and effective in their daily lives. There is obvious scope and need for cutting down a lot of rituals and imparting a sense of commitment and urgency to the participants in judicial proceedings to secure the ultimate objective of rendering justice to society as well as to the individuals concerned. We, as a Police Commission, are aware of some requirements of reform viewed from the angle of Investigating Officers and the prosecuting agency, but the sweep of reforms in the legal system has to be much wider and cover several other areas in which the lawyers and Judges have a prominent role to play. It is beyond our present scope and competence as a Police Commission to go into the wider aspects of legal reform but we would urge and recommend that an appropriate body might be asked by the Government to go into this matter. We would further urge that functionaries from the police and Correctional Services might be associated with the deliberations of this body to ensure a comprehensive look at the entire scheme of things and identify the requirements of reform.

Reforms

28.5 While the reforms that may emerge from the deliberations of a body as suggested above might meet the long term requirements of the current situation of judicial stagnation, we feel there is ample scope for some immediate changes in law which might relieve the present stagnation and help the judicial machinery to start rolling smoothly for the dispensation of justice. The reforms we have in mind are intended to —

- (i) reduce the institution of fresh cases in courts year after year ;
- (ii) withdraw old cases from courts according to some accepted norms ; and
- (iii) expedite the disposal of pending cases by simplifying the procedures.

We proceed to deal with these reforms in the following paragraphs.

S/15 HA/80—3.

Gram Nyayalayas

28.6 In Chapter XVI of our Second Report, we have recommended the institution of Gram Nyayalayas to deal with ordinary crimes as distinguished from serious and heinous crimes. The simple procedure prescribed for the conduct of proceedings before Gram Nyayalayas would ensure expeditious disposal of crimes brought before them. The diversion of such cases to Gram Nyayalayas would greatly relieve the workload presently borne by the Judicial Magistrates who would then have more time to deal expeditiously with the remaining categories of crimes of a more serious nature. The institution of Gram Nyayalayas as proposed by us would thus be a positive step for reducing the input of fresh cases for trial in regular courts.

Petty cases—ticketing system

28.7 A large number of petty cases, particularly those challaned under different provisions of the Motor Vehicles Act, form a good part of the cases pending in Courts for unduly long time for want of appearance of the accused or witnesses who get dispersed in distant places after the detection of the offence. In another chapter we shall be examining the special needs of the police set up in urban areas and would then be looking into arrangements for expeditious disposal of traffic violations detected by the police. The details of a 'ticketing system' which could be adopted for on-the-spot disposal of traffic offences of a specified category are being worked out and shall be explained in that chapter. The adoption of that system would also help in reducing the input of an appreciable volume of cases for trial in courts.

Compounding cases at the stage of investigation

28.8 Section 320 Cr.P.C. specifies the offences which can be compounded in courts and prescribes the procedure therefor. This section can be availed of only after the police have completed their investigation and laid the charge-sheet in court. Compounding processes start after the trial processes have commenced. We feel it would help a quicker disposal of cases of the compoundable category if the procedure is altered to enable the police themselves to take note of the desire of the parties to compound the offence even at the stage of investigation, and thereupon close the investigation and report the matter accordingly to the court, which will have the authority to pass final orders on the police report as in every other case in which the police submit their final report. This change in procedure would also help in eliminating unnecessary processes of trial in court in those cases which ultimately get compounded. To enable the police to submit a report to the court about the compounding of a case at the stage of investigation, we would recommend that a new sub-section (3A) may be added after the existing sub-section (3) of section 173 Cr.P.C. as indicated below: —

“(3A). If, however, in respect of offences enumerated in the Table in section 320, in the course of investigation, the person by whom the offence may be compounded under the

said section gives a report in writing to the officer-in-charge of the police station expressing his desires to compound the offence as provided for in the said section, the officer shall mention this fact in the police report prescribed in sub-section 2(1) and forward the compounding report from the person concerned to the Magistrate who shall thereupon deal with the case under section 320 as though the prosecution for the offence concerned had been launched before the Magistrate."

Prosecutions on weak evidence to be avoided

28.9 We have noticed a tendency among police officers in certain places to launch prosecutions on the conclusion of investigations irrespective of the strength of evidence for a reasonable expectation of conviction in court. There are also instances in which a very large number of accused are included in the charge-sheet irrespective of the strength of evidence against each individual accused. Trials of such cases usually get protracted and more often than not result in acquittal of a large number of accused, if not all of them. We would advise that the decision to launch prosecution should be based on a proper assessment of the evidence available and, generally speaking, prosecutions should not be launched unless the evidence warrants a reasonable expectation of conviction. There may be certain situations—particularly sensational cases which evoke a lot of public interest and attention—in which the launching of a prosecution may be considered desirable on the available evidence, even though it may not appear to be adequately strong for a reasonable expectation of conviction, because it might create confidence among the public and would be in line with their expectation to get the evidence openly tested in court irrespective of the result. But such situations would be exceptional, and the decisions in such cases should normally be taken at the level of Superintendent of Police.

Withdrawal of pending cases after periodic review

28.10 There should be a periodic review at the district level of every police case pending in court for more than one year from the date of filing charge-sheet and a decision should be taken whether it would be in public interest or in the interest of justice to pursue the prosecution or whether the case may be withdrawn. Some possible criteria for deciding this matter are indicated below :—

- (i) Property cases in which first offenders are involved or property cases in which the value of property concerned in the offence is less than Rs. 200 may be considered for withdrawal with the consent of the complainant, if the accused has remained in custody for more than one fourth of the maximum period of imprisonment to which he could be sentenced under the law, if found guilty. Before moving for withdrawal, the fact whether the accused is a first offender or not should be correctly

determined by references to the Crime Record Bureaus recommended in Chapter XVII of our Second Report. While passing order on the withdrawal application, the court could pass appropriate orders for the disposal of the property on the merits of the case.

- (ii) Cases involving rioting and ordinary hurt, excepting those arising from communal clashes, may be considered for withdrawal if the parties involved in the occurrence agree to the proposed withdrawal and the police are satisfied about the restoration of amicable relationship between them.

In addition to the criteria suggested above, some other appropriate criteria may also be evolved, having regard to the public order and crime situation in the district or State.

28.11 The above review should be conducted by the Superintendent of Police once in six months and may be preceded by a similar review at the level of subdivisional officer, which would help an appraisal of all the relevant factors to be taken into consideration at the time of review by the Superintendent of Police.

Norms for disposal of cases by Magistrates and Judges

28.12 According to information available from some States, it is seen that the number of courts to deal with criminal cases has not substantially increased in the last 25 years. The statement furnished in Appendix-III may be seen in this connection. We see the need for establishing some norms for the disposal of criminal cases by Magistrates and Sessions Judges and increasing the number of courts accordingly. We recommend that a committee with members drawn from the judiciary and the prosecuting staff may be set up by the High Court in each State for evolving these norms, having regard to local conditions.

Inspections of courts

28.13 The progress of court trials gets blocked by a variety of reasons, some of which are correctible by administrative measures and some are relatable to the general attitude and approach shown by the prosecuting staff, defence counsel and the presiding Magistrate/Judge. We have known of badly delayed trials arising from causes like non-appearance of witnesses, lack of preparedness of the prosecuting or defence counsel to get on with the day's work in court, frequent adjournments granted on the slightest move for adjournment, prolonged cross-examination without regard to its relevance or need, taking unduly long time for perusing records or otherwise getting prepared for the case at different stages of trial, etc. We feel that several of these causes may be eliminated, if the president Magistrate/Judge adopts a positive approach to the daily proceedings in every case and adequately uses his powers under the Criminal Procedure Code and section 165 of the Indian Evidence Act for expeditious disposal of the case. There is need for evolving

a scheme of inspections at the level of High Court as well as Sessions Courts to ensure the business-like functioning of the subordinate courts. We would like to quote here the suggestion made by a former Chief Justice of Bihar at a seminar in 1969, when he observed as below :—

“Before separation, the District Magistrate (assisted by his Additional District Magistrate) was required by the Patna High Court Rules to keep a watchful and intelligent control over the work of the subordinate Magistrates; mainly with a view to ensure speedy disposal of cases. After separation, this work has fallen on the District and Sessions Judge, who being very busy with his own judicial work has not been able to discharge this administrative duty properly. Junior Magistrates require proper guidance in the early stages of their official career regarding the method of conducting cases, controlling proceedings in courts, maintaining proper relationship with the local Bar and in the art of writing judgements. A senior judicial officer, below the rank of District and Sessions Judge, with sufficient time to devote to this kind of administrative work, is essential for making the scheme of separation a success. The high percentage of acquittals in Magistrates’ Courts is due partly to their lack of experience in appreciating evidence. The periodical inspections done by the High Court once in two years, or by the District and Sessions judge, once a year or once in eighteen months are quite inadequate.

In the High Court also, the existing practice of entrusting all administrative work with one judge (known as Judge in charge of administration) may require alteration. The Madras pattern of entrusting with one judge, the administrative control over one district, is well worth a trial. The figures of the total pendency, average duration of a trial, and the percentage of convictions, show a better method of administration of criminal justice there, than in Bihar.”

We are in agreement with the above observations and would recommend an inspecting arrangement as envisaged therein. A whole time functionary of the rank of a senior District and Sessions Judge who is qualified for appointment as High Court Judge may be attached to each High Court to inspect the district courts periodically. A similar functionary of the rank of Additional Sessions Judge may be entrusted with inspections at the district level.

Facilities for witnesses in courts

28.14 An important reason for the reluctance of the public to co-operate with the law enforcement agencies and actively associate themselves with proceedings in court is the fact that their attendance in court entails a lot of inconvenience and harassment. To describe the existing situation we can do no better than quote

the following extract from a letter received from a senior District and Sessions Judge in one State.

“The biggest single hurdle which inhibits the citizen from coming forward to help the police is the deplorable conditions prevailing in courts of law. The lot of witnesses appearing on behalf of State against a criminal is certainly pitiable. More often than not the case in which he is to appear is adjourned on one pretext or the other. This is invariably done at the fag end of the day after keeping the witnesses waiting for the whole day. While fixing the next date the convenience of all concerned, except the witness, is kept in view. If the witness fails to turn up on the next date coercive steps are taken against him. If he appears on the adjourned date, the chances are that the case will be adjourned again. When ultimately the evidence is recorded, the witness is browbeaten by an over zealous defence counsel or declared hostile or unreliable by the prosecutor. After undergoing this agonising experience the witness is not compensated for the loss of earning of the day. Even the out of pocket expenses incurred by him are seldom reimbursed. The most difficult problem faced by a witness in our Courts is a complete lack of any amenity or facility to make the long wait bearable. What to talk of drinking water and urinals etc., in most of the courts there is no place where a man can sit unless he forgets all about his dignity and squats on the floor of the verandah or under a tree. The sight of people sitting under the blazing sun or in torrential rains is also not so uncommon as it may seem to be. Chairs or benches for the convenience of the witnesses are no where available. It is small wonder then that disinterested persons fight shy of extending a helping hand to Police and only those persons agree to come to its aid who have an axe to grind. A man going to the railway station or a bus stand to catch a train or to board a bus has to spend an hour or so there. Yet he demands and gets the basic amenities like drinking water and a shady place to sit under but a man who has to wait for 5 or 6 hours in a court of law is not provided with any of these facilities. The plight of the witness is further aggravated by the fact that he is required to prick up his ears so as not to miss his name being called in a most unceremonious manner by the Court usher. With the experience of jails fresh in memory, our leaders are taking steps to ameliorate the conditions of prisoners in jails but nobody bothers about the unfortunate people who come forward to help the prosecution by giving evidence. A prisoner suffers for some act or omission but a witness suffers for no fault of his own. All his troubles arise because he is unfortunate enough to be on the spot when the crime is being committed and at the same time “foolish”

enough to remain there till the arrival of the police. It is for these reasons that people do not take the victim of a road accident to hospital or come to the help of a lady whose purse or gold chain is being snatched in front of their eyes. If some person offers help in such cases he is to appear as a witness in a court and has to suffer not only indignities and inconveniences but also has to spend time and money for doing so. Some time the witnesses incur the wrath of hardened criminals and are deprived of their lives or limbs."

The inspecting arrangements we have proposed in para 28.13, should also cover the above aspect of the matter and ensure the availability of adequate staying facilities for the witnesses and others who participate in court proceedings. The dissatisfaction of the public with the woeful lack of such facilities in court gets reflected in their hostile and critical attitude to the police whom they view as their first point of contact with the criminal justice system and whom they are in a position to criticise more freely and sharply than they can in regard to matters inside the court hall which, in their view, are protected by the legal rituals and formalities which pass off as part of the majesty of law !

Payment of daily allowance to witnesses for appearance in court

28.15 We would like to draw particular attention to the failure of courts to pay an appropriate monetary allowance to compensate the witnesses who attend court at the loss of their own work for every day of attendance. A sample survey made in 18 Magistrates' courts in one State has disclosed the following :—

- (i) Out of 96,815 witnesses who attended courts during the test period, 6697 witnesses only were paid some allowance.
- (ii) The procedure for disbursement of the allowance is cumbersome. The necessity to obtain approval of the Magistrate for each payment at the end of the day's work combined with the fact that the amount authorised for payment is very low induces witnesses to leave the court immediately after their deposition, without further wasting their time by hanging around the court for receiving the allowance.
- (iii) The courts do not ask for and secure adequate funds for this expenditure.
- (iv) The entire matter, in practice, is left to be handled by the police from their own resources which, in the absence of any authorised head of expenditure, leads to several malpractices

We would recommend that the allowances payable to witnesses for their attendance in court should be

fixed on a realistic basis and their payment should be effected through a simple procedure which would avoid delay and inconvenience.

Appointment of Special Magistrates

28.16 Section 13 and 18 Cr. P.C. empower the appointment of Special Judicial Magistrates and special Metropolitan Magistrates to deal with any specified classes of cases. According to information made available to us, such Special Magistrates have been appointed in Andhra Pradesh, Bihar, Kerala, Meghalaya, Tamil Nadu, Uttar Pradesh and West Bengal only and the number of Magistrates so appointed in all these States is only 265. There is obvious scope for appointing a larger number of Special Magistrates under the aforesaid sections of Cr.P.C., specially for dealing with cases under local and special laws, and we recommend accordingly.

Summary trial

28.17 Chapter XXI of the Cr. P.C. prescribes the procedure for summary trials of certain offences. We, however, find that very rarely are these offences tried summarily, and even if tried summarily their actual disposal is delayed because of the prolonged examination of witnesses. Section 260 Cr. P.C. which specifies the offences which can be tried summarily merely enables a Magistrate to resort to summary trial 'if he thinks fit'. There are no guidelines prescribed in the Cr. P.C. itself to enable the Magistrate exercise his discretion in a rational and reasonable manner whether or not to try a case summarily. It would, in our opinion, make for a much quicker disposal of several cases if the summary trial procedure is made mandatory for the offences specified in section 260 Cr. P.C. and for this purpose we recommend that the words 'may, if he thinks fit,' appearing in the aforesaid section be substituted by the word "shall".

28.18 We further recommend that all First Class Magistrates, Special Judicial Magistrates and Special Metropolitan Magistrates may be empowered to act under the above mentioned section, without necessarily having to be specially empowered by the High Court, as prescribed now.

28.19 It has been brought to our notice that in the system of reviewing the work done by Magistrates, the disposal of cases under the summary trial procedure is not given credit by the High Courts in certain States. We would recommend appropriate value being given to the volume of work handled under section 260 Cr. P.C. also while assessing the performance of a Magistrate.

Pleading guilty by written communication

28.20 Section 206 Cr. P.C., which prescribes the procedure for an accused to plead guilty through a written communication instead of appearing in person in court, was amended in December, 1978 to make it applicable to any offence compoundable under section 320 or any offence punishable with imprisonment for a term not exceeding 3 months. We recommend that

the State Government may avail the provisions of the amended section and notify all the Magistrates including Special Judicial Magistrates and Special Metropolitan Magistrates as empowered under this section. We further recommend that the maximum amount of fine that can be imposed under this section may be increased to Rs. 500 from the existing Rs. 100 to make it more realistic.

Accused to be asked about acceptance of prosecution documents

28.21 Section 294 Cr. P. C. requires the prosecution or the accused to admit or deny the genuineness of documents as and when they are filed in court. We recommend that the same principle be incorporated in a separate section in Chapter XIX of Cr. P.C. to enable the court to ask the accused before framing the charge as provided in section 240 Cr. P.C. whether the accused accepts any part of the prosecution evidence as furnished in the documents supplied under section 207 Cr. P.C.

Evidence of Medical experts

28.22 We find that several cases get adjourned over long periods for securing the attendance of Medical officers to give formal evidence regarding owned certificates issued by them. In the normal course government medical officers get transferred from place to place and their attendance in court in specified cases gets delayed if they happen to be stationed at distant places at the time of hearing. A committee appointed by the Uttar Pradesh Government to suggest reforms in the Criminal Procedure Code has recommended that section 291 Cr. P.C. may be amended to facilitate the acceptance of medical examination reports given by medical experts as evidence without insisting on their formal proof by summoning the expert. We recommend the adoption of the following amended form of section 291 as suggested by the above Committee :—

"291. Medical and position of medical witnesses witnesses

- (1) The deposition of a Chief Medical Officer of the district (by whatever name called) or other medical witness taken and attested by a Magistrate in the presence of the accused, or taken on commission under this Chapter, may be given in evidence in any inquiry, trial or other proceeding under this Code, although the deponent is not called as a witness.
- (2) Any document purporting to be a report under the hand of an official medical expert upon medical examination of a person, or of the dead body of a person, may be used in any inquiry, trial or other proceeding under this Code without any formal proof as evidence of the facts stated therein.
- (3) The Court may, if it thinks fit, summon and examine any such official medical expert or deponent as to the subject-matter of his

report or deposition and in that event the report or deposition, as the case may be, shall form part of his examination in chief.

Explanation—In this section—

- (a) the expression "official medical expert" means a Chief Medical Officer of the District (by whatever name called) or other medical expert who, at the time of the medical examination was either a member of the medical service of the Government or was otherwise authorised by the State Government by general or special order in that behalf to conduct such medical examination, and conducted the medical examination in discharge of his duties ;
- (b) the expression "report of an official medical expert" includes a skiagram, and a radiological or pathological report".

Admission of experts' evidence through affidavits

28.23 We also endorse the recommendations of the Uttar Pradesh Committee for amending sections 293 and 296 Cr. P.C. regarding the evidence of experts and admission of evidence through affidavits. The amended form of these sections may be as suggested below :—

293. Reports of certain Government scientific experts

- (1) Any document purporting to be a report under the hand of a Government scientific expert to whom this section applies, upon any matter or thing duly submitted to him for examination or analysis and report in the course of any proceeding under this Code, may be used in any inquiry, trial or other proceeding under this Code without any formal proof as evidence of facts stated therein.
- (2) The Court may, if it thinks fit, summon and examine any such expert as to the subject-matter of his report and in that event the report shall form part of his examination in chief.
- (3) Where any such expert is summoned by a Court and he is unable to attend personally, he may, unless the Court has expressly directed him to appear personally, depute any responsible officer working with him to attend the Court, if such officer is conversant with the facts of the case and can satisfactorily depose in Court on his behalf.
- (4) This section applies to the following Government scientific experts, namely :—
 - (a) any Chemical Examiner, or Additional, Joint, Deputy or Assistant Chemical Examiner to the Government ;

- (b) the Chief Inspector or an Additional, Joint, Deputy or Assistant Chief Inspector of Explosives ;
- (c) the Director or an Additional, Joint, Deputy or Assistant Director of a Hand-writing or Finger Print Bureau ; or the experts working with or under any of them ;
- (d) the Director or an Additional, Joint, Deputy or Assistant Director, Haffkine Institute, Bombay ;
- (e) the Director or an Additional, Joint, Deputy or Assistant Director of Central Forensic Science Laboratory or of a State Forensic Science Laboratory ; or the experts working with or under any of them ;
- (f) the Serologist or an Additional, Joint, Deputy or Assistant Serologist to the Government, or such other person as the State Government may appoint to perform the function of a Serologist ;
- (g) the State Medico-legal Expert, or an Additional, Joint, Deputy or Assistant State Medico-legal Expert ;
- (h) the State Pathologist or an Additional, Joint, Deputy or Assistant State Pathologist ;
- (i) any Ballistics Expert; and
- (j) such other experts as the State Government may, by notification specify.

* * * * *

296. Evidence of formal character on Affidavit

- (1) The evidence of any person whose evidence is of a formal character may be given by affidavit and may, subject to all just exceptions, be read in evidence in any inquiry, trial or other proceeding under this Code.
- (1A) In particular, and without prejudice to the generality of the foregoing provision, the evidence of a witness to prove--
 - (a) Inquest and its report;
 - (b) entries in the general diary of a police station and other records of the police ;
 - (c) the escort of a prisoner from time to time and from place to place;
 - (d) the safe custody and conduct of a case property from time to time and from place to place ;

- (e) the conduct of a dead body or injured person from time to time and from place to place ;
- (f) any other link evidence of like character ; or
- (g) any other fact or document which, in the opinion of the court, may be so proved without causing prejudice to the parties ;

may be given by affidavit and may, subject to all just exceptions, be read in evidence in any inquiry, trial or other proceeding under Code.

- (2) The Court may, if it thinks fit, and shall, on the application of the prosecution or the accused, summon and examine any such person as to the facts contained in his affidavit and in that event the affidavit shall form part of his examination in chief.

Appearance of public servant in a summons case

28.24 Section 256 Cr. P.C. stipulates that in a summons case which is started on a complaint the Magistrate may acquit the accused if the complainant does not appear on hearing dates. It has been brought to our notice that this provision causes difficulty in cases where complaints are lodged by a public servant in his capacity as public servant under the provisions of some local or special law and it does not become possible for him to attend every date of hearing. We, therefore, recommend that section 256 may be amended to make it inapplicable to cases in which a public servant figures as the complainant in his capacity as public servant.

Withdrawal of prosecution

28.25 While examining the procedures for the conduct of trial in courts we have also looked into the existing arrangements in law for the withdrawal of prosecutions from court. Section 321 Cr. P.C. spells out the connected procedure according to which the Public Prosecutor or Assistant Public Prosecutor in charge of a case may, with the consent of the Court, at any time before the judgment is pronounced, withdraw from the prosecution of any person generally or in respect of any one or more of the offence for which he is tried. An important provision in this section is that a withdrawal cannot take place without the consent of the court.

28.26 Some recent rulings of the Supreme Court have emphasised the fact that while according consent to the withdrawal of a case the court should apply its mind to all aspects of the case to ensure that the withdrawal would be in the interests of justice and is not merely linked with a desire of the executive conveyed through the Public Prosecutor. The same rulings have also emphasised the independent statutory role performed by the Public Prosecutor while acting under the provisions of section 321 Cr. P.C. and that he should make his application to the court on his own subjective satisfaction of the justness of the proposed

withdrawal and not merely act at the behest of the executive authority (AIR 1976 SC 370 and AIR 1977 SC 2265).

28.27 The question of withdrawal of prosecutions from court has assumed significance in the recent years. It has become a practice for the Government to direct the withdrawal of criminal prosecutions arising from politically or otherwise motivated protest activities by organised groups like industrial labour, students and public sector employees, after the protest activities have concluded with a settlement accepted by all concerned. In fact one of the terms of such settlement in most situations would be the withdrawal of cases arising from the agitation. The relative ease with which the withdrawal of such cases is secured by the persons who had earlier deliberately and wantonly violated some provisions of the law of the land tends to encourage militancy among participants in marches, demonstrations and other forms of protest activities in public by organised groups. We consider it wholly undesirable that such a feeling is encouraged among different sections of the public regarding observance of the law of the land. It would be necessary in the interests of public order to evolve a revised arrangement in law for the withdrawal of cases in court, to avoid the generation of a feeling that any law can be contravened with impunity and the offender can easily secure withdrawal of the case from the court under directions emanating from political or other extraneous considerations without regard to the interests of public order or justice.

28.28 Some factors which, in our opinion, would justify the withdrawal of a case are mentioned below by way of illustration :—

- (i) Additional material may have come to the notice of the investigating agency after the charge-sheet was laid, and the evidence against the accused might have been rendered weak or untenable in the light of that material. Continuance of prosecution of the accused on such material might be considered waste of public time and money.
- (ii) A particular accused may have been held in detention for an unduly long period for a joint trial with other more important accused, some of whom may be absconding. The evidence against the particular accused in custody may be very weak and may not justify continuance of prosecution in the interests of justice, having regard to the prolonged detention already undergone by him.
- (iii) A criminal case arising from a village clash or any other conflict between organised groups may require to be withdrawn at a subsequent stage after the parties have come to a genuine compromise with restoration of amicable relations among all concerned. Continuance of criminal prosecution in such

situations may be prejudicial to the maintenance of harmony in the affected area.

28.29 Though the present procedure detailed in section 321 Cr. P.C. requires an application from the Public Prosecutor and the Court's order thereupon permitting the withdrawal of the case, we are aware that in practice the applications for withdrawal do not always spell out in great detail the reasons for the proposed withdrawal, and the Court's order does not always indicate a full examination of the case in all its aspects in the interests of justice. In our view of the matter, the arrangements in law for the withdrawal of a case should ensure the following :

- (i) Having regard to the fact that the withdrawal of a case may have to be decided sometimes with reference to the appreciation of a local public order situation by the executive authority, it would be necessary to retain the power of the Government to initiate action for the withdrawal of a case. The Public Prosecutor should be empowered in law to act under directions from the Government for this purpose.
- (ii) The application for withdrawal should mention in detail the reasons for the proposed withdrawal.
- (iii) The court should be satisfied that the withdrawal would be in the interests of public order or justice.
- (iv) The court's order should incorporate the reasons for according the permission for withdrawal.
- (v) Any member of the public should have the facility to go in appeal against an order passed by the court permitting withdrawal of the prosecution in any specific case.

28.30 To secure the above arrangements in law, we recommend that section 321 Cr. P.C. be amended to read as under :—

321. *Withdrawal from prosecution*

- (1) The Government or such other authority as may be authorised by it in this behalf may direct the Public Prosecutor or Assistant Public Prosecutor in charge of a case to present an application to the Court, at any time before judgment is pronounced, seeking permission to withdraw from the prosecution of any person either generally or in respect of any one or more of the offences for which he is tried.
- (2) An application made under sub-section (1) shall state the reasons for the proposed withdrawal.
- (3) On an application made under sub-section (1) the Court may, after hearing the prosecutor in charge of the case and the accused

and taking into consideration the evidence recorded in the case and the police diaries of the case, if it is satisfied that it would be in the interests of public order or justice to permit the withdrawal of the case, make an order permitting the withdrawal and recording the reasons for so doing.

(4) On an order made under sub-section (3)—

- (a) if it is made before a charge has been framed, the accused shall be discharged in respect of such offence or offences ;
- (b) if it is made after a charge has been framed, or when under this Code no charge is required, he shall be acquitted in respect of such offence or offences.

Explanation : For purposes of this section 'the Government' means 'the Central Government' in a case involving an offence which—

- (i) was against any law relating to a matter to which the executive power of the Union extends, or
- (ii) was investigated by the Delhi Special Police Establishment under the Delhi Special Police Establishment Act, 1946 or
- (iii) involved the misappropriation or destruction of, or damage to, any property belonging to the Central Government, or
- (iv) was committed by a person in the service of the Central Government while acting or purporting to act in the discharge of his official duty, and means 'the State Government' in all other cases.

28.31 To facilitate the filing of an appeal by any member of the public against a withdrawal order passed by a Court, we recommend that two new sub-sections (2A) and (2AA) be added after the existing sub-section (2) of section 397 Cr. P.C. as indicated below :—

397. *Calling for records to exercise powers of revision.*

(1) ** ** **
 ** ** **

(2A) The High Court or any Sessions Judge may act under sub-section (1) on an application made by any person in respect of an order made under sub-section (3) of section 321 by any inferior criminal court situate within its or his local jurisdiction for the purpose of satisfying itself or himself as to the correctness, legality or propriety of the order and may, when calling for the record as provided in sub-section (1) direct that the execution

of the order be suspended pending the examination of the record.

(2AA) If, after examining such record, the High Court or the Sessions Judge is satisfied that the making of the aforesaid order under sub-section (3) of section 321 was not in the interest of public order or justice it or he may direct the Court which had made the aforesaid order to proceed further with the case as if no application has been made under sub-section (1) of section 321 in respect of that case.

28.32 We further recommend that important cases, *i.e.* cases triable by a Court of Session, which are withdrawn during a year in accordance with the principles detailed above, shall be mentioned in the Annual Report on the performance of the State police presented to the Legislature by the State Security Commission as suggested in para 15.48 of our Second Report.

Probation of Offenders Act and Children Act

28.33 We have looked into the implementation of the Probation of Offenders Act, 1958 and Children Act, 1960 as a correctional exercise for reforming the offenders on conclusion of court trials. In paragraph 14.10 and 14.11 of our Second Report we have already pointed out the absence of adequate infra-structure in the States for implementing the provisions of these two Acts. Despite the mandatory provisions in section 6(2) of the Probation of Offenders Act there are many instances in which juveniles *i.e.* persons under 21 years of age, have been sentenced to imprisonment without the court obtaining a report from a Probation Officer. In 1977 out of 75,026 juveniles involved in cases disposed of in courts during the year, as many as 22,564 juveniles were sentenced to imprisonment in all the States and Union Territories, while 10,688 were resorted to guardians, 3,192 were released on probation, 3,626 were sent to reformatory institutions and 34,956 were acquitted or discharged. The large percentage of juveniles sentenced to imprisonment instead of being put under the reformatory umbrella of the Probation of Offenders Act or the Children Act deserves notice by the Social Welfare departments in the State Governments for appropriate corrective action. We would like to point out in this context the increasing trend of juvenile delinquency. The statement furnished in Appendix IV indicates the comparative position from 1966 to 1977. It may further be observed that juveniles come to notice in substantial numbers in crimes under local and special laws also besides offences under the Indian Penal Code. Their involvement in offences under the Gambling Act, Prohibition Act, Excise Act and the Suppression of Immoral Traffic Act is particularly significant as may be seen from the statement in Appendix V.

28.34 The statement in Appendix VI furnishes the number of Probation Officers and cases dealt with by them in different States in 1978-79. The weak infra-structure in several States is immediately brought out by this statement which also shows the widely varying

load of investigative and supervisory work borne by Probation Officers in different States. We recommend that the National Institute of Social Defence under the Ministry of Social Welfare at the Centre may take appropriate steps to evolve norms of workload in this regard. They may also consider evolving a suitable model of career structure for the personnel in the probationary services which would help them rise to higher levels of responsibilities including appropriate positions in the administration of jails and other correctional homes. It should be possible to evolve a unified career structure to cover all such institutions within each State.

28.35 Section 13 of the Probation of Offenders Act enables even a private individual or a representative of a privately organised society to function as Probation Officer. The statement in Appendix VI shows very few States having involved private agencies in this work. State Governments' attention may be drawn to this aspect of the matter and they may be advised to involve volunteer social welfare agencies in a much greater measure in implementing the Act.

28.36 We consider it would be useful to prescribe a procedure for the investigating police officer to collect some information and data relevant to probation work even at the stage of investigation of any specific case, and refer to them in appropriate columns in the charge-sheet prescribed under section 173 Cr. P.C. The actual headings of these columns may be determined in consultation with experts in the field of correctional services. Availability of this information in the charge-sheet itself would help the court to apply its mind to this aspect of the matter at a later stage during trial.

28.37 The Children Act (Central) envisages the following institutions :—

- (i) Child Welfare Board — to deal with neglected children.
- (ii) Children's Home — for the reception of neglected children.
- (iii) Children's Court — to deal with delinquent children.
- (iv) Observation Home — for the temporary reception of children pending inquiry.
- (v) Special School — for the reception of delinquent children.
- (vi) After-care Organisations — to take care of children after they leave the above-mentioned homes and school.

Similar institutions are envisaged in the Children's Act enacted in several States. Unfortunately these institutions have not been set up in full measure and therefore the Acts have remained ineffective, and the neglected and delinquent children have been denied the care and concern intended by those Acts. The

statement in Appendix VII shows the position of these institutions in different States in 1978-79.

28.38 It may be noted that the Children Act provides for even private institutions to function as Children's Home, Observation Home, Special Schools and After-care Organization, but the involvement of volunteer social welfare agencies in fulfilling this purpose appears insignificant now. The attention of State Governments may be drawn to this matter for appropriate corrective action.

Juvenile Crime Squad

28.39 Juvenile Aid Police Units are reported to be functioning in some States, either as a part of the State CID or as a part of the local police set-up in Metropolitan towns and other urban centres. Their work is mostly in the nature of rounding up neglected children and getting them lodged in Children's Home, wherever available. They also generally deal with studies and analytical paper work arising from juvenile delinquency in their respective jurisdictions. Investigational work handled by them is relatively small. Most of the juveniles involved in crimes like burglaries and thefts, illicit liquor trade, etc., are dealt with by the regular uniformed police in their normal course of work, and are subjected to rough handling right from the moment they are caught till they are lodged in some custody authorised by the court. In most cases even this custody is to regular jails where juveniles are thrown together with hardened adult criminals and are exposed to innumerable acts of degradation and inhuman treatment. We have been told of some cases where juveniles were even subjected to unnatural offences during such custody. We find all this happening despite the mandatory provisions of sections 18 and 19 of the Children Act which forbid a child, *i.e.* a person less than 16 years of age from being held in custody in a police station or jail, and section 22 of the same Act which clearly prohibits the award of sentence of imprisonment to a delinquent child less than 14 years of age in any circumstances. At the level of police stations and even the trying magistrates' courts there is inadequate perception of the need for careful and soft handling of juvenile criminals. We recommend the establishment of Juvenile Crime Squads in urban areas to handle investigational work in a much more substantial manner than at present so that the police officers working in these squads may function after proper orientation and briefing and deal with all crimes involving juveniles. Crimes in which juveniles figure along with adult criminals may have to be dealt with by the regular police in the normal course, but even in their cases the Juvenile Crime Squad may keep itself informed of the background and circumstances in which the juvenile criminal came to be involved in the case. Our object in recommending more investigational work to be done by the Juvenile Crime Squads is to avoid the rough handling of juvenile criminals by the regular police in the course of their normal work which cannot be effectively corrected by more exhortations and circulars in the midst of the stress and strain of regular police work and the frequent interaction of the police with violent elements in society in their day-to-day work.

Adult promoters of juvenile gangs

28.40 It has been brought to our notice that the criminal activities of juveniles, particularly in urban centres, are sometimes actively promoted and aided by some adult criminals who remain in the background and exploit the poverty and helpless state of orphaned or otherwise neglected children and use them to commit crimes. There is presently no separate provision in law to deal with such adult promoters of juvenile gangs, except as abettors punishable under Chapter V of the Indian Penal Code. We consider that a more serious view should be taken of the activities of adult criminals who deliberately organise crimes by juveniles. We, therefore, recommend that an adult who is proved to have organised a gang of juvenile criminals or otherwise abetted the commission of crime by a juvenile should be held punishable under a separate section to be added to Chapter V of the Indian Penal Code which should provide for a more severe punishment than that stipulated for the main crime by the juvenile. The new section may also provide for the mandatory award of a minimum punishment, except for special reasons to be recorded by the Court.

Role of lawyers

28.41 We have already pointed out in para 28.13 the importance of the attitude and approach developed by the lawyer community as well as the judiciary in getting through the different processes in law for quick dispensation of justice. While the Advocates Act clearly specifies the role and responsibility of a lawyer towards his client, there does not appear appropriate emphasis on the lawyer's role for the overall dispensation of justice to society. In our view of the matter, a lawyer's responsibility towards his client has to be discharged within the framework of the overall requirements of justice to society. Any lawyer who deliberately adopts dilatory tactics to prolong the proceedings in court is, in our opinion, doing something against the interest of quick dispensation of justice to society. Similarly the conduct of any lawyer in becoming a party to the initiation of vexatious or malicious prose-

cution has to be viewed blameworthy from the point of view of justice to society. We feel compelled to make these observations because of some instances brought to our notice in which summonses and warrants were got issued from distant courts in one State to some persons residing in another State merely to involve them as parties to court proceedings and pressure them to secure the disposal of a private dispute with them. Even though the proceedings thus initiated may ultimately and in discharge or acquittal of the 'accused' party, he remains a victim of a lot of harassment and inconvenience during the pendency of protracted proceedings. From the information obtained from the Bar Council of India it appears that the number of instances in which disciplinary action has been taken against lawyers for professional misconduct is comparatively small, and the nature of misconduct mostly pertains to the transactions between the lawyer and his client and not to the lawyer's general conduct towards the criminal justice system as such. We recommend that the Bar Council of India may get this aspect examined and evolve some norms for determining a lawyer's conduct towards achieving the ultimate objective of the criminal justice system, namely the quick dispensation of justice not only to individuals but also to the society at large. It may even be desirable to amend the Advocates Act to specify the lawyer's role more pointedly for this purpose.

Criminal Justice Commission

28.42 In paragraph 14.14 of our Second Report we have already recommended the constitution of a Criminal Justice Commission at the Centre supported by a similar arrangement at the State level for monitoring and evaluating the performance of the criminal justice system as a whole. The arrangements for regular inspections of courts as mentioned in para 28.13 above and the satisfactory functioning of the Correctional Services *vis-a-vis* the Probation of Offenders Act and the Children Act in particular could be appropriately overseen by the proposed Criminal Justice Commission.

CHAPTER XXIX

PROSECUTING AGENCY

Cadre of Prosecutors

29.1 In the early years of development of the Indian police system, prosecution of cases in Magistrate courts was handled by select police officers, trained and employed as Prosecuting Sub-Inspectors or Prosecuting Inspectors. They were part and parcel of the district police set up. Prosecution of cases in Sessions Courts was handled by a functionary called Public Prosecutor appointed by the Government from the local Bar for a specified term. In due course a cadre of Assistant Public Prosecutors was developed to handle prosecution work before Magistrates. Persons qualified in law and having some experience at the Bar were recruited to this cadre and they functioned under the administrative control of the Superintendent of Police and the District Magistrate in each district. The Code of Criminal Procedure, 1973 has brought into effect a new scheme for the appointment of a Public Prosecutor at the State level for conducting any prosecution, appeal or other proceeding on behalf of the Government before the High Court, a Public Prosecutor and Additional Public Prosecutor at the district level for handling sessions cases and Assistant Public Prosecutors for conducting prosecutions in the courts of Magistrates. All these appointments are to be made by the State Government. The Central Government has concurrent power for appointing a Public Prosecutor to handle its cases before the High Court. Appointment of an experienced advocate from the Bar as a Special Public Prosecutor for the purposes of any particular case or class of cases by the Central Government or the State Government is also permissible under the Code.

Coordinated functioning of the Investigating staff and the Prosecuting agency

29.2 The ultimate success of police investigations depends on the efficiency of the prosecuting agency in marshalling the evidence and presenting it in court in a convincing and effective manner. The success of a prosecutor in handling this work depends on his mastery over the facts of the case as ascertained during investigation and his appreciation of the logical sequence and significance of the different bits of evidence for presentation in court. This calls for a good measure of cooperation and interaction between the investigating staff and the prosecuting agency when the case becomes ripe for laying charge sheet in court, and also during the entire process of trial in court. Their mutual cooperation and total involvement in the conduct of proceedings in court were effected easily when both were part and parcel of the district police set up in the old days. This relationship got somewhat loosened when a separate cadre of Assistant Public Prosecutors was created, but the overall super-

vision from the Superintendent of Police and the District Magistrate ensured continuance of cooperation and coordination between the two wings to a reasonable degree. With the coming into force of the Code of Criminal Procedure, 1973 a feeling appears to have grown among the prosecuting staff in States that they form an independent wing of the criminal justice system and do not come under the administrative purview of the police set up. This has led to a general weakening of the structure at the district level and lack of coordination between the subordinate prosecuting staff and the subordinate police officers actually concerned with the production of witnesses and marshalling of evidence in courts. An attempt was made in 1976 to clarify in the Cr.P.C. itself that the Government may bring the prosecuting staff under the administrative control of the Inspector General of Police. This amendment to Cr.P.C., though passed by the Rajya Sabha, ultimately did not become law because the then Lok Sabha was dissolved before it could consider the amendment. The amendments later passed by the next Lok Sabha in December, 1978 did not include this particular provision.

29.3 During our tours in States and discussions with judges, magistrates, general administrators, police officers, members of the bar and representative sections of the public, a point that was uniformly stressed by all was the growing lack of cooperation between the investigating officers and the prosecuting staff frequently resulting in the unpreparedness of the prosecuting staff to handle cases in court and the consequent delay in proceedings. Investigating officers and the prosecuting staff tend to blame each other for lack of interest in piloting cases properly in court. The present rate of conviction of important categories of offences prosecuted in courts is on the low side as may be seen from the statement in Appendix-VIII. From what we have seen and heard in several States we are convinced that an important reason for the failure of some cases in court is the existing lack of cooperation and team spirit between the investigating staff and the prosecuting agency. We are further convinced that this malady has remained despite exhortations and instructions from the Government and the administrative heads concerned through departmental manuals and circulars. We find it necessary to evolve a new arrangement and institutionalise it on a proper footing to secure the required measure of coordinated functioning of both the wings for the successful conduct of prosecutions in court.

Service Conditions

29.4 The generally unsatisfactory performance of the prosecuting staff is also linked with the fact that their service conditions are not good enough to attract

good talent from the Bar to join the cadre of Assistant Public Prosecutors, and the lack of facilities like accommodation, library and clerical assistance for handling a variety of work connected with prosecutions in court. There is also no efficient system of supervision at the district level over the day to day work of Assistant Public Prosecutors. Appointments to the level of Public Prosecutor from the local Bar are mostly made under directions from the political executive, and the Public Prosecutors so appointed do not always carry with them adequate professional ability and competence to enthuse the subordinate prosecuting staff with appropriate advice and guidance in specific cases. We notice in this context that the amendment to Cr.P.C. effected in December, 1978 will now ensure the appointment of Public Prosecutors by promotion from the cadre of Assistant Public Prosecutors and therefore the system of short term appointment of Public Prosecutors from local lawyers would cease when the present incumbents complete their term. We consider this a welcome reform.

29.5 We proceed to detail in the following paragraphs the important requirements of the prosecuting agency set up to avoid the existing deficiencies as mentioned earlier.

Prosecuting agency—New set up

29.6 The post of Assistant Public Prosecutors, Additional Public Prosecutors and Public Prosecutors should be so designed as to provide a regular career structure for the incumbents for the entire State as one unit.

29.7 The Public Prosecutor in a district should be made responsible for the efficient functioning of the subordinate prosecuting staff in the district and he should have the necessary supervisory control over them for this purpose. He should also be provided with appropriate office accommodation, library and a small ministerial staff to perform this supervisory role effectively.

Prosecutor's role as Legal Adviser

29.8 The Public Prosecutor and the subordinate prosecuting staff should be made responsible not only for conducting prosecution in courts but also for giving legal advice to police in any matter, general or special, arising from investigations and trials. For the latter purpose, the role of the prosecuting staff will be that of a Legal Adviser. This role may be emphasized in departmental instructions governing the working of the prosecuting staff. If considered necessary from the legal point of view, a suitable section may also be incorporated in the Cr.P.C. to specify this role.

Supervisory structure

29.9 A supervisory structure over the district prosecuting staff should be developed with Deputy Directors of Prosecution at the regional level and a Director of Prosecution at the State level. While we consider it necessary to mesh the prosecuting agency set up with the police set up to ensure active coopera-

tion and coordinated functioning in the field in day to day work, we also consider it important that the assessment of evidence collected during investigation and the handling of prosecution work at the district level should be as much detached and objective as possible and free from local departmental or other pressure which might arise from a variety of considerations. We, therefore, recommend that the meshing of the two hierarchies may be effected from the regional level upwards, with the Deputy Director of Prosecution placed under the administrative purview of the Range Deputy Inspector General of Police, and the Director of Prosecution at the State level functioning under the administrative control of the Inspector General of Police. In fact, the Director of Prosecution should function as the head of the legal wing of the State police set up. We are convinced that such an arrangement is absolutely necessary to bring about close coordination and cooperation between the prosecuting staff and the investigating staff down the line and also enable a joint monitoring and evaluation of their performance from time to time. The arrangement as envisaged above would also ensure professional accountability at all levels.

29.10 To bring about an additional measure of objectivity and detachment in the functioning of the legal wing, it may be laid down that the post of Director of Prosecution shall be filled on deputation basis for a specified term by drawing officers of appropriate rank on deputation from the law department or the State judiciary. There can be an additional post at the State level called the Additional Director of Prosecution which will be the highest career post available for the regular prosecuting cadres to reach by promotion.

Recruitment

29.11 The posts of Assistant Public Prosecutor may be categorised under two grades, I and II. In the initial few years of the new scheme direct recruitment may have to be made at the levels of Assistant Public Prosecutor Grade II and Deputy Director of Prosecution. After the recruits gain experience in handling different types of prosecution and other legal work, direct recruitment may ultimately be confined to the level of Assistant Public Prosecutor Grade II, and thereafter posting will be by promotion to the ranks of Assistant Public Prosecutor Grade I, Public Prosecutor (including Additional Public Prosecutor), Deputy Director of Prosecution and Additional Director of Prosecution.

29.12 The minimum qualification and experience that may be prescribed for various categories of prosecutors and suggested below :—

Sl. No.	Name of the post	Minimum years of practice or experience
1.	Assistant Public Prosecutor, Gr. II	Three years of experience at the Bar.
2.	Assistant Public Prosecutor, Gr. I	Five years practice at the Bar or five years experience as a judicial officer.

Sl. No.	Name of the post	Minimum years of practice or experience
3.	Additional Public Prosecutor	Seven years practice at the Bar or seven years experience as a judicial officer.
4.	Public Prosecutor	—do—
5.	Deputy Director of Prosecution	Seven years practice at the Bar or seven years experience as a judicial officer of which at least three years should be as a Sessions Judge or three years experience as Additional Public Prosecutor or Public Prosecutor.
6.	Director of Prosecution and Additional Director of Prosecution	Ten years practice at the Bar or ten years experience as a judicial officer of which at least five years should be as a Sessions Judge or three years experience as Deputy Director.

29.13 Pay scales and service conditions of the prosecuting staff may be so determined as to be sufficiently attractive for good talent from the Bar to seek appointment in the cadre. The scope for promotional rise to the top post at the State level *i.e.* Additional Director of Prosecution would prove a good attraction. The police ranks to which the different ranks in the prosecution set up may be held comparable are indicated below :—

Director of Prosecution	Special Inspector General of Police or Additional Inspector General of Police.
Additional Director of Prosecution	Deputy Inspector General of Police.
Deputy Director of Prosecution	Superintendent of Police (Selection Grade).
Public Prosecutor (at the district level)	Additional Superintendent of police.
Assistant Public Prosecutor, Gr. I	Deputy Superintendent of Police.
Assistant Public Prosecutor, Gr. II	Inspector of Police.

Training

29.14 Apart from the initial training of Assistant Public Prosecutors which should include adequate instructions to enable them understand the details of police working, particularly in regard to investigations, there should also be periodic in-service training to make them upto date in their knowledge of police methodology and case law.

29.15 The prosecuting staff would normally become aware of the facts of case when it gets ripe for laying charge sheet and the prosecuting staff are consulted for that purpose. At that stage it shall be the duty of the prosecuting staff to scrutinise carefully the course of investigation, assess the evidence gathered, identify points that may require further clarification by securing additional evidence which may be available and generally ensure the completeness of the investigational work. While the prosecuting staff will be entitled to give their advice and opinion freely in specific cases, the decision regarding the laying of charge sheet in the case shall be the responsibility of the investigating agency.

29.16 Apart from the availability of the services of the prosecuting staff to scrutinise the evidence and tender advice, if any, regarding further investigation when the case gets ripe for laying charge sheet, there would be need for a whole time functionary of the rank of Assistant Public Prosecutor Grade I free from prosecution work in courts to function as the legal adviser to the Superintendent of Police in each district for giving him legal opinion and advice in specific cases as also other general matters relating to criminal work in the district from time to time. The Deputy Director of Prosecution at the regional level and the Additional Director of Prosecution and the Director of Prosecution at the State level shall perform a similar role to aid and advise the Deputy Inspector General of Police and Inspector General of Police respectively.

Amendment to Section 25 Cr. P.C.

29.17 The constitution of the prosecuting cadres into a separate legal wing to function under a Director of Prosecution as an integral part of the State police set up as envisaged in the above scheme might require an amendment of section 25 Cr. P.C. on the lines adopted in the Criminal Procedure Code (Amendment) Bill, 1976 that was passed by the Rajya Sabha. We recommend that after the existing sub-section (3) in section 25, the following may be added as sub-section (4) :—

“(4) Nothing contained in this section shall preclude the State Government from conferring on the Inspector General of Police and Deputy Inspectors General of Police the powers of administrative control and supervision over the Public Prosecutor, Additional Public Prosecutor and Assistant Public Prosecutors appointed by it.”

We understand that the Uttar Pradesh Government has already enacted a similar amendment as a local amendment for the State.

CHAPTER XXX

INDUSTRIAL DISPUTES

Labour Legislation

30.1 India has a record of very progressive labour legislation dating from pre-Independence days. The Workmen's Compensation Act 1923, Trade Unions Act 1926, Payment of Wages Act 1936, Industrial Disputes Act 1947, Factories Act 1948, Minimum Wages Act 1948, Employees State Insurance Act 1948, Payment of Bonus Act 1965, Contract Labour (Regulation and Abolition) Act 1970 and Bonded Labour System (Abolition) Act 1976, may be mentioned among the important labour laws meant to protect the labour from exploitation, secure their interests and ensure their welfare. The Industrial Relations Bill which was introduced in Parliament in August 1978 and is now under consideration is meant to provide a comprehensive labour legislation to meet the requirements as gauged from the experience in the recent years. Cordial relations between the management and the labour are as important as material economic inputs for the growth of industry with increased production of goods of improved quality to benefit the community at large. In the evolution of industrial relations in a socialist democracy there has to be a proper balancing of the interests of labour, owners of industry and the consumer so that there can be quick economic growth accompanied by an even flow of benefits of such growth to all the three parties. It has, however, happened that the industrial development in the country has witnessed increasing number of conflict situations between the management and the labour, each tending to take a rigid stand to promote the interests of one to the exclusion of the other, instead of consensus situations which would promote the interests of both as well as the community at large.

Industrial dispute—Strikes and lock-outs

30.2 An 'Industrial dispute' as defined in the Industrial Disputes Act, 1947 means 'any dispute or difference between employees and employers, or between employers and workmen, or between workmen and workmen, which is connected with the employment or non-employment or the terms of employment or with the conditions of labour, of any person'. This Act provides several agencies like Works Committees, Conciliation Officers, Boards of Conciliation, Courts of Inquiry, Labour Courts and Tribunals to resolve a variety of industrial disputes. But in the perception of the labour, the formal and legal exercises before such bodies are viewed as time consuming and cumbersome where the management is at an advantage with assistance and advice from legal experts and can also afford a prolonged legal battle without any financial difficulty. This circumstance makes the labour feel that they have a better

alternative to secure their objectives quickly by coercive and pressure tactics in the form of strikes or other demonstrations and agitations supported by their muscle power. The multiplicity of trade unions also induces minority groups to adopt militant postures to secure bargaining powers which may not be available to them on the strength of their mere numbers. Industrial disputes have, therefore, increasingly tended to become focal points for trial of strength between the labour and management and also between the labour unions. The pattern of strikes and lock-outs arising from such disputes may be seen in the Statement in Appendix IX. Labour unrest following strikes and lock-outs has also tended to result in violence, ultimately affecting the very maintenance of public order in the locality concerned. When an industrial dispute crosses the limits of democratic and accepted legal forms and gets into areas of violence and breaches of public order, it immediately attracts police attention under the law, and the police are required to respond to the situation for effective maintenance of law and order.

Police intervention—Norms

30.3 Police intervention in a situation of conflict between the labour and the management, even though it be for the sole purpose of maintaining public order as such, is viewed by the labour as an act meant to stifle their legitimate trade union activity and to protect the interests of the management. On the other hand the management are inclined to feel that police action is not sufficiently effective to secure for the management the protection they feel they are entitled to under the law. Police response in all such situations has therefore to be very carefully determined and then put into operation in a manner which would command the confidence and trust of both parties to the dispute. While evolving norms for determining this response we have to remember that the ultimate objective of all the conciliation exercises envisaged in various labour laws is to promote industrial harmony. This harmony cannot be satisfactorily brought about by any action which makes one party feel that the other party has contrived to gain an undue advantage by adopting militant postures and resorting to coercive and pressure tactics. Maintenance of order accompanied by quick and effective prevention of crime, particularly crimes involving violence, in a conflict situation is very necessary for removing the elements of coercion and pressure from the conflict atmosphere. By the removal of such factors the ground would get cleared for the parties concerned to discuss the issues involved in a calm and free atmosphere where concern and consideration would replace anger and distrust. Police role and responsibility for maintaining law and

order in labour dispute situations should, in our view, be largely guided by the above objective to bring the agitated contending parties to normal levels of thinking in which they would be able to evolve a constructive approach for settlement of their disputes to mutual satisfaction. We proceed to identify some typical labour dispute situations which may call for police intervention and set out the norms for determining police response in such situations.

Intelligence

30.4 A fundamental requirement for proper planning of police action in any industrial dispute situation is the availability of a variety of basic data at the district level relating to all industrial establishments in the district. These data should include the total number of industrial establishments in the district, their individual identity, the layout of the establishments and the location of vital and sensitive installations therein, the number of workers in each establishment, number of unions with their membership, the political and social affiliation of the unions, the identity of union leaders, a historic account of past strikes and other forms of agitations in the industrial establishment, an up-to-date account of agreements entered into or the awards enforced in these establishments, an account of the important court proceedings embarked upon by the labour and management, etc. Besides such information relating to the personnel, it would also be necessary to compile information about the nature of products manufactured by the industrial establishments, the normal channels of their transport and the end point of their release for use by consumers or some other industry or for export, the sensitive nature of the products from the point of view of the security needs of the country, etc. The police should have all this information on an on-going basis so that in the event of an industrial dispute they would have a full picture of what they are expected to protect and whom they are expected to deal with. Responsibility for compiling these basic data and information should be taken on by a special cell of the Intelligence wing at the district level under the Superintendent of Police. A similar cell in the Intelligence branch of the CID at State headquarters should cover major industrial establishments which may give rise to industrial disputes having ramifications over more than one district. Industrial establishments in the public sector, both Central and State, should also be covered by these cells for this purpose. The most important point in the working of these cells would be the constant updating of the information collected from time to time and, what is more, their dissemination to the various operative units at the sub-division, circle and police station level at regular intervals.

30.5 Besides collecting the basic data and information as detailed above, these cells should also collect intelligence about matters that arise in the day-to-day working of the establishments which generate friction between the labour and management. Timely knowledge of such matters would help the police to anticipate crisis situations and be adequately prepared to deal with them. It is, however, important to note that collection of intelligence on such matters is not

meant to secure police intervention as such in these disputes unless there is a distinct public order angle. Intelligence gathered in such matters from time to time should be passed on to the appropriate labour authorities to enable their timely intervention for sorting out the problems within the framework of various labour laws before they explode into violent confrontations.

30.6 When a specific labour dispute arises and tension begins to build up it would be necessary to augment the above-mentioned intelligence cells with special teams at the local level for collecting intelligence in depth about the likely agitationist plans of the organisers. Intelligence collected by the local teams would be of great help when the need arises for actual police intervention at some point of time in the course of the dispute.

Gate meetings

30.7 Gate meetings frequently provide occasion for union leaders to address the workers on specific issues and exhort them to agitate in different forms. Trade union rivalry also gets reflected at the forum of these meetings when one union attempts to draw more workers to its side by criticising and belittling the performance of other unions. Management also get frequently criticised at such meetings in abusive and provocative terms and they would, there, be inclined to seek police intervention to prevent such meetings. Since the propagation of views and ideas at such meetings is an accepted part of the normal trade union activity, it would not be proper for the police to interfere with such meetings to the extent of totally prohibiting them, unless there are well documented reasons for taking such an extreme step. In the normal course police presence at such meetings should be for the purpose of keeping themselves informed of the trends of ideas expressed and the measure of support extended by workers, and to prevent the commission of any cognizable offence on the spot. Police presence at such meetings should be in sufficient strength to achieve this preventive effect.

Collection day

30.8 The same principle should be followed in dealing with situations arising from collection of subscriptions by different unions on the collection day. Police action should not be seen as promoting or discouraging the collection of subscriptions by one union or the other.

30.9 When specific crimes are committed in the course of gate meetings or collection of subscriptions, the normal processes under the law should be set in motion immediately and the offenders should be brought to book. Police should take care that their action in such specific cases does not draw the criticism that they are soft towards one union and harsh towards another. A high degree of impartiality and objectivity should attend police action in all such cases.

Security in workers' colonies

30.10 Workers' colonies exist as a separate housing complex in several large industrial establishments. In a situation arising from strikes or other forms of

agitations, a feeling of insecurity is likely to develop in the workers' colonies, particularly when the strike gets prolonged and the families of workers get pressured by intimidatory tactics by one or the other of the rival groups including the management. A similar situation might arise around the residences of individual members of the management which may be located near the workers' colonies of nearby town area. While a situation within the precincts of a factory might be deemed to be directly connected with legitimate trade union activity and would, therefore, require to be treated on a special footing as far as police response is concerned, maintenance of order and a feeling of security among the residents in workers' colonies or the residences of individual members of the management should be treated as a public order problem as in any other locality and appropriate police action taken to deal with mischief makers. Here again, police presence should be in sufficient strength to achieve the desired preventive effect.

Security of vital installations

30.11 Providing security to the property of industrial establishments in a strike situation may pose some problems for the police. Citing this need the management of the industrial establishment might try to bring about large police presence at a certain point within the factory to make it appear that the police are available at the call of the management to deal with the recalcitrant labour. While it is important to ensure the security of sensitive and vital installations within the establishment damage to which might eventually mean a big public loss, it is equally important to avoid unnecessary police presence in those areas of the establishment which are not sensitive from this angle, because it might give the impression of undue police proximity to the seat of management in the establishment. For example, the blast furnace in a factory might be a sensitive point from the security angle while the office of the Plant Manager might be deemed sensitive by the management from their point of view of maintaining a command over the labour. While police presence to provide security for the blast furnace would be fully justified from the public point of view, undue presence of police near the office premises might be misconstrued by the labour as an action to provide moral and physical support to the management as against the labour. Posting of police personnel for providing security to specified installations in an industrial establishment in a strike situation should, therefore, be carefully determined by the police themselves on the basis of their own intelligence and appreciation of public interest.

Picketing

30.12 Picketing is recognised as a legitimate part of trade union activity in a strike situation so long as it is confined to verbal persuasion and appeal to workers to stay away from work. But when picketing is accompanied by violence, obstruction, intimidation or overt interference, it becomes an offence punishable under section 7 of the Criminal Law (Amendment) Act, 1935, and the police usually resort to

this section for dealing with picketeers who indulge in violence. On general question whether police should give protection to any worker or group of workers who wish to work without joining the strike, our view is that the police are duty-bound to give this protection to any worker who expresses the desire to work and seeks protection to do so. Police action in this regard should, however, be related to the desire expressed by the worker himself and not to his reported willingness as communicated to the police by the management. Police presence in such a situation should be in adequate strength and spread to create confidence in the availability of protection to individual workers who desire to work and seek protection as above. The need for such protection would be most keenly felt at the point of entry into the factory and exit therefrom, and police should specially ensure protection at those points.

Recruitment of new workers

30.13 In a prolonged strike situation, the management may some times resort to the recruitment of new workers in an attempt to break the strike. While we recognise that any person, whether a new recruit or old worker, has the right to seek opportunity for doing work of his choice, we consider that any action taken by the police to give protection to new recruits for exercising this right in a strike situation might operationally amount to undue police interference in favour of the management to break the strike. We are, therefore, of the view that when the management try to bring in new recruits police action should not be in the nature of giving them individual protection to enter the factory but should be confined to action under the law if and when specific offences get committed in the confrontation that might ensue between the striking workers and the new recruits.

Removal of goods

30.14 The management may some times attempt to remove finished or unfinished goods from the factory premises in a strike situation and this may be resisted by the striking workers. Some grounds advanced by the management for removing goods from the factory are furnished below :—

- (a) The finished goods are required to be exported to fulfil contractual obligations and to keep up the export earnings of the industry and the country.
- (b) The goods sought to be removed are essential either by themselves or as inputs for the defence needs of the country.
- (c) The goods are of a perishable nature and unless they are taken out and disposed of they would be damaged, causing considerable loss to the industry.
- (d) If some goods which are essential inputs for other industries are not removed from the factory and are not made available to other units, then those establishments would also cease to function and thus create problems for the workers of such establishments.

30.15 The Kerala Police Reorganisation Committee (1960) which had examined this question at some length had concluded that "the existing law conferring the right on employers to remove the goods should continue". We are in agreement with this view and would recommend that police action in such situation should ensure adequate protection for the removal of goods, provided one or the other of the grounds mentioned in para 30.14 above is satisfied. If, however, under the cover of removal of goods, the management attempt to remove substantial parts of the machinery or other equipment in order to revive their activity elsewhere, it would be beyond the norms mentioned above and, therefore, police action in such a situation should not be in the nature of preventive or protective action but should be related to specific offences, if and when they occur in the course of removal of such machinery or other equipment and the obstruction thereto by the striking workers.

Sit-in strike

30.16 Sometimes workers indulge in wild-cat strikes and peremptorily lay down tools while actually working during a shift inside the factory. While their continued presence within the factory premises during their shift period may not by itself provide ground for police action in the strike situation, the refusal of such workers to leave the factory premises even after their shift period is over should be deemed as criminal trespass and they should be dealt with by the police accordingly under the law.

Gherao

30.17 Gheraos, which generate considerable tension in industrial disputes, are increasingly resorted to by striking workers, particularly when strikes are prolonged and the contending parties do not show any inclination to compromise. In the case of Jay Engineering Works Ltd., and others vs. State of West Bengal and others dealt with by the Calcutta High Court (AIR 1968 Calcutta 407) "gherao" has been defined as a "a physical blockade of a target, either by encirclement intended to blockade the egress and ingress from and to a particular office, workshop, factory or even residence, or forcible occupation. The 'target' may be a place or a person or persons, usually the managerial or supervisory staff of an industrial establishment. The blockade may be complete or partial and is invariably accompanied by wrongful restraint, and/or wrongful confinement and occasionally accompanied by assault, criminal trespass, mischief to person and property, unlawful assembly and various other criminal offences."

Police response to gherao

30.18 The main purpose of a band of workers encircling a member of the management is to compel him to concede their demands on the spot. A large body of men confining an individual in a small room, often without food or water or without any facilities for communicating with the outside world for long spells of time creates considerable anxiety, tension

S/15 HA/80-5

and a serious apprehension regarding his personal safety in the mind of the person concerned. The encircled person practically remains entirely at the mercy of those around him and is deprived of his personal liberty. Several cognizable offences like wrongful restraint wrongful confinement, etc., are committed in the course of a gherao and, therefore, a gherao should be deemed a cognizable crime. In the case referred to above, the Calcutta High Court held that executive instructions issued by the Government to the police regarding the handling of gheraos cannot in any way restrict or circumscribe the responsibility of the police to act as required under the law in regard to cognizable offences arising from the gherao. (A copy of this judgment in full is furnished in Appendix V of our Second Report). We have been told that in spite of this clear position in law, there are occasions when police show hesitancy in dealing with gheraos either because they have informal instructions not to act in given situations, or they feel that their action might create complications and prolong the labour dispute. We would like to emphasize here that in a gherao situation the police should unhesitatingly discharge their duty as laid down in law.

30.19 Police action in respect of gheraos as also in respect of sit-in strikes as mentioned in paragraph 30.16 above would consist of the following two parts :—

- (i) Registering a First Information Report in respect of the cognizable crimes committed and documenting the investigation thereon.
- (ii) Lifting the gherao by the physical removal of persons doing the gherao or eviction of the sit-in strikers as the case may be.

The first part would present no difficulty, but the second part would require careful operation in the field. In exercise of their powers under section 149 Cr. P.C. for preventing the commission of any cognizable offence, the police may physically remove the persons doing the gherao. They may even arrest the persons who have committed specific offences in the gherao situation and remove them for production before a Magistrate. In some cases, when faced with violent defiance, it may even become necessary for the police to declare the gathering of persons doing the gherao as unlawful and proceed to disperse them as members of an unlawful assembly. Before embarking on the operation of removal, arrest or dispersal of unlawful assembly as might be warranted by the situation, the police should, subject to the exigencies on the spot, satisfy themselves that all other processes of persuasion, appeal and conciliatory measures have been tried and exhausted.

Withdrawal of cases from Court

30.20 Specific cognizable crimes committed in the course of an industrial dispute may later got prosecuted in court on conclusion of investigation by police. It has become a practice with the administrators to withdraw such cases from court after the industrial dispute is settled. In fact, in many instances the very agreement to withdraw cases would form part of the

settlement. We have already expressed our views on the general question of withdrawal of criminal cases from court in paragraph 28.29 of this Report, and recommended a revised arrangement in law for the withdrawal of a criminal case to be sought only on grounds of justice or public interest and not on a mere executive desire for compromise in any particular case. We believe that the revised procedure would ensure that criminal cases arising from industrial disputes are not light-heartedly withdrawn from court on extraneous considerations. There is urgent need to stop the growing feeling among the agitating sections of the public that they can commit crimes with impunity and later get away without any punishment by seeking executive interference on their behalf.

Conduct of police officers

30.21 We have already pointed out the need for police action in industrial disputes to conform to the highest standards of objectivity, impartiality and integrity. In this context, it is important that police officers, particularly the senior officers at the commanding levels, avoid doing anything which may give the impression to the labour that the officers are unduly obliged to the management on account of facilities like transport, guest house and other entertainment freely provided by the management and readily accepted and enjoyed by the officers.

Essential services

30.22 Strikes and lockouts in a public utility service as defined in Section 2(n) of the Industrial Disputes Act, 1947 are subjected to more restrictions than applicable to strikes and lockouts in other industrial establishments. Yet, strikes in public utility services have become a common feature in the country. When the maintenance of an essential service like communications, transport or supply of electricity/water is threatened by an impending strike by the workers concerned, Government usually resorts to a special law or ordinance for totally prohibiting a strike in the service concerned. When once the strike in a service gets totally prohibited under the law, the police role and responsibility for dealing with the strikers will have to conform to special norms different from what has been explained above in regard to normal industrial dispute. Police action while dealing with strikers in an essential service in which strikes are totally banned would include—

- (i) preventive action against organisers of the strike.
- (ii) prompt registration of cases arising from cognizable crimes and the arrest of the offenders concerned.
- (iii) giving protection to loyal workers, and
- (iv) giving protection to fresh recruits or the personnel drawn from other units like the territorial army, home guards etc., for the performance of essential jobs.

The primary objective before the police in such situations should be to keep the essential services

going and they should not hesitate to take whatever action is permissible under the law to secure this objective.

Public Sector

30.23 Employees covered by public sector undertakings have increased in number considerably in the recent years. While they formed 60.02% of the total work-force in the private sector and public sector put together in 1968, their percentage rose to 67.2 in 1978. Strikes by employees in public sector have also shown an increasing trend. There were 368 strikes/lockouts in public sector in 1968 which formed 13.9% of all strikes/lockouts. The corresponding figures in 1978 were 947 and 29.7%. We would like to observe that the norms for determining police response to an industrial dispute should be the same whether it relates to the public sector or private sector. A change in the norms would be justified only when a particular service whether in the public sector or private sector gets declared as an 'Essential Service' under a special law and strikes in that service get totally prohibited under the law. The changed norms are indicated in paragraph 30.22 above.

Central Industrial Security Force

30.24 The Central Industrial Security Force (CISF) has a statutory role and responsibility for the security of the machinery and other equipment and property in certain public sector undertakings which are covered by this force. In a labour dispute situation in such a public undertaking, the police may, in the normal course, be able to take the assistance of the CISF personnel to provide guards for the sensitive vital installations in the establishment. Where, however, the personnel of the CISF themselves become a party to a strike situation or are likely to be wantonly negligent or indifferent in the performance of their duties because of their sympathy with the other striking workers, the police will have an additional responsibility to provide security to the sensitive and vital installations of the establishment. The nature and extent of security cover for such installations to be provided by the police in replacement of the CISF should be decided sufficiently in advance by mutual consultations between the police and the management of the undertaking, also taking into account the intelligence gathered by the police themselves regarding the attitude and involvement of the CISF in this regard.

Policemen's associations

30.25 In laying down norms for police response to industrial dispute situations we have also to take into account the fact that the formation and functioning of Policemen's Associations in the recent years are likely to influence and condition the attitude of police personnel towards striking workers. A general feeling of sympathy might be generated among the policemen towards the striking workers and a feeling might get induced that nothing should be done to weaken the power of strike as a weapon for collective bargaining. To secure uniformity and effectiveness of police approach to the problem of handling labour dispute situations, it would be necessary for the senior officers at commanding levels to apprise the police personnel

individually and also collectively through their Associations wherever they exist about the norms as detailed above in our recommendations and ensure their understanding by the police system as a whole for maintaining their position and prestige as a law enforcement agency. Any attempt made to involve the police

personnel in an *ad hoc* disposal of a labour dispute situation in an illegal or irregular manner without conforming to accepted norms is likely to complicate matters and weaken the command structure of the police. We would like to stress the importance of this point while concluding this Chapter.

CHAPTER XXXI

AGRARIAN PROBLEMS

Agrarian Scene

31.1 Agrarian problems have increasingly tended to draw police attention from the angle of maintenance of public order, particularly from the sixties. Persistence of serious social and economic inequities in the rural areas has frequently generated tensions between different classes and posed problems for the police. Several political parties have shown interest in agrarian agitations for extending their areas of influence. Activities of a group of extremists—who later came to be called Naxalites—started in West Bengal in 1967 as a violent movement for the forcible occupation of the land of Jotedars in Naxalbari. Land grab agitation was organised on an all India basis by a political party in 1970-71. Country-wide developments in the recent years have seen the peasantry establishing their identity and emerging as a strong force with potential for channelising political appeal and influencing the course of elections. Their increasing involvement in political battles has also been creating conflict situations on the agrarian scene.

Cultivators and agricultural labourers

31.2 The working population of India according to 1971 census was about 18.05 crores of which 10% was in the organised sector and the rest in the traditional sector. Cultivators and agricultural labourers form the bulk of workers in the traditional sector—43.38% and 26.32% respectively.

The following table gives the break-up of the working population according to activity :—

DISTRIBUTION OF WORKING POPULATION
(1971 CENSUS)

Category	Number (In lakhs)	Percentage share in total popula- tion
Total population	5,482	100.00
A. Population of workers	1,805	32.92
(i) Cultivators	783	14.28
(ii) Agricultural labourers	475	8.66
(iii) Livestock, forestry, fishing, hunting and plantations, orchids and allied activities	43	0.78
(iv) Mining and quarrying	9	0.17
(v) (a) Household industry	63	1.16
(b) Other than household industry	108	1.96
(vi) Construction	22	0.40
(vii) Trade and Commerce	101	1.83
(viii) Transport, storage and communications	44	0.80
(ix) Other services	157	2.88
B. Population of non-workers	3,677	67.08

NOTE :—According to the census publications—

- (i) 'Worker' is a person whose main activity is participation in any economically productive work by his physical or mental activity. Work involves not only actual work but also effective supervision and direction of work.
- (ii) 'Non-worker' is a person not categorised as a 'worker' as defined above and includes persons basically engaged in unpaid house-hold duties, students, persons who have retired from service and are doing no other work, dependents and the like.

Most of the legislation enacted by the Government for the welfare of workers relates to workers in the organised sector. A number of Social Security Schemes are also in operation for these workers. A few Acts like the Minimum Wages Act, 1948 have also been framed for the unorganised sector but the workers of this sector are handicapped by lack of sufficient knowledge about such legislation to secure all the intended benefit therefrom.

Land Policy

31.3 The two main and inter-related objectives of the State land policy as laid down in the First Five Year Plan and reiterated in the subsequent Plans were—

- (a) to remove such motivational and other impediments to increase in agricultural production as arise from the agrarian structure and to create conditions conducive to an agricultural economy with high levels of efficiency and productivity; and
- (b) to eliminate elements of exploitation and social injustice within the agrarian system so as to provide a sound basis for the evolution of a democratic society in the rural areas.

In the Fourth Five Year Plan the emphasis was on all-out support for the new strategy of production in agriculture by ensuring complete security for the tenant and the share-cropper and enabling him to participate effectively in the agricultural production programmes, and by making concerted efforts towards enforcement of ceilings on land holdings.

Land reform legislation

31.4 In pursuance of this broad policy approach, land reform legislation has been put through in most States to secure the following :—

- (1) Abolition of intermediary tenures.
- (2) Reform of the tenancy system including—

- (a) fixation of fair rent at 1/5th to 1/4th of the produce ;
 - (b) security of tenure for the tenant ; and
 - (c) measures for enabling the tenant to come in direct relationship with the State and acquire ownership of land.
- (3) Ceiling on land holdings.
 - (4) Re-settlement of landless agricultural workers.
 - (5) Consolidation of fragmented holdings and reorganisation of the small farm economy.

However, in the actual implementation of land reform legislation several loopholes were taken advantage of by vested interests to perpetuate the existing inequities. The land owning community retained large tracts of land under their effective control under the guise of resuming land for self-cultivation which was permissible in law, and self-cultivation for this purpose was deemed to include cultivation through hired labourers. The law of ceiling on land holdings by individuals was effectively circumvented by the partitioning of landed property among members of the same family and dependent relatives, with the result that no land emerged as surplus for disposal outside the family domain. According to the Twenty-sixth Round of National Sample Survey (July, 1971—September, 1972), 54.91% of households in the country owned land of area less than 1 acre per household, and the total area owned by them constituted 2.21% of the total area of holdings in the country, while 4.38% of households held areas of more than 15 acres each and the total area held by them amounted to 39.43% of the total area of holdings in the country. It has to be admitted that the land reform measures so far spelt out and implemented have not had the desired impact for the removal of inequalities and injustice on the agrarian front. This is mainly because those administering the reforms had no interest in doing so and were very much in favour of maintaining the *status quo*. The reforms were only lip-service to an ideology which had to be professed for political purposes. In this context we would like to quote from the Report of the Task Force on Agrarian Relations set-up by the Planning Commission in 1972 for appraising the progress and problems of land reform and working out the Fifth Plan proposals. Referring to the implementation of land reform, the Task Force said :

'The programmes which could have led to a radical change in the agrarian structure and the elimination of some of the elements of exploitation in the agrarian system and ushered in a measure of distributive justice were those of tenancy reform, ceiling on agricultural holdings and distribution of land to the landless and small-holders. As already pointed out these programmes cannot be said to have succeeded. Highly exploitative tenancy in the form of crop-sharing still prevails in large parts of the country. Such tenancy arrangements have not only resulted in the perpetuation of social and economic

injustice but have also become insurmountable hurdles in the path of the spread of modern technology and improved agricultural practices. Thus the overall assessment has to be that programmes of land reforms adopted since Independence have failed to bring about the required changes in the agrarian structure'.

(Paragraph 1.7)

'Enactment of progressive measures of land reform and their efficient implementation call for hard political decisions and effective political support, direction and control. In the context of the socio-economic conditions prevailing in the rural areas of the country, no tangible progress can be expected in the field of land reform in the absence of the requisite political will. The sad truth is that this crucial factor has been wanting. The lack of political will is amply demonstrated by the large gaps between policy and legislation and between law and its implementation. In no sphere of public activity in our country since Independence has the *hiatus* between precept and practice, between policy-pronouncements and actual execution, been as great as in the domain of land reform. With resolute and unambiguous political will all the other shortcomings and difficulties could have been overcome ; in the absence of such will even minor obstacles became formidable road blocks in the path of Indian land reform. Considering the character of the political power structure obtaining in the country it was only natural that the required political will was not forthcoming'.

(Paragraph 2.1)

'The attitude of the bureaucracy towards the implementation of land reform is generally luke-warm, and often apathetic. This is, of course, inevitable because, as in the case of the men who wield political power, those in the higher echelons of the administration also are substantial landowners themselves or they have close links with big landowners. The village functionaries like Patwaries, karmacharies, karnams, samogs, Talatis, etc. are invariably petty landowners. They are also under the sway of big landowners. No State has taken necessary steps to forge a suitable administrative organisation and keep it in proper trim by systematic in-service training and periodic orientation courses. Nor has any conscious effort been made to post able and dedicated men with faith in land reform to key positions in the administrative set-up. As a matter of fact there have been cases where administrators who tried to implement land reform laws honestly and efficiently were hastily transferred elsewhere. In the result, practically in every State, the administrative organization has proved to be an inadequate instrument for

the speedy and efficient implementation of land reforms'.

(Paragraph 2.3)

Agricultural Labour—Scheduled Castes

31.5 Agricultural labour is mixed with such occupational categories as share-croppers, cultivators, construction workers and other unskilled rural labour. Socially, it cuts across all peasant groups in villages, but consists mainly of two dominant social groups, Scheduled Castes and Scheduled Tribes. According to a study conducted by the Research and Policy Division of the Ministry of Home Affairs in 1969, out of the population of 64.4 million Scheduled Castes as many as 57.6 million live and work in rural areas; similarly out of 29.8 million Scheduled Tribes, 29.1 million work and live in rural areas. The Scheduled Castes do not form a resident majority group in any part of the country but live interspersed with other sections of the population. They constitute more than 20% of the population in 666 talukas. On the other hand, the Scheduled Tribes live as majority groups in 329 talukas. In fact, there are three States of Nagaland, Manipur and Meghalaya and three Union Territories of Arunachal Pradesh, Dadra and Nagar Haveli and Mizoram where the overwhelming majority of the population belongs to Scheduled Tribes. While a large number of Scheduled Castes earn their livelihood by working as agricultural labourers, the Scheduled Tribes are by and large a self-cultivating class. Agrarian problems of the Scheduled Castes are related to insecurity of employment low wages and grossly unjust treatment at the hands of the land owning community in a variety of ways. The problems of the Scheduled Tribes arise from the intrusion and exploitation by non-tribals for expropriating lands from the possession of tribals, and the economic hold over the tribals by non-tribal money-lenders and the like.

31.6 The proportion of agricultural workers from Scheduled Castes and Scheduled Tribes varies from State to State. Scheduled Caste workers preponderate in Punjab, Rajasthan, Tamil Nadu, Uttar Pradesh and West Bengal. The percentage of Scheduled Caste population in these States and the percentage of agricultural workers belonging to Scheduled Castes may be seen in the following table :—

State	Percentage of Scheduled Caste Population	Percentage of Scheduled Caste Agricultural workers
Punjab	20.4	71.92
Rajasthan	16.7	45.07
Tamil Nadu	18.0	47.15
Uttar Pradesh	20.9	56.67
West Bengal	19.9	56.80

Animosities and tensions arising from the inter-play of caste prejudices have also tended to foul the relationship between landowners and the agricultural labourers owing to the latter's caste composition as indicated above.

Agrarian distress and tension-causes

31.7 The basic causes that have contributed to growing agrarian tensions are the economically distressed and socially depressed position of share-croppers, under-tenants and small cultivators and denial of their basic rights whether in regard to tenurial security or their share in the produce or payment of fair wages, and the grossly ineffective implementation of the schemes announced with fanfare and publicity for allotment of land to the landless and poor peasants. According to the study mentioned in paragraph 31.5 above, about 82% of the total number of tenants, mainly in the States of Andhra Pradesh, Assam, Tamil Nadu, Bihar, Punjab, Haryana and West Bengal do not enjoy fixity of tenure. They are either tenants-at-will or subject to landlords' right of resumption, or enjoy temporary protection only. In fact, the social and economic inequities and imbalances that were inherent in the old system of land tenure with a number of intermediaries like Zamindars, Jagirdars, Inamdars, etc., have continued to exist because of pressure from the vested interests among the landed gentry, though the aforesaid intermediaries have been statutorily abolished. The Green Revolution has helped the rich landlords to become richer by the increased production from land with aid from technological and scientific inputs in agricultural work, while the small cultivators and the landless agricultural labourers have not been able to reap any such benefit.

Pressure on land

31.8 The economic distress of the landless agricultural labourer is further accentuated by the growing pressure on land in rural areas owing to rise in population without a corresponding increase in the area available for cultivation. From the following table it may be seen that compared to the position in 1951, the population in 1976 had increased by 61.3% while the net area of land sown increased by 19.8% only.

	Rural population	Percentage increase over 1951 figure	Net area sown (crore hectares)	Percentage increase over 1951 figure
1951	298,509,400	—	11.87	—
1961	360,142,827	20.65	13.27	11.79
1971	438,855,500	47.02	14.04	18.28
1976	481,489,000	61.30	14.22	19.80

Source :—'India—A Reference Annual' for 1959, 1964, 1976 and 1979.

Rural indebtedness

31.9 From the All India Debt and Investment Survey, 1971-72 conducted by the Reserve Bank of India—*vide* their publication of November, 1978, it is seen that the borrowings of an average cultivator/agricultural labourer were very much more from sources like professional money-lender/agriculturist money-lender/trader/landlord than from Government or Co-operative Societies/bank. Detailed statistics

from the publication of the Reserve Bank of India are furnished in Appendices X to XII. This analysis highlights the economic hold the landlord and other richer sections of the village continue to have on the cultivator and the agricultural labourer.

Agrarian unrest

31.10 Indian history has recorded agrarian unrest in some form or the other even from the Moghul days. The creation of a number of Jagirdars by Aurangzeb led to a revolt by the peasants at that time. When attempts were made under the British rule to effect a survey and settlement of lands in some form conducive to a systematic and efficient revenue administration, it led to protests from certain sections of the landed gentry against payment of revenue demanded from them. Ghadkari revolt of Kolhapur in 1844 occurred in this context, and so was the rebellion of the Khonds in Orissa in 1846 on an apprehension that the British would be appropriating their land. The large scale intrusion of non-tribals for acquiring landed interest in the tribal area led to the revolt of the Santhals in 1855-56. In the days of freedom movement, the Champaran struggle in Bihar in 1917 organised under the leadership of Mahatma Gandhi was in protest against an unjust tenure system adopted by the Indigo planters. In 1946 the Communists organised a large scale peasant uprising in the Telangana area of Andhra Pradesh. West Bengal witnessed the violent movement organised by Naxalites in 1967 for the elimination of Jotedars and violently capturing land for occupation and use by the tillers. Activities of extremists in fomenting agrarian unrest and organising agitations have come to notice in several States, notably West Bengal, Bihar, Andhra Pradesh, Tamil Nadu and Kerala.

Violence

31.11 While the agitations in the earlier period were mostly in the form of resistance to tyranny and oppression, the agitations towards the close of the British rule and after Independence have tended to focus around the tillers' right to own the land and to be freed from the exploitative practices that have prevailed in the rural areas for a long time. These agitations have tended to become increasingly violent in the recent years. Large-scale riots, accompanied by arson, violence and murder have been witnessed in certain States in the recent past, reflecting the growing tensions between the depressed landless rural poor and the land-owning farmer community. Incidents at Kilavenmani (December, 1968) in Tamil Nadu, Belchi (May, 1977), Parasbigha (February, 1980) and Pipra (February, 1980) in Bihar are instances of this kind. Attempts made by the landless poor to organise themselves for securing a fair share of the economic benefits accruing in the village are immediately met by a violent and ruthless counter-action from the land owning community resulting in further distress for the poor. In this context the police have a special responsibility to guard against outbreak of such violence and ensure order and security for the village community as a whole. We proceed to identify some typical situations that may

arise from agrarian problems and indicate guidelines for police response.

Scheme for allotment of land to the landless and poor

31.12 An important cause for agrarian distress is the failure of implementation of the existing schemes for allotment of land to the landless poor either from Government land or from land that should become surplus by the application of land ceiling laws to individual big holdings. We have already pointed this out in Chapter XIX of our Third Report while dealing with 'Police and the Weaker Sections of Society' and recommended that the allotment of land to the landless poor, particularly the Scheduled Castes and Scheduled Tribes, should be effected through a separate comprehensive legislation which should have provision for effectively handing over possession of the land to the allottee and, what is more, for promptly evicting the unauthorised occupants or trespassers who may subsequently try to nullify the allotment order. We have also recommended a role for the police in collecting intelligence about forcible dispossession of the poor from lands allotted to them, and getting the matter set right with the help of the revenue authorities concerned. The arrangement recommended by us would, in our view, help in giving some effective relief to the landless poor and to that extent reduce agrarian distress and tension. We are, however, aware that this by itself may not take us far since there is not sufficient land in any case to meet the entire requirements of the rural poor with our steeply rising population. There is, therefore, side by side with land reforms, urgent need for providing alternative sources of employment in rural areas for the rapidly growing rural population. For this purpose measures have to be taken in hand early for bringing about the requisite infra-structure of communications, power and water in the rural areas. The danger of fragmentation of holdings as a result of the operation of the inheritance laws of the country, should also not be lost sight of.

Conciliatory processes

31.13 Under the Industrial Disputes Act, several agencies like Conciliation Officer, Board of Conciliation and Tribunal exist for adjudicating disputes between the labour and management in an industrial establishment. But when disputes occur in rural areas between the landlord and the cultivating tenant or the agricultural labourer regarding share of produce or payment of wages, there is no special agency in a district to adjudicate the matter quickly and effectively. The matter is usually dealt with in the normal course by the revenue authorities. It would make for speedier settlement of such disputes if the District Civil Rights Cell recommended in paragraph 19.14 of our Third Report could be given some staff support to perform this role. It would also help the police to secure relevant information through this Cell, while dealing with criminal cases arising from such disputes. Police action in such situations should be primarily directed towards removing elements of violence and pressure, and enabling the parties to seek a peaceful settlement through the agency of the aforesaid Cell or the local revenue authority as the case may be.

Record of rights

31.14 When disputes arise regarding ownership rights, cultivating rights, irrigation rights, etc., local authorities have normally to go by the documentation in the record of rights maintained by the revenue authorities. We understand that the arrangements for the maintenance of this record and its periodic scrutiny by the inspecting officers for ensuring its accuracy are not satisfactory in several places. It is said that these records are very much susceptible to manipulation and interpolation to the disadvantage of the poor and ignorant cultivators. The Task Force mentioned in paragraph 31.4 observed: 'The position regarding record of tenancy, particularly in the matter of entries relating to rights of share-croppers, is not satisfactory anywhere in the country, and no record exists in some areas. The absence of up-to-date land record is a serious obstacle in the implementation of land reforms'. We recommend that the existing arrangements in States for the maintenance of this basic record in villages or groups of villages may be checked and revised to ensure their factual accuracy, besides making them proof against malafide manipulation and interpolation.

Preventive action

31.15 When disputes arise and tensions build up between two groups of the land owning community in a village regarding ownership or right of use of any land or irrigation facility, police should not hesitate to take effective preventive action against the leaders on both sides by resorting to section 107 Cr.P.C. and also making preventive arrests where called for.

Farmers' agitation against Government

31.16 Recent years have witnessed another type of agitation on the agrarian front in which farmers organise themselves to protest against the Government and allied agencies on such issues like charges for power supply for pump sets, grant of loans and subsidies, writing off arrears of loans, etc. The issues raised in such agitations are of a nature which would interest all sections of land owning community, big and small. The agitation is, therefore, easily joined in by large sections of the rural community and quickly tends to become aggressive. In an agitation of this kind in one State, public life in and around some urban centres was practically paralysed by the drawing up of bullock carts in a big way and total blocking of all kind of traffic for a long time. Since these agitations are primarily directed against the Government and do not involve two opposing groups among the public themselves, it becomes easier for the organisers to whip up emotions and instigate violence. Police should handle this type of agitations as a matter of maintenance of public order and take

all permissible steps under the law including preventive arrests to contain the situation in public interest.

Intelligence

31.17 A fundamental requirement for planning police action in any public order situation is the timely collection of intelligence on the growing developments prior to the situation and the likely course of events when the situation arises. Apart from the intelligence wing of the police at the district level, the village police as organised on the lines recommended in Chapter XX of our Third Report should be actively involved in gathering advance intelligence in this matter which would be of great help to the local police in effectively anticipating local situations in time.

Reorganisation of rural police

31.18 An old Gandhian, Professor K. B. Waswani, while addressing the Seventh Indian Agricultural Economists Conference in 1947 had said: 'If the economic problems of the innumerable agriculturists in India, the problem of the landless, the problem of the rack-rented, the problem of the indebted, the problem of the suppressed or oppressed landless, are not immediately attended to, are not adequately dealt with, the proverbially patient peasant is likely to lose his patience; he is at the end of endurance and in anger, in his long-suppressed agony he is prone to seek to solve his problems in a violent, vigorous, excited revolutionary way, specially when grim voices of the communists are endeavouring to reach his side. They wait and watch and like an angry tiger, they will leap and tear into shreds the existing unequal, oppressive structure—economic and political—which they find uncongenial, uncomfortable, complex and incomprehensible'.*

31.19 The developments since then and the increasing violence resulting from the continuing social degradation and the economic distress of the landless poor in rural areas would make it appear that Professor Waswani was very prophetic when he uttered this warning 33 years ago. In paragraph 20.15 of our Third report we have already pointed out that the existing spread of the police in the rural areas is very thin and it has to be suitably increased to enable the police to meet adequately the requirements of the fastly changing rural situation. The norms for locating police stations in rural areas and their staffing pattern with reference to area to be covered, population to be served and the tasks to be performed are being worked out and will be furnished in a separate Chapter. The re-organisation and strengthening of rural police calls for immediate attention from the Government in the context of present developments as detailed earlier.

*Group report on 'Agrarian Unrest' presented at the Seminar on Law and Order at the National Academy of Administration, Mussoorie in May-June, 1971.

CHAPTER XXXII

SOCIAL LEGISLATION

Social reform

32.1 There are several ways in which changes in social value and patterns of social behaviour may come about or be brought about. Social reform is one such way and legislation is one important channel through which social reformers have generally sought to bring about social change. Indian social reformers of the nineteenth and early twentieth century seem to have attached a great deal of importance to legislation for this purpose. Legislation abolishing the practice of suttee, removing disabilities arising out of inter-caste marriage and restraining child marriage was urged for and enacted in the hope that these laws would abolish erstwhile social evils or facilitate some desired change. The Gains of Learning Act also made for a change the law relating to rights of coparceners of a Hindu joint family to their individual incomes. Since independence the Hindu marriage and family laws have been further amended by enforcing monogamy, providing for divorce, giving daughters a share in ancestral property, and forbidding the payment of dowry at marriage. Some of the labour legislation also began as welfare legislation to secure the well-being of industrial workers. Our Constitution makers and Members of Parliament have also shown the same faith in the legislative path to social reform and change. The Constitution declared that untouchability stood abolished and when that was found not enough, Parliament passed the Untouchability Offences Act in 1955 and later amended it as a Protection of Civil Rights Act in 1976, with more severe provisions to deal with violations thereof.

Social legislation—classification

32.2 Social legislation may be broadly classified into two categories for appreciating the problems that arise in the enforcement of the legislation. The first category may be called the permissive type of legislation in which the reformative law merely seeks to enlarge the freedom of social action and interaction in certain fields and protect the person so acting from any disability that might fall on him but for the law. For example, legislation concerning inter-castes marriages and divorce proceedings is of this type. The second category may be called the proscriptive type of legislation which seeks to restrict certain social practices and penalise any conduct that is specifically prohibited in law. Laws relating to suttee, child marriage, polygamy, dowry, and untouchability are examples of this category. Enforcement of this category of social legislation meets with resistance from groups which are interested in the continuance of the old practices.

Measure of success

32.3 In a general way we may observe that the legislation against the evil of suttee has succeeded while the legislation against the practice of untouchability has not fully succeeded. The law against polygamy has by and large succeeded but the law against child marriage is still flouted in many cases, especially in the uneducated, lower caste groups and some sections of the rich. It will probably be conceded that both in the case of suttee and polygamy where the proscriptive law has succeeded the original practice was itself somewhat limited in geographical area and in the class of people where it was practised. Both these practices were a characteristic, to the extent that they existed, of the upper caste and propertied groups. The social reformers of the nineteenth and early twentieth century came from these very groups and were able to communicate with and reach them through their newspapers, novels, dramas, lectures and all the media accessible to them. While the changes that they sought to bring about did involve a change of values and change of life practices, they did not involve any basic conflict of interests. The expectation of the social reformers that a law would strengthen their hands and help them tackle a recalcitrant minority was well-founded in that situation.

32.4 The legislation against child marriage has succeeded so far as the educated, white-collar groups are concerned, though it has not made any appreciable dent among the uneducated, rural working class. The reason for its success in the white-collar groups lies largely in the prolongation of the period of education and occupational preparation and in the new norm of the middle class that a man must be able to support himself and his family before he enters upon marriage. If the Sarda Act has not materially changed the attitudes of the uneducated, rural segment it is also because their occupational life has not changed much in terms of the average age of entry to an occupation in life or the preparation required for it. Most rural occupations are still inherited, a son begins to earn even as a child and the expectations of economic well-being are still relatively modest. The rural poor see no compelling reason why marriages should not take place at an early age.

32.5 The lack of success of the untouchability legislation in the rural areas and its partial success in urban areas has to be understood in terms of yet another factor. So far as the practice of untouchability within one's own home is concerned, it is doubtful whether the urban home is genuinely and generally more liberal in its actual day-to-day practice, but it is true that at the verbal level and in public places in

urban areas untouchability is less likely to be practised than in rural areas. This is due partially to greater education and, may be, to a real value change among some of the urban educated. It is also possible that the lack of education and the hold of tradition explain in some part the continuance of untouchability practices in the country side. Of equal importance, however, is the economic aspect of the practice of untouchability in rural areas. Belief in untouchability seems to provide the legitimization of the oppressive employment practices of the landowners toward their landless labourers. It is based on this belief that the upper-caste/upper-class Indian in the village gives his farm servants a bad name with which he seeks to justify his ill-treatment of them.

Roll of legislation in effecting social reform

32.6 The chance of success or failure in achieving social change through legislation depends upon several factors. At least three of these can be identified from the discussion in the earlier paragraphs: (1) the degree of value change that reformers may have already succeeded in bringing about in society through their educational efforts, (2) the supportive aspects of changes in the objective situation, and (3) the existence or non-existence of a threat to basic group interests as a result of change. There may be many additional factors which could be identified by a further examination of the success or failure of individual pieces of social legislation. However, even without such an examination it should be clear that legislation by itself is not the easy road to social change. Any attempt to legislate a social change without a prior value change in society amounts to the use of authority and the coercive power of the State to enforce a new value framework. Unless there is a measure of consensus among the generality of people about the desirability of the change that law seeks to achieve, it would result in our seeking a social change in a manner which might simultaneously generate social hatred and hostility. Social legislation of this kind, that is the proscriptive type as mentioned earlier has, therefore, to be preceded by a measure of debate, discussion and propaganda which would convince the people in general and prepare them to accept the proposed change. If legislation goes far in advance of the preparedness of the people for the proposed change, enforcement of such a legislation will task people's support and, therefore, will generate a situation of conflict between the people and the enforcement agency.

32.7 The police, as the premier law enforcement agency in the country, are frequently involved in the enforcement of a variety of laws aimed at social reforms. The normal role of the police as expected by the people is in the field of laws relating to the protection of life and security of property. The Indian Penal Code is the basic criminal law of the country for the police to perform this role. Public understand this role well and willingly cooperate with the police in individual cases but the position becomes different when the police are involved in the enforcement of a social reform law which the public at large are not yet prepared to accept. It is, no doubt, true that we cannot wait for a total acceptance of a

proposed reform by the entire public before bringing up a law to spell out that reform. But the timing of enactment of a law of social reform and the degree of involvement of police in its enforcement have to be finely adjusted and regulated so that public support for its enforcement will not be prejudiced. We are aware of the tragic repercussions of police involvement in the enforcement of family planning measures in certain States in 1976. Sterilisation for family planning and birth control, which would have normally been adopted by the people at large after adequate education and propaganda, became totally repulsive when they found the police enforcing it with all the severity of a criminal law. It will be interesting to recall here what the Indian Police Commission of 1902 observed 75 years ago. In their report they pointed out "the unwisdom of employing constables in duties which tend to make the police unnecessarily unpopular, such as collecting children for vaccination". In 1902, vaccination was not yet accepted by the people at large. Police involvement in getting through that measure made the police undeservedly unpopular. Vaccination has now come to be accepted as something very normal and the police are no more required to perform a role they did unwisely 75 years ago. In depth education and persuasive propaganda must receive due attention for effecting a social reform and cannot be substituted by the mere rigid enforcement of a connected law. Our object in making these observations is to underline the point that legislation by itself would not be effective for bringing about a change in the social value system and, therefore, the police may not be looked upon as a primary instrument for effecting a social change.

Enforcement of social legislation police involvement

32.8 Having stated our views on some general aspects of social legislation, we will now take up the question of police involvement in the enforcement of social laws. Supervisory ranks in the police strongly feel that this leads to unpopularity which the police do not deserve and, what is more, enlarges the scope for corruption in police. As against this view, social reformers feel equally strongly that unless they have the support and backing of the police they will not be able to achieve the desired objectives of social reform.

32.9 In paragraph 14.40 of our Second Report we have already stated our view that as the primary law enforcement agency available to the State, police cannot escape involvement in the enforcement of social laws also in some form or the other. Police have a duty to enforce these laws but the manner of enforcement can be regulated and controlled to avoid some possible evils that may arise from this involvement. We proceed to identify some of these evils and recommend appropriate remedial measures.

Malpractices in enforcement

32.10 Offences under certain types of social legislation like the Protection of Civil Rights Act and the Bonded Labour System (Abolition) Act, involve victims as such who will be anxious to complain about the offence and set in motion the processes of law for

their relief. Certain other types of social legislation like the Prohibition Act, Gambling Act and Suppression of Immoral Traffic Act involve crimes of vice and draw attention from the police mostly on their own intelligence and not on a specific complaint as such from an aggrieved individual. In this category of laws there is much larger scope for harassment, corruption, and allied malpractices than in the former category. It is this aspect that has been forcefully brought before us by the Chiefs of Police who strongly feel that the ease and quickness with which corruption spreads in the department on this account have brought down the department's prestige badly in the eyes of the public. We, therefore, feel that some way has to be found by which the scope for harassment and corruption in the enforcement of such social legislation is minimised, and police involvement in the enforcement is effectively regulated and controlled.

Conditional cognizability

32.11 Investigational power and responsibility of the police are now confined to cognizable offences which are specified as such in law. In their anxiety to secure effective enforcement of a new social law, social reformers and legislators are inclined to declare all offences under such a law as cognizable and leave the matter there in the belief that strict and severe enforcement thereof by the police would achieve their purpose. It is here that we feel there is scope for introducing some refinements in law which would greatly reduce the scope for malpractices when the offences are taken cognizance of by the police. Even now there are several cognizable offences in which, after completion of investigation by the police, there are restrictions at the stage of the court taking cognizance of the case for commencing trial. All offences under Chapter VI of the Indian Penal Code and offences under Sections 153A, 153B, 188, 295A, 471 and 505 of the same Code are examples of this kind where the court can take cognizance only on a complaint from a specified individual or on sanction from a specified authority. We are of the view that there is scope for extending this concept of conditional cognizability even at the earlier stage when the police register the case and commence their investigation. The conditions can be suitably determined to reduce the scope for harassment and corruption as mentioned earlier.

Categorisation of social laws for determining police response

32.12 For this purpose, social legislation may be categorised under five groups as indicated in the following paragraphs and we recommend that the nature and extent of police involvement in the enforcement of each group may be as indicated therein.

First Group

32.13 (i) This group would cover laws regulating social institutions like marriage, divorce, adoption, inheritance, etc.

(ii) Police should have no role at all in the enforcement of these laws. It should be left to the affected parties to take matters direct to courts and get their disputes resolved through judicial adjudication.

Second Group

32.14 (i) This would cover laws dealing with some social problems like prevalence of dowry, discrimination against women, begging, vagrancy, etc.

(ii) Police should not have any role to play in the enforcement of these laws, excepting some which may have a public order or crime prevention aspect. For example, if there is a law prohibiting begging in specified public places, police should have the powers to enforce the relevant provision, solely from the point of view of maintaining public order at the specified place. Police should not be involved in rounding up individual beggars and marching them to a rehabilitative home or any such institution. That job should be left to the Municipal agencies.

Third Group

32.15 (i) This group would cover laws aimed at promoting the health of the people in general and, in particular, prohibiting the consumption of intoxicating drinks and of drugs which are injurious to health.

(ii) Offences under these laws which involve commercially organised activity (for example: trafficking in drugs) or disturbance to public order should be made fully cognizable by the police. Offences which do not have any such angle but involve individual behaviour and conduct without creating any public order situation may be made cognizable by the police only on a specific complaint from a person alleging annoyance or injury caused to him by such behaviour and conduct, and not on any intelligence gathered by the police themselves. In regard to the enforcement of prohibition, we would be detailing in the next chapter the modalities, including amendments in law, for bringing about limited cognizability by the police.

Fourth Group

32.16 (i) This would cover laws aimed at prohibiting or regulating certain pastimes which are likely to operate to the detriment of the earnings of poor families and result in the drain of their meagre financial resources.

(ii) Laws which regulate gambling, horse racing, lotteries, cross-word puzzles, etc., fall under this category. Police cognizability of offences under these laws should be limited to those which have a public order aspect. For example, gambling in a public place is likely to promote disorderly behaviour and disturbance to public order and should therefore be made fully cognizable by the police. Offences which do not involve this public order aspect may be made cognizable only on a specific complaint from an affected party.

Fifth Group

32.17 (i) This group would cover laws which are meant for protecting and rehabilitating the handicapped and weaker sections of society, and preventing exploitation of their economic weakness or otherwise distressed situation.

(ii) Police should be fully involved in the enforcement of these laws. Protection of Civil Rights Act and the Suppression of Immoral Traffic Act are examples of laws under this group. Offences under these laws should be made cognizable and the general police should have full powers of enforcing them.

Arrest

32.18 In the investigation of offences which are made conditionally cognizable as recommended above, the police need not have the power of arrest. They may, on conclusion of investigation, put the matter before a court if evidence warrants such a course of action, and take from the accused person a bond for his appearance in court when summoned.

Amendments to law

32.19 Appropriate amendments to several pieces of social legislation would be required to implement the above recommendations regarding conditional cognizability by the police and the restriction on their powers of arrest in certain cases. We recommend that the various social laws may be individually examined from this angle and appropriate amendments evolved by the Social Welfare Departments of the State Governments in consultation with the State police agencies.

Strengthening of staff

32.20 Even the graded enforcement of social legislation on the lines indicated above would involve increasing burden of investigational and allied field work for the police, as the pace of social legislation increases. Effective enforcement will be badly handicapped if adequate staff are not available to handle

the investigational work. We therefore, recommend that, apart from increasing the existing staff to the required level for dealing with the present volume of enforcement work under this head, Government should, on every future occasion when a social legislative measure is adopted, assess the requirements of additional staff in consultation with the Chief of Police and sanction them in time, for enforcement work to proceed smoothly and effectively right from the beginning.

Special squads

32.21 We have also examined a suggestion that a separate police wing might be set up for the enforcement of all social legislation. The main reason advanced for this suggestion is that the enforcement of social legislation requires a certain operational approach and attitude of mind on the part of the enforcement personnel which can be brought about only by specialisation and training. While there may be an advantage in this arrangement, we have to take note of the fact that offences under certain social laws, particularly those coming under the Fourth and Fifth groups mentioned in paragraphs 32.16 and 32.17 above, are likely to involve the activities of bad characters, goondas and professional criminals connected with traditional crimes relating to person and property. It is therefore not desirable to dissociate the general police from the enforcement of social legislation of this type. When once it is conceded that the general police should have powers in regard to certain types of social legislation, it does not appear necessary to think of a separate police wing with a State wide jurisdiction for dealing with the other types of social legislation only. In our view the general police should be involved in the enforcement of all social legislation subject to the restrictions recommended above. However, in metropolitan cities and important urban centres where certain types of offences under the social laws are known to be rampant, it might be advantageous to have special squads to deal with them under the supervision of the City Police Chief.

CHAPTER XXXIII

PROHIBITION

Prohibition—National Policy

33.1 Prohibition as a national policy received specific attention at the All India Congress Committee meeting in 1921 when it was emphasized by Mahatma Gandhi that prohibition should be the first step for ameliorating the conditions of the poor masses who, in particular, had long been suffering from the evil effects of drinking. In pursuance of this policy declaration, prohibition was introduced for the first time in 1937 in limited areas of the then Presidencies of Bombay and Madras where Congress Governments assumed office under the Government of India Act, 1935 in the scheme of Provincial Autonomy under the British Raj, and was also introduced in some districts of Madhya Pradesh and Karnataka in 1938. It was suspended during the war years in 1939—45 and was reintroduced in Madras in 1946-47 and in Bombay and parts of Uttar Pradesh in 1947—49.

33.2 After Independence, prohibition was adopted as a Directive Principle of State policy by being incorporated in Article 47 of the Constitution which lays down that 'the State shall endeavour to bring about prohibition of the consumption except for medicinal purposes of intoxicating drinks and of drugs which are injurious to health'. In pursuance of this principle, some State Governments enacted prohibition laws and attempted their enforcement for certain periods with varying degrees of success. Presently, total prohibition is in force in Tamil Nadu, Maharashtra and Gujarat. In fact, it is only these three States which have long experience in the enforcement of prohibition laws and are familiar with several problems arising therefrom.

Tek Chand Committee

33.3 In 1963 the Government of India appointed a Prohibition Study Team under the Chairmanship of Shri Justice Tek Chand, a retired Judge of the Punjab High Court, to make a detailed inquiry into the working of the prohibition programme and also to cover problems connected with the enforcement of Prohibition and Excise laws. This Study Team gave its report in April 1964 recommending, *inter alia*, that--

- (i) enforcement of prohibition should be the responsibility of the police,
- (ii) staff at the station house level and Circle Inspector level should be increased by 10% to handle the additional field work arising from prohibition enforcement,
- (iii) mobile police squads should function from the level of Inspector of Police upwards to

supplement the field work of police station staff for detection of prohibition offences and also act as a check to expose the offenders who might manage to corrupt the staff at the police station level and escape detection,

- (iv) enforcement officers should be conferred with powers to destroy the stills and other paraphernalia connected with prohibition offences, without having to obtain permission from the Magistrate,
- (v) prohibition offences should be made non-bailable and summarily triable except in cases of grave charges,
- (vi) trial of prohibition offences may be entrusted to Judicial Panchayats and Honorary Magistrates,
- (vii) the Law of Evidence be amended to facilitate judicial notice being taken of certain facts and certain presumptions being drawn during trial of prohibition offences,
- (viii) deterrent sentences should be awarded for repeated commission of offences, and minimum jail sentences should be provided in law, and
- (ix) law should provide for collective fine, externment of the accused and also imposition of special tax in areas where illicit distillation is rampant.

33.4 Besides making recommendations as above, the Tek Chand Committee made the following significant observations :—

- (a) No system of law can effectively combat an illicit trade so long as conditions exist under which the profit margin ranges from 200 to 1000%.
- (b) Enforcement of prohibition will require an integrated set of legal, administrative, educational, publicity and economic measures aimed at containing and eliminating illicit distillers and other law breakers, and slashing their profit margins.
- (c) Owing to the inadequacy of staff at the station house level and the increasing volume of court work in connection with prohibition offences, field work is tending to be neglected by the police.

- (d) In their anxiety to prove that there is no diminution in vigilance, police pay greater attention to comparatively easier cases of drinking and possession than to the more difficult cases of illicit distillation and transport.

Quality of enforcement

33.5 A study of the disposal of cases in court in Gujarat in 1975—78 has disclosed the following position :—

	1975		1976		1977		1978 (upto 31-8-78)	
	Con- vic- ted	Acq- uit- ted	Con- vic- ted	Acq- uit- ted	Con- vic- ted	Acq- uit- ted	Con- vic- ted	Acq- uit- ted
Distil- lation	842	4478	946	5370	668	3925	106	106
Possession	5563	24062	5326	22074	3588	14999	829	1030
Transport	214	169	185	83	53	38	102	2
Sale	75	722	44	865	3	3162	134	1384
TOTAL	6694	29431	6501	28392	4312	22134	1171	2522
Percentage of conviction	18.53		18.63		16.30		31.71	
Drunken- ness	17851	4347	19170	3768	16700	1938	4028	181
Other offences	1893	3287	1691	2662	1272	1283	800	186
Grand Total	26438	37065	27362	34822	22284	25355	5999	2889
Percentage of conviction	41.63		44		46.78		67.5	

It is significant that while the overall percentage of conviction in court has averaged 45% in this period, the success achieved in really important cases dealing with distillation, transport and sale of illicit liquor is 18.4% only. This highlights the point noted by the Tck Chand Committee in item (d) in paragraph 33.4.

Tamil Nadu Police Commission

33.6 The Tamil Nadu Police Commission in its Special Report on Prohibition Enforcement (January 1971) made the following significant observations :—

- (i) The incidence of liquor consumption in Tamil Nadu has risen (notwithstanding all the efforts of enforcement of the prohibition law) to a level which is substantially higher than the minimum level obtaining in the wet States of India.
- (ii) The relative proportion of liquor consumers to total population may be expected to increase in future years to a higher level than at present.

(iii) There is a state of corrupt collusion and collaboration between the police stations and the underground organisation of production and distribution of illicit liquor against which they are supposed to be waging war. It is a state of affairs which causes demoralisation and undermines discipline within the police force. The public forms a poor opinion of the police and, to that extent, the capacity of the police to perform their normal functions effectively is impaired.

(iv) In some places, local factions tend to reflect differences between different social groups in their attitude to illicit liquor consumption. In such localities, the police station tends to get identified with the wet faction and alienated from the dry faction. If this tendency were to develop—and it is bound to develop unless effective action is taken without further delay—the entire structure of law enforcement will be undermined and weakened. This is what is known to have happened in other countries and might happen even in such a normally law-abiding State as Tamil Nadu.

(v) Prohibition work absorbs about 30% of the time and labour of police station staff and occupies about 40% of the time and labour of all subordinate criminal courts and well over 25% of the time and labour of the jail department.

Mobile police parties for prohibition enforcement

33.7 Having observed the situation as described above, the Tamil Nadu Police Commission recommended that the State Government may undertake a review of the existing prohibition policy and resettle it, and also revise the existing prohibition law for giving effect to the resettled policy. Pending this review the Tamil Nadu Police Commission recommended as an interim arrangement that prohibition enforcement may be handled by special mobile police parties headed by Sub Inspectors and supported by a striking force and transport, working directly under Sub-Divisional Police officers with the following two functions :—

- (1) They should be the primary agency responsible for the enforcement of Prohibition, and they should concentrate on illicit liquor production and distribution agencies. Local police stations should be responsible mainly to furnish intelligence to the mobile parties and to provide such other assistance as they may require.
- (2) The mobile parties should act as a vigilance agency for collecting information and evidence of corrupt collusion by police station staff with prohibition offenders, so that the Sub-divisional Officer is enabled to tackle this problem in a firm and determined fashion.

33.8 When the Tamil Nadu Police Commission examined this matter and made these observations and recommendations it was 24 years after prohibition

had been reintroduced on conclusion of World War II and 15 years after its enforcement had become the exclusive responsibility of the police department of the State. Against the background of such long experience of the Tamil Nadu police in prohibition enforcement, we consider the observations and recommendations of the Tamil Nadu Police Commission of 1971 specially significant and deserving of close and careful attention.

Arrest of large number of persons, including juveniles

33.9 A statistical review of prohibition enforcement shows over 6 lakh prohibition cases registered annually in the recent years all over the country and a similar number of persons arrested in such cases every year. A large number of juveniles have also come to notice in prohibition offences. 25,692 juveniles were arrested under the Prohibition Act in 1977. Detailed figures State-wise may be seen in Appendices XIII to XV. Tamil Nadu, Maharashtra and Gujarat contribute to these figures largely. The cases in the other States where there is no total prohibition are insignificant and relate to contraventions of some regulatory Excise orders. In our view, the arrest of such a large number of persons year after year and their passing through police custody for their involvement in prohibition offences alone would tend to 'criminalise' persons who are not perceived as criminals in the normal sense of the term by the society at large. For reducing the scope for this 'criminalisation' we consider it important that prohibition enforcement be suitably modified to limit the process of arrest to grave offences like manufacture, transport and sale of illicit liquor.

Difficulties in the field

33.10 Some aspects of the actual field situation and the practical difficulties in the enforcement of prohibition as brought to our notice during discussions in Maharashtra, Gujarat and Tamil Nadu are enumerated below :—

- (1) Illicit distillation is mostly carried on in either remote areas on the hill side, forests, creeks, coast line, etc., or densely populated slums which offer safe hideouts for the distillers. Detection of distillation activities in such circumstances becomes extremely difficult, particularly in the absence of public co-operation which seldom comes forth in the cause of prohibition.
- (2) Raw materials required for distilling liquor are easily available. Several medicinal and toilet preparations containing some percentage of alcohol provide a convenient source for preparation of liquor. Industrial alcohol preparations like denatured spirit, French polish, thinner, etc., also get converted into potable alcohol. The easy availability of such a variety of sources for preparation of illicit liquor encourages illicit distillation and brewing.
- (3) Any amount of severe punishment by way of imprisonment or fine for the prohibition offenders does not seem to deter them since

the economics of illicit distillation is in their favour and they find the business of illicit liquor quite profitable, even after making allowances for the temporary immobilization of the personnel concerned by the processes of trial and punishment. This point which had already been noted by the Tek Chand Committee was again forcefully brought up before a Sub-Committee we had constituted under the Chairmanship of a former Inspector General of Police of Gujarat to go into this question.

- (4) Professional organisers of illicit liquor trade keep themselves in the background and get their business done through intermediaries including juveniles. The large number of juveniles caught in prohibition offences is indeed alarming—*vide* Appendix XV. Illicit liquor trade provides big business, and those who organise it from behind the scene exploit the poverty of weaker sections in society and draw them into this business to function as intermediaries for transport and sale of liquor. In this process it is these poor people who ultimately get caught by the enforcement agency and subsequently languish in jail. Very rarely do we come across prohibition convicts in jails drawn from the rich and business sections of the community. It is indeed tragic that the prohibition law which was conceived as a legislation primarily meant to benefit the ill-informed and poorer sections of the community ultimately results in a large number of persons of this very category getting into prison for their involvement in illicit liquor trade.
- (5) Corruption spreads quickly and widely as a result of persistent influence from illicit liquor business on the police system. Increasing number of corrupt elements within the force renders it more and more inefficient in dealing with professional bootleggers and big organisers of illicit liquor trade. The extent of spread of corruption in this matter can be gauged from the observations in paragraph 2.91 of the report of the Laththa Commission of Inquiry (First), Ahmedabad, 1978 relating to the case of a notorious bootlegger who, after internment by the local executive authority, succeeded in getting the internment order cancelled at Government level without any consultation with the local police and without inquiry into the truth or otherwise of the representation made by the bootlegger!
- (6) The procedural law relating to trials causes a lot of difficulty. Searches under the Prohibition Act are required to be made in accordance with the provisions of the Code of Criminal Procedure and, therefore, all the restrictive case law relating to the evidence of 'panch' witnesses immediately

applies to prohibition cases also. Owing to the general unwillingness of people to come forward as panch witnesses, police fall back on the services of a few individuals in the lower strata of society who later on turn hostile in court under influence and pressure from the accused. The courts examine the panch witnesses first and if they turn hostile they straightway acquit the accused even without recording the evidence of police officers. There are no special courts to deal with prohibition offences. Long adjournments are given by the ordinary courts and the accused get plenty of time to tamper with panch witnesses. Repeated insistence by courts on the need for fresh panch witnesses in every detected case has further complicated the situation. Even a case of chance detection of a prohibition offence in a remote area by a patrolling police party has to be brought on record as duly witnessed by some panch witnesses! Needless to say, such an unrealistic requirement of evidence distorts the process of law and justice and drives the police to despair. Panch witnesses are understandably afraid of physical and violent reprisals from the bootleggers if they were to support the prosecution during court proceedings. Police have no legal means of effectively countering this threat of violence from bootleggers and the ultimate result is a field day for organised prohibition offenders of all categories.

- (7) The progress of a large number of cases gets held up for want of expert opinion on the identity of the contraband seized in each case. In Maharashtra 19,385 cases were pending for more than one year for want of analytical reports from the expert. The overall pendency of prohibition cases is also alarmingly increasing. We were told in Bombay that about 3 lakh prohibition cases were pending trial over 5 to 7 years!
- (8) The mounting pendency of prohibition cases in courts has clogged up all property rooms and storage space in police stations and their compounds. A lorry seized in a prohibition case was found lying in a police station compound in Bombay for over 5 years awaiting disposal through auction after the case had concluded in court. The scope for misappropriation of the fittings and other equipment in the lorry in the intervening period is obvious. All these circumstances and upto a near chaotic situation all round.

Amendments in law

33.11 From the standpoint of enforcement we consider the following broad amendments in prohibition law urgently necessary to eliminate some of the serious evils noticed in the existing scheme of enforcement :—

- (i) Cognizable offences under the prohibition law should be limited to those relating to

manufacture, transport and sale of liquor. The police will have full powers of investigation in regard to these offences only as in any cognizable case.

- (ii) Offences under the prohibition law relating to possession of liquor or drinking of liquor or being found in a state of drunkenness should be made non-cognizable. This would mean that the police will have no powers of investigation or arrest in respect of these offences. They may, however, be taken notice of by the police while they investigate any other accompanying cognizable offence.
- (iii) In regard to the above category of non-cognizable offences police should, however, have the power to seize any illicit liquor that may be connected with the non-cognizable offence if it comes to their notice and they may send the seized liquor to court for further disposal.
- (iv) The procedure for conducting searches under the prohibition law should be separately laid down without drawing a close parallel from the Code of Criminal Procedure. The procedure should be simple and should not mechanically require the evidence of panch witnesses to support the police version of a seizure. In paragraph 27.21 of this Report we have already recommended some amendments to section 100 Cr.P.C. The procedure for searches under the prohibition law should even be simpler and less dependent on panch witnesses as such.
- (v) There should be legal provisions to enable the enforcement agency destroy on-the-spot any illicit liquor or any other material connected with its manufacture when the liquor and such material are found in a public place without being claimed by anybody. The destruction may be documented in the presence of witnesses.

33.12 As regards the arrangements within the police for detection of prohibition offences, we recommend the constitution of mobile parties at the sub-division level to concentrate on the more serious offences of illicit manufacture, transport and sale of liquor which alone would be cognizable in the revised prohibition law as recommended in paragraph 33.11 above. The functioning of these mobile parties can be on the lines indicated by the Tamil Nadu Police Commission—*vide* paragraph 33.7 above.

Prohibition policy and law—Review

33.13 In the previous Chapter on 'Social Legislation' we have observed that unless there is a measure of consensus among the generality of people about the desirability of the change that a law of social reform seeks to achieve, its enforcement would lack people's support and might even generate hostility between the people and the enforcement agency. What we have seen in the long experience of States

like Tamil Nadu, Gujarat and Maharashtra in the enforcement of prohibition makes it clear that the prohibition law does not enjoy acceptance and support from the public at large. Their co-operation, therefore, is totally lacking for the police to enforce the law. In fact its enforcement brings the police into situations of conflict with substantial sections of the public who do not view drinking liquor as an act to be held criminal and made punishable under the law. In the light of the realities and difficulties in

enforcement work as detailed in paragraphs 33.6, 33.9 and 33.10 above, we are of the view that the prohibition law, as presently enacted with emphasis on total prohibition, is practically non-enforceable. We recommend that the Government may review their prohibition policy in general and the structure of prohibition law in particular and evolve a revised practical measure for dealing with the problem of economic distress among the low income groups of our population, owing to the evil of drinking.

CHAPTER XXXIV

SUMMARY OF OBSERVATIONS AND RECOMMENDATIONS

Investigation

34.1 The major problems of reform as viewed by the Law Commission in its Thirty-seventh Report were—

- (a) separation of the judiciary and the executive ;
- (b) abolition of the jury trial ;
- (c) simplification of the various categories of trials ;
- (d) Magistrates in Presidency Towns ;
- (e) abolition or retention of the ordinary original criminal jurisdiction of High Courts ;
- (f) the law of arrest ; and
- (g) the duty to give information about offences.

It, therefore, happened that in the above view of the matter, the report of the Law Commission did not adequately deal with several other aspects of procedure which created difficulties for the police while conducting investigations in the field. Compliance of certain provisions in law proved unrealistic and difficult in actual investigations and, therefore, led to the adoption of certain improper methods and practices by investigating officers to meet the requirements of case law as it developed over several years. In the course of our tours in States and discussions with judges, magistrates, lawyers, police officers, general administrators and representative sections of the public, we have identified some aspects of the present procedural law relating to investigations where there is urgent need and ample scope for meaningful reform to make investigations conform to the real situations in the field and help in the expeditious conduct of investigations with minimum inconvenience to persons who may be concerned in specific cases as complainants, witnesses or accused persons.

(Para 27.2)

34.2 Section 154 Cr.P.C. may be amended to—

- (i) enable the officer incharge of police station to ascertain adequate information from a complainant and incorporate it in the form prescribed for registering First Information Report ;
- (ii) make it clear that the registration of First Information Report is mandatory whether or not the alleged offence has taken place in the jurisdiction of the police station ; and

- (iii) facilitate the recording of First Information Report in constituent units attached to the police station—for example ; police out post or such other reporting centres as may be evolved in due course.

(Para 27.6)

34.3 The cadre of investigating officers has to be increased. The police hierarchy has to be re-structured to secure, *inter alia*, a larger number of officers to handle investigational work.

(Para 27.7)

34.4 Provision of adequate transport, strengthening of forensic science laboratory facilities and scientific aids to the detection of crime, the provision of mechanical aids like typewriter and tape recorders at the police station level, improved supply of printed forms and standardised stationery for documentation and scriptory work and the introduction of computers for the maintenance of crime records as suggested in Chapter XXIV of our Third Report would greatly improve the quality and quickness of investigations.

(Para 27.8)

34.5 Section 37 Cr.P.C. may be amended to facilitate the conduct of identification parades by police themselves as an aid to investigation.

(Para 27.9)

34.6 It would greatly help cordial police-public relationship if the examination of witnesses is conducted, as far as practicable, near the scene of offence or at the residence of the witnesses concerned or at some convenient place nearby. This arrangement might be secured by the issue of appropriate departmental instructions.

(Para 27.10)

34.7 It is desirable to make a specific provision in law that when a person is examined by a police officer under section 161 Cr.P.C. no other person shall, except in the exercise of powers under the law, have the right to be present during such examination.

(Para 27.11)

34.8 The Code of Criminal Procedure 1973 has done away with the procedure of preliminary enquiries by magistrates in cases exclusively triable by a Sessions Court. Before this Code came into force, the procedure envisaged the examination of material witnesses twice over, once by the committing Magistrate and later by the Sessions Judge. Thus, for the same witness, we would have three sets of statements on record, one recorded by the police during investigation, the second recorded by the committing Magistrate and

the third recorded by the Sessions Judge. It is a basic principle of justice that the findings of the trying judge should be based on what the witnesses actually depose before him; but the availability of detailed statements from the same witnesses before another forum recorded on an earlier occasion provides scope for arguments based on *contradictions* however, trivial or natural they might be in the circumstances of any particular case. We consider it wholly improper, if not unjust, for the conclusions in judicial proceedings to be largely determined by contradictions in evidence by a mechanical or routine comparison of the statements made separately by the witness before different authorities instead of by probabilities flowing from the evidence. The Code of Criminal Procedure 1973, has rightly eliminated one unnecessary stage of recording the detailed statement of a witness by the committing Magistrate. A further step would be to do away with the detailed recording of statement as made by a witness in the course of investigation, and substitute in its place a revised arrangement in which the investigating officer can make a record of the facts as ascertained by him on examination of a witness. This shift in emphasis from the statement made by the witness to the statement of facts ascertained from the witness would imply that the statement could be in third person in the language of the investigating officer himself. This statement of facts as recorded by the investigating officer would be adequate to assess the evidentiary value of the different witnesses and accordingly cite them in the charge sheet, if and when it is laid in court on conclusion of investigation.

(Para 27.14)

34.9 When the statement as described above becomes a statement of facts as ascertained and recorded by the investigating officer, it loses its significance to serve as an earlier statement made by the witness himself in his own language, and, therefore, the question of using that statement for contradiction or corroboration would not arise. The present provisions in section 162 Cr.P.C. relating to the restricted use of the statements of witnesses would, therefore, become redundant.

(Para 27.15)

34.10 A police malpractice brought to our notice is the habit of some police officers to be very cursory in their examination of certain witnesses and then proceed to make a detailed record of the witness's statement, assuming it to be what they would like it to be in the context of statements of other witnesses already recorded. It is imperative that we put down this malpractice to ensure the honesty and cleanliness of investigations. A great measure of credibility could be imparted to the statement of facts as recorded by the police officer after examination of a witness, if we provide in law that a copy of the statement so recorded shall, if desired by the witness, be handed over to him under acknowledgement. A similar arrangement already exists for the delivery of a search list prepared under section 100 Cr.P.C. to the occupant of the place searched or the person searched.

(Para 27.18)

34.11 For giving effect to the revised arrangements proposed above, sections 161 and 162 Cr.P.C. may be amended on the lines recommended in the Report.

(Para 27.19)

34.12 Section 172 Cr.P.C. relating to the case diary may be amended on the lines indicated in the Report.

(Para 27.20)

34.13 Section 100 Cr.P.C. may be amended to facilitate the admission of search list as a piece of evidence without having to call search witnesses to depose in court, and further to facilitate public servants to function as search witnesses in certain situations.

(Para 27.21)

34.14 Section 102 Cr.P.C. may be amended to give greater discretion to the police for releasing seized property.

(Para 27.22)

34.15 The police may be required through departmental instructions to initiate appropriate steps immediately after the disposal of a case for the prompt return of the case property to the person entitled to get it.

(Para 27.23)

34.16 A new section—50A—may be added to Chapter V of Cr.P.C. requiring the police to give intimation about the arrest of a person to anyone who may be reasonably named by him for sending such intimation, to avoid agonising suspense for the members of his family about his whereabouts.

(Para 27.25)

34.17 It is most important for improving police image that the senior officers and the supervisory ranks in the police deem it their special responsibility to put down the practice of third degree methods at the operational level in police stations and elsewhere. Some remedial measures are indicated below :—

- (i) Surprise visits to police stations and similar units by the senior officers would help the immediate detection of persons held in unauthorised custody and subjected to ill-treatment. Malpractices, if any, noticed during such visits should be met by swift and deterrent punishment.
- (ii) A Magistrate or Judge before whom an arrested person is produced by the police for remand to custody should be required by administrative rules of criminal practice to question the arrested person specifically if he has any complaint of ill-treatment by the police, and if he has any complaint the Magistrate or Judge should get him medically examined and take appropriate further action.
- (iii) In Chapter X of our First Report, we have already recommended a scheme for mandatory judicial inquiries into complaints of death or grievous hurt caused while in police

custody. Such an arrangement would itself act as an effective check against the continuance of third degree methods in police work.

- (iv) Supervisory ranks, including the senior levels of command in the police and the Government, should strictly eschew a purely statistical approach while evaluating police performance. Any administrative review of a kind which is likely to induce the subordinate ranks to adopt *ad hoc* and short-cut methods to show results should be avoided. Adequate emphasis should be laid on the honesty and cleanliness of investigations and the adoption of proper methods while handling all the connected work.

- (v) Training institutions should pay special attention to the development of interrogation techniques and imparting effective instructions to trainees in this regard.

(Para 27.26)

34.18 We are convinced that if the average police officer is assured of adequate time and facility for patiently examining an accused person and pursuing the examination from point to point through a process of simultaneous verification of facts mentioned by the accused, it would facilitate a proper examination of the accused person without resort to questionable methods involving pressure tactics. This would become possible if the police can secure the remand of an arrested person to police custody for a few days under orders from a Magistrate. When the accused remains in police custody under specific orders from a Magistrate, the scope for using third degree methods while interrogating him in such custody would get greatly reduced since he would be liable for production before Magistrate on expiry of the brief custody. In the light of the present phraseology of section 167 Cr.P.C., some conventions and practices have developed in several States for the Magistrates not to grant police custody unless the Investigating Officer pleads that the accused has already made a confession and his continued custody with the police is necessary to take him from place to place and recover property. This peculiar requirement of convention and practice drives police officers to make false statements before the Magistrate while in fact the accused would not have made any such confession and they would merely be requiring to verify several facts mentioned by him and continue with his examination. Existing sub-sections (3) and (4) of section 167 which imply that remand to police custody should be exceptional may, therefore, be deleted and a new sub-section (3) may be added to facilitate remand to police custody in the interest of investigation whenever required.

(Para 27.27)

34.19 Section 167 Cr.P.C. may be amended on the lines suggested in the Report to facilitate remand by Executive Magistrate in certain specified situations.

(Para 27.28)

34.20 Section 2 Cr.P.C. may be amended on the lines indicated in the report to facilitate the establishment of special police stations to deal with particular cases or classes of cases.

(Para 27.32)

34.21 Sections 26 and 27 of the Evidence Act may be deleted and section 25 of the same Act may be substituted by a new section as recommended in the Report to facilitate the proof of a confession recorded by any person in authority (including the police) in the course of any judicial proceedings, against a person making the confession, not to be used as an evidence against him but to be taken into consideration by the court to aid it in an inquiry or trial in the manner provided in section 30 of the same Act and section 172 Cr.P.C.

(Para 27.33)

34.22 The comprehensive amendments in procedural law and Evidence Act as proposed above would not by themselves bring about noticeable improvement in the quality of investigations unless the supervisory ranks in the police hierarchy pay adequate attention to the detailed supervision over the progress of individual investigations. The quality and quantum of supervisory work done in regard to crime investigations as distinct from mere *ad hoc* maintenance of public order from day to day on a 'somehow' basis should be carefully assessed for each supervisory rank and taken due note of for his career advancement.

(Para 27.35)

Court Trial

34.23 The disposal of cases in courts has not kept pace with the institution of fresh cases for trial year after year with the result that the entire judicial machinery has got clogged up and the protracted disposal of cases has diluted the desired deterrence on the criminal elements in society.

(Para 28.1)

34.24 Protracted proceedings in courts followed by acquittal in heinous crimes tend to generate a feeling of confidence among the hardened criminals that they can continue to commit crimes with impunity and ultimately get away with it all at the end of leisurely and long drawn legal battles in courts which they can allow their defence counsel to take care of. Such a situation is hardly assuring to the law abiding citizens and needs to be immediately corrected by appropriate measures even if they should appear drastic and radical.

(Para 28.3)

34.25 The Law Commission in its Seventy-seventh Report (November, 1978) has dealt with the problem of delays in court trials and made some recommendations to improve matters. These recommendations relate mostly to administrative measures including supervision and inspection by the judicial hierarchy. Some changes in law have also been suggested but they appear peripheral. The entire philosophy and procedural conduct that attend the present working of

the legal system, particularly in regard to court trials, would need a detailed examination for revamping the system to make it conform to the expectations of the common people to secure speedy and inexpensive justice which would appear meaningful and effective in their daily lives. There is obvious scope and need for cutting down a lot of rituals and imparting a sense of commitment and urgency to the participants in judicial proceedings to secure the ultimate objectives of rendering justice to society as well as to the individuals concerned. We, as a Police Commission, are aware of some requirements of reform viewed from the angle of Investigating Officers and the prosecuting agency, but the sweep of reforms in the legal system has to be much wider and cover several other areas in which the lawyers and judges have a prominent role to play. It is beyond our present scope and competence as a Police Commission to go into the wider aspects of legal reform but we would urge and recommend that an appropriate body might be asked by the Government to go into this matter. We would further urge that functionaries from the police and Correctional Services might be associated with the deliberations of this body to ensure a comprehensive look at the entire scheme of things and identify the requirements of reform.

(Para 28.4)

34.26 While the reforms that may emerge from the deliberations of a body as suggested above might meet the long term requirements of the current situation of judicial stagnation, we feel there is ample scope for some immediate changes in law which might relieve the present stagnation and help the judicial machinery to start rolling smoothly for the dispensation of justice. The reforms we have in mind are intended to—

- (i) reduce the institution of fresh cases in courts year after year ;
- (ii) withdraw old cases from courts according to some accepted norms ; and
- (iii) expedite the disposal of pending cases by simplifying the procedures.

(Para 28.5)

34.27 The institution of Gram Nyayalayas as proposed in Chapter XVI of our Second Report would be a positive step for reducing the input of fresh cases for trial in regular courts.

(Para 28.6)

34.28 The adoption of a 'ticketing system' for on-the-spot disposal of traffic offences would also help in reducing the input of an appreciable volume of cases for trial in courts.

(Para 28.7)

34.29 Section 173 Cr.P.C. may be amended to facilitate the compounding of certain types of cases even at the stage of investigation.

(Para 28.8)

34.30 The decision to launch prosecution should be based on a proper assessment of the evidence available and generally speaking, prosecutions should not be launched unless the evidence warrants a reasonable expectation of conviction.

(Para 28.9)

34.31 There should be a periodic review at the district level of every police case pending in court for more than one year from the date of filing charge-sheet and a decision should be taken whether it would be in public interest or in the interest of justice to pursue the prosecution or whether the case may be withdrawn. Some possible criteria for deciding this matter are furnished in the Report.

(Para 28.10)

34.32 There is need for establishing some norms for the disposal of criminal cases by Magistrates and Sessions Judges and increasing the number of courts accordingly. A Committee with members drawn from the judiciary and the prosecuting staff may be set up by the High Court in each State for evolving these norms, having regard to local conditions.

(Para 28.12)

34.33 The progress of court trials gets blocked by a variety of reasons, some of which are correctible by administrative measures and some are relatable to the general attitude and approach shown by the prosecuting staff, defence counsel and the presiding Magistrate/Judge. We have known of badly delayed trials arising from causes like non-appearance of witnesses, lack of preparedness of the prosecuting or defence counsel to get on with the day's work in court, frequent adjournments granted on the slightest move for adjournment, prolonged cross-examination without regard to its relevance or need, taking unduly long time for perusing records or otherwise getting prepared for the case at different stages of trial, etc. We feel that several of these causes may be eliminated, if the presiding Magistrate/Judge adopts a positive approach to the daily proceedings in every case and adequately uses his powers under the Criminal Procedure Code and section 165 of the Indian Evidence Act for expeditious disposal of the case. There is need for evolving a scheme of inspections at the level of High Court as well as Sessions Courts to ensure the business-like functioning of the subordinate courts.

(Para 28.13)

34.34 A whole time functionary of the rank of a senior District and Sessions Judge who is qualified for appointment as High Court Judge may be attached to each High Court to inspect the district courts periodically. A similar functionary of the rank of Additional Sessions Judge may be entrusted with inspections at the district level.

(Para 28.13)

34.35 The inspecting arrangement proposed above should also ensure the availability of adequate staying facilities for the witnesses and others who participate in court proceedings. The dissatisfaction of the public with the woeful lack of such facilities in court gets reflected in their hostile and critical attitude to the

police whom they view as their first point of contact with the criminal justice system and whom they are in a position to criticise more freely and sharply than they can in regard to matters inside the court hall which, in their view, are protected by the legal rituals and formalities which pass off as part of the majesty of law.

(Para 28.14)

34.36 The allowances payable to witnesses for their attendance in court should be fixed on a realistic basis and their payment should be effected through a simple procedure which would avoid delay and inconvenience.

(Para 28.15)

34.37 There is obvious scope for appointing a larger number of Special Magistrates under sections 13 and 18 Cr.P.C., specially for dealing with cases under local and special laws.

(Para 28.16)

34.38 It would make for a much quicker disposal of several cases if the summary trial procedure is made mandatory for the offences specified in section 260 Cr. P.C., and for this purpose we recommend that the words 'may, if he thinks fit,' appearing in the aforesaid section be substituted by the word "shall".

(Para 28.17)

34.39 All First Class Magistrates, Special Judicial Magistrates and Special Metropolitan Magistrates may be empowered to act under the above mentioned sector, without necessarily having to be specially empowered by the High Court, as prescribed now.

(Para 28.18)

34.40 It has been brought to our notice that in the system of reviewing the work done by Magistrates, the disposal of cases under the summary trial procedure is not given credit by the High Courts in certain States. We would recommend appropriate value being given to the volume of work handled under section 260 Cr.P.C. also while assessing the performance of a Magistrate.

(Para 28.19)

34.41 State Governments may avail the provisions of Section 206 Cr.P.C. as recently amended and notify all the Magistrates including Special Magistrates and Special Metropolitan Magistrate as empowered under this section. The maximum amount of fine that can be imposed under this section may be increased to Rs. 500 from the existing Rs. 100.

(Para 28.20)

34.42 Section 294 Cr.P.C. requires the prosecution or the accused to admit or deny the genuineness of documents as and when they are filed in court. The same principle may be incorporated in a separate section in Chapter XIX of Cr.P.C. to enable the court to ask the accused before framing the charge as pro-

vided in section 240 Cr.P.C. whether the accused accepts any part of the prosecution evidence as furnished in the documents supplied under section 207 Cr.P.C.

(Para 28.21)

34.43 Sections 291, 293 and 296 Cr.P.C. may be amended on the lines indicated in the Report to facilitate easy proof of evidence of medical officers and other experts.

(Para 28.23)

34.44 Section 256 Cr.P.C. may be amended to make it inapplicable to cases in which a public servant figures as the complainant in his capacity as public servant.

(Para 28.24)

34.45 Section 321 Cr.P.C. relating to withdrawal of cases from Courts and section 397 Cr.P.C. may be amended on the lines indicated in the Report to provide for the following :—

- (i) Having regard to the fact that the withdrawal of a case may have to be decided sometimes with reference to the appreciation of a local public order situation by the executive authority, it would be necessary to retain the power of the Government to initiate action for the withdrawal of a case. The Public Prosecutor should be empowered in law to act under directions from the Government for this purpose.
- (ii) The application for withdrawal should mention in detail the reasons for the proposed withdrawal.
- (iii) The court should be satisfied that the withdrawal would be in the interests of public order or justice.
- (iv) The court's order should incorporate the reasons for according the permission for withdrawal.
- (v) Any member of the public should have the facility to go in appeal against an order passed by the court permitting withdrawal of the prosecution in any specific case.

(Paras 28.29, 28.30 & 28.31)

34.46 Important cases *i.e.* cases triable by a Court of Session, which are withdrawn during a year in accordance with the principles detailed above, shall be mentioned in the Annual Report on the performance of the State police presented to the Legislature by the State Security Commission as suggested in paragraph 15.48 of our Second Report.

(Para 28.32)

34.47 The National Institute of Social Defence under the Ministry of Social Welfare at the Centre may take appropriate steps to evolve norms of workload for Probation Officers. They may also consider

evolving a suitable model of career structure for the personnel in the probationary services which would help them rise to higher levels of responsibilities including appropriate positions in the administration of jails and other correctional homes. It should be possible to evolve a unified career structure to cover all such institutions within each State.

(Para 28.34)

34.48 Section 13 of the Probation of Offenders Act enables even a private individual or a representative of a privately organised society to function as Probation Officer. It is seen that very few States have involved private agencies in this work. State Government's attention may be drawn to this aspect of the matter and they may be advised to involve volunteer social welfare agencies in a much greater measure in implementing the Act.

(Para 28.35)

34.49 A procedure may be prescribed for the investigating police officer to collect some information and data relevant to probation work even at the stage of investigation of any specific case, and refer to them in appropriate columns in the charge-sheet prescribes under section 173 Cr.P.C. The actual headings of these columns may be determined in consultation with experts in the field of correctional services. Availability of this information in the charge-sheet itself would help the court to apply its mind to this aspect of the matter at a later stage during trial.

(Para 28.36)

34.50 The Children Act provides for even private institutions to function as Children's Home, Observation Home, Special Schools and After-care Organisation, but the involvement of volunteer social welfare agencies in fulfilling this purpose appears insignificant now. The attention of State Governments may be drawn to this matter for appropriate corrective action.

(Para 28.38)

34.51 Juvenile Crime Squads may be established in urban areas to handle investigational work in a much more substantial manner than at present so that the police officers working in these squads may function after proper orientation and briefing and deal with all crimes involving juveniles. Crimes in which juveniles figure along with adult criminals may have to be dealt with by the regular police in the normal course, but even in their cases the Juvenile Crime Squad may keep itself informed of the background and circumstances in which the juvenile criminal came to be involved in the case.

(Para 28.39)

34.52 An adult who is proved to have organised a gang of juvenile criminals or otherwise abetted the commission of crime by a juvenile should be held punishable under a separate section to be added to Chapter V of the Indian Penal Code which should provide for a more severe punishment than that stipulated for the main crime by the juvenile. The new

section may also provide for the mandatory award of a minimum punishment, except for special reasons to be recorded by the Court.

(Para 28.40)

34.53 While the Advocates Act clearly specifies the role and responsibility of a lawyer towards his client, there does not appear appropriate emphasis on the lawyer's role for the overall dispensation of justice to society. A lawyer's responsibility towards his client has to be discharged within the framework of the overall requirements of justice to society. Any lawyer who deliberately adopts dilatory tactics to prolong the proceedings in court is doing something against the interest of quick dispensation of justice to society. Similarly the conduct of any lawyer in becoming a party to the initiation of vexatious or malicious prosecution has to be viewed blameworthy from the point of view of justice to society.

(Para 28.41)

34.54 The Bar Council of India may get this aspect examined and evolve some norms for determining a lawyer's conduct towards achieving the ultimate objective of the criminal justice system, namely the quick dispensation of justice not only to individuals but also to the society at large. It may even be desirable to amend the Advocates Act to specify the lawyer's role more pointedly for this purpose.

(Para 28.41)

34.55 In paragraph 14.14 of our Second Report we have already recommended the constitution of a Criminal Justice Commission at the Centre supported by a similar arrangement at the State level for monitoring and evaluating the performance of the criminal justice system as a whole. The arrangements for regular inspections of courts and the satisfactory functioning of the Correctional Services *vis-a-vis* the Probation of Offenders Act and the Children Act in particular could be appropriately overseen by the proposed Criminal Justice Commission.

(Para 28.42)

Prosecuting Agency

34.56 The post of Assistant Public Prosecutors, Additional Public Prosecutors and Public Prosecutors should be so designed as to provide a regular career structure for the incumbents for the entire state as one unit.

(Para 29.6)

34.57 The Public Prosecutor in a district should be made responsible for the efficient functioning of the subordinate prosecuting staff in the district and he should have the necessary supervisory control over them for this purpose. He should also be provided with appropriate office accommodation, library and a small ministerial staff to perform this supervisory role effectively.

(Para 29.7)

34.58 The Public Prosecutor and the subordinate prosecuting staff should be made responsible not only for conducting prosecution in courts but also for giving legal advice to police in any matter, general or special, arising from investigations and trials. For the latter purpose, the role of the prosecuting staff will be that of a Legal Adviser. This role may be emphasized in departmental instructions governing the working of the prosecuting staff. If considered necessary from the legal point of view, a suitable section may also be incorporated in the Cr.P.C. to specify this role.

(Para 29.8)

34.59 A supervisory structure over the district prosecuting staff should be developed with Deputy Directors of Prosecution at the regional level and a Director of Prosecution at the State level. While we consider it necessary to mesh the prosecuting agency set up with the police set-up to ensure active cooperation and coordinated functioning in the field in day to day work, we also consider it important that the assessment of evidence collected during investigation and the handling of prosecution work at the district level should be as much detached and objective as possible and free from local departmental or other pressures which might arise from a variety of considerations. The meshing of the two hierarchies may be effected from the regional level upwards, with the Deputy Director of Prosecution placed under the administrative purview of the Range Deputy Inspector General of Police, and the Director of Prosecution at the State level functioning under the administrative control of the Inspector General of Police. In fact, the Director of Prosecution should function as the head of the legal wing of the State police set up. Such an arrangement is absolutely necessary to bring about close coordination and cooperation between the prosecuting staff and the investigating staff down the line and also enable a joint monitoring and evaluation of their performance from time to time. The arrangement as envisaged above would also ensure professional accountability at all levels.

(Para 29.9)

34.60 To bring about an additional measure of objectivity and detachment in the functioning of the legal wing, it may be laid down that the post of Director of Prosecution shall be filled on deputation basis for a specified term by drawing officers of appropriate rank on deputation from the law department or the State judiciary. There can be an additional post at the State level called the Additional Director of Prosecution which will be the highest career post available for the regular prosecuting cadres to reach by promotion.

(Para 29.10)

34.61 The posts of Assistant Public Prosecutor may be categorised under two grades, I and II. In the initial few years of the new scheme direct recruitment may have to be made at the levels of Assistant Public Prosecutor Grade II and Deputy Director of Prosecution. After the recruits gain experience in handling different types of prosecution and other legal work, direct recruitment may ultimately be confined to the level of Assistant Public Prosecutor Grade II, and

thereafter postings will be by promotion to the ranks of Assistant Public Prosecutor Grade I, Public Prosecutor (including Additional Public Prosecutor), Deputy Director of Prosecution and Additional Director of Prosecution.

(Para 29.11)

34.62 The minimum qualification and experience for recruitment to different categories of prosecuting staff and their pay scales and service conditions may be on the lines recommended in the Report.

(Para 29.12 and 29.13)

34.63 There would be need for a whole time functionary of the rank of Assistant Public Prosecutor Grade I free from prosecution work in courts to function as the Legal Adviser to the Superintendent of Police in each district for giving him legal advice in specific cases as also other general matters relating to criminal work in the district from time to time. The Deputy Director of Prosecution at the regional level and the Additional Director of Prosecution and the Director of Prosecution at the State level shall perform a similar role to aid and advice the Deputy Inspector General of Police and Inspector General of Police respectively.

(Para 29.16)

34.64 Section 25 Cr.P.C. may be amended to enable the placement of the prosecuting cadres under the administrative purview of the Chief of police.

(Para 29.17)

Industrial disputes

34.65 In a socialist democracy there has to be a proper balancing of the interests of labour, owners of industry and the consumer so that there can be quick economic growth accompanied by an even flow of benefits of such growth to all the three parties. It has, however, happened that the industrial development in the country has witnessed increasing number of conflict situations between the management and the labour, each tending to take a rigid stand to promote the interests of one to the exclusion of the other, instead of consensus situations which would promote the interests of both as well as the community at large.

(Para 30.1)

34.66 The Industrial Disputes Act provides several agencies like Works Committees, Conciliation Officers, Boards of Conciliation, Courts of Inquiry, Labour Courts and Tribunals to resolve a variety of industrial disputes. But in the perception of the labour, the formal and legal exercises before such bodies are viewed as time consuming and cumbersome where the management is at an advantage with assistance and advice from legal experts and can also afford a prolonged legal battle without any financial difficulty. This circumstance makes the labour feel that they have a better alternative to secure their objectives quickly by coercive and pressure tactics in the form of strikes or other demonstrations and agitations supported by their muscle power. The multiplicity of trade unions also induces minority groups to adopt militant postures

to secure bargaining powers which may not be available to them on the strength of their mere numbers. Industrial disputes have, therefore, increasingly tended to become focal points for trial of strength between the labour and management and also between the labour unions. When an industrial dispute crosses the limits of democratic and accepted legal forms and gets into areas of violence and breaches of public order, it immediately attracts police attention under the law, and the police are required to respond to the situation for effective maintenance of law and order.

(Para 30.2)

34.67 Police response in an industrial dispute situation has to be very carefully determined and then put into operation in a manner which would command the confidence and trust of both parties to the dispute. While evolving norms for determining this response it has to be remembered that the ultimate objective of all the conciliation exercises envisaged in various labour laws is to promote industrial harmony. This harmony cannot be satisfactorily brought about by any action which makes one party feel that the other party has contrived to gain an undue advantage by adopting militant postures and resorting to coercive and pressure tactics. Maintenance of order accompanied by quick and effective prevention of crime, particularly crimes involving violence, in a conflict situation is very necessary for removing the elements of coercion and pressure from the conflict atmosphere. By the removal of such factors the ground would get cleared for the parties concerned to discuss the issues involved in a calm and free atmosphere where concern and consideration would replace anger and distrust. Police role and responsibility for maintaining law and order in labour dispute situations should be largely guided by the above objective to bring the agitated contending parties to normal levels of thinking in which they would be able to evolve a constructive approach for settlement of their disputes to mutual satisfaction.

(Para 30.3)

34.68 A fundamental requirement for proper planning of police action in any industrial dispute situation is the availability of a variety of basic data at the district level relating to all industrial establishments in the district. Responsibility for compiling these basic data and information should be taken on by a special cell of the Intelligence wing at the district level under the Superintendent of Police. A similar cell in the Intelligence branch of the CID at State headquarters should cover major industrial establishments which may give rise to industrial disputes having ramifications over more than one district. Industrial establishments in the public sector, both Central and State, should also be covered by these cells for this purpose. The most important point in the working of these cells would be the constant updating of the information collected from time to time and their dissemination to the various operative units at the sub-division, circle and police station level at regular intervals.

(Para 30.4)

34.69 Besides collecting the basic data and information as detailed above, these cells should also

S/15 HA/80.—8.

collect intelligence about matters that arise in the day-to-day working of the establishments which generate friction between the labour and management. Timely knowledge of such matters would help the police to anticipate crisis situations and be adequately prepared to deal with them. It is, however, important to note that collection of intelligence on such matters is not meant to secure police intervention as such in these disputes unless there is a distinct public order angle. Intelligence gathered in such matters from time to time should be passed on to the appropriate labour authorities to enable their timely intervention for sorting out the problems within the framework of various labour laws before they explode into violent confrontations.

(Para 30.5)

34.70 When a specific labour dispute arises and tension begins to build up it would be necessary to augment the above-mentioned intelligence cells with special teams at the local level for collecting intelligence in depth about the likely agitationist plans of the organisers.

(Para 30.6)

34.71 Police presence at gate meetings should be for the purpose of keeping themselves informed of the trends of ideas expressed and the measure of support extended by workers, and to prevent the commission of any cognizable offence on the spot.

(Para 30.7)

34.72 When specific crimes are committed in the course of gate meetings or collection of subscriptions, the normal processes under the law should be set in motion immediately and the offenders should be brought to book. Police should take care that their action in such specific cases does not draw the criticism that they are soft towards one union and harsh towards another. A high degree of impartiality and objectivity should attend police action in all such cases.

(Para 30.9)

34.73 While a situation within the precincts of a factory might be deemed to be directly connected with legitimate trade union activity and would, therefore, require to be treated on a special footing as far as police response is concerned, maintenance of order and a feeling of security among the residents in workers' colonies or the residences of individual members of the management should be treated as a public order problem as in any other locality and appropriate police action taken to deal with mischief makers.

(Para 30.10)

34.74 While it is important to ensure the security of sensitive and vital installations within the establishment damage to which might eventually mean a big public loss, it is equally important to avoid unnecessary police presence in those areas of the establishment which are not sensitive from this angle, because it might give the impression of undue police proximity

to the seat of management in the establishment. Posting of police personnel for providing security to specified installations in an industrial establishment in a strike situation should, therefore, be carefully determined by the police themselves on the basis of their own intelligence and appreciation of public interest.

(Para 30.11)

34.75 Police are duty-bound to give protection to any worker who expresses the desire to work during a strike situation and seeks protection to do so. Police action in this regard should, however, be related to the desire expressed by the worker himself and not to his reported willingness as communicated to the police by the management.

(Para 30.12)

34.76 While it is recognised that any person, whether a new recruit or old worker, has the right to seek opportunity for doing work of his choice, any action taken by the police to give protection to new recruits for exercising this right in a strike situation might operationally amount to undue police interference in favour of the management to break the strike. It is, therefore, our view that, when the management try to bring in new recruits, police action should not be in the nature of giving them individual protection to enter the factory but should be confined to action under the law if and when specific offences get committed in the confrontation that might ensue between the striking workers and the new recruits.

(Para 30.13)

34.77 The management may sometimes attempt to remove finished or unfinished goods from the factory premises in a strike situation and this may be resisted by the striking workers. Police action in such a situation should ensure adequate protection for the removal of goods, provided one or the other of the following grounds is satisfied :—

- (a) The finished goods are required to be exported to fulfil contractual obligations and to keep up the export earnings of the industry and the country.
- (b) The goods sought to be removed are essential either by themselves or as inputs for the defence needs of the country.
- (c) The goods are of a perishable nature and unless they are taken out and disposed of they would be damaged, causing considerable loss to the industry.
- (d) If some goods which are essential inputs for other industries are not removed from the factory and are not made available to other units, then those establishments would also cease to function and thus create problems for the workers of such establishments.

(Para 30.14)

34.78 If, however, under the cover of removal of goods, the management attempt to remove substantial

parts of the machinery or other equipment in order to revive their activity elsewhere, it would be beyond the norms mentioned above and, therefore, police action in such a situation should not be in the nature of preventive or protective action but should be related to specific offences, if and when they occur in the course of removal of such machinery or other equipment and the obstruction thereto by the striking workers.

(Para 30.15)

34.79 Sometimes workers indulge in wild-cat strike and peremptorily lay down tools while actually working during a shift inside the factory. While their continued presence within the factory premises during their shift period may not by itself provide ground for police action in the strike situation, the refusal of such workers to leave the factory premises even after their shift period is over should be deemed as criminal trespass and they should be dealt with by the police accordingly under the law.

(Para 30.16)

34.80 Several cognizable offences like wrongful restraint, wrongful confinement, etc., are committed in the course of a gherao and, therefore, a gherao should be deemed a cognizable crime.

(Para 30.18)

34.81 Police action in respect of gheraos or sit-in strikes would consist of the following two parts :—

- (i) Registering a First Information Report in respect of the cognizable crimes committed and documenting the investigation thereon.
- (ii) Lifting the gherao by the physical removal of persons doing the gherao or eviction of the sit-in strikers as the case may be.

The first part would present no difficulty, but the second part would require careful operation in the field. In exercise of their powers under section 149 Cr.P.C. for preventing the commission of any cognizable offence, the police may physically remove the persons doing the gherao. They may even arrest the persons who have committed specific offences in the gherao situation and remove them for production before a Magistrate. In some cases, when faced with violent defiance, it may even become necessary for the police to declare the gathering of persons doing the gherao as unlawful and proceed to disperse them as members of an unlawful assembly. Before embarking on the operation of removal, arrest or dispersal of unlawful assembly as might be warranted by the situation, the police should, subject to the exigencies on the spot, satisfy themselves that all other processes of persuasion, appeal and conciliatory measures have been tried and exhausted.

(Para 30.19)

34.82 Specific cognizable crimes committed in the course of an industrial dispute may later get prosecuted in court on conclusion of investigation by police. It has become a practice with the administrators to

withdraw such cases from court after the industrial dispute is settled. In fact, in many instances the very agreement to withdraw cases would form part of the settlement. In paragraph 28.29 of this Report, a revised arrangement in law has been recommended for the withdrawal of a criminal case to be sought only on grounds of justice or public interest and not on a mere executive desire for compromise in any particular case. The revised procedure would help to ensure that criminal cases arising from industrial disputes are not light-heartedly withdrawn from court on extraneous considerations. There is urgent need to stop the growing feeling among the agitating sections of the public that they can commit crimes with impunity and later get away without any punishment by seeking executive interference on their behalf.

(Para 30.20)

34.83 It is important that police officers, particularly the senior officers at the commanding levels, avoid doing anything which may give the impression to the labour that the officers are unduly obliged to the management on account of facilities like transport, guest house and other entertainment freely provided by the management and readily accepted and enjoyed by the officers.

(Para 30.21)

34.84 When the maintenance of an essential service like communications, transport or supply of electricity/water is threatened by an impending strike by the workers concerned, Government usually resorts to a special law or Ordinance for totally prohibiting a strike in the service concerned. When once the strike in a service gets totally prohibited under the law, the police role and responsibility for dealing with the strikers will have to conform to special norms different from what may be applicable to a normal industrial dispute. Police action while dealing with strikers in an essential service in which strikes are totally banned would include—

- (i) preventive action against organisers of the strike,
- (ii) prompt registration of cases arising from cognizable crimes and the arrest of the offenders concerned,
- (iii) given protection to loyal workers, and
- (iv) giving protection to fresh recruits or the personnel drawn from other units like the territorial army, home guards etc., for the performance of essential jobs.

The primary objective before the police in such situations should be to keep the essential services going and they should not hesitate to take whatever action is permissible under the law to secure this objective.

(Para 30.22)

34.85 The norms for determining police response in an industrial dispute situation should be the same whether it relates to the public sector or private sector.

(Para 30.23)

34.86 The Central Industrial Security Force (CISF) has a statutory role and responsibility for the security of the machinery and other equipment and property in certain public sector undertakings which are covered by this force. In a labour dispute situation in such a public undertaking, the police may, in the normal course, be able to take the assistance of the CISF personnel to provide guards for the sensitive vital installations in the establishment. Where, however, the personnel of the CISF themselves become a party to a strike situation or are likely to be want only negligent or indifferent in the performance of their duties because of their sympathy with the other striking workers, the police will have an additional responsibility to provide security to the sensitive and vital installations of the establishment. The nature and extent of security cover to be provided by the police in replacement of the CISF should be decided sufficiently in advance by mutual consultations between the police and the management of the undertaking, also taking into account the intelligence gathered by the police themselves regarding the attitude and involvement of the CISF in this regard.

(Para 30.24)

34.87 While laying down norms for police response in industrial dispute situations, it has to be remembered that the formation and functioning of Policemen's Associations in the recent years are likely to influence and condition the attitude of police personnel towards striking workers. A general feeling of sympathy might be generated among the policemen towards the striking workers and a feeling might get induced that nothing should be done to weaken the power of strike as a weapon for collective bargaining. To secure uniformity and effectiveness of police approach to the problem of handling labour dispute situations, it would be necessary for the senior officers at commanding levels to apprise the police personnel individually and also collectively through their Associations wherever they exist about the norms as suggested in this Report and ensure their understanding by the police system as a whole for maintaining their position and prestige as a law enforcement agency. Any attempt made to involve the police personnel in an *ad hoc* disposal of a labour dispute situation in an illegal or irregular manner without conforming to accepted norms is likely to complicate matters and weaken the command structure of the police.

(Para 30.25)

Agrarian problems

34.88 Agrarian problems have increasingly tended to draw police attention from the angle of maintenance of public order, particularly from the sixties. Persistence of serious social and economic inequities in the rural areas has frequently generated tensions between different classes and posed problems for the police.

(Para 31.1)

34.89 In the actual implementation of land reform legislation several loopholes were taken advantage of by vested interests to perpetuate the existing inequities. The land owning community retained large tracts of land under their effective control under the guise of

resuming land for self cultivation which was permissible in law. The law of ceiling on land holdings by individuals was effectively circumvented by the partitioning of landed property among members of the same family and dependent relatives, with the result that no land emerged as surplus for disposal outside the family domain. According to the Twentysixth Round of National Sample Survey (July 1971—September 1972), 54.91% of households in the country owned land of area less than 1 acre per household, and the total area owned by them constituted 2.21% of the total area of holdings in the country while 4.38% of households held area of more than 15 acres each and the total area held by them amounted to 39.43% of the total area of holdings in the country.

(Para 31.4)

34.90 The land reform measures so far spelt out and implemented have not had the desired impact for the removal of inequalities and injustice on the agrarian front. This is mainly because those administering the reforms had no interest in doing so and were very much in favour of maintaining the *status quo*. The reforms were only lip-service to an ideology which had to be professed for political purposes.

(Para 31.4)

34.91 The Scheduled Castes do not form a resident majority group in any part of the country but live interspersed with other sections of the population. They constitute more than 20% of the population in 666 talukas. On the other hand, the Scheduled Tribes live as majority groups in 329 talukas. While a large number of Scheduled Castes earn their livelihood by working as agricultural labourers, the Scheduled Tribes are by and large a self cultivating class. Agrarian problems of the Scheduled Castes are related to insecurity of employment, low wages and grossly unjust treatment at the hands of the land owning community in a variety of ways. The problems of the Scheduled Tribes arise from the intrusion and exploitation by non-tribals for expropriating lands from the possession of tribals, and the economic hold over the tribals by non-tribal money-lenders and the like.

(Para 31.5)

34.92 The proportion of agricultural workers from Scheduled Castes and Scheduled Tribes varies from State to State. Scheduled Caste workers preponderate in Punjab, Rajasthan, Tamil Nadu, Uttar Pradesh and West Bengal. Animosity and tensions arising from the inter-play of caste prejudices have also tended to fowl the relationship between land-owners and the agricultural labourers owing to the latter's caste composition as indicated above.

(Para 31.6)

34.93 The economic distress of the landless agricultural labourer is further accentuated by the growing pressure on land in rural areas owing to rise in population without a corresponding increase in the

area available for cultivation. Compared to the position in 1951, the population in 1976 had increased by 61.3% while the net area of land sown increased by 19.8% only.

(Para 31.8)

34.94 From the All India Debt and Investment Survey 1971-72 conducted by the Reserve Bank of India it is seen that the borrowings of an average cultivator/agricultural labourer were very much more from sources like professional money-lender/agriculturist money-lender/trader/landlord than from Government or Co-operative Societies/bank. This analysis highlights the economic hold the landlord and other richer sections of the village continue to have on the cultivator and the agricultural labourer.

(Para 31.9)

34.95 It has already been recommended in Chapter XIX of the Third Report that the allotment of land to the landless poor, particularly the Scheduled Castes and Scheduled Tribes, should be effected through a separate comprehensive legislation which should have provision for effectively handing over possession of the land to the allottee and for promptly evicting the unauthorised occupants or trespassers who may subsequently try to nullify the allotment order. It has also been recommended that the police should collect intelligence about forcible dispossession of the poor from lands allotted to them, and get the matter set right with the help of the revenue authorities concerned. This arrangement would help in giving some effective relief to the landless poor and to that extent reduce agrarian distress and tension. However, this by itself may not take us far since there is not sufficient land in any case to meet the entire requirements of the rural poor with our steeply rising population. There is, therefore, side by side with land reforms, urgent need for providing alternative sources of employment in rural areas for the rapidly growing rural population. For this purpose measures have to be taken in hand early for bringing about the requisite infra-structure of communications, power and water in the rural areas. The danger of fragmentation of holdings as a result of the operation of the inheritance laws of the country, should also not be lost sight of.

(Para 31.12)

34.96 Under the Industrial Disputes Act, several agencies like Conciliation Officer, Board of Conciliation and Tribunal exist for adjudicating disputes between the labour and management in an industrial establishment. But there is no special agency in a district to adjudicate on a matter arising from agrarian disputes. It is usually dealt within the normal course by the revenue authorities. It would make for speedier settlement of such disputes if the District Civil Rights Cell recommended in paragraph 19.14 of the Third Report could be given some staff support to perform this role. It would also help the police to secure relevant information through this Cell, while dealing with criminal cases arising from such disputes.

(Para 31.13)

34.97 The existing arrangements in States for the maintenance of the basic record of rights in villages or groups of villages may be checked and revised to ensure their factual accuracy, besides making them proof against *mala fide* manipulation and interpolation.

(Para 31.14)

34.98 When disputes arise and tensions build up between two groups of the land owning community in a village regarding ownership or right of use of any land or irrigation facility, police should not hesitate to take effective preventive action against the leaders on both sides by resorting to section 107 Cr.P.C. and also making preventive arrests where called for.

(Para 31.14)

34.99 Recent years have witnessed another type of agitation on the agrarian front in which farmers organise themselves to protest against the Government and allied agencies on such issues like charges for power supply for pump sets, grant of loans and subsidies, writing off arrears of loans, etc. Since these agitations are primarily directed against the Government and do not involve two opposing groups among the public themselves, it becomes easier for the organisers to whip up emotions and instigate violence. Police should handle this type of agitations as a matter of maintenance of public order and take all permissible steps under the law including preventive arrests to contain the situation in public interest.

(Para 31.16)

34.100 A fundamental requirement for planning police action in any public order situation is the timely collection of intelligence on the growing developments. Apart from the intelligence wing of the police at the district level, the village police as organised on the lines recommended in Chapter XX of the Third Report should be actively involved in gathering advance intelligence in this matter which would be of great help to the local police in effectively anticipating local situations in time.

(Para 31.17)

34.101 The re-organisation and strengthening of rural police calls for immediate attention from the Government in the context of present developments.

(Para 31.19)

Social legislation

34.102 Social legislation may be broadly classified into two categories for appreciating the problems that arise in the enforcement of the legislation. The first category is the permissive type in which the reformative law merely seeks to enlarge the freedom of social action and interaction in certain fields and protect the person so acting from any disability that might fall on him but for the law. Legislation concerning inter-caste marriages and divorce proceedings is of this type. The second category is the proscriptive type which seeks to restrict certain social practices and penalise any conduct that is specifically prohibited in law. Laws relating to suttee, child marriage, poly-

gamy, dowry and untouchability are examples of this category. Enforcement of this category of social legislation meets with resistance from groups which are interested in the continuance of the old practices.

(Para 32.2)

34.103 Any attempt to legislate a social change without a prior value change in society amounts to the use of authority and the coercive power of the State to enforce a new value framework. Unless there is a measure of consensus among the generality of people about the desirability of the change that law seeks to achieve, it would result in our seeking a social change in a manner which might simultaneously generate social hatred and hostility. Social legislation of this kind, that is the proscriptive type, has, therefore, to be preceded by a measure of debate, discussion and propaganda which would convince the people in general and prepare them to accept the proposed change. If legislation goes far in advance of the preparedness of the people for the proposed change, enforcement of such a legislation will lack people's support and therefore will generate a situation of conflict between the people and the enforcement agency.

(Para 32.6)

34.104 The police, as the premier law enforcement agency in the country, are frequently involved in the enforcement of a variety of laws aimed at social reforms. The normal role of the police as expected by the people is in the field of laws relating to the protection of life and security of property. The Indian Penal Code is the basic criminal law of the country for the police to perform this role. Public understand this role well and willingly co-operate with the police in individual cases but the position becomes different when the police are involved in the enforcement of a social reform law which the public at large are not yet prepared to accept. The timing of enactment of a law of social reform and the degree of involvement of police in its enforcement have to be finely adjusted and regulated so that public support for its enforcement will not be prejudiced. Legislation by itself would not be effective for bringing about a change in the social value system and, therefore, the police may not be looked upon as a primary instrument for effecting a social change.

(Para 32.7)

34.105 Investigational power and responsibility of the police are now confined to cognizable offences which are specified as such in law. In their anxiety to secure effective enforcement of a new social law, social reformers and legislators are inclined to declare all offences under such a law as cognizable and leave the matter there in the belief that strict and severe enforcement thereof by the police would achieve their purpose. It is at this stage that there is scope for introducing some refinements in law which would greatly reduce the scope for malpractices when the offences are taken cognizance of by the police. Even now there are several cognizable offences in which, after completion of investigation by the police, there are restrictions at the stage

of the court taking cognizance of the case for commencing trial. All offences under Chapter VI of the Indian Penal Code and offences under Sections 153A, 153B, 188, 295A, 471 and 505 of the same Code are examples of this kind where the court can take cognizance only on a complaint from a specified individual or on sanction from a specified authority. There is scope for extending this concept of conditional cognizability even at the earlier stage when the police register the case and commence their investigation. The conditions can be suitably determined to reduce the scope for harassment and corruption.

(Para 32.11)

34.106 Social legislation may be categorised under five groups as indicated in the following paragraphs and the nature and extent of police involvement in the enforcement of each group may be as indicated therein.

(Para 32.12)

34.107 *First Group*

- (i) This group would cover laws regulating social institutions like marriage, divorce, adoption, inheritance, etc.
- (ii) Police should have no role at all in the enforcement of these laws. It should be left to the affected parties to take matters direct to courts and get their disputes resolved through judicial adjudication.

(Para 32.13)

34.108 *Second Group*

- (i) This would cover laws dealing with some social problems like prevalence of dowry, discrimination against women, begging, vagrancy, etc.
- (ii) Police should not have any role to play in the enforcement of these laws, excepting some which may have a public order or crime prevention aspect. For example, if there is a law prohibiting begging in specified public places, police should have the powers to enforce the relevant provision, solely from the point of view of maintaining public order at the specified place. Police should not be involved in rounding up individual beggars and marching them to a rehabilitative home or any such institution. That job should be left to the Municipal agencies.

(Para 32.14)

34.109 *Third Group*

- (i) This group would cover laws aimed at promoting the health of the people in general and, in particular, prohibiting the consumption of intoxicating drinks and of drugs which are injurious to health.
- (ii) Offences under these laws which involve commercially organised activity (for

example : trafficking in drugs) or disturbance to public order should be made fully cognizable by the police. Offences which do not have any such angle but involve individual behaviour and conduct without creating any public order situation may be made cognizable by the police only on a specific complaint from a person alleging annoyance or injury caused to him by such behaviour and conduct, and not on any intelligence gathered by the police themselves.

(Para 32.15)

34.110 *Fourth Group*

- (i) This would cover laws aimed at prohibiting or regulating certain pastimes which are likely to operate to the detriment of the earnings of poor families and result in the drain of their meagre financial resources.
- (ii) Laws which regulate gambling, horse racing, lotteries, cross-word puzzles, etc., fall under this category. Police cognizability of offences under these laws should be limited to those which have a public order aspect. For example, gambling in a public place is likely to promote disorderly behaviour and disturbance to public order and should therefore be made fully cognizable by the police. Offences which do not involve this public order aspect may be made cognizable only on a specific complaint from an affected party.

(Para 32.16)

34.111 *Fifth Group*

- (i) This group would cover laws which are meant for protecting and rehabilitating the handicapped and weaker sections of society, and preventing exploitation of their economic weakness or otherwise distressed situation.
- (ii) Police should be fully involved in the enforcement of these laws. Protection of Civil Rights Act and the Suppression of Immoral Traffic Act are examples of laws under this group. Offences under these laws should be made cognizable and the general police should have full powers of enforcing them

(Para 32.17)

34.112 In the investigation of offences, which are made conditionally cognizable as recommended above, the police need not have the power of arrest. They may, on conclusion of investigation, put the matter before a court if evidence warrants such a course of action, and take from the accused person a bond for his appearance in court when summoned.

(Para 32.18)

34.113 Appropriate amendments to several pieces of social legislation would be required to implement the above recommendations regarding conditional cognizability by the police and the restriction on their powers of arrest in certain cases. The various social laws may be individually examined from this angle and appropriate amendments evolved by the Social Welfare Departments of the State Governments in consultation with the State Police agencies.

(Para 32.19)

Prohibition

34.114 Over 6 lakh prohibition cases have been registered annually in the recent years all over the country and a similar number of persons arrested in such cases every year. 25,692 juveniles were arrested under the Prohibition Act in 1977. The arrest of such a large number of persons year after year and their passing through police custody for their involvement in prohibition offences alone would tend to 'criminalise' persons who are not perceived as criminals in the normal sense of the term by the society at large.

(Para 33.9)

34.115 Some aspects of the actual field situation and the practical difficulties in the enforcement of prohibition are enumerated below :—

- (1) Illicit distillation is mostly carried on in remote areas or densely populated slums which offer safe hideouts for the distillers. Detection of distillation activities in such circumstances becomes extremely difficult, particularly in the absence of public co-operation which seldom comes forth in the cause of prohibition.
- (2) The easy availability of a variety of sources for preparation of illicit liquor encourages illicit distillation and brewing.
- (3) Any amount of severe punishment by way of imprisonment or fine for the prohibition offenders does not seem to deter them since the economics of illicit distillation is in their favour and they find the business of illicit liquor quite profitable, even after making allowances for the temporary immobilization of the personnel concerned by the processes of trial and punishment.
- (4) Illicit liquor trade provides big business, and those who organise it from behind the scene exploit the poverty of weaker sections in society and draw them into this business to function as intermediaries for transport and sale of liquor. In this process it is these poor people who ultimately get caught by the enforcement agency and subsequently languish in jail. Very rarely does one come across prohibition convicts in jails drawn from the rich and business sections of the

community. It is indeed tragic that the prohibition law which was conceived as a legislation primarily meant to benefit the ill-informed and poorer sections of the community ultimately results in a large number of persons of this very category getting into prison for their involvement in illicit liquor trade.

- (5) Corruption spreads quickly and widely as a result of persistent influence from illicit liquor business on the police force, making it more and more inefficient in dealing with professional bootleggers and big organisers of illicit liquor trade.
- (6) The mounting pendency of prohibition cases in courts has clogged up all property rooms and storage space in police stations and their compounds.

(Para 33.10)

34.116 From the standpoint of enforcement the following broad amendments in prohibition law are urgently necessary to eliminate some of the serious evils noticed in the existing scheme of enforcement:—

- (i) Cognizable offences under the prohibition law should be limited to those relating to manufacture, transport and sale of liquor.
- (ii) Offences relating to possession of liquor or drinking of liquor or being found in a state of drunkenness should be made non-cognizable. They may, however, be taken notice of by the police while they investigate any other accompanying cognizable offence.
- (iii) In regard to the above category of non-cognizable offences police should, however, have the power to seize any illicit liquor that may be connected with the non-cognizable offence if it comes to their notice and they may send the seized liquor to court for further disposal.
- (iv) The procedure for conducting searches under the prohibition law should be separately laid down without drawing a close parallel from the Code of Criminal Procedure.
- (v) There should be legal provisions to enable the enforcement agency destroy on-the-spot any illicit liquor or any other material connected with its manufacture when the liquor and such material are found in a public place without being claimed by anybody. The destruction may be documented in the presence of witnesses.

(Para 33.11)

34.117 As regards arrangements within the police for detection of prohibition offences mobile parties may be constituted at the sub-division level to concentrate on the more serious offences of illicit manufacture,

transport and sale of liquor which alone would be cognizable in the revised prohibition law. The functioning of these mobile parties can be on the lines indicated by the Tamil Nadu Police Commission.

(Para 33.12)

34.118 Unless there is a measure of consensus among the generality of people about the desirability of the change that a law of social reform seeks to achieve, its enforcement would lack people's support and might even generate hostility between the people and the enforcement agency. From the long experience of States like Tamil Nadu, Gujarat and Maharashtra in the enforcement of prohibition it is clear that the prohibition law does not enjoy acceptance and support from the public at large. Their cooperation, therefore, is totally lacking for the police to enforce the law. In fact, its enforcement brings the police into situations of conflict with substantial sections of the public who do not view drinking liquor as an act to be held criminal and made punishable under the law. In the light of the realities and difficulties in enforcement work as detailed in this Report, it emerges that the prohibition law, as presently enacted with emphasis on total prohibition, is practically non-enforceable. The Government may review their prohibition policy in general and the structure of prohibition law in particular and evolve a revised practical measure for dealing with the problem of economic distress

among the low income groups of our population, owing to the evil of drinking.

(Para 33.13)

Sd/-
(DHARMA VIRA)

Sd/-
(N. KRISHNASWAMY REDDY)

Sd/-
(K. F. RUSTAMJI)

Sd/-
(N. S. SAKSENA)

Sd/-
(M. S. GORE)

Sd/-
(C. V. NARASIMHAN)

NEW DELHI
19th June, 1980.

APPENDICES

(Para 27.7, Chapter XXVII)

Incidence of Cognisable crimes and the number of investigating Officers available to handle them in certain States in 1977

S. No.	Name of the State	No. of cognisable crimes under the Indian Penal Code	No. of cognisable crimes under Local & Special Acts	Total number of investigating officers (of the rank of Inspector, Sub-Inspector and Asstt. Sub-Inspector)	No. of Indian Penal Code cases per investigating officer	No. of Local and Special Acts cases per investigating officer
1	2	3	4	5	6	7
1.	Andhra Pradesh	66,852	2,41,675	1,637	40.83	147.63
2.	Assam	36,050	3,443	1,433	25.15	2.40
3.	Bihar	96,897	5,292	6,457	15.00	0.82
4.	Haryana	13,039	15,521	610	21.37	25.44
5.	Karnataka	69,315	1,45,098	1,608	43.10	90.24
6.	Kerala	41,262	2,219	880	46.88	2.52
7.	Madhya Pradesh	1,48,125	1,21,880	1,929	76.78	63.18
8.	Maharashtra	1,45,086	6,13,663	2,126	68.24	288.65
9.	Orissa	35,416	2,228	1,673	21.16	1.33
10.	Punjab	13,994	1,50,967	1,492	9.37	101.18
11.	Rajasthan	62,244	32,561	1,128	55.18	28.87
12.	Tamil Nadu	90,396	9,09,169	2,179	41.48	417.24
13.	Uttar Pradesh	2,22,621	1,46,920	4,909	45.34	29.93
TOTAL :		10,41,297	23,90,636	28,061	37.1 (Average)	85.19 (Average)

Source : 1. Crime in India published by the Bureau of Police Research and Development for Cols. 3 & 4.
2. Information obtained by the N.P.C. from the States for Col. 5.

APPENDIX—II
(Para 27.7, Chapter XXVII)

Incidence of Cognisable crimes under the Indian Penal Code and the Local & Special Acts from 1969 to 1977

S. No.	Name of the State	Crime head	1969	1970	1971	1972	1973	1974	1975	1976	1977
1	2	3	4	5	6	7	8	9	10	11	12
1. Andhra Pradesh		I.P.C.	40153	43942	46390	49914	51268	55601	57105	61170	66852
		L&S	269303	261070	293170	305573	280010	278876	249408	242983	241675
		TOTAL	309456	305012	339560	355487	331278	334477	306513	304153	308527
2. Assam		I.P.C.	24925	25908	28199	30320	32007	36238	36077	32896	36050
		L&S	2175	1590	4770	5206	2803	3337	5158	4939	3443
		TOTAL	27100	27498	32969	35526	34810	39575	41235	37835	39493
3. Bihar		I.P.C.	75333	84091	83270	82744	92068	101100	99135	94782	96897
		L&S	12159	10267	5664	4754	5241	6395	6210	6517	5292
		TOTAL	87492	94358	88934	87498	97309	107495	105345	101299	102189
4. Gujarat		I.P.C.	33129	32225	32747	36157	45421	55829	54872	55895	59915
		L&S	122911	134121	127234	107574	106217	103473	110516	115749	134419
		TOTAL	156040	166346	159981	143731	151638	159302	165388	171644	194334
5. Haryana		I.P.C.	8858	8902	8237	9104	9388	10194	9596	9146	13039
		L&S	13716	14918	17361	19387	22056	24029	24596	23391	15521
		TOTAL	22574	23820	25598	28491	31444	34223	34192	32537	28560
6. Himachal Pradesh		I.P.C.	2278	2381	2494	3073	3342	3783	3450	3780	4553
		L&S	22904	17167	14178	16805	16271	2433	2741	2910	2438
		TOTAL	25182	19548	16672	19878	19613	6216	6191	6690	6991
7. Jammu & Kashmir		I.P.C.	6131	6421	5518	6021	6622	8693	10419	12319	14529
		L&S	1158	NA	832	1418	1715	1769	3644	2335	1530
		TOTAL	7289		6350	7439	8337	10462	14063	14654	16059
8. Karnataka		I.P.C.	35566	35566	36557	37786	44401	49023	49491	50640	69315
		L&S	566922	825526	667515	299211	126026	212175	204678	198232	145098
		TOTAL	602488	861092	704072	336997	170427	261198	254169	248872	214413
9. Kerala		I.P.C.	28492	31617	29712	35442	41848	43124	36022	31868	41262
		L&S	4913	3549	3340	1965	2315	2996	5246	3250	2219
		TOTAL	33405	35166	33052	37407	44163	46120	41268	35118	43481
10. Madhya Pradesh		I.P.C.	86946	83537	88548	95556	110811	127302	127211	122299	148125
		L&S	118467	134052	164966	178749	170703	160878	176756	140374	121880
		TOTAL	205413	217589	253514	274305	281514	288180	303967	262673	270005
11. Maharashtra		I.P.C.	92135	96552	99125	104782	128992	144432	141980	133440	145086
		L&S	523821	496259	541637	528511	507054	534331	626073	696049	613663
		TOTAL	615956	592811	640762	633293	636046	678763	768053	829489	758749
12. Manipur		I.P.C.	2351	2122	1931	1920	2201	2820	3102	2984	3258
		L&S	419	291	416	645	1009	1362	1452	1273	1532
		TOTAL	2770	2413	2347	2565	3210	4182	4554	4257	4790

1	2	3	4	5	6	7	8	9	10	11	12
13. Nagaland	.	I.P.C.	685	744	1004	1117	918	1088	910	824	844
		L&S	25	106	377	380	348	511	761	546	784
		TOTAL	710	850	1381	1497	1266	1599	1671	1370	1628
14. Meghalaya	.	I.P.C.	N.A.	N.A.	N.A.	1105	1322	1566	1619	1604	1705
		L&S	N.A.	N.A.	N.A.	407	463	892	798	685	1035
		TOTAL	N.A.	N.A.	N.A.	1512	1785	2458	2417	2289	2740
15. Orissa	.	I.P.C.	31395	31514	30502	31983	31252	32207	34511	33400	35416
		L&S	6122	1981	2155	3385	4362	3398	2939	3445	2228
		TOTAL	37517	33495	32657	35368	35614	35605	37450	36845	37644
16. Punjab	.	I.P.C.	12926	12478	11433	12111	12511	12878	12360	11775	13994
		L&S	89597	92737	128630	151831	153588	170493	180730	195072	150967
		TOTAL	102523	105215	140063	163942	166099	183371	193090	206847	164961
17. Rajasthan	.	I.P.C.	34995	36230	36743	39204	44229	51102	50984	50842	62244
		L&S	40381	38009	31835	34481	29637	23027	26979	42841	32561
		TOTAL	75376	74239	68578	73685	73866	74129	77963	93683	94805
18. Sikkim	.	I.P.C.	N.A.	N.A.	N.A.	N.A.	N.A.	N.A.	336	230	193
		L&S	N.A.	N.A.	N.A.	N.A.	N.A.	N.A.	Nil	50	22
		TOTAL								336	280	215
19. Tamil Nadu	.	I.P.C.	69114	63619	59616	71050	72443	79862	74909	69806	90396
		L&S	665354	714046	749748	640647	808691	780522	1235196	1215985	909169
		TOTAL	734468	777765	809364	711697	881134	860484	1310105	1285791	999565
20. Tripura	.	I.P.C.	3439	2704	1785	2383	3009	2373	2026	3010	3820
		L&S	123	871	1115	5997	360	458	454	N.A.	102
		TOTAL	3562	3575	2900	8380	3369	2831	2480	N.A.	3922
21. Uttar Pradesh	.	I.P.C.	150712	233754	236328	217731	220567	244284	230901	195633	222621
		L&S	39193	42647	82805	94282	104175	117477	140194	155181	146920
		TOTAL	189905	276401	319133	312013	324742	361761	371095	350814	369541
22. West Bengal	.	I.P.C.	82662	84528	78546	77855	82312	86600	86514	84879	91450
		L&S	279452	80517	58976	98633	120624	131890	173676	143981	147026
		TOTAL	362114	165045	137522	176488	202936	218490	260190	228860	238476
23. A&N Islands	.	I.P.C.	338	308	370	322	484	538	541	517	592
		L&S	644	744	793	891	947	850	820	869	1080
		TOTAL	982	1052	1163	1213	1431	1388	1361	1386	1672
24. Arunachal Pradesh	.	I.P.C.	N.A.	N.A.	N.A.	N.A.	N.A.	188	318	399	476
		L&S	N.A.	N.A.	N.A.	N.A.	N.A.	8	18	29	72
		TOTAL	N.A.	N.A.	N.A.	N.A.	N.A.	196	336	428	548
25. Chandigarh	.	I.P.C.	1510	1484	1251	1156	1334	1411	1202	1312	2495
		L&S	217	326	433	473	841	836	901	965	735
		TOTAL	1727	1810	1684	1629	2175	2247	2103	2277	3230
26. D&N Haveli	.	I.P.C.	106	106	84	101	84	131	153	146	109
		L&S	1	Nil	5	6	6	7	19	27	27
		TOTAL	107	106	89	107	90	138	172	173	136

1	2	3	4	5	6	7	8	9	10	11	12
27. Delhi	.	I.P.C.	17606	31241	29236	32589	34174	33824	28571	23105	35856
		L&S	5668	6031	6076	6192	6354	7248	7624	7759	6467
		TOTAL	23274	37272	35312	38781	40528	41072	36195	30864	42323
28. Goa, Daman and Diu	.	I.P.C.	1336	1195	1219	1321	1595	2112	2444	2150	1890
		L&S	43	36	808	1939	2831	2397	1222	862	1161
		TOTAL	1379	1231	2027	3260	4426	4509	3666	3012	3051
29. Lakshadweep	.	I.P.C.	38	28	19	18	9	10	27	14	15
		L&S	Nil	Nil	Nil	Nil	Nil	1	2	Nil	Nil
		TOTAL	38	28	19	18	9	11	29	14	15
30. Mizoram	.	I.P.C.	N.A.	N.A.	N.A.	N.A.	N.A.	501	362	647	737
		L&S	N.A.	N.A.	N.A.	N.A.	N.A.	140	180	236	152
		TOTAL	N.A.	N.A.	N.A.	N.A.	N.A.	641	542	883	889
31. Pondicherry	.	I.P.C.	2008	2225	1717	1908	2569	3463	3372	2385	3270
		L&S	7460	7656	7257	5633	6271	7831	16279	16162	9843
		TOTAL	9468	9881	8974	7541	8840	11294	20651	18547	13113
Grand Total	.	I.P.C.	845167	955422	952581	984773	1077181	1192277	1160520	1093897	1230954
		L&S	2793148	2884517	2912096	2514975	2480918	2580140	3205270	3222695	2699061
		TOTAL	3638315	3839939	3864677	3499748	3558099	3772417	4365790	4316592	3930015

Source : 'Crime in India'—published by the Bureau of Police Research and Development.

STATEMENT OF NUMBER OF COURTS

S. No.	Name of the State	1951		1961		1971		1976	
		Exclusive Criminal Courts	Both Civil and Criminal	Exclusive Criminal Courts	Both Civil and Criminal	Exclusive Criminal Courts	Both Civil and Criminal	Exclusive Criminal Courts	Both Civil and Criminal
I : Growth of Sessions Courts									
1.	Andhra Pradesh	2	52	1	69	1	92	4	99
2.	Karnataka	N.A.	N.A.	—	18	—	19	—	19
3.	Madhya Pradesh	N.A.	N.A.	—	86	—	106	—	124
4.	Orissa	—	23	—	24	—	52	—	63
5.	Tamil Nadu	—	40	—	47	—	60	—	76
II : Growth of Magisterial Courts									
1.	Andhra Pradesh	135	79	159	98	101	143	100	15
2.	Karnataka	N.A.	N.A.	38	54	43	85	25	124
3.	Madhya Pradesh	N.A.	N.A.	—	690	—	682	—	293
4.	Orissa	301	46	278	30	212	56	222	70
5.	Tamil Nadu	195	4	221	4	234	8	209	8

N.A. : Not available.

Source : Information obtained by the National Police Commission from the Registrars of High Courts.

**TOTAL COGNIZABLE CRIME UNDER IPC, JUVENILE CRIME UNDER IPC, PROPORTION OF JUVENILE
CRIME TO TOTAL CRIME AND VOLUME OF JUVENILE CRIME PER ONE LAKH OF
POPULATION**

Sl. No.	Year	Population in millions (Estimated mid-year)	Total cognizable crime under IPC (cases)	Total juvenile crime under IPC (cases)	Percentage of Juvenile crime to total cognizable crime	Volume of Juvenile crime per lakh of population
1	2	3	4	5	6	7
1.	1966	489.1	794733	22077	2.8	4.5
2.	1971	551.2	952581	26846	2.8	4.9
3.	1972	563.5	984773	31199	3.2	5.5
4.	1973	575.9	1077181	36469	3.4	6.3
5.	1974	588.3	1192277	40666	3.4	6.9
6.	1975	600.8	1160520	39888	3.4	6.6
7.	1976	613.3	1090887	36655	3.4	6.0
8.	1977	625.8	1267004	44008	3.5	7.0

Source : 'Crime in India'—published by the Bureau of Police Research and Development.

APPENDIX—V

(Para 28.33, Chapter XXVIII)

JUVENILE CRIME UNDER LOCAL AND SPECIAL LAWS—1977

Sl. No.	Heads of offences	Number of offences 1975	Number of offences 1976	Number of offences 1977
1	2	3	4	5
1.	Arms Act	501	370	388
2.	Opium Act	274	181	214
3.	Gambling Act	11136	7148	11727
4.	Excise Act	2296	2180	1966
5.	Prohibition Act	17731	15307	23768
6.	Explosives Act & Exp. Subs. Act	16	27	29
7.	Suppression of Immoral Traffic Act	2050	1703	1843
8.	Motor Vehicles Act	458	611	656
9.	Prevention of Corruption Act	—	1	5
10.	Customs Act	—	—	—
11.	Indian Railways Act	425	1236	3665
12.	Miscellaneous	39801	39498	29173
	TOTAL	74688	68262	73434

Source : 'Crime in India'—
published by the Bureau of Police Research & Development.

**NUMBER OF PROBATION OFFICERS AND CASES DEALT IN DIFFERENT STATES/UNION TERRITORIES—
1978-79**

Sl. No.	State/Union Territory	No. of Probation officers—1978-79						No. of probation cases dealt with in 1978-79				No. of investigations per P.O. (Distt. P.O. + P.O.)	No. of supervision per P.O.
		Chief P.Os.	Regional P.Os.	District P.Os.	P.Os.	Voluntary P.Os.	Total	Investigation cases	Super- vision cases	Other cases	Total		
1	2	3	4	5	6	7	8	9	10	11	12	13	14
1.	Andhra Pradesh	1	8	16	31	—	56	8126	4019	900	13045	172.8	85.5
2.	Assam	—	—	9	—	—	9	54	85	2	141	6	9.4
3.	Bihar	—	—	17	80	—	97	8087	1247	702	10036	83.3	12.8
4.	Gujarat	17	—	41	—	—	58	6434	1256	462	8152	156.9	30.6
5.	Haryana*	—	—	—	10	—	10	120	2160	—	2280	12	216
6.	Himachal Pradesh*	—	—	—	6	—	6	..	..	..	..	..	..
7.	Jammu & Kashmir	—	—	—	—	—	—	—	—	—	—	—	—
8.	Karnataka	1	1	19	—	—	21	1140	456	2280	3876	60	24
9.	Kerala**	..	..	.	..	..	24	3456	19296	864	23616	144	804
10.	Madhya Pradesh	1	—	—	10	—	11	..	..	..	..	..	..
11.	Maharashtra	—	5	26	45	13	89	8699	732	2465	11896	122.5	10.3
12.	Manipur	—	—	—	1	—	1	2	7	—	9	2	7
13.	Meghalaya	—	—	4	1	—	5	—	1	—	1	0.2	—
14.	Nagaland	—	—	—	—	—	—	—	—	—	—	—	—
15.	Orissa*	..	..	..	..	—	16	2496	8448	384	11328	156	528
16.	Punjab	1	—	13	—	—	14	125	1609	4050	5784	9.6	123.7
17.	Rajasthan*	—	—	—	30	2	32	20160	21960	—	42120	672	73
18.	Sikkim	—	—	—	—	—	—	—	—	—	—	—	—
19.	Tamil Nadu	1	12	—	96	—	109	24954	10836	767	36607	259.9	113.3
20.	Tripura	1	—	3	—	—	4	—	64	—	64	—	21.3
21.	Uttar Pradesh**	..	..	..	..	—	52	25584	96720	44928	167232	492	1860
22.	West Bengal	1	—	—	30	—	31	429	1008	42	1479	14.3	33.6
23.	Andaman & Nicobar Islands	—	—	—	—	—	—	—	—	—	—	—	—
24.	Arunachal Pradesh	—	—	—	—	—	—	—	—	—	—	—	—
25.	Chandigarh	—	—	—	—	—	—	—	—	—	—	—	—
26.	Dadra & Nagar Haveli	—	—	—	—	—	—	—	—	—	—	—	—
27.	Delhi	1	—	1	21	—	23	2662	100	5017	7779	121	45
28.	Goa, Daman & Diu@	—	—	—	1	—	1	300	336	264	900	300	336
29.	Lakshadweep	..	..	..	..	..	..	..	..	..	..	..	..
30.	Mizoram	..	..	..	..	..	..	..	..	..	..	..	..
31.	Pondicherry	—	—	—	—	—	—	—	—	—	—	—	—
TOTAL		25	26	149	362	15	669	112828	170390	63127	346345		

NOTE : .. Means not available

* Figures relate to 1976-77

**Figures relate to 1974-75

@Figures relate to 1977-78

Source : National Institute of Social Defence,
Ministry of Social Welfare.

INSTITUTIONS UNDER THE CHILDREN ACT—1978-79

S. No.	State/Union Territory	No. of Juvenile Court/Child Welfare Board	No. of Remand/Observation Homes	No. of Approved/Certified/Special Schools	No. of Children Homes	No. of fit person institutions	After care institutions	Total	Daily average population of inmates
1	2	3	4	5	6	7	8	9	10
1.	Andhra Pradesh	—	5	4	—	—	1	10	1532*
2.	Assam	—	—	—	—	—	—	—	—
3.	Bihar*	—	13	1	2	—	—	16	257
4.	Gujarat	22	22	6	—	35	—	85	2190*
5.	Haryana	1	—	1	—	—	1	3	79£
6.	Himachal Pradesh*	—	—	—	1	—	—	1	—
7.	Jammu & Kashmir	—	—	—	—	—	—	—	—
8.	Karnataka	55	24	12	—	21	3	115	4565*
9.	Madhya Pradesh	31	12	3	5	—	—	51	158£
10.	Kerala**	2	9	5	1	..	..	17	27
11.	Maharashtra	33	36	38	—	89	2	193	10643£
12.	Manipur	—	—	—	—	—	—	—	—
13.	Meghalaya	—	—	—	—	—	—	—	—
14.	Nagaland	—	—	—	—	—	—	—	—
15.	Orissa	—	—	—	—	—	—	—	—
16.	Punjab@	2	2	1	1	..	..	6	—
17.	Rajasthan*	4	4	1	2	—	—	11	134
18.	Sikkim	—	—	—	—	—	—	—	—
19.	Uttar Pradesh@	—	34	8	—	..	..	42	..
20.	Tamil Nadu£	—	12	23	—	—	3	38	5467
21.	Tripura	—	—	—	—	—	—	—	—
22.	West Bengal	2**	2	8	7	2	2	23	602**
Union Territories									
1.	Andaman & Nicobar Island	—	—	—	—	—	—	—	—
2.	Arunachal Pradesh	—	—	—	—	—	—	—	—
3.	Chandigarh	—	—	—	—	—	—	—	—
4.	Dadra & Nagar Haveli	—	—	—	—	—	—	—	—
5.	Delhi	2	3	1	6	—	2	14	1213£
6.	Goa, Daman & Diu	1	1 (multi purpose)	—	—	—	—	2	55
7.	Lakshadweep	—	—	—	—	—	—	—	—
8.	Mizoram	—	—	—	—	—	1	5	75£
9.	Pondicherry	1	1	1	1	—	—	—	—
TOTAL		156	180	113	26	147	15	637	27107

NOTES : .. Means not available

*Data relates to the year 1976-77

**Data relates to the year 1974-75

@ Data relates to the year 1975-76

£ Data relates to the year 1977-78

Source : National Institute of Social Defence,
Ministry of Social Welfare.

APPENDIX—VIII
(Para 29.3, Chapter XXIX)

PERCENTAGE OF CASES THAT ENDED IN CONVICTION TO THE TOTAL NUMBER OF CASES DISPOSED OF IN COURTS DURING THE YEARS 1971 TO 1977

Sl. No.	IPC Crime head	1971	1972	1973	1974	1975	1976	1977
1.	Murder	46.2	47.1	47.1	48.8	47.9	48.5	46.2
2.	Culpable Homicide not amounting to murder	46.6	49.2	50.1	51.3	48.8	48.8	42.6
3.	Rape	39.1	40.9	44.3	42.5	41.1	41.6	40.4
4.	Kidnapping and abduction	34.9	35.3	40.3	38.3	36.9	39.4	37.6
5.	Dacoity	36.4	38.3	55.1	37.5	36.1	38.7	48.3
6.	Robbery	46.4	45.0	48.5	46.0	47.2	48.3	47.9
7.	Burglary	67.7	68.8	59.8	68.0	70.8	65.3	62.3
8.	Thefts	73.6	74.6	64.6	75.1	74.7	57.4	66.7
9.	Riots	30.4	29.2	35.7	32.8	32.8	32.9	28.7

Source : 'Crime in India'—
published by the Bureau of Police Research & Development.

APPENDIX—IX

(Para 30.2, Chapter—XXX)

INDUSTRIAL DISPUTES CLASSIFIED BY STRIKES & LOCKOUTS 1961—78

Year	No. of Disputes			No. of workers involved			No. of Man-days lost ('000)		
	Strikes	Lock-outs	Total	Strikes	Lock-outs	Total	Strikes	Lock-outs	Total
1	2	3	4	5	6	7	8	9	10
1961	1,240	117	1,357	4,32,336	79,524	5,11,860	2,969	1,950	4,919
1962	1,396	95	1,491	5,74,610	1,30,449	7,05,059	5,059	1,062	6,121
1963	1,364	107	1,471	4,90,701	72,420	5,63,121	2,229	1,040	3,269
1964	1,981	170	2,151	8,75,905	1,27,950	10,02,955	5,724	2,001	7,725
1965	1,697	138	1,835	8,89,360	1,01,798	9,91,158	4,617	1,853	6,470
1966	2,353	203	2,556	12,62,224	1,47,832	14,10,056	10,377	3,469	13,846
1967	2,433	382	2,815	13,39,617	1,50,729	14,90,346	10,565	6,583	17,148
1968	2,451	325	2,776	14,64,992	2,04,302	16,69,294	11,078	6,166	17,244
1969	2,344	283	2,627	16,86,943	1,39,923	18,26,866	15,477	3,571	19,048
1970	2,598	291	2,889	15,51,530	2,76,222	18,27,752	14,749	5,814	20,563
1971	2,478	274	2,752	14,76,203	1,38,937	16,15,140	11,803	4,743	16,546
1972	2,857	386	3,243	14,74,656	2,62,081	17,36,737	13,748	6,796	20,544
1973	2,958	412	3,370	23,58,206	1,87,396	25,45,602	13,862	6,764	20,626
1974	2,510	428	2,938	27,09,838	1,44,785	28,54,623	33,643	6,619	40,262
1975	1,644	299	1,943	10,32,609	1,10,817	11,43,426	16,706	5,195	21,901
1976	1,241	218	1,459	5,50,477	1,86,497	7,36,974	2,790	9,947	12,746
1977	2,691	426	3,117	19,12,247	2,80,788	2,93,215	13,410	11,910	25,320
1978 (Provisional)	2,667	410	3,077	14,59,764	2,11,811	16,71,575	14,274	12,507	26,781

Source : Indian Labour Statistics, 1977.

APPENDIX—X

(Para 31.9, Chapter XXXI)

BORROWINGS & REPAYMENTS IN CASH DURING THE YEAR ENDED 30TH JUNE, 1972 AND CASH DUES
OUTSTANDING AS ON 30TH JUNE, 1972

	Borrowings			Repayments			Dues Outstanding		
	P	A	T	P	A	T	P	A	T
All Households	27.73	173.89	13453921	12.16	149.25	11547282	43.97	551.83	42694633
Cultivators	29.29	203.85	11553115	13.05	178.00	10088170	46.37	658.51	37320811
Agricultural Labourers	23.75	67.72	757418	9.27	45.02	503525	33.28	193.48	2163963

P=Proportion of households reporting (Per cent).

A=Average amount per household in rupees.

T=Aggregate amount in thousands of rupees.

Source : All India Debt & Investment Survey, 1971-72.

Cash Borrowings, Repayments and Dues Outstanding of Rural households.
Reserve Bank of India—Deptt. of Statistics.

BORROWINGS IN CASH DURING THE YEAR ENDED 30TH JUNE, 1972 CLASSIFIED BY CREDIT AGENCY

		Total	Govt.	Co-oper- ative Society/ Bank	Com- mercial Bank	Landlord	Agricul- turist money- lender	Profes- sional money- lender	Trader	Relative/ Friend	Others
All Households	P	27.73	1.34	3.36	0.19	2.49	5.99	4.43	6.01	4.75	4.73
	A	173.89	5.41	25.98	2.90	11.14	32.55	27.71	25.87	19.89	22.43
	T	13453921	418749	2010072	224318	862249	2518679	2144283	2001582	1539048	1734911
Cultivators	P	29.29	1.64	4.32	0.24	2.39	6.42	4.60	6.39	4.73	4.85
	A	203.85	6.41	33.97	3.87	11.89	38.85	31.88	29.51	21.86	25.61
	T	11553115	363325	1925078	219289	674123	2201852	1806762	1672230	1239052	1451403
Agricultural Labourers	P	23.75	0.30	0.49	0.05	3.81	5.53	3.54	4.82	4.80	4.04
	A	67.72	0.33	1.34	0.13	10.67	14.66	10.78	10.11	11.29	8.40
	T	757418	3670	14991	1440	119382	163947	120620	113072	126322	93968

P=Proportion of households reporting (per cent).

A=Average amount per household in rupees.

T=Aggregate borrowings in thousands of rupees.

Source : All India Debt & Investment Survey, 1971-72.

Cash Borrowings, Repayments and Dues Outstanding of Rural households.
Reserve Bank of India—Deptt. of Statistics.

CASH DUES OUTSTANDING AS ON 30TH JUNE, 1972 CLASSIFIED BY CREDIT AGENCY

		Total	Govt.	Co-opera- tive Society/ Bank	Com- mercial Bank	Landlord	Agricul- tural money- lender	Profes- sional money- lender	Trader	Relative/ Friend	Others
All Households	P	43.97	3.39	7.29	0.49	4.97	12.27	8.20	7.27	7.43	6.88
	A	551.83	29.49	89.87	9.81	45.76	134.48	86.17	52.18	45.28	58.77
	T	42694633	2281720	6952981	759369	3540712	10404909	6667106	4037318	3502966	4547551
Cultivators	P	46.37	4.29	9.31	0.60	4.81	13.08	8.54	7.63	7.32	7.16
	A	658.51	38.43	118.76	12.74	49.74	162.15	96.76	60.36	49.91	67.66
	T	37320811	2177826	6730884	722285	2818865	9189805	5596875	3420913	2828698	3834661
Agricultural Labourers	P	38.28	0.60	1.19	0.09	7.25	11.39	6.58	5.81	7.57	5.58
	A	193.48	1.48	4.59	0.49	41.43	54.66	31.85	18.15	21.18	19.64
	T	2163963	16580	51329	5457	463384	611346	356215	203028	236889	219733

P=Proportion of households reporting (per cent).

A=Average amount per household in rupees.

T=Aggregate cash dues outstanding in thousands of rupees.

Source : All-India Debt and Investment Survey 1971-72.

Cash Borrowings, Repayments and Dues Outstanding of Rural households.

Reserve Bank of India—Deptt. of Statistics.

APPENDIX—XIII
(Para 33.9, Chapter XXXII)

STATEMENT SHOWING NUMBER OF PROHIBITION CASES REPORTED

S. No.	State/U.T.	1966	1967	1968	1969	1970
1.	Andhra Pradesh				160	184
2.	Assam				315	250
3.	Bihar				277	324
4.	Gujarat				68826	79603
5.	Haryana				5886	6528
6.	Himachal Pradesh				1405	1196
7.	Jammu & Kashmir				10	10
8.	Karnataka				14012	11873
9.	Kerala				—	—
10.	Madhya Pradesh				5292	4864
11.	Maharashtra				122156	137850
12.	Manipur				169	73
13.	Meghalaya				—	—
14.	Nagaland				1	4
15.	Orissa				956	761
16.	Punjab				16993	20082
17.	Rajasthan				687	716
18.	Sikkim				—	—
19.	Tamil Nadu				N.A.	2
20.	Tripura				—	3
21.	Uttar Pradesh				9869	9071
22.	West Bengal				1096	1325
	Total (States)				246626	274719
					544	647
1.	Andaman & Nicobar Islands				—	—
2.	Arunachal Pradesh				65	82
3.	Chandigarh				—	—
4.	Dadra & Nagar Haveli				2750	3054
5.	Delhi				—	—
6.	Goa, Daman & Diu				—	—
7.	Lakshadweep				—	—
8.	Mizoram				—	193
9.	Pondicherry				—	—
	Total (U.Ts.)				4933	3976
	Grand Total :	325039*	275220*	225713*	251559	278695

State/U.T.	1971	1972	1973	1974	1975	1976	1977
Andhra Pradesh	10	—	—	2	19	51	25
Assam	1	7	36	223	200	233	202
Bihar	—	2	4	43	3	10	1
Gujarat	74851	64534	66904	62152	71847	79776	95036
Haryana	—	—	—	—	—	—	—
Himachal Pradesh	—	—	—	—	—	—	—
Jammu & Kashmir	—	—	—	—	—	—	—
Karnataka	164	161	54	30	51	88	57
Kerala	—	—	50	—	84	—	10
Madhya Pradesh	—	111	99	104	412	243	26
Maharashtra	153156	149463	142623	147593	156371	167905	183278
Manipur	—	—	—	—	—	—	—
Meghalaya	—	—	—	—	—	—	—
Nagaland	2	2	—	—	—	1	—
Orissa	—	—	—	2	—	—	—
Punjab	—	—	—	—	—	—	—
Rajasthan	103	136	181	512	1127	736	602
Sikkim	—	—	—	—	—	—	—
Tamil Nadu	212560	4977	4124	136381	456023	443366	380669
Tripura	—	15	2	—	—	N.A.	—
Uttar Pradesh	61	24	94	116	301	275	305
West Bengal	—	—	—	21	—	—	—
Total (States)	440908	219432	214171	347179	686438	692684	660211
A&N Islands	—	—	—	—	—	—	—
Arunachal Pradesh	—	—	—	—	—	—	—
Chandigarh	—	—	—	—	—	—	—
D. & N. Haveli	—	—	—	—	—	—	—
Delhi	—	—	—	—	—	—	—
Goa, Daman & Diu	—	—	—	—	—	—	—
Lakshadweep	—	—	—	—	—	—	—
Mizoram	—	—	—	—	—	—	—
Pondicherry	—	—	—	—	—	—	—
Total (U.Ts.)	—	—	—	—	—	—	—
Grand Total	440908	219432	214171	347179	686438	692684	660211

*Statewise break up figures are not available.

Source : 'Crime in India'

published by the Bureau of Police Research & Development.

PERSONS ARRESTED UNDER PROHIBITION ACT

S. No.	State/U.T.	1966	1967	1968	1969	1970
1.	Andhra Pradesh					
2.	Assam					
3.	Bihar					
4.	Gujarat					
5.	Haryana					
6.	Himachal Pradesh					
7.	Jammu & Kashmir					
8.	Karnataka					
9.	Kerala					
10.	Madhya Pradesh					
11.	Maharashtra					
12.	Manipur					
13.	Meghalaya					
14.	Nagaland					
15.	Orissa					
16.	Punjab					
17.	Rajasthan					
18.	Sikkim					
19.	Tamil Nadu					
20.	Tripura					
21.	Uttar Pradesh					
22.	West Bengal					
	Total (States)					
1.	Andaman & Nicobar Islands					
2.	Arunachal Pradesh					
3.	Chandigarh					
4.	Dadra & Nagar Haveli					
5.	Delhi					
6.	Goa, Daman & Diu					
7.	Lakshadweep					
8.	Mizoram					
9.	Pondicherry					
	Total (U. Ts.)					
	Grand Total	*315301	*278283	*258060	*284891	*299412

State/U.T.	1971	1972	1973	1974	1975	1976	1977
Andhra Pradesh			—	2	19	48	24
Assam			40	483	501	267	186
Bihar			81	—	—	34	—
Gujarat			70930	65990	77507	86750	100263
Haryana			—	—	—	—	—
Himachal Pradesh			—	—	—	N.A.	—
Jammu & Kashmir			—	—	—	—	—
Karnataka			54	30	51	88	57
Kerala			53	—	91	—	20
Madhya Pradesh			261	284	418	9	70
Maharashtra			114040	113455	124384	136825	155247
Manipur			—	—	—	—	—
Meghalaya			—	—	—	—	—
Nagaland			—	—	—	—	1
Orissa			—	1	—	—	—
Punjab			—	—	—	—	—
Rajasthan			241	618	1245	809	699
Sikkim			—	—	—	—	—
Tamil Nadu			5087	135849	453586	438801	381968
Tripura			9	—	—	N.A.	—
Uttar Pradesh			189	128	895	272	13
West Bengal			—	—	—	—	—
Total (States)			190985	316840	658697	663903	638548
A. & N. Islands			—	—	—	—	—
Arunachal Pradesh			—	—	—	—	—
Chandigarh			—	—	—	—	—
D. & N. Haveli			—	—	—	—	—
Delhi			—	—	—	—	—
Goa, Daman & Diu			—	—	—	—	—
Lakshadweep			—	—	—	—	—
Mizoram			—	—	—	—	—
Pondicherry			—	—	—	—	—
Total (U.Ts.)			—	—	—	—	—
Grand Total	*408843	*199120	190985	316840	658697	663903	638548

*Statewise break up figures are not available.

Source : 'Crime in India'

published by the Bureau of Police Research and Development.

(Para 33.10 , Chapter XXXIII)

NUMBER OF JUVENILES ARRESTED UNDER PROHIBITION ACT

Sl. State/U.T. No.	1972	1973	1974	1975	1976	1977
1. Andhra Pradesh	—	—	—	—	—	—
2. Assam	—	—	—	—	—	—
3. Bihar	—	4	—	—	—	—
4. Gujarat	7,519	8,480	4,856	2,945	3,144	10,115
5. Haryana	—	—	—	—	—	—
6. Himachal Pradesh	—	—	—	—	—	—
7. Jammu & Kashmir	—	—	—	—	—	—
8. Karnataka	—	—	—	10	—	—
9. Kerala	—	—	—	—	—	—
10. Madhya Pradesh	—	—	52	8	—	—
11. Maharashtra	8,590	6,103	7,919	9,058	8,635	11,667
12. Manipur	—	—	—	—	—	—
13. Meghalaya	—	—	—	—	—	—
14. Nagaland	—	—	—	—	N.A.	—
15. Orissa	—	—	—	—	—	—
16. Punjab	—	—	—	—	—	—
17. Rajasthan	3	—	2	5	10	2
18. Sikkim	—	—	—	—	—	—
19. Tamil Nadu	14	74	2,009	6,160	4,981	3,908
20. Tripura	—	—	—	—	N.A.	—
21. Uttar Pradesh	—	—	—	—	—	—
22. West Bengal	—	—	—	—	—	—
Total (States)	16,126	14,661	14,838	18,190	16,770	25,692
1. Andaman & Nicobar Islands	—	—	—	—	—	—
2. Arunachal Pradesh	—	—	—	—	—	—
3. Chandigarh	—	—	—	—	—	—
4. Dadra & Nagar Haveli	—	—	—	—	—	—
5. Delhi	—	—	—	—	—	—
6. Goa, Daman & Diu	—	—	—	—	—	—
7. Lakshadweep	—	—	—	—	—	—
8. Mizoram	—	—	—	—	—	—
9. Pondicherry	—	—	—	—	—	—
Total (U.Ts.)	—	—	—	—	—	—
Grand Total	16,126	14,661	14,838	18,190	16,770	25,692

Source : 'Crime in India'

published by the Bureau of Police Research and Development.

PHD. 337

6000—1980 (DSK. II)

Price : *Inland* : Rs. 4.50
Foreign : £ 0.53 or \$ 1.62

FIFTH REPORT
of the
NATIONAL POLICE COMMISSION



Government of India

November, 1980

FIFTH REPORT

of the

NATIONAL POLICE COMMISSION

Government of India

November, 1980

CONTENTS

		<i>Pages</i>
CHAPTER XXXV	Recruitment of constables and sub-inspectors	1—6
CHAPTER XXXVI	Training of personnel in the civil police in the rank of Constables, Sub-Inspectors, Inspectors and Deputy Superintendents of Police with focus on implementation of the Committee on Police Training's Report, 1973	7—18
CHAPTER XXXVII	Dacoities	19—27
CHAPTER XXXVIII	Arms Act	28—32
CHAPTER XXXIX	District police and the executive magistracy	33—44
CHAPTER XL	Code of behaviour for police officers	45—46
CHAPTER XLI	Police-public relations	47—55
CHAPTER XLII	Women police	56—59
CHAPTER XLIII	Summary of observations and recommendations	60—78
	Appendices	79—85

CHAPTER XXXV

RECRUITMENT OF CONSTABLES AND SUB-INSPECTORS

Background

35.1 In our First Report where we had dealt with some important aspects of the living and working conditions of the constabulary, we had, *inter alia*, made the following observations :

"1.20 It is thus seen that the Constable of the present day has moved far from the predominantly mechanical role assigned to him by the 1902 Commission and has now to interact with the public in larger numbers in a variety of situations where he has to apply his mind, exercise his judgment, use his powers of persuasion and appeal and enforce law with public understanding and cooperation. It is the constabulary who form the cutting edge of police administration and face the public most during their visits to police stations and movement on roads. It is the Constable's behaviour and response which create the first and foremost impact on the public mind. The police image in the country is largely determined by the staff who function at the police station level. The constabulary constitute a large majority of this staff and form the foundation and base for the entire police structure. Any attempt at a meaningful police reform has necessarily to start at their level only, since no restructuring of the system will be practicable or enduring unless the mass base of the system is rendered healthy and efficient."

35.2 In the Second Chapter of our First Report, we had made the following observations and recommendations :

"2.7. With enormous changes in police tasks, both qualitative and quantitative, as described earlier, the police system cannot afford to continue the same policy regarding its Constabulary, who form about 90 per cent of the strength of the police force in sheer numbers, and whose quality in performance really determines the over-all impact of the police system on the public. The growing compulsions and pressure of police work will continue to make a large number of police personnel, particularly at the level of Head Constables and Constables, interact face to face with the public in a variety of situations. Head Constables and Constables can no longer afford to function as mere automations, recruited, trained and developed mostly to perform duties of a mechanical character."

35.3 The Committee on Police Training 1973 has highlighted that out of all public services the police alone has powers to exercise direct coercive influence on the individual citizen at times. They have also been given discretion in order that they can be effective and responsive to the needs of the public. The response for order and prevention of crime calls upon them to make quick perceptive judgments in the thick of conflict and in the full glare of public scrutiny. Errors of judgment on their part in this context can cause irreparable harm. The Committee has observed :

"The nature of the police role in a democracy requires that the members should be selected impartially ; they should be administratively competent, politically neutral, and imbued with the spirit of selfless service. A police officer enjoys vast powers under the law and exercises wide discretion. The recruitment procedures should, therefore, be so devised that they are free from political, personal or corruptive influences. The need for objectivity in selection cannot be over-emphasised."

35.4 In our Fourth Report we have dealt with the fact that there is acute dissatisfaction among the people in relation to investigation of crime. A large percentage of cases are not being registered at all and there is gross delay in investigation of those, which are registered. This will need a considerable expansion of the number of investigating officers besides improving their professional knowledge and competence through training. These will have to be found ultimately by promotion from the rank of Constables/Head Constables. This makes it imperative that constables with good education should be properly recruited.

35.5 Recruitment to the police is presently being made at the levels of Constable, Assistant Sub-Inspector, Sub-Inspector, Deputy Superintendent of Police and the Indian Police Service, with slight variations from State to State in regard to the quantum of recruitment at different levels. With direct recruitment at several levels above the constabulary and with the relatively meagre number of posts of the rank of Assistant Sub-Inspector and above in the police system, the promotional flow upwards from the rank of Constable is severely impeded, resulting a large majority of constables retiring as constables without even on rank promotion in their entire career. For securing the promotional structure envisaged by us, it would be necessary to limit recruitment to the police to two levels only : namely, (i) Constable and (ii) Indian Police Service. We are, however, conscious that it

would not be practicable to switch overnight to a new system of recruitment limited to two levels as above and we would necessarily have to go through a phase in which recruitment to the different levels between the Constable and the Indian Police Service will have to be gradually reduced and finally eliminated after a period of time. We, therefore, recommend the adoption of a policy of recruitment confined to the levels of Constable and Indian Police Service in a phased programme with a gradual reduction/elimination of recruitment at intermediary levels. We are separately examining the modalities for restructuring the police hierarchy to provide for greater numbers of personnel in the intermediary ranks between the Constable and the Indian Police Service which would improve the quality of police performance besides helping a quicker and smoother promotional flow upwards from the Constable. The duration of the intermediary phase of reform in regard to recruitment has to be linked with the modalities that would be evolved for restructuring the hierarchy.

35.6 The Committee on Police Training 1973 had stressed the importance of psychological tests and pre-entry orientation for a proper recruitment procedure. The various State Police Commissions have also recommended the introduction of intelligence and psychological tests for Constables and Sub-Inspectors. The working group of the Administrative Reforms Commission on Police Administration has also pointed out the necessity for such a test. These tests provide the necessary information as to the level of IQ, the aptitude for specific jobs as reflected by the undercurrents, conscious and sub-conscious, in the personality of the recruit. The Committee on Police Training 1973, had recommended the setting up of a small cell in the Bureau of Police Research and Development for developing the psychological tests. We find nothing much has been done in this direction so far. We recommend that a start be made immediately and these tests be used during training to weed out those who are not likely to shape into good constables.

35.7 On the pre-entry orientation the Committee on Police Training 1973 had felt the necessity for creating interest among the youth in police-work by exposing them to the technique of policing as part of the school and college curriculum. Recognising the practical difficulty in setting up separate schools on the pattern of Sainik Schools to inculcate in the youth a certain measure of knowledge and interest in the police as a profession, the Committee recommended the introduction of some aspects of police administration in the academic courses from the school stage onwards. They had further recommended the examination of the possibility of introduction of Police Science as a subject on the analogy of Military Science. This could be supplemented by the establishment of a Police Cadet Corps on the lines of the Rational Cadet Corps or Boy Scouts to enhance and develop the necessary interest in the work of the police. Student police interaction in a cooperative and understanding atmosphere should be encouraged as often as possible. They could be used to assist the police in management of traffic and sports events etc. Occasional participation

of police teams in games and tournaments with the educational institutions besides general police help to such institutions to conduct their annual sports events will also enable a better understanding of the policemen. These contacts could develop interest in some students to choose policing as a career.

Constables—educational qualification

35.8 The Committee on Police Training 1973, having taken stock of the then existing educational standards in the various States, had recommended that the High School Examination or its equivalent should be the minimum educational qualification for recruitment of the constables in the armed as well as the civil branches of the police uniformly throughout the country. We endorse the Committee on Police Training 1973's recommendation that the minimum qualification for recruitment to the post of Constable in the armed as well as civil police should be High School. We would, however, like to observe further that this qualification is only a stipulated minimum and should not operate against attracting candidates of higher educational qualifications. In fact, we expect the police force to draw in people with even higher qualifications at the level of Constable when once the promotional flow upwards becomes smooth and quick in reality. We are, therefore, of the view that at the time of recruitment some weightage in the form of bonus marks may be given to candidates with higher qualifications.

Recruitment from Scheduled Castes and Tribes

35.9 While examining some aspects of recruitment at the Constable's level we had occasion to ascertain the experience of the Central Reserve Police Force in recruiting candidates from the Scheduled Castes/Scheduled Tribes/Backward Classes. It was found that they had no difficulty at all in securing candidates from these classes with the same educational qualifications and physical standards as prescribed for the other general candidates. This is presumably because of the broad spread of education among these classes owing to the constructive education policy of the Government in the recent decades. We, therefore, recommend that no relaxation need be made in the prescribed educational qualifications and physical standards for recruiting candidates from these reserved classes.

Age

35.10 The minimum age of recruitment for Constable is 18 years in all States except Haryana and West Bengal where it is 17 years and 20 years respectively. The upper age limit varies from State to State, ranging from 21 to 30 years. There is relaxation of upper age limit upto five years in case of SC/ST and Backward Classes in some of the States. A view has been expressed that the maximum age limit be reduced to 20-21 years. A suggestion has also been made to catch them young, so that intelligent boys join the service at the proper time and age and not try their luck in the police after they have been rejected for other jobs. Also the older candidates lose some flexibility of body and mind, with the result that the training does not have the desired impact on them. Having regard

to the above factors and the all round spread in education, we recommend the minimum age of 17 years and the maximum age of 21 years with the normal relaxation of upper age limit in the case of SC/ST and Backward Classes as prescribed by the State Governments from time to time.

Physical qualifications

35.11 The Committee on Police Training 1973 had recommended the following :—

- (i) The minimum height should not be less than 167.64 cm. (5'6") in general for both the unarmed and the armed branches and 165 cm. (5'5") in the case of men from the hill and tribal areas. This may be raised or relaxed in the different States or for selected areas of particular State for ethnological reasons.
- (ii) The minimum chest measurement should be 78.70 cm. (31") unexpanded and 83.82 cm. (33") expanded for those whose height is 167.64 cm. (5'6") and 76.2 cm. (30") unexpanded and 81.28 cm. (32") expanded for those whose height is less.
- (iii) Standard age-height-weight correlation tables should be consulted while prescribing the minimum weight limits so that these may be in accord with the height limits that may be adopted by the different States/Union Territories.

The impact of the policemen on the public depends upon his personality, strength, performance and endurance. At the cutting edge of the law enforcement, the Constable has the maximum visibility and interacts with the public all the time in maintaining order. His effectiveness is, therefore, directly proportionate, to a large extent, to his physical fitness, stamina and appearance. This is one of the main reasons for laying down higher standards of physical qualifications for the police forces all over the world. Any relaxation in the physical qualifications will have an adverse impact on the performance of the policemen and the force as a whole. We, therefore, endorse the emphasis on higher physical standards as an important criterion in the selection of Constables and Sub-Inspectors in the police force.

35.12 Even in the case of Scheduled Castes/Scheduled Tribes and Backward Classes we have already observed that there is no dearth in the availability of candidates with the necessary physical qualifications. We are, therefore, of the opinion that there should be no compromise in regard to physical qualifications except where regional factors as in the case of Hill Tribes call for the same. We, therefore, reiterate that no relaxation in physical qualifications is required for the reserved classes, after each State Government have prescribed them generally keeping in view the ethnological factors etc. and the standards laid down by the Committee on Police Training 1973.

Physical efficiency test

35.13 We find that no physical efficiency tests have been prescribed in a number of States. The Committee on Police Training 1973 had recommended that one star standard of National Physical Efficiency Test should be the mode for recruitment of constables. We endorse this recommendation for uniform implementation. Physical efficiency tests should form an essential criterion for recruitment and, while insisting on one star standard as the minimum for entry, we recommend that appropriate weightage be given to those with two and three star standard of physical efficiency.

Selection procedure

35.14 Constables are recruited on a district/battalion basis throughout the country. But there is no standard procedure either in the constitution of the authority to make the recruitment or in the procedure thereof. In some States and Union Territories recruitment is made by a Board with the Superintendent of Police as the Presiding Officer. In some other States the Superintendent of Police is himself authorised to make the recruitment. The views of different State Police Commissions have also differed on this subject. The Bihar Police Commission had recommended the appointment of a State Police Service Commission on the lines of the Railway Service Commission for recruitment to the lower ranks of the police. Their view was that the selection of constables should be held centrally on a range basis. The Tamil Nadu Police Commission recommended a qualifying examination by the State Public Service Commission and final selection by a Committee consisting of the Superintendent of Police and two gazetted officers. The Uttar Pradesh Police Commission suggested that the Range Deputy Inspector General and the local Superintendent of Police should constitute the Selection Board. The West Bengal Police Commission recommended a Police Recruitment Board consisting of the Principal of the Training College, who is an officer of the rank of Deputy Inspector General, and a Commandant of the Armed Police.

35.15 During our tours in different States, it was repeatedly and forcefully brought to our notice that of late political interference and money power have begun to play a big role in the recruitment of not only the constabulary but also the Sub-Inspectors and other levels. We are aware that malpractices and corruption in recruitment to public services is an endemic problem of a developing State under the stresses and strains of growing unemployment and economic distress. But in public services like the police, which is entrusted with the job of law enforcement and maintenance of public order, elimination of such corrupt practices is most vital not only for the health of the force but also for the well being of the society as a whole. We are, therefore, keen that the recruitment procedure for the police should be made as objective as possible.

35.16 Having examined the various suggestions received in this regard we are of the view that recruitment must not be centralised at the State level. This is on account of the large numbers involved and also

due to the need for every district to get adequate representation in the police. We, therefore, recommend that the recruitment of constables be done at the district level. At the same time it should be based on uniform standards of objective and impartial tests adopted throughout the State.

Publicity

35.17 In our view wide publicity is one of the essential factors to ensure that sufficient number of candidates with necessary aptitude and qualifications come forward from all parts of the district especially from the interior areas. The aim of such a publicity should be to make the fact of recruitment known to the maximum number of people in the district covering all the cross sections of the society. The publicity measures should include the display of notice in bold print at various vantage points where people normally gather such as schools, colleges, block offices, taluka offices, tehsils, post offices, railway stations and all other public offices both Central and State within the district. It should also be published in the newspapers having a State wide or regional circulation. At the same time a certain amount of predictability regarding the dates of recruitment should be introduced so that the people can normally expect recruitment to take place in certain months in a year. It will help if recruitment dates are fixed uniform by the State Governments every year so that these months, in course of time, will become well known.

35.18 All police stations, police lines and other police units and offices like offices of SDPO, SSP & DIG should make it a point to be courteous and helpful to young men and women coming to make inquiries about the recruitment or about police as a career. This would include helping them to know if they would qualify in physical standards. This public relations exercise could be supported by suitable incentives to those units or offices who have been specially helpful to applicants. The publicity should make it clear to all that only those should apply who fulfil the minimum educational qualifications and specially the one-star physical efficiency standards whose details should be spelt out. The application form should require filling in details of High School marks and physical standards to facilitate elimination at the preliminary stage.

Procedure for recruitment—elimination and selection

35.19 We have given considerable thought to the manner in which recruitment should be made. In our view the process will involve two stages, namely (i) elimination of those unfit for consideration, and (ii) selection of suitable candidates from those fit for consideration.

(a) *The elimination process.*—The applications have to be scrutinised by the District Superintendent of Police to exclude those who do not fulfil the minimum educational qualifications and/or the required physical standards. This scrutiny shall be based on the data available from the applications. A list of applicants who satisfy the minimum qualifications with details of their qualifications and physical standards should then be tabulated and published. Another list consisting

of those found not eligible on the basis of educational qualifications and/or lower physical standards should also be published. These candidates should also be informed of the rejection. This exercise will inspire all round confidence and promote objectivity. It will also enable representation and appeals to be considered by the Selection Board, when it meets later on. In our view those measures will enable the system of recruitment to become more open than it is now. It will reduce the scope for unfounded allegations that are sometimes made about considerations other than merit playing a part in the selection process. The Superintendent of Police may call any of the applicants, if he thinks it necessary to check the contents of the application.

(b) *The selection process.*—We have already indicated that the unit of recruitment for the constables must be the district and the SSP would conduct the elimination exercise. We are of the view that the selection process should give equal weightage to the following three criteria :

	<i>Marks</i>
(a) The percentage of marks in the High School Examination.	100
(b) The marks awarded by the Selection Board.	100
(c) Physical standards including medical fitness category.	100
	<hr/> 300 <hr/>

The selection board

35.20 In order to reduce the local pressures on the District Superintendent of Police, we consider it desirable that the DIG of the Range concerned functions as the Chairman of the Selection Board. He should be assisted by one Superintendent of Police from one of the districts, one of the Superintendent of Police in charge of an Armed Police Battalion, a sociologist or head of a local school and wherever possible the Head of the Police Training School or one of his Senior Instructors. The Selection Board should interview each candidate and award marks out of 100 broadly on the following criterion :

(i) Personality	}	80
(ii) Comprehension		
(iii) Oral expression		
(iv) Temperament & Response		
(v) Social Consciousness		
(vi) Bonus for higher qualifications		20
(a) 1st Division in Higher Secondary or Intermediate		10
(b) Second Division in Higher Secondary or Intermediate		5
(c) First Division in Graduation		10
(d) Second Division in Graduation		5

Physical standards

35.21 We recommend that the same Selection Board of another Board with the Medical Officer, the Physical Inspector and the District SSP, Dy. S.P. should evaluate the physical standard of candidates and award marks as follows out of 100 :—

(i) Physical efficiency test	50
(a) One star standard	10
(b) Two star standard	30
(c) Three star standard	50
(ii) Medical fitness in all respect	20
(iii) Additional weightage for height, chest, eye-sight, muscular power and sports	30
	100

35.22 We are not in favour of conducting any written examinations and the percentage of marks in the High School Examination should be taken as the basis for the final merit list.

Recruitment of Sub-Inspectors of Police

35.23 Nearly all the States are making direct recruitment to the post of Sub-Inspector except Punjab, Haryana and Himachal Pradesh where direct recruitment is at the level of Assistant Sub-Inspector. The Sub-Inspector plays a vital role and is vested with powers of arrest without warrant, release on bond or bail, search and seizure, summoning witnesses and other powers under the Cr. P.C. and similar powers for enforcing law and order. He has a role to play in all the police functions in their preventive, detective and regulatory aspects. His functioning has a direct impact on the confidence of the people in the police system. He is generally the officer-in-charge of the police station except in the bigger cities.

Educational qualifications and age

35.24 The minimum educational qualifications prescribed for the recruitment of Sub-Inspector in a majority of the States is a graduate degree. The Committee on Police Training had also recommended that a graduate degree from a recognised University should be the minimum qualification uniformly, throughout the country, for both armed and unarmed branches of the police. The same Committee had also recommended the minimum age limit of 20 years and the maximum of 23 years with the usual relaxations for Scheduled Castes and Scheduled Tribes. The Committee has further recommended the same physical standards as applicable to the constabulary for the reason that as a leader in the field he cannot be of a lesser physical calibre than his own men. We endorse all the three recommendations of the Committee on Police Training, 1973 relating to educational qualifications, age and physical standards. No special weightage need, however, be given to post-graduates.

S/6 HA/81—2

Procedure for selection

35.25 On the procedure for selection we find that it varies from State to State and different State Police Commissions have made different recommendations. In Bihar and Kerala, recruitment is made through the Public Service Commission, in Haryana by the State Subordinate Service Selection Board and in Assam, Delhi, Jammu & Kashmir, Orissa, Tamil Nadu, Madhya Pradesh, Rajasthan, Maharashtra and Gujarat through a Selection Board on the basis of a written examination and an interview. In Andhra Pradesh, recruitment is made through a Selection Board but on the basis of an interview only. The Chairman of the Board is a Deputy Inspector General in Assam, Orissa, Rajasthan and Delhi. The Inspector General presides over the Board in Madhya Pradesh, Gujarat and Maharashtra. In Karnataka, the Chairman is the Secretary, Home Department. Only Delhi, Maharashtra, Gujarat and Uttar Pradesh have prescribed intelligence tests.

35.26 Written tests were recommended by the Assam, Delhi, Tamil Nadu, Uttar Pradesh, Bihar and Punjab Police Commissions and also by the working group of the Administrative Reforms Commission on police administration. While the Uttar Pradesh Police Commission favoured a written test in general knowledge, psychology and Hindi, the Assam Police Commission recommended English essay and general knowledge as the subjects for the test. The Delhi Police Commission observed that the candidates should appear in the same test which is conducted by the Union Public Service Commission for the Assistants of the Central Secretariat. The Tamil Nadu Police Commission recommended a combined competitive examination by the State Public Service Commission for non-technical Group II Services in the State and Sub-Inspectors.

35.27 Physical efficiency tests were recommended by the Police Commissions of Assam, West Bengal, Tamil Nadu, Uttar Pradesh, Bihar and Punjab. Departmental Selection Boards were recommended by the Assam, West Bengal, Tamil Nadu and Madhya Pradesh Police Commissions.

35.28 The Bihar Police Commission recommended the constitution of a Police Service Commission. The Punjab Police Commission suggested a Board comprising a retired General of the Army, the Inspector General of Police and the Educational Commissioner presided over by the Chairman of the State Public Service Commission. The Uttar Pradesh Police Commission recommended a Board of two Deputy Inspectors General, a Commissioner and a non-official presided over by a member of the State Public Service Commission.

35.29 The working group of the Administrative Reforms Commission felt that recruitment to the subordinate police ranks should be the full time responsibility of a single body in police headquarters comprising "police experts" with a senior Deputy Inspector General of Police, assisted by Commandants or Superintendents of Police and a Medical Officer.

For Sub-Inspectors, one more Deputy Inspector General, a personality testing officer and a psychologist should be added to the Board.

35.30 Having regard to all the relevant factors, we recommend that recruitment to the rank of Sub-Inspectors be made through a competitive examination by the State Public Service Commission. Due weightage should be given for performance in an interview and physical efficiency tests in the screening scheme for recruitment. The percentage of marks awardable to a candidate for performance in the three areas of test shall be :

Written test	...	65
Interview	...	25
Physical efficiency	...	10
Total	...	100

35.31 The Committee on Police Training had observed that certain basic tests were essential to assess the qualities of leadership, courage, initiative, practical approach to problems, intelligence and stamina for hard and sustained physical work. In this context the Committee had recommended the adoption of the selection procedure as adopted by the Service Selection Centres of the Army, for those who are successful in the written examination. We recommend that the interview be carried out on a Services Selection Board model adapted for police needs but under the Chairmanship of a Member of the State Service Commission assisted by (i) Inspector General of Police or his representative, (ii) a senior police officer-in-charge of training or the head of the State Training College, (iii) a sociologist or an academician, and (iv) a personnel management expert or behavioural scientist, if available, or an officer from another department.

CHAPTER XXXVI

TRAINING OF PERSONNEL IN THE CIVIL POLICE IN THE RANK OF CONSTABLES, SUB-INSPECTORS, INSPECTORS AND DEPUTY SUPERINTENDENTS OF POLICE WITH FOCUS ON IMPLEMENTATION OF THE COMMITTEE ON POLICE TRAINING'S REPORT, 1973

Introduction

36.1 We have emphasised in our earlier Reports that there is an urgent need for a change and improvement in police attitudes and performance. Without these they will be unable to discharge the additional responsibilities and challenges in law enforcement they have to face in the present times. We have stressed that while the prevention and detection of crime and the maintenance of law and order will continue to remain the core responsibility of the police, they also have to face a new range of problems emerging from a wide spectrum of social and welfare laws which have been enacted in the last three decades. In the previous Chapter, we have dealt with the subject of recruitment and have sought to ensure that the quality of recruitment at the level of Constable and Sub-Inspector is improved and the process of recruitment becomes more objective. We have sought to restrict in future, direct recruitment to the level of constables and the IPS only. We have, however, appreciated the necessity for continuing direct recruitment to the level of Sub-Inspectors till such time to avoid administrative and other practical difficulties. In this Chapter we propose to deal with the more important subject of the training of personnel in the civil police in the rank of Constable, Sub-Inspector, Inspector and Dy. SP with our discussion focused on the implementation of the recommendations of Committee on Police Training, 1973 with which we have found ourselves in complete agreement.

36.2 We are committed to democratic socialism and hence our Government is conditioned by a constant need to balance the requirements of maintaining freedom with order on one hand with the task of promoting the new goals of economic and social justice on the other. The role of the police as the primary law enforcement agency has acquired a new dimension and purpose. It can no longer remain limited to the role envisaged by the Police Act of 1861 whose main objective was on one hand to make the Police an efficient instrument for the prevention and detection of crime and on the other, to use it as an effective weapon at the disposal of the foreign government to put down sternly any challenge to its authority. The socio-economic and socio-political changes during the last 30 years have generated new pressures and tensions in the Indian society. The growing restiveness of erstwhile submissive groups is creating new situations and problems for the police to handle. Many of the techniques and skills which were adequate yesterday are obsolete today. Hence there is need to respond to contemporary challenges and

demands, by better education and training of the police in professional skills.

36.3 Challenges to authority are inherent in a polity as ours. We are a sub-continent more diverse than Europe, minus USSR. The Fundamental Rights guaranteed under the Constitution promise all citizens social, economic and political justice, liberty of thought and expression, equality of status and opportunity. The Directive Principles commit the State to creating conditions for the realisation of the Fundamental Rights. The gap between the Constitutional guarantees and the reality of the social, political and economic situations has created a wide variety of conflicts. The difference between what is right and wrong often becomes wafer thin and dependent upon the perceptions of the various interest groups. The secular aspirations and the commitment to social equality have led to a plethora of legislation in the past 30 years both by the Central and State Governments. These have added new responsibilities to the traditional law enforcement role of the police. The police are now expected to play an enabling role to promote the feeling of confidence and security among the minorities and weaker sections, so that they can participate effectively in the national development effort. There are now many more women in public life and in protest movements. Dealing with women who are now more actively involved in agitational groups constitutes a particularly difficult area of police work. Added to this are the responsibilities of tackling students and the youth of India. They question the very logic and validity of our entire educational system and economic policy in the context of growing unemployment. The ideals and aspirations of youth for a new social order which could give them a meaningful role and sense of participation come in direct conflict with established interest groups and lack of prospects and openings to accommodate them.

The Committee on Police Training, 1973

36.4 Para-military postures and attitudes have become ineffective and outdated in dealing with most of the situations. A qualitative change in police perspective and approach demands corresponding change in the police culture and a much greater effort in training and education to develop greater professional competence. The Government have been aware of this need for a long time and some sporadic efforts have been made to make training an important part of the police administration. It is this awareness that led the Government of India to appoint a Committee on Police Training (hereinafter referred to

as CPT, 1973) under the Chairmanship of Prof. M. S. Gore in the year 1971. The Committee submitted its report in the year 1973. Examining the profile of the police in the context of the changing national scene, the Committee came to the conclusion that due to the developments and changes since independence, a wholly law and order oriented force has to be transformed into a force which, while retaining the keen appreciation of its prime responsibility for crime prevention and maintenance of law and order, has also an understanding of the larger social issues involved in day-to-day work. It can no longer afford to remain a force for *status quo*. It must at the same time be responsive to the aspirations of the majority of the weak, poor and the dispossessed.

Police, role, duties and responsibilities

36.5 In paragraph 14.51 of our Second Report we have redefined the role, duties, powers and responsibilities of the police as follows :—

- (i) Promote and preserve public order;
- (ii) Investigate crime and, where appropriate, apprehend the offenders and participate in subsequent legal proceedings connected therewith;
- (iii) Identify problems and situations that are likely to result in commission of crime;
- (iv) Reduce the opportunities for the commission of crimes through preventive patrol and other appropriate police measures;
- (v) Aid and cooperate with other relevant agencies in implementing other appropriate measures for prevention of crimes;
- (vi) Create and maintain a feeling of security in the community;
- (vii) Aid individuals who are in danger of physical harm;
- (viii) Facilitate movement of public and vehicles;
- (ix) Counsel and resolve conflicts and promote amity;
- (x) Provide other appropriate services in an emergency and afford relief to people in a distress situation;
- (xi) Collect intelligence relating to matters affecting public peace and crimes in general including social and economic offences national integrity and security; and
- (xii) Perform such other duties as may be enjoined on them by law for the time being in force.

We had further observed in paragraph 14.52 of the same Report that the police organisation should pursue the following objectives for effective role performance :—

- (i) To keep the organisation at a high pitch of efficiency particularly through effective personnel and financial management;

- (ii) Enforce the law impartially and use discretion in accordance with given guidelines;
- (iii) Accept the limitations of their role and powers as something inherent in the democratic system and not look upon them as a handicap to be overcome somehow or the other;
- (iv) Maintain effective working relationship with every sub-system of the criminal justice system and with community service and media;
- (v) Through research and study, continually update the training and the operating procedures of the organisation;
- (vi) And above all, ensure that every member of the organisation renders service due and not service that is demanded, extracted or purchased.

36.6 The police has a difficult role to play in the provocative and trying circumstances of the present day. A threat to law and order cannot be treated in isolation from the causes which in some cases may have a claim to social legitimacy. The police, therefore, has to show an understanding of the causes. It has to control and distinguish the means which threaten the law and order and may even subvert the constitutional processes in the society.

The role of training in the transformation of the police

36.7 The importance of a well conceived programme of training gains special significance in such a setting. The police have to play a vital role in the maintenance of stability and order in the country. Their core role in the prevention and detection of crime is a task which has itself become more demanding with the increasing use of new weapons and new *modus operandi* by the criminal elements in society on the one hand and political pressure groups on the other. They have now to face new responsibilities emanating from a wide variety of social and economic legislation, the Constitutional guarantees for weaker sections and women and also students. Some observers feel that the pressure and demands from students and from the many erstwhile disadvantaged and subdued groups including women will greatly increase in the future.

36.8 The training programme has, therefore, to be so integrated in its approach that the police as a professional force can perform the old and continuing duties and be equipped to face the new challenges. We had observed in our Second Report that "the sustained capacity of the police system to function as an efficient and impartial instrument of law will largely depend on the attitudes developed by the personnel at different levels in the system and the manner in which they respond to different situations in their career. This in turn depends on the training which they get at the time of their entry into the system and even more on the climate and culture they have to work in, specially the examples and values they imbibe from the leadership at various levels within the system". This in brief sums up our approach to the objectives of training programmes.

36.9 Against the above background we feel that the structuring of the initial training courses supplemented by on the job learning and work experience, followed later by in-service training courses for all police personnel, can meet the requirements upto a point. As a continuing process this will need a special effort to suitably design the training programme so as to facilitate the growth of proper attitudes and a sense of values on the part of every police officer. He should view himself as a servant of law and the people to uphold and protect the dignity and rights of every individual fellow citizen of the country. We are aware that it will be a very difficult task to change the century old traditions and practices under which the police had been the instrument of power of the political authority and now finds itself quite often in an adversary position *vis-a-vis* the larger public good and public interest.

The Committee on Police Training's findings on the state of training

36.10 The CPT, 1973 had carried out a review of the then existing training programmes in the country and found that in general with the exception of some of the Central Police Organisations, professional training was in a state of neglect qualitatively and inadequate quantitatively. They found the training institutions to be inadequate to meet the needs of an expanding organisation. Training institutions were ill-prepared to equip the professional policeman for his new responsibilities. Even the basic amenities like proper buildings and accommodation were lacking. The training institutions could not find many properly qualified, competent and well motivated instructors. The serving police officers were not willing to join as instructional staff as low value and prestige were attached to training posts in comparison with the operational posts. The teaching equipment and facilities were also out-moded. The development of awareness of the social and political climate in which the policemen have to work was not upto the requirements. The needs and compulsions of a more humane role of the police were not adequately understood. No emphasis was placed on knowledge and skills in human-relations, management and communication strategies. The Committee found "in such an atmosphere training has become a ritual wherein unwilling and ill-equipped instructors are performing the necessary rites of drilling and lecturing to equally unwilling trainees". The syllabi were out-moded and oriented mainly to the paramilitary culture of a crime control agency and the lecture methods of teaching. These deficiencies still continue.

Neglect of training

36.11 The Committee found that the main reason for the situation of general neglect was the lack of a genuine interest on the part of the Government and higher ranks in the police in the value of training, (though everyone recognised and paid lip service to the value of training). This is largely due to such organisational pressures like non-availability of trainer and trainee man power, defective man power planning due to pressures on the job, and the gulf between theory and practice. These have become part of the

system and even now it is not going to be easy to bridge this gap. We wish to urge that special efforts will have to be made to make up for the neglect of all the past years.

36.12 The necessity for transforming the police from a mere crime prevention and order oriented force to something more, with a promotional and service oriented perspective, based on the awareness of the aspirations of the weaker sections of the society and the aspirations created by the constitutional guarantees, will have its own implications on training as an input. The CPT, 1973 has summarised these implications as follows :—

- “(i) Police officers should acquire a high degree of professional competence and be fully aware of the means whereby Science and Technology can help in police work ;
- (ii) They must develop a clear understanding of the social purpose of their activity and a sensitivity to the trends and forces at work in the environment in which they have to act ;
- (iii) They must develop attitudes consonant with the concept of social justice contained in the Constitution and the development programme with particular reference to the weaker sections of the community, including the poor, the minorities and the Scheduled Castes/Tribes.”

(Page 18, para 21)

Training perspective

36.13 From these implications, the Committee came to the conclusion that the following aspects deserve special emphasis in the training of the police in order to enable it to play its role in economic development and social welfare :—

- (i) Loyalty to the Constitution, commitment to the goals of the nation and the concepts of an egalitarian society and the need for national integration ;
- (ii) Awareness of the problems that arise in the wake of the development process, including conflicts, social disorganisation, scarcity and controls, regional imbalances etc.;
- (iii) A deep social awareness for comprehending and reacting to complex situations;
- (iv) Development of analytical and innovative skills since situations will continue to change and no ready-made solutions can be prescribed ;
- (v) A new orientation in dealing with the masses, who come from various strata of society, divided among many contours such as religion, caste, region and income, as may lead to the correct response in individual cases ;

- (vi) The need for the application of scientific techniques, management concepts and skills, and constructive attitudes and values in police work.”

We fully support and endorse these perspectives and strongly recommend that they receive the urgent attention of the Central and State Governments.

Recommendations of the CPT, 1973

36.14 The Committee made a compact set of recommendations on training and other allied aspects. The recommendations cover the following three essential areas of police training :—

- (i) To ensure maximum level of professional competence ;
- (ii) To ensure an optimum level of managerial competence in police work; and
- (iii) To ensure a higher level of personality competence which would include education and development of leadership qualities.

The recommendations cover a broad range of aspects involving the—

- (a) imparting of necessary knowledge and skills ;
- (b) the creation of right attitudes;
- (c) the generation of decision making ability; and
- (d) stimulation of critical and innovative thinking.

The main thrust of the Committee's recommendations for all levels of personnel is towards an enlargement in the content of police training from law and order and crime prevention to a greater sensitivity and understanding of human behaviour, the imbibing of communication skills and development of citizens oriented activities. These alone can, in our view, create and maintain an environment conducive to the successful implementation of social and economic legislation enacted in the last 30 years.

Limitations of training as an input

36.15 Training is an essential in-put for making the police face and tackle such a difficult job, but it is not the only in-put for a total transformation. An organisational climate which produces disillusionment and lack of purpose due to external interferences and lack of official support and public appreciation can only inhibit any effective training in-put. The CPT, 1973 had observed : “A good and well organised training programme is only one of the several components, though an important one, which determine the efficiency factors which must be considered and attended to if police training is to contribute to increased police efficiency and improved police citizen relations. These include the vulnerability of the police to pressures from political parties and others. The police is also vulnerable to many organisational, administrative and situational circumstances affecting the police and their acceptability to the people”.

36.16 A senior police officer, who had been an IG of a major State and had earlier functioned as DIG (Training) for more than three years in the State and was responsible for training a number of subordinate officers, interviewed a number of subordinates on the causes of failure of training. He was informed unanimously that they were usually asked to forget or ignore, later on in service, whatever was taught in the police training colleges and advised to come down to brass tacks if they wished to succeed on the job. When questioned about the specific points of their training which they were advised to forget the following facts emerged :—

- Firstly : At the police training college they were taught to register all crimes as soon as these were reported. In the Districts they were asked to make a preliminary enquiry first and then record the FIR after the preliminary enquiry, which is entirely illegal.
- Secondly : They were asked to keep the previous year's figures in view. If say in 1965, 80 burglary cases were registered in their police station, they had to ensure that in 1966 the figures could vary, say between 70 to 90; they could certainly not be 160 even if this was the correct crime situation.
- Thirdly : They were told to forget scientific methods of investigation and resort to third degree, though they were repeatedly cautioned not to take it to a stage when there might be an adverse medical report if the person subjected to third degree was medically examined.
- Fourthly : They were told that bogus cases under section 109 Cr. P.C. were essential for a good statistical record. They had been warned against this in the Police Training College.
- Fifthly : They were told how to improve the so-called eye-witnesses, who in reality were nowhere near the scene of the crime. They were also told how to tutor false witnesses.
- Sixthly : They were told certain sure methods of getting their cases convicted by courts—the most important of these was to look after the domestic comforts of the magistrates and to ensure essential supplies to them at cheap rate.
- Seventhly : In certain dacoity-infested areas they were trained in the art of staging bogus encounters.
- Eighthly : They were trained in the technique of observing anti-crime fortnights for registering a large number of cases under the Arms Act and the Excise Act during these fortnights.

He, therefore, came to the conclusion that if training has to be effective, the organisation should be made to have faith in it. For this the cooperation of the State Government as well as the IsG and other senior police officers is very essential. They together should fight the evil of practice going against precepts. We endorse these observations and urge the Government to take due note and correct these defects.

36.17 Training cannot neutralise unwise promotions or ineffective methods of work. It cannot replace intelligent supervision, purposeful inspections, favourable environmental conditions of trust and delegation. It cannot be a substitute to the individual's willingness to accept responsibility. It can, however, lay due stress upon acceptance of responsibility and the need for the superiors to be supportive and helpful. The effectiveness of training also depends on such factors as motivation, morale in the organisation, example and value profile and the conduct of superior officers. It also depends upon opportunities for growth and fulfilment of employee aspirations and recognition of their demonstrated merit. A good training programme can at best support, enhance and optimise performance provided the above factors are taken care of.

36.18 The CPT, 1973's recommendations cover not merely the training format and syllabi but also other complementary factors like impact of science and technology, recruitment and promotion policies, re-orientation of existing personnel, organisation of training, instructional methods and aids and the instructional staff. Recommendations of the Committee on these complementary factors are as important and essential as the core recommendations pertaining to the curriculum and format for ensuring effective training.

36.19 We can do no better than wholly endorse the recommendations of CPT, 1973 in their totality and reiterate that the Government should implement the same under a time bound programme. Implementation of the Committee's recommendations will provide the necessary training support for realising the objectives of the different recommendations made in our own reports on several other aspects of police working. We do not wish to burden the Government with further ideas or suggestions for minor changes here and there, as that is implicit in the very process of implementation. We would, however, stress that the task of implementation and building of first rate police training Academies in every State must be supplemented by reforms in structure, organisation and climate of work. We would further like to stress that the highest importance must be attached by senior police officers to visits/inspections of police stations and training institutions, so that they can help bridge the gap between theory and practice.

36.20 In the light of the above observations we set forth our views in Part II on the implementation of the recommendations of the CPT, 1973. Thereafter in Part III we propose to discuss the training of Constabulary and move on to discuss in Part IV the training

of the Sub-Inspectors and Inspectors. Lastly in Part V we are discussing the training of Deputy Superintendents of Police.

Review of the implementation of the recommendations of the CPT, 1973

36.21 The CPT, 1973's recommendations discussed in the preceding paragraphs have been welcomed unanimously by all the States and the Centre. The Home Minister had recently requested all States to treat it as a Bible for training reform and to go ahead with its implementation. But the efforts to implement the same despite the lapse of 5 years and more are disappointing and disheartening. The Training Division of the Bureau of Police Research and Development (BPR&D), which is supposed to oversee the programme of implementation of the recommendations on behalf of the Home Ministry, has reported that the implementation has been frustratingly slow. Some States like Madhya Pradesh have satisfied themselves by merely raising certain pre-conditions for consideration of the recommendations. Others are making progress grudgingly. Some States like Rajasthan have implemented the recommendations to some extent satisfactorily. The States complain that they have received no positive help from the Centre beyond exhortations and reminders. A number of constraints have impeded the progress. The fact however is that there appears to have been no sustained effort either by the Centre or the States to implement the recommendations contained in the report. They have probably not quite appreciated the importance of these recommendations on the future development, on the right lines, of the police services in the country.

36.22 The report of the BPR&D reveals that the States have accepted the syllabus and training format prescribed by the Committee. Most of them have brought them into practice in the police training institutions. But in the other areas of recommendations like recruitment, organisation of training, training of trainers, motivation for trainers, preparation of training material etc., no perceptible improvement has been made.

36.23 A syndicate study carried out by the National Police Academy has found that except for Rajasthan, the training atmosphere remains the same as it was at the time of the assessment made by the Committee in 1971—73. The commitment to training is lacking practically everywhere. The police training institutions continue to be treated, as dumping ground for the unwanted police officials from the operational areas. No effort has been made to train instructors in teaching techniques or communication concepts. Proposals for the creation of several training posts are pending sanction of Government. Academicians have not been appointed as teachers even where obviously required, and even where appointed they have not been given positions of adequate status and importance to attract good people. Planned release of trainee manpower is conspicuous by its absence and adhocism continues to be the order of the day. In fact the progress of implementation has become a vicious circle.

36.24 Lack of finance is reported to be one of the main impediments. Grants are not being sanctioned by the Government in spite of the best efforts of the organisation. Library facilities remain as poor as they were at the time of constitution of the CPT, 1973. In the matter of appointment of suitable and competent senior police officers as the heads of training institutions, the progress is slow and no uniform pattern has been adopted. The status of the head of training institutions in States varies from Dy. SP to DIG.

36.25 No State has made adequate effort for preparing training material, with the result that instructors are forced to depend on American and British treatises on sociology and criminology. Their capacity to train depends on their ability to understand those treatises and to adapt them to Indian conditions. This is one of the main reasons for the tardy implementation of the recommendations of the Committee. It is in this area that the Central Government through its training divisions can and should help the State training institutions.

36.26 The report of the Training Division of the BPR&D also reveals that the process of implementation appears to have been more complex than it seemed. The various States have not been able to make much progress due to the lack of adequate guidance and assistance from the Centre. We feel that the Central Government has to play a more positive role in the implementation of the Committee's report. The Centre does not appear to have studied in depth the Committee's report to spell out a time frame and the process of implementation. Nor has it defined clearly the respective roles of the Centre, and the States in its implementation. They have satisfied themselves by constituting a Training Division in the BPR&D with a small supporting staff to oversee the implementation. Even here there have been frequent changes of officers in Training Division, due to which the implementation of the Committee's report has not received the sustained attention that it needed. The principal task appears to have been to exhort and recommend to the States from time to time the necessity for implementation of the recommendations. The Standing Committee in BPR&D for reviewing the implementations of the Committee's recommendations has also not made sustained efforts to expedite the implementations and its meetings have been few and unproductive.

36.27 The main reasons for the tardy implementation of the recommendations of the CPT, 1973 can be listed as follows :—

- (i) lack of constructive contribution by the Central Government in the implementation process specially in matters of financial resources both capital and recurring;
- (ii) non-development of psychological tests due to lack of expertise and guidance;
- (iii) continued lack of commitment to the concept of training in the police system, resulting in poor image of police training institutions and the role of training in police work;

- (iv) non-availability of training material and basic instructional literature;
- (v) poor planning of trainee manpower release; and
- (vi) lack of rational staffing pattern in the training institutes without providing necessary motivators and career planning, etc.

Central Government's role

36.28 We recommend that a concentrated effort be made by the Central Government in close coordination with State Governments to correct the above shortcomings. This will ensure a better training support for realising the objectives of the Committee's recommendations. The following observations and suggestions are made to improve the position in the above respects :

- (1) The Central Government must undertake a leading role in the implementation process and actively participate in the same. After assessing the existing facilities and the gaps in the State training institutions, the Central Government should undertake to provide the full capital cost for establishing the new training institutions required or for improving the existing ones.
- (2) The Central Government should bear the recurring cost initially for a period of 5 years starting first year at 75% to be reduced annually by 10%. This will bring about the much needed uniformity throughout the country in establishing the necessary infrastructure for police training of the constabulary and the SIs.
- (3) The Centre can, in consultation with the Ministry of Defence, who have dealt with similar subjects regarding the defence personnel, develop both for recruitment and training suitable parameters, psychological tests and lessons. The Centre could also directly engage itself in recruitment of the staff to develop the psychological tests and lessons required by police officials in the lower and supervisory levels. Such staff could be located at Regional Training Centres which could be run by the Central Government to train and advise the trainers from the State training institutions.
- (4) Steps must be taken to remove the lack of commitment to the concept of training in the police system itself. The State police training institutions do not enjoy the reputation which is essential for the health of any training institution. A comparison with the army training institutions reveals how the State police institutions fail to create in the candidates and the police force any pride in the institution. Such a pride is essential for the healthy functioning of any training institutions. In our view aspell as Principal or as a member of the directing staff in the police training colleges should be made a

very desirable requirement for consideration for promotion in the hierarchy. It should become a matter for pride and distinction for any police officer to be selected on the staff of a training institution.

- (5) Adequate incentives in terms of special pay and other facilities must be provided to the staff selected for serving in training institutions.
- (6) There is a general complaint that the officers who are due for training and are willing to attend the same are not relieved from their place of postings to join the training courses due to paucity of training reserves. On the contrary the officers who are not wanted by the authorities are shunted out to attend all sorts of training programmes without observing any roster for training. In other words, deputation to training is sometimes used as an excuse to get rid of the unwanted personnel. There is a third category of officers who do not want to leave prestigious places of postings to attend a training course and try to get their training deputation cancelled/postponed on one ground or the other. They apprehend that on their return, they will not be posted back to the places from where they have been sent on training.
- (7) To overcome some of the difficulties listed above, we recommend the following measures for strict compliance :
 - (a) A roster for attending in-service training refresher's course, pre-promotional training and other special training should be prepared at the Police Headquarters for strict compliance and orders should issue well in advance.
 - (b) Sufficient training reserves should be provided to fill the posts of the officers deputed for training, so that the day-to-day work does not suffer.
 - (c) Training manpower release should under no circumstances be deferred except in circumstances beyond the official's control. Even when such postponement has been agreed to under circumstances beyond the control of the official, it should not be deferred further beyond the next course.
 - (d) The officer deputed for training should as far as possible be posted to the place from where he had proceeded on training if he is otherwise not due for transfer.

36.29 The CPT, 1973 had pointed out that one of the main reasons for the failure of training to be effective is the way in which instructors are being selected. Postings to training institutions are not based on any rational policies. Generally, it is a dumping ground for unwanted people and this has thus given

S/6 HA/81—3

much undeserved odium to training in India. Few officials of proven ability or aptitude for teaching are sent to these institutions. On the contrary, officials dread a posting to these institutions as it might spoil their career prospects. The Annual Confidential Report forms for them are patterned on operational and not trainer parameters and consequently can barely reflect their contribution as trainers.

36.30 The trainer's role today is not merely that of an instructional agent. He is very much involved in the organisational development and contributes to research on training programmes, their methodology and effects. He can also play the role of a consultant to the organisation on training and provide necessary feedback to the organisation's information system. This multiple role calls for certain identifiable trainer characteristics like—

- (1) Trainee orientation—observing and analysing trainee behaviour around him while at the same time placing himself above the trainee behaviour in the class-room and outside.
- (2) Involvement in the training programme supported by incentives of special pay, amenities and personal rewards. Such a trainer will hold a strong basic responsibility for all trainees and understand their aptitude and opinion. He will be able to communicate better and effectively and develop constructive and amicable personal relations.
- (3) He should be practical in his approach to the problems of the organisation and match the training inputs to the organisational needs, to bridge the present gap between theory and practice.
- (4) He should have the ability and willingness to recognise change as the basic law of life, affecting the environment both outside and inside the training centre. This will enable him to devise new methods, procedures, attitudes and skills and seek to enhance his own competence.
- (5) He should understand that the training resources are scarce and should be meticulously used. The above trainer characteristics further depend on the following five factors which contribute to trainer effectiveness :—
 - (a) knowledge and experience of the trainer,
 - (b) motivation,
 - (c) organisational framework and climate,
 - (d) training policies,
 - (e) interest and support of senior police officers.

36.31 We understand that the Army in India and the police institutions abroad give a very high priority to training and meticulous attention is paid to selection of instructors. In U.K. a police officer wishing to become an instructor has to apply for the job and

undergo a process of selection to determine his suitability for the job. Thereafter he is given a short spell of training as a trainer. Even then he has to wait in the queue for being posted as an instructor. Similarly, the trainees are selected carefully and even by competition. They undertake considerable preparation on their own, which makes it easier to train a keen and eager trainee. We consider it essential to recommend that not only should there be no loss in pay and amenities in such postings but on the other hand these postings should carry attractive special pay and other amenities.

36.32 The CPT, 1973 had suggested some motivational in-puts for drawing talent from the existing police force for staffing these institutions, but our inquiries reveal that in most States these recommendations seem to have been ignored. We recommend that the Inspector General of Police in each State should select the trainers carefully from within the existing police cadre and implement the Committee's recommendations fully. He should motivate police officers to voluntarily opt for posting to training institutions by encouraging competition and giving recognition and financial rewards as already recommended. This will have the advantage of having a set of trainers not divorced from field experience. Their promotion in the cadre should be ensured in addition to other motivational factors like special pay and amenities on the training posts. For ensuring commitment to police training at all levels, working in training institutions should be made one of the desirable requirements for promotion to higher post including that of the IG. The Selection Boards should be required to give due weightage to this factor.

36.33 We wish to strongly emphasise that the training will be meaningful and purposeful only if the health of the other components of the police system is good. The factors that are essential to make the other components function optimally have to be simultaneously attended to. In the absence of a climate which supports performance and innovation and trust in the officers, training can have only a limited impact.

III

Training of the constabulary

36.34 The maximum visibility of the police to the people, as an organisation, centres around the Constable and the SHO, who constitute the kingpin and cutting edge of the police administration. The constabulary and the SI/Inspector of police perform the crucial roles in the police and the rest of the hierarchy has mainly supervisory and supporting roles. The field staff at the police station level are the first to come in contact with the people who perceive in them the authority of the State to assist them in resolving their problems. The Constable is, however, more visible than the SI and the Inspector. His interactions are not only person to person but with groups of people as well. He is the only limb of Government who comes more in contact with the common man in his everyday life than the personnel in any other wing of the Government. His interactions with the common

man are not stereotyped but vary from time to time and from situation to situation. There cannot, therefore, be any prescribed pattern of response.

36.35 We have been deeply aware of the demands, pressures and strains upon the Constables, Sub-Inspectors/Inspectors etc. and are examining measures for changing the role of the superior officers from merely supervisory into supervisory-cum-operational. At the same time, the Constable will be required to perform a variety of tasks and thereby derive greater job satisfaction instead of being dehumanised under the monotony of being a mechanical lathi-wielding robot.

36.36 The CPT, 1973's observations underscore this vital aspect of the functional role of the constabulary; "the constable's duties are not limited to mechanical tasks but include duties which are to be performed with understanding, tact, sympathy and firmness. He may sometimes be required to deal with situations by himself until the arrival of superior officers and at other times be required to apprise and report the incidents to his superiors. At times he has to deal with juvenile offenders and victims of social crimes and protect the rights of the non-affluent sections of the society. The constabulary constitute the major part of the police force and are the first to come into contact with the general public. The impressions of the people regarding the conduct of the constabulary contribute greatly to the image of the police. It is necessary that a Constable should possess more than average intelligence, be able to appreciate the difficulties of the public, have an analytical mind and an understanding of his fellow human being and countrymen and their rights. He must also develop the capacity to take quick decisions and identify himself with the people by his more helpful and sympathetic postures".

36.37 In paragraph 2.17 of our Second Report we had endorsed the above view of the constabulary's functional role in the revised set-up and further observed in paragraph 2.18 of the same Report that "in the set up a Constable would thus be looked as a potential investigating officer who could be entrusted with higher responsibilities in field jobs as he picks up experience and rises further by promotion on the basis of his performance at each level. A constable on beat duty has to be sensitive to many things that happen around him and has to be oriented to discharge that role. He has to be watchful of the shady characters while being helpful to the needy and the poor. His prompt and adequate response to any small development in a law and order matter should be effective in preventing further escalation of the situation. Timely action at this level should obviate the need for more aggressive action by the police force at a later stage. The crux of efficient policing, in our view, is the effective and amiable street presence of well qualified, trained and motivated constables".

36.38 We have further observed that for various reasons, the constabulary at present had little to motivate it to a meaningful and positive performance of police tasks with a full understanding of the implications and objectives of police action. They function as automations in situations where they are required to

exercise their discretion and judgement. They function rigidly in circumstances which require flexibility of approach and understanding of the opposite point of view. We have thus voiced the same objectives and concern as the CPT, 1973, for the improvement in the quality of the constabulary towards an effective and humane policing and we hope that it can be achieved by better recruitment material, more effective and purposeful training and above all by a new organisational culture.

36.39 The CPT, 1973's recommendations cover all aspects of training essential for induction into the new role of the constabulary. The recommendations cover periodical examinations, guide schemes, night work, practical exposure to problems, assessment of performance, etc. They provide for promotional training courses as well. The implementation of the recommendations of the Committee will ensure the necessary training support to the police in their enlarged role as envisaged by us. In paragraph 9.2 of our First Report we have observed "in the revised system as visualised by us, the Constable will have to be trained and developed as a potential investigating officer, who can, with experience handle investigational work independently. When he picks up that requisite experience, which in our view should be between five to six years, he should enter the rank of Assistant Sub-Inspector/Sub-Inspector by promotion". The training format prescribed by the CPT, 1973 will need some additions for the new role of the Constable. It would be appropriate to provide for adequate training in the basic principles of investigational work and allied interaction with the public at this stage as a part of the promotional course for a period about 4 months, when the Constable is expected to become an Assistant Sub-Inspector.

36.40 While the recommendations of the Committee cover the whole gamut of training, it is necessary to highlight the important role which on-the-job training plays at this important level. Pre-course training can give the exposure to prepare the recruit for imbibing the culture of the organisation and indicate the direction in which his attitudes and behaviour should grow. It is on-the-job training which plays the important role of conditioning the recruit to the culture of a police force. This depends on the responsibility each official at a higher level is willing to undertake to train the subordinate so that his development, as a concept, is promoted by the system.

36.41 The police image depends on the appreciation by the citizens, of the attitudes, conduct and response of the constabulary. We consider that one of the important items that a Constable should be taught in the training institutions is how to address the fellow citizens and to be polite, courteous and helpful to them. This has to be not only inculcated at the pre-entry level but should be daily indoctrinated on the job by the personal example of superior officers. No amount of theoretical training will achieve this result unless the Constables see their superiors act and behave in the same way. We would, therefore, like to repeat that the correct and courteous conduct and behaviour of the supervisory and senior officers in their

conduct with both the people and constables themselves are equally important as they are bound to influence the conduct of the Constables.

36.42 We have already observed that the prospect and opportunity structure within the police should be so modelled as to enable the able and deserving constables to steadily reach higher levels in the system. The training institutions should make the Constable aware of these possibilities even at the time of recruitment as a motivation. The majority of the constabulary in the future will be well educated initially and further educated by departmental training. The State police training institutions should have a data bank about every Constable trained in the institution and his future performance etc. This will help in identifying constables who show some real merit and aptitude for police work and possess the potential to reach higher ranks if given the necessary support. The State training institutions should take the responsibility for encouraging such deserving candidates by guidance and other means, for further education and acquisition of professional knowledge required for their tasks.

36.43 The suggestion of the CPT, 1973 regarding the Sub-Inspectors being attached to some social service organisations applies equally to the constabulary. The police comes to interplay in a large area of social service without being aware of it, and those duties are often outside the pale of law and order and crime prevention. Several emergencies provide abundant opportunities to bring the best out of a policeman. It is possible to simulate such emergencies for role play at regular intervals, during the course of a Constable's career. In dealing with women, the weaker sections and the children, more exposure to legal provisions and concepts is not sufficient even though it can help in generating basic understanding of the problems. The supervisory levels should utilise the Constable in the early years of his career and interact him in these sensitive areas so that his attitudes are properly conditioned and maintained at that level. Public hospitals, railway and bus stations, sports and other festivals etc. all provide adequate scope for this. A special concern for the old and weak can also be generated by example.

IV

Training of Sub-Inspectors/Inspectors

36.44 The Sub-Inspector of police occupies the most important functional area in the police hierarchy. He is usually the officer-in-charge of the police station and the principal investigating officer. The Cr.P.C. and other penal procedure Acts vest in him enormous powers like powers of arrest without warrant, release on bond or bail, search and seizure, carrying out inquests and summoning witnesses. In law and order situations, he has an arsenal of powers whose impact on the citizens' fundamental and other rights is far reaching. He combines in himself the preventive, detective, and regulatory control functions of law enforcement and he himself investigates crime and other cases. He is the kingpin in the police administration at the cutting edge. He comes into continuous contact with the public. He occupies the first level of supervision and leadership in the set up, over the

Constables and Head Constables, who are most visible to the public eye. Much depends upon his capacity to get the active cooperation and assistance of the staff under his control and on his own professional competence.

36.45 Too much centralisation of action and powers at this level combined with pressures and demands for results by several supervisory levels has resulted in the Sub-Inspectors getting hardened in their attitudes, with consequent failure to see the humane angle of the problems that arise from social, economic and physical handicaps. On top of it, they get little active help and guidance in their work from their senior officers, and even conflicting directions and orders are often received from them without matching support. Yet they have to keep these officers happy and so far as possible deliver the goods. The CPT, 1973 in prescribing the training programme for this level while giving the necessary importance to professional efficiency has balanced it with a much needed tilt towards sensitising the SIs to the human problems of our people and re-orienting their behaviour and conduct towards the people, who are generally afraid of the police due to a long colonial tradition. A new image has to be built up. Great stress has been laid on the preventive aspects of policing but it has not been possible to evaluate its impact and results quite possibly due to the secrecy that generally shrouds police working. The importance of this level in the police system is such that any training in-put can only supplement the other professional in-puts and cannot be an alternative or a substitute. No in-put can be a substitute without affecting the functional efficiency of the SI in the discharge of his duties unless a balance is worked out.

36.46 The SI has to be professionally competent and keep the public and his superiors satisfied if he is to come up in service. This involves a thorough training not only in the legal side of his work but also in the practical side, like scientific aids and other skills in investigations, gathering of intelligence, adequate knowledge of forensic science, etc. In the area of law and order he should be trained in crowd control, regulation of fairs and festivals, meetings and processions. He should also be trained to have the necessary understanding of the causes that result in communal, agrarian, labour, student and other areas of conflict. He is required not only to be prompt and effective in action, but discreet and tactful, considerate and compassionate. He should have faith in the preventive aspects of police work as well as the criminal justice system and be able to stand upto its exacting procedures.

36.47 The Committee while prescribing the revised curriculum for the training of SIs has given necessary thought to the various considerations that go in for efficiency in performance without compromising the satisfaction of the complainant and the general aspirations of the citizens in a democratic set up.

36.48 The Committee's recommendations for attaching the SIs to some social service institutions as part of the training, deserve careful attention. It is necessary that he is exposed periodically to refresher

courses which would increase his sensitivity, understanding of psychology and teach him management techniques and behavioural sciences. He should not only be an agent of change but he must also be open minded enough to accept change as a necessary factor in a democratic society. Science and technology are changing fast in the field of crime detection and prevention. He has to be periodically brought upto date in the use of various scientific tools and skills. Refresher courses are essential to update his knowledge in this area and also to give him a break from his long working schedule. Yet no training can be effective unless the SI is made interested and motivated towards learning and education and considers them as important factors which will determine his advancement, improvement in his professional competence, and will earn him recognition and rewards.

36.49 The CPT, 1973 had suggested in the case of SIs the same evaluation process as has been prescribed for the IPS. In this context, we would recommend that on the completion of the course the SI should be required to pass a departmental examination and after interview and psychological tests, his personality and ability profile should be drawn up and definite advice given to him for his further self education and about his strengths and weaknesses.

36.50 We have in the previous chapter indicated that recruitment would ultimately be confined to the levels of Constable and the Indian Police Service. But till the constables recruited and trained under the new concept come up in sufficient strength to take the place of the directly recruited Sub-Inspectors completely, we are of the view that the direct recruitment to the rank of Sub-Inspectors may have to be continued for a period of about 10 years. The percentage of direct recruitment from the present figure of 50 per cent should be gradually reduced during this period as more and more competent officials become available from the lower ranks.

36.51 Against the above background, we feel that while the training scheme recommended by the CPT, 1973 could be adequate for the direct recruits, greater attention will need to be given to academic instruction, comprehension and expression in the case of officers promoted from the ranks to the level of Sub-Inspectors.

36.52 It would be desirable that the training syllabus for the promoted Sub-Inspectors is so designed by a combination of professional and academic subjects that on completion of two years' probation, the promotee is enabled to appear at and pass a departmental examination entitling him to the award of a Diploma/Certificate of Merit in police sciences. For this purpose, each training academy may be declared as a Centre of Education in Police Sciences, just as the Indian Institute of Technologies, the Institutes of Management, Institutes of Chartered Accountants etc., are entitled to award Diplomas/Certificate of Merit of their own for the courses they teach. All these promoted officers would have already passed the High School examination or the Higher Secondary examination and in some cases may be degree holders. Their working experience of several years in the police would also have matured them. This will ensure that those

constables who are promoted to the rank of Sub-Inspectors feel in no way inferior to the directly recruited Sub-Inspectors with whom they will be working for quite some time. This will also ensure that in future some of them can hope to catch up with the I.P.S. officers as well. As a measure of incentive, those among the promoted Sub-Inspectors who obtain the degree in police sciences in the second class should be given an award of Rs. 1,500 and those who pass in the first class should be given an award of Rs. 3,000.

Inspectors

36.53 After the police organisation is re-structured, we envisage that depending upon the importance of the charge, the duties and responsibilities of both the Sub-Inspector and Inspector would be more or less identical. Some Inspectors will be holding the more important charges and in certain cases they will be supervising the work of Sub-Inspectors. Keeping these in view, we would recommend that a special course may be organised in the State training institutions for those Sub-Inspectors who are selected for promotion as Inspectors. The duration of this course may be 6 weeks only, to serve as a gap between the two ranks and be a refresher course which could blend knowledge of work with problem solving skills.

Special course for Station House Officers

36.54 In the course of our deliberations we have given considerable attention to the reorganisation and the strengthening of the police station. In our view, the charge of the Station House Officer will become even more important than it is now as more financial powers and administrative powers would be delegated to him. In order to highlight the special importance that we attach to the duties and responsibilities of Station House Officers and also the need to pick up the most deserving amongst them for more rapid advancement and to entrust them with higher responsibilities, we recommend that a special course of about 18 weeks duration be conducted at the National Police Academy for Station House Officers of the rank of Inspectors.

36.55 The advantage of the course being run by the National Police Academy lies in the fact that experienced Inspectors who have worked as Station House Officers in various States will have an opportunity of coming together to learn, exchange experience and develop a national perspective. The National Police Academy also will be able to make some contribution to the better functioning of the police stations and benefit by the direct appreciation of the problems faced in the field through the participants in the course. The knowledge of the grass root realities of police stations in various States will enrich the National Police Academy and enable it to give a practical orientation to all their courses.

36.56 The admission to the special course should be by nomination by the IG of Police amongst the Inspectors who have had 3 years of experience as SROs and are really very competent. We recommend that the National Police Academy should conduct two courses a year for about 50 Inspectors in each

batch. Every State should be allotted a certain number of seats depending upon their overall strength of Inspectors.

36.57 We recommend that this course should be developed as a prestigious course which on successful completion would entitle the participant to a merit certificate and handsome financial awards on the following scale :—

- (a) with 50% marks—Merit Certificate + Rs. 1,000.
- (b) with 55% marks—Merit Certificate + Rs. 2,000.
- (c) with 60% marks—Merit Certificate + Rs. 3,000.
- (d) with 65% marks—Merit Certificate + Rs. 4,000.
- (e) with 70% marks—Merit Certificate + Rs. 5,000 and above.

V

Training of Deputy Superintendents of Police

36.58 The post of the Deputy Superintendent of Police is a continuing historical reality. This cadre of gazetted officers was created by the British both as a palliative to the sentiments and aspirations of the local population for a share in the administration and as an interface between the English Superintendent of Police and the rank and file of the force as also the Indian people with whom the Deputy Superintendent could communicate in their own language.

36.59 An experienced Dy. SP has years of working experience of all aspects of Police functioning and so both the young directly recruited Superintendent of Police and the DIG depend upon him for bulk of the police work. He does the bulk of the supervisory work in the field and has personally to make a large number of enquiries. We are of the view that the rank of Dy. SP will need to continue as he has become an important functionary in the police hierarchy and has a distinct role to play. The retention of this rank is further necessary to provide a promotionary level for the large number of rank and file from the Constable upwards.

36.60 Recruitment to the level of Dy. SP varies from State to State. This level is filled by both direct recruitment as well as by promotion from the SIs/Inspectors. We have already recommended the abolition of direct recruitment to this level. The CPT, 1973 had also expressed the same view. We would urge the Government to take an early decision on this point so that further cadre complications are avoided.

36.61. The CPT, 1973 had recommended that till such time as direct recruitment to the rank continues, the basic course content of their training should be similar to that of the IPS probationers. In our view also the directly recruited Dy. SP should receive the training identical to the training imparted to IPS trainees. But that would be only for a short interim period till direct recruitment to this cadre is given

up, as recommended by us. Our observations and recommendations in the paragraphs to follow would, therefore, be focussed on the training of promoted Dy. SPs who alone in future will constitute this cadre.

36.62 Since the level of the Dy. SP will be a promotional level for the Inspectors, there will be no need for any basic training course for these officers as is required at present for the direct recruits. In future those who are promoted as Dy. SPs will be officers of wide experience and merit who will have already done the courses for SIs and Inspectors. All that will be needed in their case would be a refresher course of about 3 months to equip them to understand and undertake the additional responsibilities. This will entail considerable work of an administrative nature as against principally professional police work. The training format needs to be modified accordingly to provide to these promotees the necessary exposure to concepts of administration, supervision and leadership. There should also be case studies to enable them to review cases with the object of finding out if they could have been handled better with newer skills.

36.63 They should also be given the necessary exposure to managerial techniques, suitable for this level. These should include training in human behaviour, personnel management and new management concepts and techniques. A short exposure to sensitivity training would also be helpful to free them from their past experience. This will enable them to play their new role with greater sensitivity.

36.64 The training for this level of officers is at present being conducted in State Training Colleges. We feel that it would be better to impart the training for this level in the NPA which can run a 3 months short course as discussed in the previous paragraphs. This could give the necessary rounding off to their experience in the Police set up. This could also make them better equipped for the role and responsibilities of the post of Dy. SP. The ASP is already being trained by the NPA. Therefore, in our view the Academy will be a better organisation for imparting the same skills to the prospective Dy. SPs and lay the foundations for bringing the Dy. SP and ASP together.

36.65 It is our view that the State police training institutions do not have the necessary and adequate facilities for providing training for this level. In comparison to that the NPA is better equipped for such a task. Still if it is felt that one or two months should be spent in a State police training institution,

this could be in addition to the 3 months course recommended above by us to be conducted in the NPA.

36.66 We wish to mention that a major consideration in favour of centralised training is that it would give a wider exposure to the Dy. SPs who will be officers having knowledge only of a single State. This will enable them to develop a *esprit de corps* with their colleagues from other States. This will also enable them to learn from each other and gain knowledge about the different traditions and practices of other States.

36.67 We wish to further recommend that the Dy. SPs should be required to visit police stations and jails in 4 or 5 States and during these visits some seminars could be arranged on the special features and traditions of the State visited. This could be done either at the State training institutions of those States or at the Headquarters of Inspectors General. This tour of other States would give the Dy. SPs an all India outlook and perspective to which we attach great importance.

36.68 The training of Dy. SPs at the NPA will also help in reducing the gap between the IPS officers and the Dy. SPs to the minimum. This would be in the interest of the Police organisation as a whole. In addition, the NPA will also have much to gain by taking up this responsibility because the inter-connection between them and the staff of NPA would help give a practical orientation to the training courses and acquaint all the staff with the diversities of local practices in various States.

36.69 The training in the NPA would also be most cost effective because it will have the resources as well as the time. This is because on one hand we are separately proposing a reduction in the training period for the IPS direct recruits and on the other hand the number of direct recruits to the IPS which has already been reduced from 75% to 66 $\frac{2}{3}$ % will be further reduced to 50% if our recommendations are implemented.

36.70 The training of the Dy. SPs will also help the Academy to get acquainted with the needs of the officers at this level. The Academy in any case will have to develop courses for departmentally promoted IPS officers whose number will be 50% in future. It is our view that it will help the NPA if it took charge of both the training and the education of the Dy. SP and establish its direct contact and communication with the officers of this grade.

CHAPTER XXXVII

DACOITIES

37.1 The problem of dacoity is very old. Dacoities have been mentioned in the Mahabharata. But in the fourteenth century came to notice Thugs who were gangs of dacoits who plundered their victims after strangling them to death. Later came Pindaris and in the eighteenth century several gangs of Thugs and Pindaris roamed the whole of central and eastern India and killed, with intent to rob, a very large number of people. Both the Thugs and the Pindaris were eliminated in the nineteenth century by the then government in power. The operations designed and ruthlessly executed by William Sleeman and his officers to wipe out Thagi are noteworthy. A department of Thagi and Dakaiti was established in 1835, followed by Act XXX of 1836. Later a Dacoit Act (Act XXXIV of 1843) was brought into operation. By 1860's, however, strangling had been replaced by poisoning and poisoners and dacoits were then the main problems of that Department. Dacoity has thus been a long standing problem in our country and has defied the attempts of several administrations to control it for any length of time.

37.2 It is an extremely serious form of crime because it not only effects the person against whom the crime is committed, but also strikes terror and creates insecurity amongst a large population in the area. It is an open defiance of the law and in a way a challenge to the fundamental values of orderly society. Therefore, the police have to treat it as something more than ordinary crime.

The present incidence of dacoity

37.3 A statement showing the incidence of dacoity and the volume of crime per lakh of population in the different States in the country is given in Appendix-I. We observe that dacoities increased from 6,384 in 1968 to 10,948 in 1977, a percentage increase of 71.5 over 1968. The volume of dacoity per lakh of population, during this period, increased from 1.2 to 1.8, a percentage increase of 50. The States of Bihar, Nagaland, Tripura, Uttar Pradesh and West Bengal have consistently recorded a higher volume of crime of this category per lakh of population, than the national average for all the years. Though Madhya Pradesh and Rajasthan show a lower volume of dacoity per lakh of population, it is common knowledge that the types of dacoities occurring in these two States are such as to pose a serious problem. Bihar, Uttar Pradesh and West Bengal have also many serious dacoities contributing significantly to the total incidence of such crimes in these States. While commenting on the extent of this problem we also take note of the wide-spread feeling in the mind of the people that the problem of dacoity is more pronounced and serious than is made out by police statistics. We are aware

of the general malady that a good part of the crime that actually occurs does not get reported to the police, and a good part of the crime that is reported goes unregistered by the police. We are also aware that several crimes of dacoities are recorded in some other form or as a combination of less serious crimes so that the incidence of dacoity does not appear as excessive and alarming. We are convinced that there is a considerable element of minimisation, i.e. registering it as some other and less serious offence, in the recording of crimes of dacoities. The reasons for this phenomenon we have discussed at length in paragraph 27.3 of our Fourth Report. It may suffice here to state that crime statistics are being increasingly used in this country for political purposes. We strongly feel that "burking" or concealment, or minimisation, of a reported crime should be considered an actionable dereliction of duty on the part of police officers. In respect of serious offences like dacoities, minimisation results in an under-estimation of the problem itself and this retards the finding of effective and timely solutions to the problem. The control of crime, particularly the serious crime of dacoity, cannot be achieved by suppressing facts. A police officer's competence should be judged not by the statistics relating to the crime in this jurisdiction but by the efforts he has put in to control criminality in his area. Public opinion is a far better indicator of the performance of a police officer than statistics. It would be to the advantage of the government and the police if they allow the actual dimensions of the problem of dacoity to be projected comprehensively and indicate the programmes and methods initiated by them to solve the problem. Such action would enhance public confidence in the government and the police may also elicit public cooperation in dealing with this serious problem.

Classification of dacoities

37.4 We have stated above that statistics do not present a full picture of the problem of dacoities. We find that statistics are both quantitatively and qualitatively deficient because no classification of dacoities is attempted in the existing pro formae of statistics. Any offence in which five or more than five persons are involved and in which there is carrying away of property with the accompaniment of some element of coercion is classified as a dacoity. Thus, five or more than five persons walking into an opponent's land and despite resistance cutting some standing crop possibly due to a private dispute, commit a dacoity under the law. In contrast, a well organised gang equipped with modern firearms raiding a village and committing several atrocities, including dacoity also because liable for the same offence of dacoity. The distinction between the two types of offences described above is

obvious. While in the former, the impact of the offence is limited to a small group in a localised situation, in the latter the impact of the offence is the striking of terror in an entire community and even beyond. All dacoities, therefore, cannot be handled in one single manner. We, hence, recommend that in order to facilitate a sound appreciation of the problem and its appropriate handling a proper classification of dacoities should be made by the authorities. In published statistics at the state and national levels, dacoities should not be shown under one omnibus head but should be classified as described below :—

- (i) Technical dacoity, that is, a dacoity committed by persons who do not make a habit of it but on account of a dispute they happen to have committed an offence which falls within the ambit of section 391 of the IPC. This may be called *simple dacoity*.
- (ii) Dacoity committed by persons who treat it as a source of profit but who remain part of the society from which they assemble to commit it and into which they merge after they have committed it. These people may have normal avocations also. This may be called *professional dacoity*.
- (iii) Dacoity committed by a gang of dacoits which lives outside the society as a separate cohesive group. The members of such gangs live only by a life of crime. Often their names and descriptive rolls are known. This may be called *gang dacoity*.

Violence is generally used in all the three categories but whenever a firearm is used in categories (i) and (ii) above it should be so classified. In the third type of dacoity the actual use or otherwise, of a firearm is irrelevant, because firearms are always carried and it is common knowledge in the area of depredation that they would, should occasion arise, be liberally used.

37.5 The first type of dacoity is just as bad as any other crime. The second type of dacoity is a menace because it is indiscriminate and corrodes the vitals of a society. The seriousness of the third type of dacoity has been acknowledged for a long time. It is open and blatant defiance of law and society. The use of firearm makes any offence serious and, as things are, the type of firearm used, breach loading, muzzle loading, country-made, licensed, unlicensed should also be a statistically recognisable fact. We are more concerned with dacoities of the second and the third types and the use of firearms in the commission of a dacoity or a similar offence.

Investigation of dacoities

37.6 We find that the investigation of an offence of dacoity is very complex and bristles with difficulties. Section 157, 160 and 161 of the Cr. P.C. describe the procedure to be adopted in investigation. Underlying this procedure are certain assumptions :—

- (i) That visit to the scene of crime and a thorough examination of such scene would provide clues which would help investigation;

- (ii) That several people who have knowledge of the offence committed would be available and would also be willing to share their knowledge with the police;
- (iii) That the persons who are alleged to have committed the crime could reasonably be expected to be found in the same area or a neighbouring area;
- (iv) That those offering to make statements to the police would make truthful statements; and
- (v) That there is a high degree of probability that things involved in the offence would be within the area or in a neighbouring area and could be obtained through the process of a search under the law.

37.7 Because the assumptions outlined in the foregoing paragraph seldom hold true, particularly when a serious offence like dacoity is under investigation, the police have, apart from some procedural malpractices such as delaying the recording of the First Information Report until they have had the time to gather all the necessary details for inclusion in the FIR to improve the chances of conviction by a court of law and including in the FIR the facts of a moonlit night or a burning lantern to validate the fact that the victim had seen the dacoits and could, should they ever be arrested, identify them, of late taken to the shortcut of encounters. When the police come upon a dacoit gang, in any way, the resistance on the part of the dacoits to evade arrest leads to use of force by both the dacoits and the police and this exchange—normally there is an exchange of fire because both the groups are armed—is commonly referred to as an encounter. When dacoits are killed in an encounter it solves the very difficult problems of arresting dacoits, getting them identified by the victims and some stock witnesses—for real witnesses would seldom, on account of fear of severe reprisal by the associates of the dacoits volunteer to appear as prosecution witnesses—and securing conviction in a court of law. We examined the number of encounters with dacoits in the 10 years between 1969 and 1979 in the State of Uttar Pradesh. The figures are given in Appendix-II. It can be seen that the number of encounters the police had with dacoits had risen from 180 in 1969 to 2,792 in 1979, almost by about 16 times. The number of encounters of dacoits with villagers on the other hand, had come down from 185 to 128. The number of dacoits killed in encounters by the police had risen from 63 to 596 i.e. almost ten fold, while the number of dacoits killed in encounters with villagers had increased from 80 to 110. The number of dacoits arrested by the police had increased by about 15 times while the number of dacoits arrested by the villagers had increased from 59 to 67. These figures reveal that there has been a considerable increase in the police effort to run down dacoits and they also reveal that the number of dacoits killed to those arrested has, contrary to popular impression, declined from 9.4% in 1969 to 5.8% in 1979.

Fake encounters

37.8 We are informed of a general public feeling in some areas that often encounters are stage-managed by the police in which the dacoits are killed in order to avoid going through the process of a trial which may or may not result in their conviction and a deterrent sentence. It has been alleged that even after being arrested, some notorious dacoits are done away with by documenting a fake encounter. We are aware of the various difficulties in collecting evidence against dangerous dacoits to prove their crimes to the satisfaction of a court. We are also aware that witnesses would not be forthcoming in trials against dacoits because of fear. An incident in which a large number of witnesses—more than thirty—were murdered when a trial against a notorious dacoit was going on in a court of law was in fact brought to our notice. In spite of all these practical difficulties, we strongly disapprove of any action on the part of the police which exceeds the limits imposed by law. The law demands that no person shall be considered a criminal unless pronounced to be so after a due and proper trial by a court of law. The police are not to judge and to punish. Besides, this, we are convinced, is not the remedy for the situation. The answer is to strengthen law and the legal process. Further, the belief that the police would kill a dacoit anyhow deters those dacoits from surrendering to police who wish to do so and often it is a let down for those villagers who have resisted a dacoit gang and apprehended a couple of dacoits if police kill those apprehended dacoits in a fake encounter and take the credit for themselves. The brave villagers lost sight of are disheartened. We would, therefore, like to observe that fake encounters should sternly be discouraged in the police, and the personnel found responsible for such encounters should be punished. We would, however, add that on account of the increasing tendency of criminals to be armed, generally the encounters are more likely to be genuine than otherwise. A genuine encounter for the purpose of apprehending a dacoit can come about within the framework of law, with reference to sections 97, 100 and 103 of the IPC which deal with the right of private defence of life and property. According to section 103, the right of private defence of property extends to the causing of death in respect of certain offences including robbery which is a component of the offence of dacoity. The exercise of this right by the police is operative only when they are attacked or when the actual commission of the offence is in progress. If, therefore, a police party is on the move, that party will be entirely justified in law in taking effective steps to stop the crime, even going to the extent of opening fire which may result in the killing of some of the offenders noticed in the actual commission of the offence. Section 46(3) of the Cr. P.C. empowers the police to use force to the extent of causing death to a person accused of an offence punishable with death or imprisonment for life if such person resists arrest or attempts to evade arrest. Thus, if the police go in pursuit of the dacoits and if they find that a dacoit resists arrest or attempts to evade arrest, the police would be fully justified in using force against him to the extent of causing his death. Thus, legal provisions exist to justify the use

S/6 HA/81—4

of force against dacoits which may even result in causing their death. *Per se*, therefore, an encounter is neither illegal nor undesirable. While very many encounters are genuine, even in a genuine encounter, attended by circumstances detailed above, a police officer who has felt the intensity of the problem in a dacoity-infested area and is well aware of the extreme difficulties in securing evidence to get a dacoit convicted in court for the offence of dacoity, will be more inclined to use force which may result in the killing of a dacoit rather than make the utmost effort to arrest the dacoit without killing him. Police attitude and tendency in such situations are conditioned by their awareness of the fact that even if caught and produced in court, even the most murderous and dangerous dacoit may not get convicted because of the inherent difficulties in proving the ingredients of the offence of dacoity according to the prescribed norms of evidence. Accordingly we recommend that in every case of an encounter, senior police officers should satisfy themselves that the police have acted under the law and not in a cruel or highhanded manner just to do away with a dacoit to avoid putting him up for trial before an appropriate court.

Need for legal provisions to compel attendance of absconding dacoits

37.9 We feel that the tendency of the police to resort to force which may result in the killing of dacoits in encounters would be reduced if a position could be evolved in law whereby the very act of a dacoit in evading the processes of law and remaining in hiding without appearing in court when required to do so is made a substantive offence by itself for which he can be dealt with in court immediately after his arrest without prejudice to the disposal of the main charge of dacoity against him. This is not a totally new concept in law because even now a person's failure to respond to a summons or a proclamation duly issued by a court is a substantive offence punishable under section 174 IPC. This, however, is a non-cognizable offence punishable with simple imprisonment up to one month only. We feel that this concept may be suitably enlarged to provide for a more severe notice being taken of a person who is accused of heinous crimes like murder, dacoity, robbery, kidnapping for ransom, and who continues to remain in hiding without yielding himself to the processes of law. This object can be achieved by amending section 82 Cr. P.C. to provide for the making of a special declaration by the court in respect of a person accused of a heinous crime. After such a declaration is made in respect of an absconding dacoit, he can be dealt with for the specific offence of failure to respond to the proclamation issued by the court by adding a new section 174A—in the IPC specially to cover such an act and prescribing a heavy punishment, therefore. For this purpose we recommend that the following may be added as sub-section (4) and (5) to section 82 Cr. P.C.

Proclamation 82	(1)	xxx	xxx	xxx
for person	(2)	xxx	xxx	xxx
absconding.	(3)	xxx	xxx	xxx

- (4) In a case where the proclamation published under sub-section (1) is in respect of a person accused of an offence punishable under any of the following sections of the Indian Penal Code, namely 302, 304, 364, 365, 367, 368, 382, 392 to 400 (both inclusive), 402, 436, 439, 449 and 460, if that person fails to appear at the specified place and specified time mentioned in the proclamation, may thereupon, after making such inquiries as it thinks fit, declare him a proclaimed offender and make a declaration to that effect.
- (5) The provisions of sub-sections (2) and (3) shall also apply to declaration made by the court under sub-section (4).

The new section 174A—to be added to the Indian Penal Code may be on the following lines :—

Non-attendance 174A Whoever, being legally bound in obedience to a proclamation published by court, to attend in person at a certain place and time in obedience to a proclamation published under sub-section (1) of section 82 of the Code of Criminal Procedure, 1973, intentionally omits to attend at that place or time or departs from the place where he is bound to attend before the time at which it is lawful for him to depart,

shall be punished with imprisonment of either description for a term which may extend upto three years;

and in a case where, in addition to the aforesaid proclamation, a declaration has also been published under the provisions of sub-section (4) of section 82 of the aforesaid Code,

shall be punished with imprisonment of either description for a term which may extend to seven years.

The above amendments in the penal and procedural law would, in our opinion, make an effective legal process available to the police for immobilising dangerous dacoits who remain in hiding for a long time and later get caught by the police. The availability of this alternative would guarantee a minimum sentence and may to that extent reduce the tendency of the police to resort to 'encounters' with dacoits.

37.10 In view of the amendment proposed to section 82 Cr. P.C. in paragraph 37.9 above which brings in the concept of a proclaimed offender duly declared as such by court, it would be appropriate to amend section 46 Cr. P.C. also which sets forth some basic guidelines for making arrests. We feel that the operational facility presently available to the police under section 46(3) Cr. P.C. should cover proclaimed offenders also. We, therefore, recommend that the aforesaid section may be amended as indicated below :—

Arrest how 46	xxx	xxx	xxx
made	xxx	xxx	xxx

- (3) Nothing in this section gives a right to cause the death of a person who is not accused of an offence punishable with death or with imprisonment for life or is not a proclaimed offender as declared by a court under the provisions of sub-section (4) of section 82.

Strategy for dealing with dacoities

37.11 Simple dacoities should be handled like any other crime, that is, investigated thoroughly and prosecuted competently in a court of law. Professional dacoities call for meticulous building up of police station records on the basis of continuous collection of intelligence, and preventing inflow of arms and ammunition into the hands of the criminal elements. Gang dacoities need to be handled in the same manner as insurgency; location, isolation and eradication. As all the five processes mentioned above, building up police station records, preventing inflow of arms and ammunition, location of gangs of dacoits including identification of membership, isolation of the gangs from their supporters and harbourers and their eradication through operations efficiently planned and mounted, require intelligence the first task is to collect information and process it. Here we would like to emphasise that in a dacoity—infested area the task of collecting intelligence should not be confined to a special group like the CID. Each armed police unit and each police station must help in gathering information and it should be a specific task of the officer in command to set targets and to see whether the uniform

side is participating in the collection of intelligence in the correct manner. The training of policemen posted in a dacoity area should awaken all of them to the responsibility of collecting intelligence. The job of the special unit exclusively charged with this responsibility should be to process the information collected by all policemen in the area and disseminate it to those concerned. Building up of sources requires a good deal of preparatory work and, therefore, these sources must very carefully be protected, but in this duty policemen often fail with the result that the sources are murdered by the dacoit gangs. This and misbehaviour by police, such as 'marpeet' or forcible collection of food from the public, during an operation lead to drying up of information and soon a stage is reached when policemen find it very difficult to obtain any information at all. The police, therefore, must not do anything to antagonise the people and must develop contacts with a large number of people.

37.12 On the basis of continuous collection of intelligence, police station records that are normally neglected in areas in which the crime of dacoity is endemic should be built up, particularly those relating to crime and criminals, suspected or otherwise, and gang history sheets should be prepared with comprehensive data on organisation of the dacoit gangs, membership, castes and relationships of members of the gangs, weapons in possession, the areas of depredation, helpers, harbourers, receivers, places from where food is obtained, sources of medical aid, etc. In fact intelligence should be able to reach a stage where every thing that happens in a gang is known to the police.

37.13 Because the normal police station staff is intermittently involved in law and order duties and has regularly to investigate offences of all types its knowledge of crime and criminals is confined to the police station area and the immediate neighbourhood. We are of the opinion that for sustained and expert investigation, particularly of professional dacoities, special investigation squads should be set up at the level of the range DIG. In the affected ranges there should be an officer of the rank of Superintendent of Police, attached to the office of the DIG, to supervise the work of this squad. Intensive patrolling of the affected area by police during day and night creates a sense of security among the people and can also lead to chance encounters with dacoit gangs. There should be a strong armed police picket in key villages and key police stations and the siting of these pickets should be such that they can defend themselves, even with section strength. The men in these posts should know where they have to take positions in an emergency and what they have to do, and this drill should be practised everyday. While these posts require frequent visits by senior officers during festival times such visits are even more important because those who strike at these posts obtain access to them to participate in festivities and sometimes they supply free liquor as well. The consequence is a negligent or asleep sentry and that means loss of men and loss of weapons. There is a tendency to think that only armed police personnel need to be trained in fieldcraft so that they can move unobtrusively through an area and follow field signals obviating the need for shouted words of

command. We are of the view that all men posted in the dacoity area whether in the armed police or the civil police should be trained in fieldcraft and tactics and in all must be inculcated some degree of self-control. Many operations have failed because one man started smoking and the wind gave away the position of the party.

37.14 In dacoity areas an important requirement is dedicated leadership. The police officer in command whether of a section, platoon, company or a mixed group, should be able to bear privations, face hazards and enforce discipline among the men. At all times he must manifestly be concerned about the welfare of his men. During operations he should eat the same food as his men. It is for him to decide the right time to strike. He may allow some ostensible opportunities to go by, so that he can strike with maximum effect at the right time. Towards that end it might be mentioned that the police ability to strike successfully in itself opens channels for information as the people feel encouraged to respond with detailed information. The last and the most important leadership quality required is faithful reporting to the media and the government because false reports about an operation not only damage that operation but also do serious disservice to future operations.

37.15 For police to be able to function as mentioned in the foregoing paragraphs the police strength in a dacoity area needs to be much more than usual. A heavy police presence is very essential. It has been the experience of the Chambal Valley that when after the surrenders in 1972-73 the presence of armed police battalions was reduced crimes of dacoity and kidnapping shot up within a couple of years. Further the affected area must have a good network of roads and a wireless network connecting every police station and every fixed police picket. Mobile police patrols should also be in communication with similar mobile patrols in the area and the concerned police station and supervisory officers in order to convey information and seek assistance. This would involve not only point to point communication but also inter-communication between groups patrolling the area. We recommend introduction of such a communication system in the dacoity-infested areas on a priority basis. As such areas are not popular requiring as they do a high degree of physical fitness, mental alertness, courage and almost continuous hard work, grant of liberal allowances and other facilities to police officers posted in such areas should be considered.

37.16 In our Third Report we have recommended constitution of Village Defence Parties in addition to Village Chowkidars. Such parties should be so organised that they can be mobilised quickly whenever there is need for collective action to deal with any specific situation in the village. A Village Defence Party may be for a village or for a group of villages depending upon the operational needs. We recommend that Village Defence Parties in selected dacoity-prone areas should be equipped with firearms, if they are to play an important role in dealing with dacoities. We are aware that the issue of arms to persons not trained in their use and care could lead to other complications. We, therefore, recommend that

village defence parties in dacoity-prone areas, which are earmarked for the purpose of playing a role in control of dacoities should be properly trained in the care and use of firearms. For this purpose a police officer of suitable rank should be earmarked in each district of such areas. It should be the function of this officer not only to train the members of the Village Defence Parties in the care and use of firearms, but also to go round the villages and ensure that the firearms are kept in proper custody and in a safe place. By moving round the villages, the officer should also constantly update the expertise of the members of the Village Defence Parties in collection of intelligence and any other activities connected with anti-dacoity operations.

37.17 While we have already recommended a Criminal Injuries Compensation Act in the chapter on Police-Public Relations we are of the view that something special should be done for the victims of the offence of dacoity in such areas. The atrocities committed by dacoits on the villagers such as ruthless murder, insensate violence and molestation, including raping of women in public view, one so cruel that they create hatred in the minds of the villagers against those who perpetrate such atrocities. Thus, we are informed that often encounters take place between villagers and dacoits in which several villagers are either killed or injured. We understand that the valour and courage of those killed or injured, from among the villagers, are hardly recognised. In some States a very meagre pension is given to the dependents of those killed. Those villagers who defend themselves and others against notorious dacoits should be recognised as performing a very important public function in the face of serious hazards. In order to boost the morale of the villagers and as a matter of recognition of the courage and determination of these villagers we recommend that generous grants and pensions should be paid to the dependents of those villagers who are killed in encounters. Those who are injured in encounters should also be paid generous grants and disability pensions. Further the death or the permanent maiming of the bread winner of a family in a dacoity is a matter of perpetual misery to that family. It is unfortunate that while concessions have been extended to dacoits to facilitate their surrender nobody sheds a tear for the unfortunate victims of dacoities. We would like to draw a distinction between a victim of dacoity and the victim of any other crime. We recommend that the government should sanction suitable compensation to the dependents of a person who is killed in the course of a dacoity. Government should also pay suitable compensation by way of pension to a person who is permanently maimed due to injuries received during the commission of a dacoity. Such an action on the part of the government would go a long way in mobilising public support in the fight against dacoities.

37.18 Policemen working in anti-dacoity areas ought to, should they suffer physical harm, receive enhanced compensation as this harm accrues to them through risk of office. We recommend that police personnel who come to harm in areas ravaged by armed gangs of desperados may be given financial compensation

and benefits on an enhanced scale, as compared to those applicable to police personnel in other areas not so infested. Depending on the crime situation operational areas which would entitle police personnel to enhanced benefits under this arrangement may be notified by the government from time to time.

Kidnapping for ransom

37.19 Our inquiries have revealed that kidnapping for ransom, as a criminal activity, is increasingly being preferred to the commission of a regular dacoity by dacoit gangs. In fact, one of the most notorious gangs presently operating in the Chambal Valley region is said to indulge only in this form of crime. We understand that in this kind of offence there is lesser effort and risk on the part of dacoits, and enhanced gain is certain. Payment is extracted in cash and unlike a dacoity money is squeezed from wherever it may be *i.e.* a bank or in the form of land or business. We also understand that a new kind of crime is coming to notice, particularly in the towns and cities situated in the dacoity-infested areas. Small time criminals and anti-social elements kidnap persons and sell them to a regular gang of dacoits for a price. The gang then negotiates release with the relatives of the kidnapped and extorts a much higher price. In other words, the powerful gangs kidnap people through agents living in society to whom only a commission is paid. We refer to these trends with considerable anxiety and concern because we feel that this kind of activity on the part of the criminals can quickly lead to great insecurity and panic among the people. It is, therefore, necessary that this emerging activity is studied carefully from now on and intelligence built up to put it down ruthlessly because this could otherwise become the crime of the next decade producing a more devastating impact upon the people than the heinous dacoities of the present times.

Surrenders

37.20 One method of dealing with the problem of dacoity has been to accept conditional surrender by dacoits. In May, 1960 the first such surrender took place, at the instance of Shri Vinoba Bhave, in the Chambal Valley area of Madhya Pradesh with the tacit understanding that if some prominent dacoits surrender Tehsildar Singh son of dacoit Man Singh, whose mercy petition had been filed before the President in June, 1959, would not be hanged. Nineteen dacoits then surrendered to Shri Vinoba Bhave of whom Lokman Sharma *alias* Lukka was the most notorious. The death sentence of Tehsildar Singh was commuted to life imprisonment on 31st May, 1960. The surrendered dacoits were with the application of tilak and presentation of garlands etc. made much of during the process of surrender and this lionising had an adverse effect on the morale of the police as also of the people of the area. In 1972-73, 501 dacoits surrendered in Madhya Pradesh and these included many dacoits from some of the most dreaded and notorious gangs of the Chambal and Bundelkhand regions. This surrender was, however, preceded by acceptance of some conditions by the Government and imposition of a few conditions by the

Government on the surrendering dacoit gangs and the Sarvodaya workers. These conditions were as under :—

- (1) The Madhya Pradesh Chief Minister had already extended the time limit for surrender of dacoits of the M.P. area to the 15th of April, 1972. This date-line will be adhered to unless in the light of the success in securing surrenders and the needs of the situation, any further small extension is accepted by the Chief Minister, M.P.
- (2) The State Administrations concerned are being requested to ensure that the surrendering dacoits are not fettered or handcuffed. This is, however, subject to the conduct of the accused remaining satisfactory and there being no infringement of discipline in the jail or outside.
- (3) To avoid public exhibition of the dacoits with handcuffs on it was agreed that with the approval of the High Courts concerned, the trial of the surrendering dacoits in respect of whom charge-sheets are filed may be conducted either in the premises of the jail itself where the accused are housed or in the premises as close to it as possible, transfer to which from the jail may not require handcuffing of the accused. Permission of the High Courts will be sought in this connection.
- (4) As far as possible, investigation of criminal cases against a dacoit will be completed within about six months of his surrender.
- (5) The trials in respect of such dacoits as are proceeded against will be completed, as far as possible, within about three years. It towards achieving this end it becomes necessary to set up special magisterial courts for committal proceedings and special courts for trial, such action will be taken after taking the permission of the respective High Courts.
- (6) The trials of the prisoners will, as far as possible, be conducted at one place in respect of individual gangs. Permission of the High Courts concerned will be sought in this respect.
- (7) Every effort will be made to see that there is no scope for complaints of harassment or maltreatment of dacoits while in custody, and within reasonable and permissible limits all facilities will be provided to them inside the jails.
- (8) All the persons kidnapped, who are at present in the custody of dacoits, will be immediately released by them without ransom and without waiting for the date of final surrender, namely, 14th April, 1972. A list of such persons who had been kidnapped by the various dacoit gangs, would have already been handed over to the dacoits.
- (9) As yet another measure of good faith, the dacoit gangs, who intend to surrender, will cease forthwith to commit robberies, dacoities, murder etc. in which they had been indulging.
- (10) The surrender of the dacoits should mean the surrender of entire gangs with all their arms and ammunition.
- (11) The dacoits will ensure that there shall be no intimidation of the witnesses either by their accomplices or anyone else acting on their behalf or at their instance.
- (12) As the question of whether the sentence of imprisonment passed on a dacoit on conviction will run concurrently or not will be a matter for the court to decide, it will not be possible to give any undertaking about the concurrent running of sentences of imprisonment when there are more than one passed on a dacoit.
- (13) Police action will continue against those dacoits who do not surrender.
- (14) As far as possible, the Sarvodaya workers may ensure that the surrendering dacoits do not transfer their arms and ammunition to others and that at the time of the surrender they bring all their weapons, firearms and ammunition etc., with them.
- (15) The surrender of the dacoits will be arranged to take place in a comparatively quiet unobtrusive rural area so that the local, national as well as the international press are kept out and no publicity is given to the surrendering dacoits.
- (16) Photographers of whatever category will not be allowed to be present or to take photographs at the time of surrender. This, it was explained, was a legal necessity as, if photographs were taken, the identification of individual criminals required under the law through identification parades will get vitiated.
- (17) The level of officer or Minister to be present at the time of surrender, if at all such a person is required, will be decided by the Chief Minister concerned.
- (18) The dacoits who surrender will not be garlanded, will not be taken out in processions and there will be no other ceremony at the time of the surrender which would in any manner give any semblance of respectability to the heinous crimes committed by them in the past. They will be received on surrender by the Sarvodaya leaders and turned over to jail custody after they surrender before a Magistrate and the police.
- (19) Any form in which the change of heart of the surrendering dacoits will be taken

cognisance of, will have to be such as not to demoralise the forces of law and order or the general administration or give an impression that these persons who have committed serious and heinous crimes are lionised.

- (20) It will not be possible for Government, either the State or the Centre, to bear the cost involved in the defence of the dacoits who may be prosecuted before the courts of law. However, there will be no objection to private agencies including the Chambal Ghati Sewa Samiti defending them in the courts. There may, however, be a case of a 'pauper' accepted as such by the court of law in whose case the defence of the accused will devolve on the State administration in accordance with the directions of the court.

37.21 After the surrender there was an escalation of facilities for the surrendered dacoits who were kept in two open prisons. In these prisons the dacoits did not do any hard work and were instead, allowed to cultivate land which was made available to them, raise cattle and retain the profits so earned. They were given B class treatment, 200 grams of pure ghee per day in addition to liberal items of ration and enhanced remission combined with liberal facilities for parole. In practice there was almost no restriction on their movements in and out of the open jail and at Mungaoli, particularly, a nearby settlement of an ex-notified tribe, provided them with liquor and women. Some of the dacoits kept their families also. There were no restrictions on visitors and the barracks were fitted with electric fans something which even the jail staff did not enjoy. In addition the children of surrendered dacoits were given scholarships for schooling and the dacoits themselves were given land and cash subsidies to purchase bullocks and fertilizer, etc.

37.22 The dacoits did not abide by the conditions which the Government had proposed for them. Only 296 arms were surrendered by 501 dacoits and they refused to reveal the sources of their arms and ammunition. Their behaviour in jail was not satisfactory and against some of the dacoits, there was a string of complaints of goondaism in the neighbouring township. The dacoits sought postponement of the final date of surrender in order to collect ransom on kidnapes they had with them immediately before their surrender. The pampering of these dacoits in open jails made the inmates of other prisons restive because they felt that in order to live comfortably in prison they should not have committed one murder: they should, instead, have committed a number of murders. This discrimination created inequality before the law between those who had committed the same offence.

37.23 We feel that as any one who has committed a crime can always surrender to the police or the law courts there can be no objection to a policy of accepting surrenders. It cannot also be insisted that a dacoit gang should surrender absolutely unconditionally because no dacoit would surrender

in order to be hanged. He would rather take his chances while they last. Some of the gangs which surrendered in 1972 had operated for almost three decades. Therefore, this minimum condition that they will not be hanged has to be more or less accepted by the State whether tacitly or expressly, and there should never be a question of illtreatment in any manner of any criminal, not to speak of a dacoit, who voluntarily surrenders. We, however, are of the opinion that beyond this no other condition should be accepted by the State. The difficulties of living the life of an outlaw, running from place to place, spending year after year under open skies, generate tremendous pressure on dacoits particularly when police also become active in chasing them. Sometimes a dacoit gang may be on the verge of elimination as was the case with Madho Singh and his gang who had, in a string of encounters which had preceded his dash to Shri Jayaprakash Narayan, suffered grievous casualties. Therefore, dacoits surrender not merely because of a change of heart but also because they wish to enjoy freely the gains of their life of crime, free from police pressure.

Control over firearms

37.24 The use of firearms makes any offence serious. We notice that violent crimes involving the use of firearms that are often unlicensed and are either country-made or have been smuggled into the country or have been provided by unscrupulous licence holders are on the increase. Many professional dacoities are committed with unlicensed weapons, but the ammunition is often obtained from licence holders. Our field study with some surrendered dacoits of the Chambal region has disclosed that almost all the weapons used by the dacoits in this region are factory made weapons obtained from either Government armouries or from other sources through brokers. A .303 rifle costs about Rs. 5,000 and a self-loading rifle (SLR) about Rs. 15,000. In fact a case was mentioned in which a SLR manufactured in 1971 was purchased by the dacoits in 1972. Another incident was cited in which a dacoit operating presently in the Chambal Valley area obtained a SLR for as high a price as Rs. 30,000. Another dacoit who has recently been released from jail disclosed that he had purchased a .315 rifle for Rs. 8,000 from a gang leader. It is said that the distribution of property among members of a listed gang of this region is on the basis of the fire power which each individual member of the gang possesses, and this in turn depends upon the type of weapon and the number of rounds of ammunition he has with him. Because of this criterion, members of the listed gangs do not generally procure and use country-made firearms; instead they prefer the more sophisticated weapons and ammunition that are sold through brokers who obtain them from various sources. We have, therefore, in our chapter on the Arms Act made recommendations to tighten control over the issue of arms licences, and to exercise checks to ensure the accounting of ammunition. We also recommend that the appropriate Departments should be directed to re-examine their procedures and practices to eliminate loopholes so that the weapons and ammunition held by them do not fall into undesirable hands.

The durable solution

37.25 For the first type of dacoity there is no cure, largely because it is like any other offence and as such it is not a serious problem. The second type of dacoity exists because it is a profitable and viable means of livelihood. If a group of people living in a town or a couple of towns, can intermittently get together, rob the passengers of a bus, a car, or rob people sleeping in their houses or out for a walk and withdraw to their towns and normal avocations, with full confidence that even if they were to be caught by police they would almost certainly be acquitted by the court of law and even during trial they would not have to be in a lock up as securing bail would be a very easy matter, they would go on committing dacoities and more and more people would join this profession. This is what has been happening in various parts of the country. The only reason for the existence of these dacoits is a weak criminal justice system and not geography, history, economics or tradition. Unless the criminal justice system can ensure effective punishment to the guilty the situation would, in spite of diurnal flagellation of police and 'encounters' continue to deteriorate.

37.26 Regular gangs of dacoits are a different matter. Geographical terrain, historical and traditional background of the people, easy access to firearms, village factions, caste and communal cleavages and sometimes even social approbation are some of the reasons why gangs of dacoits have been endemic in certain areas. The geographical complexion of the Chambal Valley region comprising parts of Madhya Pradesh, Uttar Pradesh and Rajasthan and its centuries old tradition of 'bagawat', provide immense opportunity for the dacoits to move about freely. The very acute pressure on land and absence of economic development provide a powerful lure to the men of such areas to jump the ravines, or become "bagis" or dacoits. Revenge and retribution are important social norms of the people in such regions. Personal and family honour are matters to be defended by those affected and not left to the police and the law courts whose present functioning, in any case, leaves much to be desired. Dishonouring of women, highhanded action by petty revenue officials, protracted land disputes with no legal solution in sight, exploitation by moneylenders, harassment by petty government officials including policemen etc. have pushed several people into the ravines. The general pattern of the evolution of a

dacoit in this area appears to have been for a person who had either killed somebody or who had a grievance, real or imaginary, of harassment by the authorities, to acquire a gun, join a gang, and become a dacoit. The prevailing tradition which does not openly condemn violent activity is also a factor taken advantage of by disgruntled persons to find reasons for their deviation from accepted social behaviour. Factors like poor communication, slow pace of economic development, general social backwardness, remoteness of the regions concerned, and low policing levels are responsible for the egregious presence of dacoits in some parts of the country. Once a gang establishes itself, several uses are found for it. Instances are mentioned where village leaders in some areas have solicited the assistance of dacoits to settle local disputes. This indicates a dangerous erosion of the faith of the people in these areas in the capability of the local administration to solve their disputes. It is vital that the administration in these areas is made highly responsive to local needs and also keeps itself in constant touch with the people so that their problems, grievances and disputes can be perceived and solved quickly. We recommend that in addition to the strengthening of the police, the entire civil administrative machinery in these areas should also be considerably strengthened and its capability increased. Political use has also been found for established gangs of dacoits. Instances have been cited wherein dacoits have been used by candidates fighting elections. Even the film industry has found use for them. Films have been made glamourising dacoits. Recently some crimes were committed, particularly a kidnapping for ransom, on the basis of an incident depicted in a film. We strongly condemn politicisation and glamourisation of dacoits who, under the law, are nothing more than dangerous criminals. We recommend that the government should tighten the censorship of films to ensure that dacoits are not glamourised. All and everything should not be used to make money. In the end we would like to restate that well planned and well-executed administrative and police efforts can only contain and perhaps eliminate the depredations of dacoits over brief spans of time, but they cannot root out the problem. There were some dacoity-infested areas in this country in the past e.g. PEPSU, northern Punjab, Saurashtra where now there is no trace of organised gangs of dacoits. The reason is economic development and that and an effectively functioning criminal justice system are the real remedies.

CHAPTER XXXVIII

ARMS ACT

Background

38.1 The Arms Act 1959 (54 of 1959) which repealed Act 11 of 1878 came into force with effect from 1st October, 1962. The Arms legislation in 1959 brought in liberalisation of the licensing provisions so as to minimise the inconvenience to the public while at the same time keeping in view the overall needs of public security and maintenance of public order. In the last two decades there have, however, been disturbing indications of easy availability of firearms to criminals, anti-social elements and extremists. These are being frequently used in the commission of offences, armed hold-ups and elimination of rivals. Firearms have been used increasingly against policemen engaged in the lawful discharge of their duties. The increasing use of firearms and ammunitions in incidents of breach of peace, in dacoities and other crimes and also communal incidents and riots have begun to cause deep concern. In this chapter we propose to discuss the threat posed by the easy availability of firearms and ammunitions and suggest reforms for making the Arms Act stringent.

Use of firearms in commission of offences

38.2 There is an increasing trend to use firearms in commission of criminal offences throughout the country. A study conducted by Bureau of Police Research & Development revealed that while the total cognizable crime in 1974 increased by 17.14% over the year 1972, the number of crimes in which firearms and explosives were used increased by 27.9%. The crimes involving use of firearms are highest in U.P., Bihar, West Bengal, Madhya Pradesh, Punjab and Rajasthan. The use of firearms in robbery also registered a steep rise of 46.7% in 1974 over that of 1972. The problem does not only stem from the regular increase in the use of firearms in commission of offences. It is accentuated by the degree of violence used by offenders resulting in deaths, loss of limbs, as well as by the large scale use of unlicensed weapons in acts of violence. In 1974, 3,582 persons were killed and 13,736 persons were injured as a result of use of firearms and explosives as against 2,765 persons killed and 11,156 persons injured in the year 1972. Out of total 11,359 firearms used in offences in 1972 only 20.33% were licensed and 79.7% were unlicensed. Similarly in 1974, out of total 14,503 firearms used 19.32% were licensed and 80.69% were unlicensed. The use of unlicensed firearms in offences has been predominant in the Uttar Pradesh, Bihar and West Bengal. A number of other States have also shown an increasing accessibility of unlicensed firearms to anti-social elements.

There is clandestine trade in the illegal manufacture, repair and conversion of firearms. The country-made firearms are even designed to fire service ammunition. Similarly it has been difficult to control and check the misuse of ammunition.

Availability of firearms in a crime prone district

38.3 A typical example of misuse of firearms is shown in recent studies undertaken by Bureau of Police Research & Development in one district of Bihar. Most of the problems in the district are attributed to over abundance of arms and ammunition, both licensed and unlicensed, which are increasingly being used in committing crimes. In the colliery area, there are 4 or 5 gangs operating, each supported and aided by musclemen. They have their own respective jurisdictions in the colliery and there is a continuous effort by each of these gangs to extend their areas of influence. They indulge in series of violent activities and over the years they have acquired arms, both licensed and unlicensed. Out of the 113 cases of murder, dacoity, robbery and riots involving use of firearms, licensed firearms were used in only 5 cases and in the rest 108 cases, the firearms were found to be unlicensed. There were 25 violent clashes between different trade union factions during February 1975 to January 1979 resulting in death of 31 workers in which both illicit and licit firearms were used. As many as 42 unlicensed firearms were recovered in 34 raids conducted by the police in this district alone during 1978. A large number of dacoities are committed with the sole motive of looting firearms and licensed weapons so as to use them to commit further crimes. There is a wide spread belief that weapons presently being held by people are being loaned to dacoits and others for committing crimes. All organised gangs of dacoits use sophisticated firearms, quite frequently obtained from licensees.

Licensed firearms available

38.4 It has been brought to our notice that various considerations operate in the issue of firearms licences and only a few cases are decided on merits. Influential persons help anti-socials and other undesirables in getting firearms licences and thereby secure their loyalty and assistance. Licensing authorities scarcely exercise the authority and have delegated their powers to issue licences to junior functionaries who do not exercise discretion in the matter. As the Act does not specifically lay down the number of firearms to be held by an individual, an individual who has resources and necessary influence acquires any number of firearms. The majority of licence holders seek licences ostensibly

for their personal security. There has hardly been any instance where the licensees have come to the help of victims when serious offences are committed in the neighbourhood. Instances where firearms have been used in self-defence against criminals have also been few. Possession and display of firearms has become more a status symbol and in some parts of the country they are openly displayed in various ceremonial and other occasions.

38.5 The number of licensees in the country are on the increase. According to the figures of firearms licences issued in the country, collected by the Ministry of Home Affairs, there were 12,30,000 licensed firearms in 1964 which increased to about 14,12,000 in the year 1969—an increase of nearly 15% in 5 years. There are reasons to believe that there has been considerable increase in these numbers from 1969 to 1980. According to officially released figures, Moradabad district has 22,000 licensed firearms, out of which Moradabad city alone has 9,000. It is our view that many arms licences provide cover to unlicensed arms and for the use of ammunition procured for licensed arms.

38.6 The bulk of the ammunition used in unlicensed weapons comes from licensed weapons. Some of the country-made firearms are even designed to fire service ammunition. The criminals, who use indigenous weapons seldom use contraband or reloaded ammunition because of its poor performance. The manufacture of ammunition is complicated as it requires expertise and sophisticated equipment, not yet available in the country-side. The easiest way for the criminal and illicit firearms holder to procure ammunition is to have it from licensees or from dealers of licensed weapons. For weapons firing service ammunition, the sources of supply are smuggling, theft or pilferage from Government stores and Depots. Huge dumps of firearms and ammunitions were available in clandestine market after the Pakistani wars of 1965 and 1971. Raids by unlawful elements on small police pickets and police stations located in distant areas for seizing arms and ammunition are also not uncommon.

Arms Act violation cases

38.7 The number of offences registered for violation of the provisions of Arms Act has also been steadily mounting. A sharp increase of 109.5% was recorded in the registration of cases under Arms Act in 1977 as compared to 1972, that is in 5 years the volume of crime under the Arms Act has increased from 4.82 per lakh of population in 1972 to 9.14 per lakh in 1977 as is evident from the following :—

*No. of cases registered under the Arms Act**

Sl. No.	Year	Total No. of cases under Arms Act	Volume per one lakh of population	% change over 1972
1.	1972	27,311	4.82	
2.	1973	31,709	5.52	+16.1
3.	1974	40,798	7.00	+49.4
4.	1975	48,134	8.01	+76.2
5.	1976	52,846	8.58	+93.5
6.	1977	57,225	9.14	+109.5

*Crime in India : A BPR&D, MHA Publication.

S/6 HA/81—5

Among the States, Uttar Pradesh showed the highest volume of Arms Act violations per lakh of population (45.6) followed by Punjab (28.9). The volume of such crime per lakh of population was the highest in Kanpur City (197.0).

Need for reforms in the Arms Act—preferably a new Arms Act

38.8 The presence of a large number of firearms, both licensed and unlicensed, possess a serious threat to law and order. Apart from being used in committing offences, they may also be used to build up subversive forces and other armed squads. Gun running has already become a lucrative venture. Added to this is the menace of smuggling of weapons and ammunitions from across the country's extensive borders and distributing the same to hostile elements, extremists, and organisations interested in fomenting trouble. We feel that proliferation of legal and illegal firearms and ammunition has to be arrested by stringent action—both executive and legislative—otherwise the country might be faced with serious problems.

38.9 We are of the opinion that greater care and stricter control should be exercised in the issue and renewal of licences. While there should not be any objection to issue of licences to law-abiding citizens for *bona fide* purposes, in a matter such as this, we feel, that private rights have to yield place to public interest. Holding of firearms by individuals if not eliminated altogether should be reduced drastically and maintained at a much lower level than now, to ensure the use of arms only for *bona fide* purposes such as self-defence. Sale of arms and especially ammunition should be carried out through government agencies instead of the present practice of making them available through private dealers. A stricter supervision and screening of those who have licensed firearms at present is also necessary in order to reduce the arms traffic. It is our view that this will in practice be possible only if licences are reduced to the barest minimum. This really means that a new Arms Act is needed which provides for stricter conditions for issue of a licence and on the part of the licensee enhanced responsibility for security and accountability of ammunition. This objective may be difficult to secure through Amendments of the Act alone, as cancellation of licences of existing holders can involve the government in endless litigation. The experience of the implementation of the Arms Act, 1959 and the various problems of increasing firearms which it has been unable to contain, necessitate in our view a new Arms Act.

38.10 Under the new Act the antecedents and proclivities of the indenting licensee should be required to be thoroughly verified and placed on record before grant of a licence. The drive for recovery of unlicensed arms will become easier once strict control is introduced and licensed arms have been reduced in number. The problems in sensitive or dacoity-infested areas or areas with problems of insurgency may require adoption of a different licensing policy but care should be taken to ensure that any undue liberalisation does not lead to proliferation of arms in the hands of undesirables or anti-socials

Nature of reforms

38.11 Arms, firearms, ammunition and explosives are included as item 5 in the Union List of the Seventh Schedule to the Constitution. At the Central Government level there is no agency or machinery to monitor and keep a watch on the implementation of different provisions of the Arms Act and Rules and other allied legislations. The responsibility for administration of Arms Act and Rules has been left entirely to local administrations. Section 2(1)(f) of the Arms Act defines "Licensing Authority" to mean an officer or authority empowered to grant or renew licences under the Rules made under the Act and includes the Government. Thus the first part of the definition shows that an officer or authority empowered to grant or renew licence under the Rules made under the Act is the Licensing Authority. The expression 'and includes the Government' was added to the definition to remove any doubt and make it clear that even the Government, that is, the Central Government or the State Governments could be Licensing Authorities if they are so empowered under the Rules made under the Act. We feel that the new Arms Act and its operation should be the exclusive responsibility of the Central Government. The authority to regulate the issue of arms licences should vest in the Central Government. The State Governments and authorities at the districts can be delegated with the necessary powers by the Central Government. The definition of Licensing Authority in Sec. 2(1)(f) needs to be modified to mean the Central Government and include the State Government or an officer or authority delegated with powers to grant or renew licence by the Central Government. The working of the Arms Act/Rules should be entrusted to a Central Board who should review the issue of arms and other licences and exercise check on the manufacture, sale, purchase and distribution of arms, ammunition and explosives.

38.12 Chapter III of the Arms Act contains provisions relating to licences. The provision contained in sub-section (3) of section 13, is very liberal and the licensing authority has practically no discretion to refuse licence. Although section 14 has added a safeguard, but the effect of section 13(3) (a)(i) and (ii) is that granting of licence should be the rule, and not an exception. The result of this liberalisation of licensing provisions has been that undesirables and anti-socials seek arms licences under the cover of this section and later on misuse them or pass them on to organised gangs. This needs to be changed in the new Act.

38.13 Section 14 lays down that holding of insufficient property is not a valid ground for refusing a licence. The law in England imposes a standard condition that firearms and ammunition should be kept in a safe place while in India no such condition exists. In fact no enquiries are ever conducted to ascertain whether the intending licensee has the necessary arrangements and facilities to keep a firearm in safe custody and also if he would be in a position to ensure proper custody in case of possible attempts of snatching away the weapon from his custody by anti-social elements or extremists. Since adequate safety

and security measures for the proper custody of the weapons are not insisted upon, there is reason to believe that such firearms fall into the hands of criminals and anti-social elements for unlawful purposes. We consider it desirable that not only a condition should be imposed that arms and ammunition shall be kept in safe places to avoid falling into unauthorised hands but it should also be ascertained whether the intending licensee is in a position to ensure the safety of the weapons and account for the ammunition taken by him.

38.14 We feel that if more than one firearm is required, the nature and the number of weapons allowed to be held by an individual should have relation to the purpose for which the licence is sought. Ordinarily an individual should not be allowed to hold more than one firearm. The amount of ammunition that can be bought by him should be limited in the course of a year with attendant obligation to maintain a strict account of the expenditure of ammunition purchased. Both shall be open to inspection in the normal course at least once a year along with the licence by the licensing and police authorities. These inspections should be carried out with great care and not as mere rituals and it should be made obligatory for the licensee to obtain an endorsement annually from the authorities concerned of having undergone such a scrutiny.

38.15 We also feel that, in the larger interests of the country, the licensing authority should be enabled to issue a licence only when it is satisfied that the purpose for which the firearm is required is genuine and that the applicant is in a position to guard against any misuse of the arms or its falling into unauthorised hands. Discretion of the licensing authority in grant or refusal of licence should be absolute. The words "shall grant" appearing in a section 13(3) should be substituted by the words "may grant" and it should further be stipulated in the new Act that besides having good reasons to obtain a licence for a firearm the applicant should be in a position to ensure the safe custody of the arms and ammunition and accept responsibility to account for the ammunition used.

38.16 The present provisions in the Act whilst enabling only an S.H.O. to demand production of licence do not empower him to conduct searches for recovery of illicit arms suspected to be held in the custody of individuals or in an arms dumps in remote areas or localities without the presence of a magistrate. The police find it difficult to secure prompt presence of a magistrate as enjoined in section 22. The existing procedure is dilatory resulting in many useful clues being lost. As a result many unauthorised weapons remain untraced and unrecovered. The police in England, in addition to its general common law and statutory powers, has a number of special powers, under the Firearms Act, 1968, to search premises, vehicles and people, to require the production of firearms or shotgun certificates and to arrest suspected offenders. The police in our country should also be clothed with such powers. We feel that sub-section (2) of section 22 should be deleted and the words "or officer-in-charge of a police station" should be inserted in the new Act after the word

"magistrate" wherever appearing in sub-section (1) of section 22 and the amended section 22 should be as under :—

"(1) Whenever any magistrate or officer-in-charge of a police station has reason to believe—

- (a) that any person residing within the local limits of his jurisdiction has in his possession any arms or ammunition for any unlawful purpose; or
- (b) that such person cannot be left in the possession of any arms or ammunition without danger to the public peace or safety, the magistrate or officer-in-charge of a police station may, after having recorded the reasons for his belief, conduct or cause a search to be made of the house or premises occupied by such person or in which the magistrate or officer-in-charge of a police station has reason to believe that such arms or ammunition are or is to be found and may have such arms or ammunition, if any seized and detail the same in safe custody for such period as he thinks necessary, although that person may be entitled by virtue of this Act or any other law for the time being in force to have the same in his possession.

Provided that provisions as to search and seizure as contained in Sections 100, 102 and 165 of Code of Criminal Procedure, 1973, shall, as far as, may be applied to a search or seizure made under this section."

Rule 62 of the Arms Rules, 1962 which provides that a magistrate or any police officer of a rank not below that of an officer-in-charge of a police station can demand production of a licence of firearm should also be amended and any police officer not below the rank of a Sub-Inspector having jurisdiction should be authorised to check the gun licences for the purposes of annual verification as well as when suspicion arises.

38.17 We suggest that special task forces should be constituted to unearth illicit arms. A countrywide search for such arms and intensive combing operations by police parties headed by senior officials are obviously needed to tackle the growing menace of illicit arms. We are happy to note that government have recently issued instructions in this regard.

38.18 Chapter V of the Act deals with offences and penalties. Section 25 of the Act includes within its scope trivial offences as well as serious offences relating to possession of illegal firearms. The existing uniform punishment of imprisonment for 3 years prescribed under various sub-sections of section 25(1) regardless of the gravity of offence is not adequate to deal with all the situations. The present Act does not make a distinction between inadvertent violation of law and rules and deliberate disregard or breach of law. Offences committed with firearms which are

unlicensed or have been illegally or unauthorisedly acquired should be taken serious note of and visited with the award of much more deterrent punishment than at present prescribed.

38.19 The UK and Canadian laws have recently been amended and increased penalties have been prescribed under the Criminal Justice Act, 1972 and Criminal Law Amendment Act, 1977 respectively. In England, the offence of possessing a firearm with intent to endanger life, or using a firearm to resist arrest, carry a maximum penalty of life imprisonment. The offence of carrying of firearms with intent to commit indictable offences, or while committing certain specified offences, carry a maximum penalty of 14 years imprisonment. It is an offence to carry an imitation firearm with intent to commit an indictable offence or committing or being arrested for one or a number of specified offences. The maximum penalty for these offences is 14 years imprisonment. In Canada, under the Criminal Law Amendment Act, 1977 a person who uses a firearm, while committing or escaping after committing or attempting to commit indictable offence, whether or not he causes or means to cause bodily harm to any person as a result thereof is liable to an imprisonment of not more than 14 years and not less than one year. Even pointing a firearm at any person, whether the firearm is loaded or unloaded, is an indictable offence and is liable to imprisonment for a period of 5 years. Carrying weapons without lawful excuse while attending or on way to attending a public meeting is an offence punishable on summary conviction. Any person who has in his possession a restricted weapon for which he does not have registration certificate or has in his possession a restricted weapon elsewhere than at the place at which he is entitled to possess it as indicated in the registration certificate is guilty of an indictable offence and is liable to imprisonment for 5 years or guilty of an offence punishable on summary conviction.

38.20 Several recent enactments in our country have provided for imposition of a minimum sentence without fettering the discretion of the court to impose a lesser sentence for which the court is required to give reasons. The object is to avoid the possibility of the offender being sentenced to a mere fine or a very lenient punishment. In order to curb increasing violations of the Arms Act as well as the use of firearms in the commission of offences, we feel, that it is necessary to introduce provisions to provide for a minimum sentence of one year being imposed on an accused on his conviction of offences which are serious. In sections 26, 27 and 28 the punishment prescribed is imprisonment for 7 years. So wherever the words "seven years or with fine or with both" occur in Sections 26, 27 and 28, the words "seven years and the same shall not, except for reasons to be recorded in writing, be less than one year and shall also be liable to fine" should be substituted.

38.21 We are aware of the possible implications of prescribing excessive punishments for violations of the provisions of the Arms Act. Nevertheless, the punishment has to be made deterrent and severe in the case of criminals, and anti-socials who acquire and possess arms for committing acts of violence. In

order to avoid hardship to law-abiding citizens we do not suggest any change in the present punishment of 3 years provided in section 25(1)(a). Clauses (b), (c), (d), (e), (g), (i) and (j) of sub-section (1) of section 25 deal with offences which are serious in nature and the existing punishment of 3 years provided is inadequate and should be enhanced to a term of imprisonment which may extend to 7 years. These offences, which are serious in nature should be taken out of the purview of section 25 and inserted in a new section 25A which may read as under—

25-A : Whoever—

- (a) acquires, has in his possession or carries in any place specified by notification under section 4 any arms of such class or description as has been specified by that notification, in contravention of that section, or
- (b) manufactures, sells, transfers, converts, repairs, tests or proves or exposes or offers for sale or transfer, or has in his possession for sale, transfer, conversion, repair, test or proof, any arms or ammunition in contravention of section 5; or
- (c) shortens the barrel of a firearm or converts an imitation firearm into a firearm in contravention of section 6; or
- (d) acquires, has in his possession or carries, or manufactures, sells, transfers, converts, repairs, tests or proves, or exposes or offers for sale or transfer, or has in his possession for sale, transfer, conversion, repair, testing, proof, any prohibited arms or prohibited ammunition in contravention of section 7; or
- (e) being a person to whom sub-clause (ii) or sub-clause (iii) of clause (a) of

sub-section (1) of section 9 applies, acquires, has in his possession or carries any firearm or ammunition in contravention of that section; or

- (f) brings into, or takes out of, India, any arms or ammunition in contravention of section 10; or
- (g) brings into or takes out of India, arms or ammunition of any class or description in contravention of section 11;

shall be punishable with imprisonment for a term which may extend to 7 years and the same shall not, except for reasons to be recorded in writing, be less than one year and shall also be liable to fine. Once the new section 25A has been introduced, the clauses remaining in section 25(1), viz., (a), (f), (h), (k), (l) and (m) may be renumbered as (a), (b), (c), (d), (e) and (f).

38.22 The punishment of 6 months imprisonment provided for in section 29 for knowingly purchasing arms from unlicensed persons is inadequate considering the gravity of the offence and the large scale use of such arms in faction fights and other crimes. The punishment should be enhanced to a term of imprisonment which may extend to 7 years and with fine.

38.23 Although Act 11 of 1878 had provided a penalty of six months imprisonment for contravention of the provisions of the licence or rules, the same was reduced to 3 months in section 30 (residuary penal provision) of the present Act. We feel that the existing punishment is inadequate and should be raised to a term of imprisonment which may extend to one year and fine which may extend to Rs. 2,000 instead of the existing amount of fine of Rs. 500. The words "three months or with fine or with both" appearing in section 30 may be substituted by the words "one year and with fine which may extend to two thousand rupees."

CHAPTER XXXIX

DISTRICT POLICE AND THE EXECUTIVE MAGISTRACY

Introduction

39.1 In the present system the police in each State is organised and maintained as one police force for the entire State under the command of an Inspector-General of Police. The Superintendent of Police in charge of the district police is a functionary in the police hierarchy and is subject to control and supervision by a Deputy Inspector-General of Police, who is generally placed in charge of a group of districts. The over-all command and control are exercised by the Inspector-General of Police at the State level. Officers in charge of sub-units within a district like sub-divisions, circles and police stations are subordinate to the Superintendent of Police. Thus, the district police is an integral part of the state-wide police set-up, which is hierarchically structured and held together by bonds of strong discipline and stringent control.

39.2 The district police is also closely associated with the District Magistrate who functions as the Chief Executive in the district set-up. Unlike other governmental agencies in the district, the association of the district police with the District Magistrate is to some extent defined in law and to a much greater extent governed by rules and regulations, administrative procedures and time honoured traditions, which in some States have gone far beyond the provisions of law. Thus, over a period of time, the District Magistrate has come to assume a role of authority, command and control over the discharge of police functions within the district.

39.3 Consequently on the one hand the district police is a part of a strong hierarchal organisation and on the other has a large extent of operational responsibility to the District Magistrate. The district police and the Superintendent of Police are thus subjected to two kinds of control—a hierarchal control exercised by the officers in the police and an operational control exercised by the Chief Executive of the district. This dual control over the police has been the subject of much debate and discussion for many years.

Historical evolution

39.4 The police system in India during the British days evolved through a process of trial and error, depending upon the contextual realities perceived by the administrators of those times. The system was constantly and intensely debated and several liberal views of vision and professional wisdom expressed. In contrast a host of other views equally important but which were based upon the then prevailing ground conditions were also expressed. In fact the

evolution of an appropriate police system during this period went through a process of analysis and debate of a high order marked by objectivity and awareness of the administrative needs of the time.

39.5 Even in the early days of the East India Company the district was recognised as a unit of public administration and the officer in charge of the district performed the functions of collection of revenue and administration of the police and justice. Lord Cornwallis later separated the functions of revenue on one side and the administration of police and justice on the other, and entrusted the latter task to an officer called the "Judge Magistrate". Between 1838 and 1845, the Collector was left with revenue administration only and the Judge Magistrate was entrusted with general administration, including the maintenance of law and order and the administration of lower criminal justice. The next development was when, on the recommendations of the Torture Commission of 1855, the Court of Directors approved the establishment of a separate police force under a Commissioner of Police for the entire Presidency of Madras. Mr. W. W. Robinson who was appointed Chief Commissioner of Police in May 1858 submitted a synopsis of his scheme for the creation of a new police force, the principal feature of which was that the police should be a distinct department under the direct supervision of the Government; its members of all grades, divested of judicial functions, should be under the exclusive control and management of their own officers. The Government accorded general approval to the scheme proposed by Mr. Robinson and ordered a draft Act to be prepared by Mr. J. D. Mayne, Professor of Law in the Madras University. But before this draft Act could be piloted through the Legislative Council, under the instruction of the then Governor of Madras, Sir Charles Trevelyan, changes were made in the draft Act, placing the Superintendent of Police under orders of the District Magistrate. The change was introduced at the stage of the piloting of the Bill through the Legislative Council. The bill was passed as Act XXIV of 1859 and it was largely on his Act that the subsequent comprehensive Police Act of 1861 was modelled.

39.6 The evolution of the police system in India was closely linked with the objectives of the Government in power and the need for maintaining a tight control over the people of this country so that the stability and growth of British rule was not threatened. The liberal reforms introduced in England by Sir Robert Peel in 1829 separating the police and the judiciary were ideals which the British administrators in India yearned for, but could not adopt for reasons of security of their own continuance in this country.

This explains to some extent the liberal reforms adopted in the period between 1838 and 1845 and the hardening of attitudes seen in 1861 by which time British authority in India was considerably shaken by the "uprising" of 1857.

39.7 The conditions prevailing immediately after 1857 and the growth of the national movement in India appear to have significantly conditioned the views of the British rulers on police reform. Immediately after the enactment of the 1861 Act, the Secretary of State directed that clear and distinct rules for the guidance of magistrates and police officers should be laid down. In his personal opinion, the circumstances in India required "the concentration of police authority in the magistracy". In keeping with the British practice of debate and compromise, the issue was discussed with the administrations of several provinces in the country and the Government of Central Provinces made a suggestion that the words "general control and direction" in paragraph 2 of section 4 of the Police Act should perhaps be defined. But ultimately the matter was allowed to remain vague and was left to the good sense of the officers in the field.

39.8 It appears that the principle governing district administration in India was one of depending upon a single authority who would act according to the directions of the Central Government. Sir J. F. Stephen enunciated this principle in succinct terms, when he wrote "that the maintenance of the position of district officer is absolutely essential to the maintenance of British rule in India". This seems to have been the primary principle governing the development of administrative systems (including the police) in the country at least up to the end of the British era.

Existing law relating to magisterial control and direction

39.9 The arrangement contemplated in law for the administration of the police in the district is set forth in paragraph 2 of section 4 of the Police Act 1861 (Act V of 1861). The relevant provision of Section 4 of the Act specifying the arrangement is as under :—

"The administration of the police throughout the local jurisdiction of the Magistrate of the District shall under the general control and direction of such Magistrate be vested in a District Superintendent and Assistant District Superintendent as the State Government shall consider necessary."

39.10 Other Police Acts like the Bombay Police Act, 1951 and the Mysore (now Karnataka) Police Act, 1963 define the relationship between the District Magistrate and the District Police in Section 17 and 16 respectively of these Acts. While the Bombay Police Act places the District Superintendent and the Police force of the district under the control of the District Magistrate, the Mysore (now Karnataka) Police Act, 1963, mentions that the Superintendent of Police shall be the head of the Police in the district or part of the district for which he is appointed as Superintendent, and the administration of the police

in a district or part thereof by the Superintendent shall be subject to the general control of the District Magistrate of the District. In both these Acts it is also mentioned that in exercising control the District Magistrate shall be governed by such rules and orders as the Government may make in this behalf.

39.11 The Madras District Police Act of 1859 does not mention the control or the direction of the District Magistrate. Its preamble merely mentions that the purpose of the Act is to make the police force throughout the Madras Presidency a more efficient instrument for the prevention and detection of crime. Section 7 of the Act says that "the State Government may vest in the District Superintendent of Police all or any of the powers of a Magistrate within such limits as they may deem proper ; but such Superintendent shall exercise the powers, with which he shall be so invested, only so far as may be necessary for the preservation of peace, the prevention of crime, and the detection, apprehension and detention of offenders in order that they are brought before the Magistrate and as far as may be necessary for the purpose of duties assigned to him by this Act". A similar provision is found in the Andhra Pradesh (Andhra Area) District Police Act, 1859 vide Section 7.

39.12 The "general control and direction" of the District Magistrate mentioned in Section 4 of the Police Act, 1861 is the legal stipulation governing the relationship between the police and the magistracy in most parts of the country except perhaps the area to which the Madras District Police Act is applicable and to a small part of Andhra Pradesh. In Maharashtra and Karnataka the word 'direction' does not find a place in the Act which however stipulates that the police and the Superintendent of Police shall function under the control of the District Magistrate.

39.13 The words 'general control and direction' mentioned in Section 4 of the Police Act, 1861 have been left undefined in law. But as pointed out by the Police Commission of 1902-03 "the precise meaning of the words may, perhaps be best determined by reference to section 7 which places all appointments in the hands of the Inspector General, Deputy Inspector General, Assistant Inspector General and the District Superintendent of Police subject to such rules as the local Government shall from time to time sanction; and by reference to section 12 which gives wide powers of making rules for the organisation, classification and distribution of the force and its equipment and work, and of orders and rules for preventing abuse and neglect of duty and for running the force efficiently in the discharge of the duties, to the Inspector General, subject to the approval of the Local Government".

39.14 The Madras Act and those which regulate the Police Administration of all the other areas in India except Maharashtra make no reference to the Commissioner. The Bombay Police Act gives the Commissioner a prominent place in police administration.

39.15 The work of the police is divided into two spheres of authority. In one of these the Superintendent of Police is subordinate to the District Magistrate,

in the other to the IG. In the former the Commissioner is the superior of the District Magistrate. The result of this system has been to introduce a "dual control" over the police. The Police Commission of 1902-03 which used this term "dual control" for the first time in its report has observed that this system was condemned by all the witnesses who gave evidence on that point before that Commission. The Commission observed "the Inspector General has no concern with the most important parts of the police work. There is want of concert in police action throughout the Presidency".

39.16 It appears to us that even in the existing legal set up considerable amount of operational independence in matters relating to the internal management of the force is vested in the Superintendent of Police. The general control and direction of the District Magistrate cannot be construed as warranting any interference by that authority in the internal management of the police force. In fact, though the District Magistrate is referred to as the Head of the Criminal Administration by several State Police regulations and manuals such a position is not conferred upon him by law either in the Police Act or the Code of Criminal Procedure. Legally the District Magistrate's capability to control and direct the Superintendent of Police should only be restricted to selective and individual situations and should be exercised more as an exception than as a rule. We note that the present position in several States far exceeds this legal stipulation. This, in our view, is untenable and needs to be corrected.

Change in objectives of police organisation

39.17 The objective of the new police organisation, that is sought to be created have to be found in the role, duties and responsibilities which we have assigned to it. We have already dwelt in extenso on this subject in Chapter XIV of our Second Report. We recommended that the following should be the broad framework of duties and responsibilities of the police in our country :—

- (i) promote and preserve public order, according to the law of the land ;
- (ii) investigate crimes, and where appropriate, to apprehend the offenders and participate in subsequent legal proceedings connected therewith ;
- (iii) identify problems and situations that are likely to result in commission of crimes ;
- (iv) reduce the opportunities for the commission of crimes through preventive patrol and other appropriate police measures ;
- (v) aid and cooperate with other relevant agencies in implementing other appropriate measures for prevention of crimes ;
- (vi) aid individuals who are in danger of physical harm ;
- (vii) create and maintain a feeling of security in the community ;

- (viii) facilitate orderly movement of people and vehicles ;
- (ix) counsel and resolve conflicts, and promote amity ;
- (x) provide other appropriate services and afford relief to people in distress situations ;
- (xi) collect intelligence relating to matters affecting public peace and crimes in general, including social and economic offences, national integrity and security ; and
- (xii) perform such other duties as may be enjoined on them by law for the time being in force.

These duties and responsibilities spelt out by us describe generally the output which should emerge from the police system while functioning in our developing social environment.

39.18 In contrast the Preamble to the Police Act of 1861 reads as under :—

"Whereas it is expedient to reorganise the police and to make it a more efficient instrument for the prevention and detection of crime."

The duties of police officers have been prescribed under Section 23 of the Act which reads as follows :—

"It shall be the duty of every police officer promptly to obey and execute all orders and warrants lawfully issued to him by any competent authority ; to collect and communicate intelligence affecting the public peace ; to prevent the commission of offences and public nuisance ; to detect and bring offenders to justice and to apprehend, all persons whom he is legally authorised to apprehend, and for whose apprehension sufficient ground exists ; and it shall be lawful for every police officer for any of the purposes mentioned in this section, without a warrant, to enter and inspect any drinking shop, gaming house or other place of resort of loose and disorderly character."

The obedience and execution of all orders and warrants lawfully issued to a police officer by a competent authority is given the highest priority in his charter of duties. The spectrum of duties does not exclusively and explicitly specify the maintenance of public order, but only refers to the collection and communication of intelligence affecting the public peace. While prevention and detection of offences are referred to, the need for eliciting the cooperation of society for the prevention of crime has not been mentioned. The processes mentioned for the purpose of crime prevention and control are, in our view, negative in character in that they are to depend exclusively on arrests and prosecutions. The police purpose is restricted to the dealing with, of all actual or intended criminal activity and not dealing with criminality as such. If the police function of prevention and control of crime is to have a social purpose, then the police objective should be positive and should involve the soliciting of public cooperation in the fight against criminality, and the functioning with public support in the fight against

the criminal. The enlarged duties and responsibilities which we have assigned to the police and which we feel should be the basis for deriving the objectives of the new police organisation which we contemplate, places it on an entirely different footing from the one which was contemplated by the 1861 Act and which is in vogue today. The enlargement of objectives and the emphasis in their shift from a restricted 'holding' function to a much larger service function makes it necessary to think in terms of a new organisational structure for the police which would be capable of responding to changes in the social environment.

39.19 In our quest for redesigning the police organisation, to make it structurally competent, operationally cohesive and functionally independent, we made a careful analysis of the various activities which should be undertaken by the police. A close look at these activities indicate that they fall under the following broad categories :—

- (a) Calling for high degree of professional and managerial skills.
- (b) Calling for a high degree of organising and communicative skills both within and outside the police.
- (c) Legal.
- (d) Invoking public cooperation and participation.
- (e) Educative.

By and large most of the activities are in the interactive area calling for skilful and multi-directional communication between the community and the police.

Legal base of police functions

39.20 Police functions fall under two broad categories—investigative and preventive. The maintenance of public order is in a way a part of the preventive function. The manner in which the investigative functions of the police are to be performed is described in detail in the Criminal Procedure Code. Even superior police officers assume powers for the performance of investigative functions only by virtue of Section 36 of the Cr.P. C., 1973.

39.21 The preventive functions of the police come under four broad types—regulation, restraint, constraint and control. Each one of these processes involves some degree of interference with the rights of the citizen guaranteed to him by the Constitution. As long as this interference imposes only reasonable restrictions it can be deemed as Constitutional and considered valid. When such interference amounts to unreasonable restrictions imposed upon an individual's liberty they would be held *ultra virus* of the Constitution. Therefore, most aspects of preventive action initiated by the police is justiciable and should not be considered as left to unfettered executive discretion.

39.22 The situation was different at the time of the enactment of the 1861 Act because at that time there

was no Constitution and there were no well defined fundamental rights guaranteed to the citizens. But after the adoption of our Constitution, matters affecting such rights will be tested against their Constitutional validity. Preventive action by the Police could also be questioned in a court of law and the police will have to account for its action before such a court.

39.23 Thus all aspects of police work are now subject to judicial scrutiny. The investigative aspect is subject to continuous and mandatory scrutiny while the preventive aspect may attract a random scrutiny. In this context of total accountability of the police to the law of the land executive interference by an authority, not empowered in the law governing police functions, would in our view, be improper and untenable. The police should function under the law and be accountable for all the actions to the law and hence to impinge upon the police another executive direction could only lead to distortion of police performance and dilution of police accountability to the law of the land.

Present position as outlined by police and other regulations

39.24 We examined the rules and regulations contained in the Police Manuals of different States in the country which define and lay down the relationship between the District Magistrate and the Superintendent of Police. The Andhra Pradesh Police Manual clearly mentions that the internal administration of the police is the responsibility of the Superintendent of Police. The internal economy and administration of the police such as promotions, transfers and punishment to police officers and men rest with superior officers of the police force. The Bihar and Orissa Police Manual says that the Superintendent of Police is responsible for the efficient and good behaviour of the District Police. He is in direct command and in charge of the ordinary distribution of police duties. The District Magistrate shall not interfere in any matter relating to drill, equipment, exercise of discipline or in the punishment of any police officer by the Superintendent except as provided in the rules. The Karnataka Police Manual stipulates that the District Magistrate shall not interfere in questions of recruitment, internal economy, organisation and with the administrative, disciplinary and other matters of the force. In the Madhya Pradesh Police Manual there is a general mention that the DM should not normally interfere with the internal working of the police. In other police manuals like the Maharashtra Police Manual, the Punjab Police Manual etc., it is not explicitly mentioned that the DM should not interfere in the internal administration of the district police.

39.25 A careful reading of the police manuals leads us to the conclusion that the only areas in which the DM is not expected to control the activities of the Superintendents of Police are drill, arms and accoutrements and discipline of the police force. It is clear that only that segment of the organisation which is structured more or less on the lines of an armed force are left to be dealt with by the Superintendent of Police.

39.26 A further study of the police manuals of several States reveals the following features :—

- (i) Almost every police manual emphasises the fact that the District Magistrate is the head of the criminal administration in the District and is in charge of the maintenance of law and order in the District. Superintendents of Police are told that they should uphold the authority of the District Magistrate and assist him in all ways to discharge his responsibilities.
- (ii) In most States, particularly in North India, the postings and removal of officers particularly of the rank of Station House Officers cannot be done without the prior permission of the District Magistrate. In Southern States this position does not exist but even in such States the DM can seek the transfer of a subordinate police officer whom he considers to be incompetent or unfit or lacking in qualities to hold such a post.
- (iii) In respect of those officers, whom the Superintendent of Police is not empowered to transfer, the District Magistrate can move the Inspector General of Police, - who is expected to comply with his suggestions.
- (iv) Superintendents of Police in most States cannot leave their headquarters without obtaining the prior permission of the District Magistrate.
- (v) Most State regulations make it necessary for the Inspector General of Police to consult the District Magistrate in regard to the movement of forces from the districts. In the West Bengal Police Manual, the Divisional Commissioner could be approached by the District Magistrate, for help if he has a point of difference with the IGP. The Divisional Commissioner's views will be treated as final.
- (vi) In almost all States the annual confidential reports of gazetted police officers including that of Superintendents of Police are initiated by the District Magistrates. In some States this position has been slightly modified by the provision that the ACRs of Superintendents of Police will be initiated by the DIGs but the views of the District Magistrate on the performance of the SP of his district will also be obtained from him and will be incorporated in the ACR of the Superintendent of Police.
- (vii) The Punjab Police Manual, the U.P. and Bihar Police Regulations and police regulations of some other States, stipulate that the DM's most important duty is inspection of police stations. In States like Maharashtra, the scope of inspection is limited to some areas only. But the DM can also assess the state of crime and public order in the area.

Thus the inspections are expected to be complete and comprehensive. In most States subordinate magistrates also inspect police stations.

- (viii) In one State, the DMs are required to countersign the TA bills of the Superintendents of Police.
- (ix) In some States, the award of punishments beyond a particular level to police officers by the Superintendents of Police subject to scrutiny by the District Magistrates.
- (x) Some Manuals mention that correspondence relating to housing, buildings, etc. should be routed through the District Magistrates.
- (xi) In several States the proposals for creation of new police stations or additional police force are required to be submitted to the Inspector General and the Government through the District Magistrate.
- (xii) In some States matters relating to disciplinary proceedings against subordinate police officers have to be forwarded to the DIG through the District Magistrate.

A close look at the features mentioned above would show that the District Magistrate has come to acquire considerable authority to interfere with the internal management of the district police organisation. The positioning of personnel in the organisation, exercise of disciplinary control over members of the organisation, providing of housing and other infrastructural facilities for the growth and well being of the organisation, reporting on the competence of the members of the organisation and utilising the resources of the organisation in an optimum manner to achieve goals, are in our view, matters entirely within the purview of the internal management of that organisation.

39.27 We have also ascertained that the District Magistrate can call for any report, general or special relating to any situation in the district regarding crime or public order. In one State, copies of certain First Information Reports recorded by the police and case diaries of certain cases are required to be submitted to District Magistrates. The tour diaries of police officers are also to be submitted to the District Magistrate.

39.28 We are informed that recently one State Government amended its Police Regulations giving more powers to the District Magistrates in regard to disciplinary action against police officers and men and in the handling of law and order situations. According to the amended regulations it is obligatory on the part of the Superintendent of Police to inform the District Magistrate by the quickest means available of any situation likely to have a bearing on the general law and order situation and seek his instructions in regard to the steps to be taken to meet the situation. Further action to meet the situation should be taken according to such instructions and guidance, and in close and continuous consultation, with the District Magistrate.

Ground position—one of subordination

39.29 We are of the view that the position on the ground today is one of total subordination of the police to the executive magistracy. It appears to us that this subordination is not contemplated under the present law which vests the administration of the police force in a district solely in the Superintendent of Police, subject only to "the general control and direction", of the District Magistrate.

Views of the 1902-03 Commission

39.30 The Police Commission of 1902-03 felt that the object of the Police Act of 1861 "was to make the Superintendent primarily responsible for the administration of the district police". But the police force was to be an "efficient instrument at the disposal of the District Magistrate for the prevention and detection of crime". The Commission observed that "his intervention is not intended to be constant or detailed. It is intended to be of the nature of general control and direction and to assume a detailed or particular character only occasionally and when necessity arises..... It is not intended to extend to the administration of the police department except when interference is that is necessary for maintaining the above control and responsibility. This intention of the law has been over-looked in most provinces : in some much more than in others". The Commission proceeded to observe that "in some provinces and specially by some District Magistrates" a degree of interference was introduced which the law did not contemplate and "which has often been more prejudicial to the interest of the department". The Commission proceeded to cite certain rules and instances in which the District Magistrate was enabled to intervene in matters of appointments, disciplinary proceedings etc. The Commission felt that all these rules only tended "to weaken the influence of the Superintendent of Police and to destroy the Superintendent's sense of responsibility and his interest in work". We have preferred to quote the observations of the 1902-03 Commission because the observations of that Commission appear to us to be valid even today.

Separation of the judiciary from the executive

39.31 The concept of separation of the judiciary from the executive is enshrined in Article 50 of our Constitution. The inclusion of this concept as a part of the Directive Principles of State Policy in our Constitution marks the culmination of a debate on this subject which had gone on for nearly 150 years. The need to separate the judiciary from the executive in order to introduce a just equilibrium in the governance of the State was recognised from the days of Lord Cornwallis in 1793. The reform was, however, debated from time to time, in what could be conveniently split into 5 time spans, the period from 1780 to 1838, 1838 to 1860, 1860 to 1908, 1908 to 1921 and 1921 to 1946. The Judicial Regulation of 1793 divested District Magistrates of judicial powers. But due to administrative expediency the Regulation of 1821 re-united judicial and executive powers in the District Magistrates. By 1845, in accordance with the recommendations of the Bird Committee the

separation of the offices of Magistrates and Collectors was gradually introduced in Bengal. Again in 1854 in the days of Lord Dalhousie the two functions were re-united.

39.32 The Police Commission of 1860 conceded the theoretical principle of separation of judiciary and executive functions but at the same time expressed the opinion that it was impracticable, to relieve the magistrates of their judicial duties. In the second reading of the Police Bill the debate centred mostly on this issue of separation of judiciary and executive. When the Bill was ultimately passed as Act V of 1861, it finally decided "the question of the continuance of the union of judicial and executive police functions in the same officer, which had been discussed with such energy for nearly 40 years. The application of the principle of separation, theoretically perfect was qualified by an exception demanded by the conditions under which the British Government of India was carried on". (Mr. J. W. Quinton's note of 1884).

39.33 The Indian National Congress adopted a Resolution in 1886 recording expression "of universal conviction that the complete separation of judiciary from the executive has become an urgent necessity", and urging the Government of India, "to introduce this separation without further delay". Similar resolutions were passed in 1867 and 1888, and in subsequent years. The same demand was pressed from time to time by the Indian National Congress and it became an important article of faith during our national movement.

39.34 In the period between 1908 to 1921, a perceptible change was seen in the attitude of the then British Government to this demand. Sir Harvey Adarcoy, the then Home Member conceded the possibility of introducing a change from the then existing practice. However, this approach was discouraged by several officials of the local Governments. Unfortunately, at the same time disorder broke out in Bengal and the policy of gradual separation spelt out in the Home Member's speech had to be postponed. In the period from 1921 to 1946 several members raised this issue in the local councils of the various States of the country but the then Government delayed implementation of the reform for one reason or the other. Even after the Congress assumed office in 1937 in the majority of the provinces the Government in these provinces did not show any enthusiasm in promoting this reform, till the principle was included as an Article in our Constitution and as such had to be given effect to by the various States in independent India.

39.35 The separation of judiciary from the executive is now more or less complete except in a few remote parts of the country. Our purpose in analysing the history of separation of judiciary from the executive is mainly to indicate the circumstances in which the control of the magistracy over the police was considered important in the administrative system during the British days.

39.36 The independence of judiciary and the importance to secure and maintain such independence as a means to safeguard the liberty of the citizens are

political concepts which were ushered in, in the early part of the 18th century. The British Administrators were fully aware of these liberal ideas and, in fact, many of them were committed to those ideas. Nevertheless, they considered it necessary to combine judicial and police functions in one authority perhaps due to the administrative compulsions prevailing in those days. The police functions of controlling crime and maintaining order were expected to be supplemented and not reviewed or corrected by the judicial scrutiny provided by the office of the District Magistrate.

39.37 Our discussion shows that prior to the separation of the judiciary from the executive even if there might have been some justification for subjecting the police to the control of the District Magistrate, such justification no longer exists. This position though contrary to policy, was convenient to expediency. The argument was that the District Magistrate could, in his capacity as the Head of the Police on the one hand, and the Head of the Magistracy on the other, ensure that the writ and requirements of the then Government in power were enforced. Such a situation does not exist any longer. The judiciary is now fully separate from the executive and the judicial scrutiny of police work has become real and substantial. Therefore, in our view, after the separation of the judiciary from the executive the very purpose for which police and revenue functions were combined in one single authority, no longer exists. In fact, as could be seen from the debate, preceding the enactment of the 1861 Act the main anxiety of the framers of the Act to keep the police under the Magistrate of the District, as expressed in section 4 of the Act, was to ensure that the control of the prosecuting and punishing authority vested in one single entity. Otherwise it could be seen from the discussion which preceded the 1860 Act that the attempt was to have a unitary professional organisation for the police on the model developed by Sir Charles Napier in 1843.

39.38 We have gone into this issue in some detail because we wish to analyse the contextual reality in which the Indian Police system was evolved. We are of the view that in evaluating the police system in today's context we should take into consideration the various contextual factors of today and should not be guided solely by traditional or other considerations.

Police Act provides for a unitary organisation

39.39 We see that in the structure of the Police Act itself the police organisation has been constituted under the command and control of officers in its own hierarchy. The lateral placement of the District Magistrate on the district police administration was, as we have seen above, an outcome of the combination of judicial and executive functions in one authority for reasons of administrative expediency. We are of the view that in the existing circumstances there are no reasons to subject the district police administration to any control other than that exercised by officers in the departmental hierarchy itself, and subject only to such co-ordination by the Chief Executive of the district as may be essential for purposes of maintenance of

public order, services and supplies essential to the community in certain specified situations and administrative effectiveness.

Full accountability should rest with police

39.40 The new police which we hope to create should have a self-contained organisational structure where there is no distortion of command and no dilution of accountability. We have also noted that police functions both in the investigative and preventive areas fall under the law and are subject to judicial scrutiny. Therefore, the police should perform with full accountability to the law of the land. The activities of the police organisation require a high degree of interactive and multi-directional communicative skills with the community. Hence the police should have direct contact with the people whom they profess to serve. We are, therefore, of the view that the new police organisation should function with a high degree of operational independence subject only to the control and direction of its own departmental hierarchical levels.

Police performance fundamental to overall development

39.41 We recognise that the police is a vital adjunct of the district administrative set up and its performance affects all aspects of public activity and public welfare. The control over crime and the maintenance of public order are functions essential to provide a climate for rapid economic, social and cultural development. In a developing environment many frictions are bound to arise between individuals and between groups and these frictions often generate major situations which not only disturb the peace but also retard progress. Change is undoubtedly a desirable dimension but the frictions which it introduces particularly in a traditional and placid society like our cannot be wished away. Therefore, the authority in charge of development and general administration and the authority in charge of the police have to act in tandem and towards the fulfilment of a common interest. These authorities (though other authorities in the districts are also important) will have to carry the bulk of the responsibility for the effectiveness of the district administration, in so far as the promotion of public welfare is concerned. In this context we emphasise that the district officer and the Superintendent of Police have to work in close association with each other and cannot afford to assume postures which would tend to promote individualism and destroy collective performance. We, therefore, urge that conflicts of all kinds whether they be of personalities, service affiliation or of authority and control should be eliminated and if they emerge should be clearly frowned upon. While the police must function as a self-contained self-managed unit carrying full responsibility for its functions and total accountability to law for its actions, it will have to be integrated into the district administrative team by some well defined procedures. We know that there can be no substitute of the good sense and the service consciousness of the incumbents of the office of the DM and the SP. Pleasant personal and social contacts can iron out many tensions and differences. But mere exhortation to the officers concerned which have been made by several well meaning authorities and Commissions in

became distressingly aware of the damage done to the quality of district administration by these irritants during our tours in the States and subsequent discussions on this subject separately with the representatives of IAS and IPS Associations. Working procedures, practices and conventions have unfortunately tended to relegate the position of a Superintendent of Police to that of a subordinate to the District Magistrate. This has come to generate a sense of rivalry between the two premier All-India services, namely IAS and IPS. During discussions on this subject, the two Service Associations were inclined to take extreme views, one emphasising the need for rigid command and control over the police by the District Magistrate and his magisterial hierarchy, and the other pointing out the urgent need for a total deliverance of the district police from having anything to do with the District Magistrate. We are of the firm view that neither of these extreme positions is tenable in the present set-up, and particularly in view of the reorganised police which would emerge, in accordance with several of our recommendations made elsewhere in our reports, as a highly dedicated and professionally well-trained agency, motivated by the highest considerations of service to the community at large. We, therefore, recommend that all these practices listed above should be done away with. Any police rule or regulation which unnecessarily or without purpose subordinates the police to the DM should be removed or amended in such a way that the requirements of administrative and public interest alone are kept in view.

Needs for coordination of police functions in district administration

39.43 While the police should have a distinct identity and adequate competence and operational independence to play an effective role in the administration, it cannot exist in isolation and away from other areas of administration affecting the people. The police is unlike other big organisations. On the one hand it requires a centralised command structure so that its performance could be monitored and subjected to control which would produce outputs of uniform quality throughout. Aspects of manpower planning including selection, training and development have to be considered on a centralised basis. There are several other inputs like mobility, communications, finance, organisation, planning etc., which require a high degree of centralisation. But the practical requirements of performance of different functions demand action under a variety of formations. For instance, one of the basic functions of the police, viz. the creation of widespread police presence would be achieved through a number of individual operatives acting under instruction, by taking decisions on the spot and on their own perceptions and judgements. The kind of people with whom the police come into contact are varied and their needs for police service also vary from place to place and situation to situation. The police function at the grass root level is connected with a host of problems which are not necessarily directly connected with police work. Therefore, while the police should belong to a sound centralised organisation and should be governed and conditioned by the benefits which flow out of a sound

organisational structure it should also have a high degree of interactive capability with other areas of administration, particularly at the grass root levels.

Interface mechanism

39.44 It is this situation which underscores the need for an effective interface between the police organisation at the grass root level and the various other agencies existing at that level. An interface literally means "Surface forming common boundary between two regions, place, or piece of equipment, where interaction occurs between two systems, processes, etc." The need for an interface at the district level may be felt by other agencies also. Therefore, it would be convenient to have a common interface mechanism which would provide a link between different systems in the district administrative system. The district officer can play this very important role as an effective interface in dealing with the different administrative systems, including the district police system in his area.

Areas of coordination

39.45 Insofar as the police is concerned there are a number of areas which would require the active cooperation of different departments. In turn in such matters coordination by the District Officer would be necessary. These are :—

- (i) In the matter of dealing with land disputes in rural areas the police will have to seek the assistance of several departments like the Revenue, Irrigation, Survey and Land Records etc. In the matter of other disputes like industrial disputes also, the police needs to have a close association with the labour authorities. The police should be free to act according to the needs of the situation in individual cases. But where there is a general policy situation which calls for consultation in a much wider area a coordinating agency is necessary.
- (ii) Where widespread strikes and disorder take place the police for the purpose of performing its own functions may have to supplement its local resources. Police will have to seek the assistance of a coordinating authority for this purpose.
- (iii) Elections to different public bodies are situations in which the police have to deal with only one aspect namely the security aspect. There are several other aspects which call for detailed and careful coordination in order to ensure that there is no duplication and there is conservation of manpower and economy. On such occasions there is need for a coordinating agency.
- (iv) Natural calamities like earthquakes, floods, droughts etc., are areas in which the police will have to play an important role under a high degree of coordination by a central authority.

- (v) When there is external aggression, the police not only play its role in maintaining internal security but also extends its facilities to other agencies like the Civil Defence Corps etc. Activities during such situations would need to be coordinated.
- (vi) Any similar matter in which the maintenance of public order, or essential services and supplies to the community and effectiveness of administration would require coordinated functioning of the police with other agencies in the district.

The activities of the police in maintaining public order and controlling crime to the extent to which such action is essential to lay a foundation for orderly development is a matter which should concern the authorities charged with development processes. In this regard a measure of local coordination of police activity with other departments and by the District Officer is essential. In the existing set up the only authority which has some degree of influence with different agencies is the district officer and as such he should be entrusted with these coordinating functions.

Coordinating role of the District Officer

39.46 We recommend that the role of the District Officer as the Chief Coordinating Authority in the district be recognised and respected by the police. The District Officer should have the capability to generally advise the police regarding the extent and quantum of performance required from them for the purpose of achieving developmental targets and also to maintain administrative standards. The District Officer is in a unique position of being responsible for the overall welfare of the people of the district and the overall effectiveness of administration in the district. In discharging his responsibility he has a large measure of public contact and as such is likely to have substantial information regarding the mood and temper of the population and its various other requirements. We are of the view that the District Officer should not only share his information with the police in the district but should also be in a position to ascertain the steps taken by the police to ensure that quick solutions to problems are found to public satisfaction and the level of administration is maintained at a high pitch of efficiency.

Method of obtaining coordination

39.47 The police is a very sensitive wing of the district administration and as such there should be a frank communication and coordination between the District Officer and the Chief of the District Police. We are of the view that there should be frequent and intimate contact and consultation between these two authorities. Whenever the District Officer is seized of an urgent problem which requires police intervention he should either contact orally or in writing the Superintendent of Police. It should be obligatory for the Superintendent of Police to give the utmost consideration and attention to a communication (either oral or written) from the District Officer. The Superintendent of Police should take prompt steps to look into and deal with any situation brought to his

notice by the District Officer. He must also communicate in writing or orally as the case may be, the steps taken by him in respect of the problem brought to his notice by the District Officer. In case the District Officer is not satisfied with the compliance, he should be enabled to write to the SP's departmental superiors about the problem and the departmental superiors in turn should be required to respond to the District Officer's communication speedily and in a satisfactory manner. We are of the view that this methodology should be given a legal shape by incorporating it in the Police Acts applicable to the different States.

Subordination not essential for coordination

39.48 We do not think that subordination of one agency to another is essential or inescapable to bring about healthy cooperation between the two agencies. On the contrary we feel that subordination is an extremely unsuitable factor to generate satisfactory coordination. Subordination pre-supposes the carrying out of orders and hence instead of there being a dialogue, discussion and thereafter a decision, there is only implicit compliance where one party performs under resentment and the other under apprehension. Therefore, if, as we have recommended, subordination of the police to the District Officer is removed, we are of the view that coordination between these two important wings of administration would be possible in a cordial and congenial atmosphere where the identification of a common interest and the orientation of action towards that interest would become smooth and automatic.

Police sub-system's contribution to the total administrative system

39.49 We feel that our recommendation of removing the subordination of the police to the District Officer and of providing a healthy coordination of police activity by the District Officer would pave the way for the emergence of a responsible self-contained healthy police organisation performing not only to its full professional capability but also to the advantage of the district administration as a whole. We hope that the police sub-system shorn of its dependence on any other sub-system would be able to interact fully and effectively with all other sub-systems and contribute to sound performance of the district administrative system.

Operational capability of police to be enhanced by vesting of legal authority

39.50 We have already recommended that the Superintendent of Police should function with full responsibility and accountability as provided for in the law. The Superintendent of Police subject to such coordination, as we have recommended by the District Officer, should have a large measure of operational freedom to deal with crimes, criminals and public order situations. We note that in the existing law as contained both in the Criminal Procedure Code and several other Police Acts many powers of regulation and control are vested in Executive Magistrates and the District Magistrate. We are of the view that the Superintendent of Police should be adequately armed under the law to deal with situations independently

and without recourse to detailed consultation and advice from any other authority. We would at the same time stress that the powers to be vested in any authority should be commensurate with the performance expected from that authority. We, therefore, recommend that all such powers under the law which are required for regulation and control and for the promotion of order should vest in the Superintendent of Police, and other appropriate ranks in the police.

39.51 We are conscious that a detailed recommendation in regard to the devolution of powers on police officers will not be practicable because it will be for the respective State administrations to go into this question, in keeping with the principle enunciated by us. We note that several powers vest in executive magistrates including the District Magistrate under the following enactments :—

- (i) Code of Criminal Procedure.
- (ii) The Indian Arms Act.
- (iii) The Indian Explosives Act.
- (iv) The Suppression of Immoral Traffic in Women and Girls Act.
- (v) The Indian Poison Act.
- (vi) The Police Act of 1861.
- (vii) The Prevention of Cruelty to Animals Act.
- (viii) The Press & Registration of Books Act.
- (ix) The Police (Incitement to Disaffection) Act.
- (x) The Cinematography Act.
- (xi) The Indian Lunacy Act.
- (xii) The Indian Electricity Act.
- (xiii) The Motor Vehicles Act.

In addition, several local laws like the Bombay Habitual Offenders Act, the Bombay Gambling Act, the Bombay Police Act etc., also vest certain powers in the District Magistrate and other subordinate executive magistrates.

39.52 An analysis of the relevant sections of these Acts show that these powers fall under the following broad categories :—

- (a) Powers of Regulation, such as, power to order removal of nuisance (Section 133 Cr. P.C.), power to issue order in urgent cases of nuisances or apprehension of danger (Section 144 Cr. P.C.), power to regulate the conduct of assemblies, processions, playing of music, use of loud-speakers etc., power to regulate the utilisation of streets and public places, (Section 33, 36 and 37 of Bombay Police Act).

- (b) Powers of authorisation, such as power to require the postal and telegraph authority to cause search to be made for and detain any document or person required for the purpose of investigation or trial or other proceedings; power to issue search warrants, power to compel restoration of abducted females, etc.
- (c) Powers of control, such as, powers under sections 107, 108 and 109 Cr. P.C. to obtain security for keeping the peace; powers of ordering inquests, etc.
- (d) Power of licensing such as under the Arms Act, Explosives Act, etc.
- (e) Powers relating to investigation—such as power under section 58 Cr. P.C. of receiving reports of persons arrested without warrants; power to call habitual offenders to appear before an officer appointed, to furnish information, etc.
- (f) Powers of appointment such as appointment of Special Police Officers.

We are of the view that all powers relating to the removal of nuisances, the regulation and control of processions and other public activity, and powers of appointing special police officers should vest in police officers of appropriate ranks. In respect of powers of licensing we feel that in any matter where the licensing will affect public order in a substantial manner, such as the Indian Arms Act, the Indian Explosives Act, the Motor Vehicles Act, should also vest in police officers of appropriate ranks, as is the case even now in areas where the Police Commissioner system is in force. Other powers particularly those which involve the judicial evaluation of a right, and which is not of an urgent nature need not vest in police officers.

39.53 We note that in some States like Maharashtra the powers under section 144 Cr. P.C. are vested in Assistant and Dy. Superintendents of Police. In Bombay and other metropolitan areas like Poona, Nagpur etc., in that State, the powers of disposing of cases under Section 107 Cr. P.C. are vested in Assistant Commissioners of Police. Similarly the powers of externing certain categories of persons from the cities are vested in Assistant Commissioners of Police. We thus find that there is already a practice in existence by which many powers required for efficient policing are vested in police officers of appropriate ranks. In the light of this practice we see no reason why such powers should not be vested in police officers of similar status, in other areas also.

Method of implementation of recommendations

39.54 In order to give effect to our recommendations mentioned above, it would be necessary to amend section 4 of the Police Act, 1861 and several other State Police Acts. Correspondingly the element of coordination to be provided for by the District Officer should also be included as a separate section of the

Police Act. We recommend that the amendments suggested by us, on the following lines, may be incorporated in the Police Act :—

Section : Administration of District Police

The administration of the police throughout a district, or part thereof, shall be vested in the Superintendent of Police appointed under section XXX.

Section : Coordination in district administration

(i) For the purpose of efficiency in the general administration of the district it shall be lawful for the District Officer, by whatever name he is called in the different States, to coordinate the functioning of the police with other agencies of the district administration in respect of the following :

- (a) In matters relating to the promotion of land reforms and the settlement of land disputes;
- (b) In matters relating to the extensive disturbance of the public peace and tranquillity in the district;
- (c) In matters relating to the conduct of elections to any public body;
- (d) In matters relating to the handling of natural calamities, and the rehabilitation of the persons affected thereby;
- (e) In matters relating to situations arising out of any external aggression;
- (f) In any similar matter not within the purview of any one department, and affecting the general

welfare of the people of the district.

(ii) for the purpose of such coordination, the district officer, by whatever name he is called, may

- (a) call for information of a general or special nature, as and when required, from the police, and any other agency connected with the general administration of the district;
- (b) call for a report regarding the steps taken by the police or other agency to deal with the situation;
- (c) give such directions in respect of the matter, as are considered necessary by him to the police and the concerned agency.

(iii) The Superintendent of Police or the head of the agency mentioned in the sub-section above, shall render assistance to the authority specified in sub-section (i) for the purpose of coordination, as specified above.

Explanation

For the purpose of this section, 'coordination' means to combine, or integrate harmoniously.

All other provisions in the State Police Acts which would be contrary to the proposed amended sections of the Police Act would need to be deleted. For instance, some sections like 16, 17 and 18 of the Bombay Police Act, 1951 would be contrary to the amendment proposed by us and hence would need to be deleted.

CHAPTER XL

CODE OF BEHAVIOUR FOR POLICE OFFICERS

40.1 In paragraph 14.27 of our Second Report, we had drawn attention to the nine basic principles propounded in U.K. when the metropolitan police was reorganised in 1829. We had laid special stress on the fifth principle which underlined police responsibility for absolutely impartial service to law in complete independence of extraneous pressures. We had recommended that this should be specifically spelt out in the new Police Act for our police.

40.2 In paragraph 14.29 of the same report, we had drawn attention to the twelve point code of conduct for the Police adopted at the Conference of Inspectors General of Police in 1960 and circulated to all State Governments. While expressing our agreement with most of the clauses which fitted well with the redefined role, duties and responsibilities of the Police as envisaged in our recommendations, we had suggested a modification of the twelfth clause as under :—

“The Police should recognise that their full utility to the people of the country is best ensured only by maintaining a high standard of discipline, faithful performance of duties in accordance with law and implicit obedience to the directions of commanding ranks and absolute loyalty to the force and by keeping themselves in a state of constant training and preparedness.”

40.3 While the above principles and code of conduct are applicable to the police organisation as a whole, the individual conduct of members of the organisation is governed by different sets of conduct rules that have been duly framed in each State, and by the Centre for the Indian Police Service. In this Report we have dealt at length with the subject of Recruitment and Training for all ranks and also for the I.P.S. Against this background we would like to recommend the following Code of Behaviour for Police Officers which would supplement the organisational principles and codes. It would be the special responsibility of all Police Training Institutions and the National Police Academy that all Police personnel imbibe the Code in both letter and the spirit.

(1) *Neglect of Duty*

No police officer without good and sufficient cause shall—

- (a) neglect or omit to attend to or carry out with due promptitude and diligence anything which it is his duty as a member of a police force to attend to or carry out, or

- (b) fail to work his beat in accordance with orders, or leave the place of duty to which he has been ordered, or having left his place of duty for a bonafide purpose fail to return thereto without undue delay, or
- (c) be absent without leave from, or be late for, any duty, or
- (d) fail properly to account for, or to make a prompt and true return of, any money or property received by him in the course of his duty.

(2) *Disobedience to orders*

No police officer shall, without good and sufficient cause, disobey or omit or neglect to carry out any lawful order, written or otherwise, or contravene any provision of the Police Regulations containing restrictions on the private lives of members of police forces, or requiring him to notify the chief officer of police that he, or a relation included in his family, has a business interest in his jurisdiction within the meaning of those Regulations.

(3) *Discreditable conduct*

No police officer shall act in any manner prejudicial to discipline or conduct himself in such a manner which is reasonably likely to bring discredit on the reputation of the police force or of the police service.

(4) *Misconduct towards a member of a police force*

- (i) A police officer shall be deemed to have committed misconduct towards a member of a police force, if—
 - (a) his conduct towards another such member is oppressive or abusive, or
 - (b) he assaults or misbehaves with him.
- (ii) No police officer shall, without good and sufficient cause, commit misconduct, as aforesaid.

(5) *Falsehood or prevarication*

No police officer shall —

- (a) knowingly or through neglect make any false, misleading or inaccurate oral or written statement or entry in any record or document made, kept or required for police purposes, or

- (b) either wilfully and without proper authority or through lack of due care destroy or mutilate any record or document made, kept or required for police purposes, or
- (c) without good and sufficient cause alter or erase or add to any entry in such a record or document, or
- (d) knowingly or through neglect make any false, misleading or inaccurate statement in connection with his appointment to the police force.

(6) *Corrupt or improper practice*

No police officer shall —

- (a) in his capacity as a member of the force and without the consent of the chief officer of police or the police authority, directly or indirectly solicit or accept any gratuity, present or subscription, or
- (b) place himself under a pecuniary obligation to any person in such a manner as might affect his properly carrying out his duties as a member of the force, or
- (c) improperly use, or attempt so to use, his position as a member of the force for his private advantage, or
- (d) in his capacity as a member of the force and without the consent of the chief officer of police, write, sign or give a testimonial of character or other recommendation with the object of obtaining employment for any person or of supporting an application for the grant of a licence of any kind.

(7) *Abuse of authority*

- (i) A police officer shall be deemed to have committed abuse of authority if he —
 - (a) without good and sufficient cause makes an arrest, or
 - (b) uses any unnecessary violence towards any prisoner or other person with

whom he may be brought into contact in the execution of his duty, or

(c) is uncivil to any member of the public.

(ii) No police officer shall commit abuse of authority as aforesaid.

(8) *Neglect of health*

No police officer shall neglect his health or without good and sufficient reason neglect to carry out any instructions of a medical officer appointed by the police authority or, while absent from duty on account of sickness, commit any act or adopt any conduct calculated to retard his return to duty. It is essential and desirable that every officer takes special care to maintain and improve his health by proper exercises etc.

(9) *Improper dress and untidiness*

No police officer shall, without good and sufficient cause, while on duty, or while off duty but wearing uniform in a public place, be improperly dressed or be untidy in his appearance.

(10) *Drunkenness*

No police officer shall be in a state of drunkenness which renders him unfit for duties which he is or will be required to perform or which he may reasonably foresee having to perform.

(11) *Being an accessory to a disciplinary offence*

No police officer shall be an accessory to a disciplinary offence either by conniving at it or knowingly becoming accessory to any offence against discipline.

(12) *Damaging the unity of the force*

No police officer shall by commission or omission do or fail to do anything, which creates or is likely to create divisions in the police force on grounds of religion, caste or community or affect the reputation and effectiveness of the force as an unbiased and impartial agency.

(13) *Anti-national conduct*

No police officer shall do anything which affects or is likely to affect the security and integrity of the nation or lowers or is likely to lower the repute of the country.

CHAPTER XLI

POLICE-PUBLIC RELATIONS

The perspective

41.1 The democratic set up as in our country is sustained and strengthened by the observance of the rule of law—law, not as propounded by an authoritarian centre of power but as evolved by the democratic processes of consultation, debate and consensus. As a law enforcement agency in such a set up, the police have constantly to bear in mind the important fact that their enforcement of law derives its legitimacy from the sanction it has of the public at large acting through their elected representatives in the Legislatures and Parliament. This immediately implies the need for the police to carry the public along with them while seeking to enforce law. This in turn calls for increasing involvement of the public in law enforcement work in general and the securing of their cooperation in day to day police work in particular. Without adequate understanding and cooperation from the public, police work will tend to be viewed by them as highly arbitrary and undemocratic even though the police may seek to justify all that they do within the framework of law. Law is not merely what is written in the statute book but includes the manner in which it is understood and perceived by the people in general. A healthy police-public relationship on a continuing day to day basis is vital to secure the desired measure of public involvement and cooperation in police work to make it meaningful and acceptable to society.

41.2 Apart from the general aspect of understanding, appreciating and accepting the role of police in the administrative set up, we have also to take note of the requirements of evidence and criminal procedure under our laws which depend largely on what individual members of the public have to speak as witnesses on specific matters. The extent to which a person is willing to speak out and share with the duly constituted authorities in the criminal justice system *all* the relevant facts within his knowledge, determines his utility as a witness in any criminal proceeding. The willingness of people to participate as witnesses in such proceedings is largely governed by the general attitude they come to develop towards the criminal justice system as a whole in general and the police in particular. Here again, a healthy police-public relationship is most vital to secure the involvement of members of the public as witnesses to further the cause of law enforcement.

41.3 The problem of police-public relations is further complicated by the situation of rapid social transition in which we find ourselves. Far reaching changes are taking place in our society. Some of these are rapid

growth in the absolute size of the urban population, increased spatial mobility with faster means of communication and transport, the weakening of joint family and village ties, the growth of an unanchored population in urban areas, the loss of legitimacy of the feudal norms on which village society was based and the growing loss of consensus in social and political values. In a society which is undergoing such changes tensions are bound to arise between religious communities, between castes and sub-castes of the same community, between management and labour, between urban areas and rural areas, etc. In this situation crime and disorder increase and affect all segments of society. For dealing with this very complex situation of crime and disorder, we have a criminal justice system which is slow, under-staffed and clogged with heavy backlogs. Under these circumstances, the police cannot control crime without the active goodwill and cooperation of the people.

41.4 One objective of police-public relations should be the direct involvement of the people in the prevention and detection of crime and in the maintenance of order. People may have to take much greater interest in protecting their lives and properties without necessarily taking law into their own hands. They will have to actively cooperate with the police and also participate in organized efforts at self-protection with the support of the police. At the same time community leaders will have to do everything to promote inter-group unity.

Findings of public opinion surveys

41.5 Several attempts have been made so far to study the state of police-public relations. We have already referred in our Second Report (para 15.9) to the survey undertaken by the Indian Institute of Public Opinion on "The Image of Police in India". In 1964, Prof. S. J. Eldersveld and two others of the Indian Institute of Public Administration made a sample survey in Delhi State on "The Citizen and Administration-Perceptions of the Public and the Officials". In 1965-66, the I.I.P.O. had carried out, on behalf of Prof. David H. Sayley, a survey of Indian public opinion on police. In 1972, the Centre for Study of State Governments, Banaras Hindu University, Varanasi, conducted a survey on the 'Public Image of the Police'. In 1973, the Bureau of Police Research and Development undertook, with the help of the I.I.P.O., a survey on "Reluctance of the Public to Aid the Police in the Detection of Crime and Crime Reporting at Police Stations".

41.6 These surveys have revealed a number of important facts in regard to police-public relations.

The image of the police is bad. In one survey an overwhelming proportion of the respondents declared that police did not discharge their duties in a straightforward and impartial manner. They were partial towards the rich, the influential, politicians and henchmen of politicians. Policemen were said to be rude and even brutal in their behaviour. The discourteous behaviour of policemen was not confined to criminals only; a large number of complainants found the policemen indifferent and even hostile towards them, often they had to wait for a long time before their complaints were recorded, and the poorer complainants had to visit the police station twice or thrice before their complaints were recorded. A number of witnesses, who were seeking only to assist the police, found them indifferent, hostile, occasionally abusive, and arrogant. These witnesses were repeatedly summoned to the police station, sometimes more than three times, and very often kept waiting for a long time. Most respondents believed policemen to be corrupt.

41.7 People's experience of court proceedings was dismal. Witnesses summoned by courts for giving evidence had to attend those courts on two or more occasions. One survey found that two-thirds of the witnesses summoned by the court were not paid any allowance on any occasion. While on this subject we would like to refer to paragraph 28.14 of our Fourth Report in which we had reproduced an extract from a letter we had received from a District and Sessions Judge, as it, in our view, presents a true and graphic picture of the present situation. The learned judge said: "A prisoner suffers for some act or commission but a witness suffers for no fault of his own. All his troubles arise because he is unfortunate enough to be on the spot when the crime is being committed and at the same time 'foolish' enough to remain there till the arrival of the police."

41.8 Certain variations in responses are of interest. People in rural areas had a better opinion of police than the people in urban areas. About half of the respondents from the rural sample stated that the police did a good job. Of the urban respondents only a sixth thought so. Yet policemen were seen as generally rude and indifferent to the weaker sections of society *i.e.* the poor people, the Scheduled Castes, the Scheduled Tribes, the uneducated and those who live by manual labour. Apparently people in the rural area put a premium on performance and would condone corruption and forgive discourtesy provided the job was done. Generally, those who had personal experience of some interaction with police had a better opinion of police than those who had formed their opinion on hearsay without any personal knowledge.

41.9 Policemen's perception of the situation was that the people never cooperate with them except for occasional assistance in the detection of crime. They felt that the people did not cooperate with them because of (1) disinclination to get involved with the police and court procedures; (2) lack of civic sense in the public; (3) fear of reprisals from the criminals or goondas; (4) factional and partisan sympathies; and (5) general distrust of police.

Conclusions on the present situation

41.10 On the basis of the findings of the surveys, we have mentioned, the reports of various State Police Commissions, our visits to various parts of the country and discussions with a number of people in various walks of life, our conclusions, on the present state of police-public relations, are as under:—

- (1) Police-public relations at present are in a very unsatisfactory state. While there are several reasons for it, police partiality, corruption, brutality and failure to register cognizable offences are the most important factors which contribute to this sad state of affairs.
- (2) Police do in fact harass even those people who try to help them.
- (3) There is a certain degree of ambivalence in people's views about police efficiency; by and large they do not think the police are inefficient. A change in the style of police functioning is what they desire foremost.
- (4) Due to lack of even the basic amenities, bullying cross-examinations and inadequate financial compensation, both in coverage and quantum, people who appear in courts as witnesses have to undergo considerable inconvenience and hardship and for this they blame the police more than the law courts because their appearance in a court of law is a consequence of their involvement in a police investigation. Therefore, very often the people, in order to avoid going to courts of law, try to avoid police.
- (5) Those who have interacted with the police have a slightly better opinion of it than those whose opinions are based on what they have heard.
- (6) Even though criminogenic factors are not under the control of police, and the forces which generate disorder are confused with normal dissent, the press and the political leaders generally blame the police for rise in crime and spread of disorder.
- (7) The Indian Police Commission of 1902-03, had, after discussing police corruption 'practices of extortion and oppression', their 'unnecessary severity', and harassment of people, concluded (para 26): "What wonder is it that the people are said to dread the police, and to do all they can to avoid any connection with a police investigation". These observations can very well apply to the conditions obtaining even today. People now may not dread the police but they certainly dread getting involved with it in any capacity.
- (8) Policemen, in general, do not believe that they are very much at fault. They believe that the 'system' is like that. The more cynical among them believe that no improvement is possible.

A member of the public usually thinks of approaching the police only when he is in a situation of distress. When he meets a police officer in such a situation, the minimum that he expects from the police officer is a patient hearing accompanied by an understanding and sympathetic indication of the possible police response to provide relief. If at this point of contact the police officer's conduct and behaviour show not only a total lack of sympathy and understanding but a positively hostile, rude, discourteous and unhelpful attitude, it contributes to an immediate worsening of police-public relationship. We consider it basic and fundamental for promoting healthy police-public relationship that every police officer develops an attitude of utmost courtesy and consideration combined with sympathy and understanding towards any member of the public who comes to him seeking help. We have reasons to believe that the manner in which the police officers at the lower level behave towards individual members of the public who approach them is largely conditioned by the manner in which these police officers are themselves treated by their own higher officers within the force. No amount of exhortation from the higher ranks calling for courteous behaviour towards the public would carry conviction with the subordinates if in day to day police work these subordinates are treated with scant courtesy and consideration by the supervisory levels within the force. We would therefore like to observe that there is a simultaneous need for reform in intradepartmental behaviour and conduct of police officers towards one another.

Efforts made to improve the situation

41.11 The distressing state of police-public relations has been acknowledged for quite some time and efforts have been made to improve the situation. It has also been recognised that the people are a vast amorphous mass but the police are a comparatively small organised group and it is, therefore, for the police to so change their attitude and conduct as to win and secure the goodwill and cooperation of the people. The efforts made so far have been in the form of observance of crime prevention weeks, organisation of boys clubs and the like, exhortation and training.

Crime prevention weeks

41.12 The first Crime Prevention Week was observed in 1968 from 16th to 21st April. In order to achieve the objectives of making the people aware of their responsibilities in regard to prevention of crime, observance of traffic regulations to heighten road safety and social defence, a day each, during that week had been devoted, to these subjects. The week also sought to create some coordination between other social and governmental agencies active in the sphere of crime prevention and social defence. Many different activities were organised including displays, lectures, special campaigns to bring the police and the public closer together and to show how the citizen could cooperate with the police. This well-conceived programme is now an almost forgotten ritual and no such week has been observed after 1971. We recommend that the idea of a special 'week' be given up; instead the police should perform the activities that formed

part of this week, throughout the year in accordance with a schedule drawn up at the beginning of every calendar year. We would suggest that in any dialogue with the people through lectures, seminars, or through the media the emphasis should be not so much on advising the people about their responsibilities as on making them aware of the genuine difficulties of police and what help the people can render to mitigate them. We find that on good citizenship and police, a number of short films have been made, particularly by the Films Division of the Government of India. We recommend that such films should continue to be made and be shown throughout the year, in all parts of the country, at regular intervals.

Boys clubs

41.13 In several big cities, Boys Clubs function. A Boys Club is usually a place, often in a slum area, manned by a couple of policemen who try to involve the young boys of the locality in various games and also some reading. We find that the number of these clubs is very limited and often they exist only on paper. Further, there are no girls clubs at present. Then there are Road Safety Patrols. Selected school children, not necessarily from exclusive public schools, are provided some kind of uniform, trained in rules of traffic and how to control it, are put on the road under supervision of policemen to actually control traffic. There is no doubt that this makes at least those children aware of the rules of traffic and is, therefore, a good investment.

41.14 Infrequently, seminars are organised by police to which are invited members of the public, who have distinguished themselves in some walk of life, so as to generate public interest in various aspects of police working. In a few instances the armed police battalions have been encouraged to adopt a nearby village and help it with shramdan on roads, drains, schools, parks. The police have a long tradition of organising games and participating in tournaments. The Police Lines playground has traditionally provided an opportunity for young men to come and play games either with, or under the auspices of, police. We find that this aspect of police activity has, during the last few years, declined.

41.15 During riotous situations police seek public cooperation through peace committees and appoint some citizens as special police officers. The system of special police officers, apart from getting people involved in policing, exposes a number of people to the problems and processes of the police function. A majority of respondents to question 9 of our Questionnaire (What specific measures, legal as well as administrative, would you recommend for the association of the community at large as well as volunteer organisations for—maintenance of public order; and prevention of crime?) recommended liberal appointment of Special Police Officers to involve willing and public-spirited citizens to maintain order and prevent crime. Section 17 of the Police Act of 1861 provides for appointment, for a fixed duration and within defined geographical limits, of special police officers during riot situations and disturbances of public order. A suggestion has been made to us that this scheme should

be extended by way of time and functions, that is such appointments should not be confined to occasions of law and order requirements only but should be an ongoing affair and the functions of the special police officers should not merely be to protect life and property during riots but also, once it becomes an ongoing institution, to aid the investigation of ordinary crimes. We endorse this suggestion.

Exhortation

41.16 We find that exhortation has been the most frequently tried remedy. Political leaders, judges, eminent public men, journalists, senior police officers, all have repeated, time and again that police can earn the goodwill of the people only through honest and hard work in the absence of which 'public relations' gimmicks would never succeed. A State Police Commission which had made a detailed study of this subject recommended, among other things, the creation of "a new tradition for police service; letting the police discharge its honest duty without fear or favour from any quarter and letting every member of the force realise that he has to serve the law". The real problem, we are inclined to think, is how to create a new tradition of service. A statement of objectives is not a statement of method. That is why the present state of police-public relations indicates that all the exhortations to police to be impartial, honest, fair, polite, fearless and imbued with the spirit of service have not had any perceptible effect.

Training

41.17 A recognised method of changing attitude is training. A peculiar feature of police training is its exclusive preoccupation with crime and criminals. If policemen are trained only in how to deal with crime and criminals and not how to deal with the rest of the general population it is not their fault that they fail to measure up to the standards expected of them by the general public. Since independence considerable emphasis has been laid on orientation, through training, of police officers to the new situation of an independent democratic country so that they may modify their behaviour accordingly. Among other things, the Gore Committee on Police Training (1973) had recommended reorientation of existing personnel through special short courses. Such short courses on police-community relations and allied subjects have been held, particularly by the Institute of Criminology and Forensic Science (ICFS). But there has been no visible sign of any attitudinal change among the various ranks of police. The number of police personnel covered by such courses at the ICFS is negligible. Such orientation would have to be undertaken at the police training schools in the States and may be even through special teams brought together in each district. The substantive message of these programmes should be :—

- (1) That the police is a service dedicated to the protection of the common citizen and it is a force against the elements of lawlessness and disorder.

- (2) That they are part of a democratic society and that citizens have a right to organize and express themselves; dissent on the part of the citizen is not to be construed as a threat to law and order unless there is a breach or apprehension of breach of the peace.

- (3) That policemen are in the 'business' of extending help and affording satisfaction to the people so that when they are approached for help their attitude should be to decide how best they can render the help sought and not how, through subterfuge of law and regulation, they can evade their legitimate responsibility.

41.18 In all such orientation programmes while the content of training is important the process of imparting this training is even more important where attitudinal changes are sought to be brought about. One cannot teach people to be polite through curt orders and threats of disciplinary action. The existing attitudes are a result of a complex of factors including service conditions, actual behaviour of senior officials, the conduct of public men in power, etc. Training is one, though an important, factor among these. Our recommendations on the need for improved training and on special reorientation programmes must therefore be read and taken together with our recommendation on other aspects of the police organisation.

Constraints and possibilities

41.19 As efforts have been made, particularly after 1947, to improve police-public relations without any palpable achievement of the objective two definite issues arise for consideration: (1) what are the constraints that have, in spite of the efforts made, prevented the desired change or improvement in police-public relations and therefore in the extent of cooperation that the police receive from the people and (2) what can, in spite of these constraints, be done to achieve the objective of involving the people in the fight against crime. We find that these constraints arise from the role and organisation of police and we now proceed to discuss them and suggest what can be done.

The negative role of police

41.20 The police function in the context of a punishment-oriented judicial system. No matter what the offence, the objective of the criminal justice system is to catch the culprit and, if found guilty in a court of law, punish him with fine and/or imprisonment or death. Even where fines are imposed or property forfeited, in spite of some enabling provisions in the Code of Criminal Procedure, and certain Local and Special laws, the victim usually does not receive any compensation and everything goes to the State. For example section 357 of the Code empowers the court to order the whole or any part of the fine recovered to be paid as compensation for any loss or injury caused by the offence, but we understand that courts seldom pass such orders. For example, in the case of a young girl on whose face acid is thrown, even if the culprit is arrested and prosecuted and sent to jail for a long period it does not help the girl in any way.

She receives no compensation even by way of facilitating treatment through plastic surgery. As there is no concern for the victim of crime at any stage the system does not offer any satisfaction to anyone except, perhaps, those who live off it. The discouraging nature of our court procedures has already been described in paragraph 41.7. As a sub-system of the criminal justice system the role of the police also becomes punitive and therefore, negative. On paper this situation is balanced by the right of every victim of a crime to claim damages in a civil court but it is common knowledge that very few of us can afford the excessively lengthy processes of civil courts the end results of which are often uncertain and unsatisfactory. Given this situation there is little even for the victim of a crime to motivate him to cooperate with the police except a wish to impose retribution. We, therefore, recommend the legislation of an appropriate criminal injuries compensation act to augment our existing body of criminal law.

41.21 Further, the law and order function of police can often alienate the people and the police from each other. Where the law and order problem arises as a result of activities of anti-social groups, people tend to sympathise with the police. But there are occasions when the police seem to be pitted against the citizenry themselves—as for instance, was the case with the strife that led to the creation of Andhra and later, of Maharashtra. The growing dissension in society also makes the police role difficult. Inevitably they are seen as representatives of the ruling party and the more often such situations occur the greater is the difficulty of establishing positive relations between the police and the public.

Service-oriented functions

41.22 While the in-built constraints of a negative role will remain, the police could place greater emphasis, wherever and whenever possible, on the service-oriented functions which we have outlined in paragraphs 14.49 and 14.50 of our Second Report. Although the Police Act of 1861 makes no mention of service as such being a duty of the police we consider it a very important aspect of police work and have accordingly included it in the redefined role of police (Paragraph 14.51) of our Second Report. Here we would only like to illustrate the point. The customary response of police to a situation of collective distress is to rush to safeguard the property of the victims of the natural calamity, to rescue them, to evacuate them, keep the lines of communication open, maintain order at centres of food storage and distribution, and withdraw from the scene as soon as these tasks are over. Sometimes, they have stayed on to make sustained efforts to render essential services. During the drought of 1975 in Orissa, the Kalahandi district police opened, with the objective of saving lives, a free kitchen which functioned with great success for about three months. Every member of the police service contributed one rupee per head so that the free kitchen could serve about 500 persons every day. People of ten villages were able to make use of this free kitchen and the daily average of beneficiaries was 792 persons over a period of 88 days.

In addition, medicines and clothes were also distributed. When this proved a success, the same thing was repeated during the floods in various parts of the State in the same year. With the contribution of one rupee per head of all policemen in the State 16 free kitchens were opened at various places in the districts of Cuttack, Keonjhar and Balasore. Such examples of organised and sustained efforts are, however, rare. But it does point to the possibilities in this area of police activity.

Junior Police Call scheme of Hong Kong

41.23 We feel that one service-oriented function, youth counselling, needs to be made a regular feature of police work. The police must concentrate on the young, particularly the youth in slum areas of cities. A positive relationship established with this section can prove an effective preventive service. A scheme to involve the young in community service, including prevention and detection of crime, through police which has appealed to us is the Junior Police Call (JPC) scheme of the Hong Kong police. The objectives of this scheme have variously been defined: "To provide incentive and opportunity for young people to help the police in its daily efforts to curb crime" "To foster good police-public relations and to generally enhance the police image by winning the respect and cooperation of all young people residing in divisional areas" "To provide opportunity for the young people to help the police, serve the community" "Harnessing the youth of Hong Kong in the fight against all forms of crimes" etc. We find these objectives of equal relevance to us.

41.24 The JPC scheme was launched by the Hong Kong Police in July 1974 as a weekly five-minute programme broadcast in Chinese on television. During this programme crime scenes were reconstructed, appeal made for information and eye witnesses, registration numbers of motor vehicles used in crimes notified to the young viewers, advice given on personal and home safety, and various aspects of police work depicted. Young people between the ages 9—17 years were invited to become members by completing an application form which could be obtained from any police station. To handle the correspondence and other work women police were requisitioned from other posts and a separate office opened with a telephone manned between 0700 and 2300 hours. During the remaining hours, the police information room took the calls and passed on the information later. The scheme is operated by the Police Community Relations Officers (Chief Inspectors) with the help of other police staff. The involvement of women police is prominent. The activities under the JPC programme are many and various. They include community service in hospitals, children homes, assistance to rural and remote areas in road repairs, training in photography, swimming, gymnastics, music, painting, games, organisation of camps and picnics and, of course, reports to police on crime, missing persons, wanted vehicles, found property etc. Details are given in Appendix III.

41.25 There is reason to believe that the JPC scheme has been a success and we understand that

the UNESCO has appreciated it and circulated information about it to 140 countries. By the middle of 1978 police had received information from JPC members and their parents in over a thousand cases. Further over 120 arrests of suspects had been made on their information. Over 100 missing vehicles and many missing persons were traced. Apart from the actual involvement of the young in the fight against crime, significant gains have been in the area of police-public relations.

41.26 The introduction of this scheme in our country should be feasible. We have a tradition of boys clubs, traffic patrols and police-sponsored games and competitions. These need to be strengthened and built upon. We recommend that in all large cities this scheme be tried out by expanding the activities and facilities of existing clubs. Ultimately, we hope that every district headquarters will provide a club house for young members of such clubs. We would, however, like to caution that if police are only going to impart traffic training and harangue the young people on their duties and if the right kind of policemen and policewomen are not involved in it, the scheme will become unsuccessful and counterproductive.

The twilight of the change in role performance

41.27 In addition to the negative and punitive role of police arising out of the similar character of our criminal justice system there is the historical change in the role performance of police which has yet to work itself through. Till 1947 the police undoubtedly were an instrument of the British Raj. In the authoritarian framework of that time, largely due to fear, some people did cooperate with them. Although the democratic framework was introduced in 1950 the traditional aura of police continued for some time and then disappeared, and with it disappeared whatever little cooperation police had received earlier. While the disappearance of fear is, on the whole (we still want anti-social elements to fear the police) a good development in the area of police-public relations, the present unfortunately is the twilight period of no fear and no confidence. Policemen now have to depend exclusively on law, but legal provisions cannot elicit public cooperation. In our democratic polity the police must win public cooperation; in fact there is no other way. While there are several hindrances to securing such willing cooperation of the people the police must remove those that are within their sphere of activity. To begin with, people should be able to come to police with information without fear of harassment by way of repeated summonses to police station and the ordeal of a court attendance and cross-examination. We find, for example, that with respect to people who sometimes bring a road accident victim, to a public hospital the Delhi Police have issued instructions that such persons should under no circumstances be detained in the hospital for interrogation and that there should be no insistence on knowing their personal particulars. We enclose a copy of these instructions in Appendix IV. We recommend that this be the practice not merely in regard to traffic offences but in all cases where people volunteer information to police.

Organisational constraints

41.28 A number of constraints arise from the organisation of police. As the police are organised there is no palpable incentive for policemen to make an effort to carry the people with them. At the field level of the district the placement and promotion of police officers from Constable to Superintendent of Police are not really related to what the people of the district think of them. As long as the District Magistrate, the senior hierarchy of the police and local politicians are happy with the Superintendent of Police, the feeling and opinion of the people of the district appear irrelevant to the latter for his career advancement. A Station House Officer can continue to function in a particular police station even if his conduct towards a large number of people within the jurisdiction of that police station is harsh and even oppressive, provided he can align himself with those who matter and can generally ingratiate himself with the people in power, these being the local politicians, the magistracy and his seniors in police. The addition of a column in the confidential report form on 'relations with the people' does not remedy the basic situation that public satisfaction with the performance of a police officer does not really operate as a factor relevant to his career prospects. The answer to this is an alert public, conscious of its rights and keen to enforce them with or without the aid of press. But under all circumstances such people should receive welcome assistance from the supervisory police officers.

41.29 The second organisational constraint is the relative irrelevance of what is called the police leadership to the operative levels of police. Management policies urging desired changes, particularly of attitude and behaviour, do not get adequately implemented at the operative level. There are several reasons for this. First, the Station House Officer, for the exercise of his powers and the discharge of his duties, is not beholden to any senior officer. Directly from the law of the land he derives his powers and uses them as indeed he ought to, and it is the organisational climate and the system of rewards and punishments, that are supposed to ensure adherence to desired norms by police personnel. But, as is common knowledge, the system of rewards and punishments does not operate effectively. Second, the constraint of time does not allow adequate redressal by senior officers, of the grievances of those who are aggrieved by the acts of commission or omission of the operative police personnel. The senior police officers can enquire into the complaint and can, perhaps, even punish the erring policemen but they seldom can take effective corrective action in regard to the case itself. In most cases the damage is already done through the F.I.R., the arrest, the statements recorded in the case diary, the law having taken its course to a considerable extent, the transient evidence already lost, suffering and humiliation already inflicted. Thus there often is at the operative levels of police a measure of finality about whatever is done. Third, a policeman, such as an investigating officer, works by himself. This precludes the possibility of close supervision. Generally, supervision takes place after the event. As a result exhortation and threats fail every time. Fourth, the operating forces of political interference and dual control in the district also diminish the

effectiveness of police leadership. Fifth, is the impossible job policemen are asked to do. Perhaps no public office in the country is so frequently inspected with such little result as a police station, which is inspected by the Circle Inspector of Police, the Sub-Divisional Police Officer, the Sub-Divisional Magistrate, the Superintendent of Police and the District Magistrate. In Chapter XXV of our Third Report we have already referred to the tremendous increase in scriptory work at the police station level. All these inspections mean preparation of numerous statements and bandobust. The proliferation of law and order duty itself is common knowledge. The very long hours of duty of the Station House personnel are a known fact. All these have combined to make the job of a Station House Officer virtually impossible for any human being. As a result policemen at the Station House level evolve short cuts and are overcome by cynicism.

Police cynicism

41.30 We find that policemen have a tendency to become cynical. We also find that frequently such cynicism is developed, within very few years of service. Policemen very rapidly pick up the knowledge that what the law requires is one thing but what has actually to be done in practice is another. Once this dichotomy takes root in their minds, all training, all exhortations are a waste. Thus, the law is that third-degree is not permitted, but in practice that is the only way. Very often people themselves expect the police to beat up goondas and when this is not done charges of bribery and corruption are hurled at the police. People complain that police are partial in their conduct, but policemen learn that while under the law all are equal, as things happen, a rich man is more equal than a poor man, a common citizen different from a politician or one who has the support of a politician, a bureaucrat different from an ordinary government employee—the list is endless. He finds that in handling law and order problems, no matter how well he might perform, he earns considerable odium due to what seems to be the logic of the situation itself.

41.31 We are convinced that the remedies for the organisational constraints on police performance and their repercussions outlined in paragraphs 28—30 lie in proper living and working conditions for policemen and reform of the police organisation. In the First Report we have already made our recommendations on the living and working conditions of the constabulary. In Chapter IV on 'Housing' we have referred to the non-gazetted personnel as a whole and in Chapter XIII of our Second Report we have made recommendations on 'Welfare measures for police families'. In Chapter XV of our Second Report we have made recommendations to insulate police from political, executive and extraneous pressures. In Chapter XIX of our Third Report (paragraphs 19.31 and 19.32) we have referred to the need for motivation and orientation of police personnel so that their behaviour should manifestly be impartial and particularly stressed the importance of impartiality in investigation. In Chapter XXII of our Third Report we have made recommendations to curb

S/6 HA/81—8

corruption in Police. While brutality is more a question of steady dehumanisation of police personnel, largely on account of their living and working conditions, for curbing third degree methods, in particular, we have made recommendations in Chapter XXVII (paragraph 27.26) of our Fourth Report. The non-registration of cognizable offences by police is due to the political use of crime statistics and paucity of means by way particularly of manpower and equipment. Every political party in opposition uses crime statistics to prove deterioration in law and order situations which creates enormous pressure from the highest political executive down to the police station to keep crime figures under 'control'. Although inadequate means is an almost perpetual constraint on any organisation it plagues the police organisation in an aggravated form. The recommendations made in Chapter XIV of our Second Report should reduce this pressure to an appreciable extent and our recommendations on modernisation made in Chapter XXIV of our Third Report should be able to substantially reduce burking of offences. The implementation of all these recommendations will, we believe, create the right kind of climate in police service, strengthen the police leadership and reduce cynicism leading to a change in the style of work of police personnel. Here we would like to mention that policemen must have the requisite facilities for extending courtesy. During our tours to the various States, we visited a number of police stations and found that, in general, police station buildings have a forbidding aspect and the condition of lock-ups is dreadful. Further, hardly any police station has a visitors room. So even if a well-meaning policeman were to try to be polite and courteous he has hardly anything to be courteous with. Even the basic furniture does not exist. The only things on display are pairs of handcuffs. Surprisingly, the new buildings also are badly furnished and poorly lit. As our objective is to create a new climate in the police organisation and thereby change the style of police work we recommend that police station buildings should be properly furnished, well lit and should have a separate reception room for visitors. Large police stations should have facilities for drinking water, tea and coffee.

Concentration on highly visible activities and better communication with people

41.32 In paragraph 7 we have referred to the finding that those who have had direct experience of police have a slightly better opinion of police than those who have not had any such experience. The opinion on police of very many people who have never entered a police station is often confined to a suspicion of the worst because of the intermittent allegations that are made of the application of third degree methods in police custody, and, sometimes, of rape in police custody. The answer lies in exemplary performance of visible activities and better communication with people. Almost everyone in an urban area and many people of the rural areas, who for various purposes go, at least to the district headquarters, see the police in action when they regulate traffic. The public contact aspect of traffic regulation has not been fully appreciated and the amount of respect and goodwill the effective performance of this duty can earn for police has not

been taken into consideration during the discharge of this duty. A smart turnout and an upright bearing have repeatedly been emphasized but it needs to be realised that when a policeman on traffic duty is visibly slack in what he is doing or is not able to effectively perform his duty it does great damage to the police image. We recommend that in view of the very high visibility profile of policemen on traffic duty special attention should be paid to this activity. A similar visible activity is patrolling which has, in recent years, fallen into considerable disuse. The system of patrolling needs to be revived. As the West Bengal Police Commission had observed: "The sight of patrolling policemen is welcome to all and is regarded as a visible sign that the police are at work in preventing crime and keeping a watch over their localities. Patrols are, in our opinion, one of the best means of establishing good relations with the public (p. 255)". We agree with this view and recommend that best patrolling should be revived and, in urban areas combined with the system of neighbourhood policing. Earmarked policemen can be made responsible for a neighbourhood so that they feel a particular responsibility for it and get to know everyone in that neighbourhood. They should also get to know everything about that neighbourhood and intermittently check with the residents if they need any help.

41.33 For better communication with the people police will have to give up, to a considerable extent, the secrecy which surrounds their functioning. We find that just as structurally the police is accountable only to the executive and not to the immediate community it is supposed to serve, the information that is generated in and by police is also meant exclusively for the government. During the colonial era there was great emphasis on secrecy in administration. We find that as early as 1843 the Central Government had issued a notification asking government servants not to communicate to the people outside any information which was in their possession. Over the years a culture of secrecy developed in police. Some of our State Police Manuals say :

"Police officers should not habitually engage themselves in the activities of broadcasting on Radios or contributing articles to Press, even in a purely literary, artistic or scientific character, though permissible under proviso to sub-rule

"A police officer may not, unless generally or specially empowered by the local Government in this behalf communicate directly or indirectly to Government servants belonging to other departments or to non-official persons, or to the press, any document or information which has come into his possession in the course of his public duties, or has been prepared or collected by him in the course of those duties, whether from official sources or otherwise".

"Unless generally or specially empowered or permitted, Government Officers should not enter into correspondence with newspapers, either over their own names or over pseudonyms, on matters connected with their official duties".

"All Government servants, particularly district officials, must take care that they do not make any statements to the press. If in any case where the matter is deemed important it is necessary to make a statement to the press to explain either the situation obtaining in any district or the position of Government or Government officials, the Collector of the district concerned should be the authority to decide in what form the explanation should be given and to give it to the press".

Under these circumstances policemen are wary of speaking to any member of the press or for that matter to the people about what they are doing for fear the government would pull them up and disciplinary action would be taken against them. We have considered this matter very carefully and have come to the conclusion that all police activities to the extent possible should be open except for four specific areas. These four areas are (1) operations, (2) the intelligence on the basis of which operations are planned and conducted, (3) privacy of the individual citizen, and (4) judicial requirements. Barring these four considerations we recommend a change from the present practice of withholding every information to sharing as much information as possible. The exercise of discretion should be in favour of giving as much information as can be given.

Police and press

41.34 The press as an agency which moulds public opinion is of considerable importance to the police. In recognition of this fact, emphasis has repeatedly been laid on good police-press relations. The various State Police Commissions, we find, had emphasised the importance of the press as an intermediary between the police and the people. The press today is an important factor in the formation of public opinion. At the end of 1977 there were about 14,531 newspapers in the country with a circulation of 374.37 lakh copies.

41.35 It is a feature of our press that only about 4% of the newspapers are owned by the Central and State Governments. With private ownership of a majority of newspapers it is neither surprising nor *ipso facto* undesirable that several important newspapers and journals have well defined stances. Sharply defined stances can in fact, be of great help since every problem is multi-dimensional and has nebulous contours. But it also leads to attacks on police when the real target is the government. A prominent feature of the present journalism in India is that it lays heavy reliance on handouts given by official agencies which means that the information that is readily available is often used. News of crime and disorder is of considerable interest to the people and, therefore, the press is interested in it. The police should establish a system of communication through which the authentic facts relating to crime and disorder can quickly be given to the press. If the police will not do it then the journalists will tend to depend on whatever they can gather. We find that in several States the S. P.

cannot hold a press conference and the SHO is not permitted to provide any information to the press.

41.36 The present failure of police towards the press has been denial of prompt factual information to it either on the pretext of secrecy or because no regular facility exists for it. The need for a regular arrangement by way of a Public Relations Office which disseminates information to the press has often been felt but generally there has been a reluctance to trust anybody at the field level to give information to the press. The Maharashtra Police Commission (1964) was in favour of some senior officers working as a Press Information Officer but it was against any information being given at the police station level. The Delhi Police Commission advised that the Commissioner of Police should hold regular press conferences to give information and clarify doubts and it recommended that whenever any important event occurs proper facts should immediately be given to the Press. The Bihar Police Commission (1961) after stating that opinion is divided on the nature of police contact with the press, recommended that a Police Information Officer be appointed at the Police Head-

quarters (PPRO to be made PIO) and his bureau be equipped to receive prompt information from districts of newsworthy incidents which could then be given to the Press. Having considered this matter very carefully we are of the opinion that every district Superintendent of Police should be permitted to deal directly with the Press. The police stations should also be permitted to give the statistical details of number of crimes registered, under investigation, arrests made, cases convicted etc. When important or sensational cases occur, to the extent feasible, brief details can be given by police stations. In paragraph 41.33 four considerations for secrecy have been pointed out. These may be construed as the limitations on provision of information to the press. The press can be helpful to the police, and often is, in giving publicity to missing persons and children, wanted criminals and general dissemination of information which the police wish to circulate. In fact, a number of police officers expressed the opinion that the press had often been of great help. Given, on the part of police, the right kind of behaviour, performance, orientation, and a machinery for dealing with it the police will, we are convinced, find the press responsive and helpful.

CHAPTER XLII

WOMEN POLICE

Introduction

42.1 Traditionally, law enforcement has been viewed as a field exercise involving substantial use of physical prowess and, therefore, has tended to remain a mostly masculine job. The possibility of women functioning as full members of a police force and playing a role for achieving its objective was not well perceived in the early years of evolution of police system. However, changes in the social situation, with increased association of women in the performance of field duties in several branches of administration, and the problems arising from increased juvenile delinquency and involvement of women in crimes, either as victims or accused, progressively necessitated the employment of women police officers as such in a variety of police tasks. Women police have now become an integral part of the police forces in almost all countries of the world.

Women police in foreign countries

42.2 The employment of police women in foreign countries progressed in slow stages. It started with the tentative employment of a few women, often untrained and without police powers, to perform selected duties. Then came the gradual acceptance of women as full members of the police organisation, in recognition of their value in dealing with women and children. Thereafter police women were enlisted, duly trained and clothed with necessary powers for the performance of their tasks. In most countries of the world, police women do not constitute a separate female unit of the police but are mixed with the general police units and given specific tasks to perform. A few countries like France and Finland have some special units exclusively made up of police women for handling certain types of investigations involving women and children. These exclusive units are in addition to the general police units in which police women perform tasks alongside policemen.

42.3 As regards educational and physical qualifications for recruitment to the police at different levels, the practice in most countries has been to prescribe the same standards for both male and female recruits.

42.4 The basic training given to female members of the police is practically identical to that given to male personnel. In U.K., the training of women police officers is essentially the same as that of male police officers but includes some special courses on searching and care of women prisoners. There is variation in regard to physical training and its duration. In Japan, the duration of training is six months for the women police cadets and one year for the men. The remaining six months of training

programme of the women is allotted to cultural subjects like the art of flower arrangements, tea ceremony, etc. In Italy, both male and female police recruits attend the senior police training colleges for equivalent periods of time, but the subjects taught are different. The men are given training that is focussed more on law and order, while the women are given more detailed courses on psychology and allied subjects. In Australia's Northern Territory Police, in Canada's Royal Canadian Mounted Police (RCMP) and the Metropolitan Toronto Police, physical training for women is less extensive than it is for men. In Sri Lanka, women police officers receive less training in fire-arms and riot drill, as compared to men. In Malaysia, weapon training for women is confined only to medium and small arms while the male counterparts undergo rifle (SCR) training in addition.

42.5 Women police officers are generally employed to carry out all police duties, but in a few countries some restrictions have been imposed on the police jobs that are assignable to women police. In Australia (Tasmania), Japan, Malawi and Seychelles, the restrictions pertain to the employment of police women at night. It is also seen that only male police officers perform motor-cycle patrol duties and search-and-rescue duty. Police women in Italy have very limited police powers in connection with crime investigation, in comparison with male police officers, and the women police do not perform law and order duties. In France and Brazil also, women police officers are never called upon to participate in operations conducted for the purpose of maintaining order.

42.6 In certain countries some specific duties are assigned exclusively to women police as indicated below :

- (i) Searching of women is a duty earmarked for performance exclusively by women police officers in U.K., Australia, Bermuda, Brazil, Cyprus, Canada (Toronto), Finland, France, Greece, Malaysia, Philippines, Sri Lanka, United States and Zambia.
- (ii) Guarding women prisons is a duty assigned exclusively to women police officers in U.K., Australia, Malawi and Trinidad. In Austria, Iran and Philippines, only women police officers can be matrons at prisons for women.
- (iii) In Australia, Austria, Hong Kong and United States, women police officers must participate in the investigation of cases involving sex offences against women or minor females and especially in the questioning of victims.

Women police in India

42.7 Women police in the Indian police system are of comparatively recent origin. In the past, as required under the law, the services of women as private individuals had been utilised casually as and when required for searching female persons in custody but such women were not employed in the police force on a regular basis. Prior to independence, in a few places like Kanpur, the erstwhile State of Travancore, Bombay city and Lahore, women had been recruited to the police, but their number was exceedingly small. The partition of the country in 1947 and the large scale violence that followed in various parts of the country brought in its trail marked increase in the incidence of offences like kidnapping, abduction and rape, specially affecting women. The need was felt to look after unattached or abandoned women and children. It was in response to this need that women police got to be added slowly to the police forces in different States during the last 30 years. At present, women police form a part of the police forces in all States and the Union Territories, except in Dadra and Nagar Haveli, Lakshadweep and Mizoram. The initial reluctance in the recruitment of women in the police force has died down and some States like Gujarat, Maharashtra, Karnataka and Kerala, have come to employ a good number of women in their police forces. A woman was directly recruited and appointed to the Indian Police Service for the first time in the year 1972. At present there are 12 women in the IPS, besides 5 working as Dy. S.Ps. and 15 as Inspector in different States. The total number of women in the police forces all over India, however, is a little over 3,000 which is hardly 0.4% of the entire police force of the country.

Duties of women police

42.8 In our country, women police have proved useful in performing specialised tasks of dealing with women and children and specially women victims of crime. They have already become a useful adjunct of city police stations, juvenile aid police units (JAPU) and other special units in different States. It needs, however, to be stated that they have until now not been given an equal share in various other areas of police work. The full extent of their role is yet to be developed. Their numbers at present are very small and as the number increases their role can be correspondingly enhanced.

Investigational work

42.9 We have seen the recommendations of the different State Police Commissions which have dealt with the role and duties of women police. One aspect of police work in which we feel there is need and scope for more active and direct involvement of women police is the investigational work in specific crimes. They can and should be entrusted with investigations of crimes relating to women and children and can also be employed on intelligence work connected with such crimes. We recommend that women police should be an integral part of the police force, with a special role in juvenile crime squads, specially in urban areas, as recommended in paragraph 28.39 of the Fourth Report. Women police

should be trained and employed to handle investigational work in a much greater measure than at present.

42.10 The number of girls involved in crime has always been and still is much smaller than the number of boys but in recent years the rate of increase of crime in the case of girls is more than double than that in the case of the boys. In the year 1977, the percentage increase of delinquency in girls over the year 1964 was 286.2 whereas in case of boys, it was 118.3. Delinquency among girls is a more serious problem than delinquency among boys since girls are potential mothers, and a mother plays a vital role in the upbringing of a child and maintenance of some norms of conduct in the family. Women police have a very constructive role to play in re-establishing and reforming delinquent girls. In the present times a very large number of girls go out of their homes for study and work. Once out, they are less protected and more exposed to dangers in society and exploitation, as compared to boys. Young girls in danger of exploitation get some measure of protection under the Children Act as well as under the Suppression of Immoral Traffic Act, 1956. Women police can play a very useful role, both preventive and investigative, in this sphere. In fact, employment of police women in the investigative processes in these cases as also in cases of kidnapping, abduction, rape, etc. will be very useful as the victims will be more willing to talk freely to women police officers and furnish vital information essential for the investigation and prosecution of such cases. Women police can also undertake day time patrolling in slums, labour colonies, railway stations, bus stands, etc., for not only locating deviant children and women but also to interact with the public and to help and guide women and children passengers. Such a role will also help in improving the general image of the police with the public. Police women could also be successfully utilised in traffic control operations near schools, market places, fairs, festivals and similar situations attended by women and children in large numbers.

Women demonstrators

42.11 One of the difficult problems facing the police these days is the handling of women and children demonstrators in situations arising from unrest among the industrial and peasant labour and the students in colleges and University campuses. The organisers of such demonstrations place women and children in the forefront to embarrass the police and also to act as a cover for more aggressive designs from behind. With rapidly rising inflation, peoples' expression of dissatisfaction manifests itself in agitations, rallies and dharnas which often take a violent turn and become a law and order problem. Women themselves frequently stage rallies and demonstrations on issues like price rise, dowry, eve-teasing, black-marketing, hoarding of essential commodities, etc. For dealing with such rallies and demonstration by women, a sizeable contingent of women police would need to be deployed. These women police require to be fully trained and well-equipped to deal with such agitations, and will have to work in close coordination with and fully supported by their counter-parts in the male police.

Women police in police stations

42.12 Women police in our view have a greater potential to cool, defuse and to de-escalate many situations and, therefore, greater use should be made of them than at present. In non-combative roles requiring restraint, patience and endurance they can be employed with advantage. They are especially needed in areas where police come in contact with women, so as to obviate complaints of indignity and misbehaviour towards women. Many women victims of crime are usually deterred from going to police stations to make a complaint because of lack of confidence in having a sympathetic and patient hearing at the police station. The presence of women police in Police Stations would greatly help in creating such confidence and trust in the police. Women Police can also help in giving better attention to the service aspects of police work. We have already observed in paragraph 27.10 of the Fourth Report that the entire philosophy, culture and attitude of police should be such as to make a police station appear and function as a ready source of relief for persons in distress. In our view the presence of police women in Police Stations would help to a great extent in achieving this object.

Training of women police

42.13 The narration in the foregoing paragraphs of the areas in which women police can play a useful and important role highlights the necessity of recruiting the right type of women into the force. The tasks call for enlistment of women having adequate educational background and aptitude for being able to react sensitively to situations demanding their active involvement. We are of the view that the basic training courses for the different ranks of women police should be imparted at the same police training institutes where policemen are trained. The duration and the content of the training should be the same as for their male counterparts. This will ensure uniformity in recruitment and training standards. However, certain modifications may have to be made in the physical training programme for the women recruits. Instead of emphasising the aspects of toughening up and building up physical strength, the training of police women should be directed to instil a sense of physical self-confidence in them and to equip them with physical safety techniques while handling all types of characters in the course of their duties. Besides adequate physical training, arrangements should be made for them to acquire mastery over tactics of unarmed combat such as 'Judo' and 'Karate'. In addition special instructions will need to be given to them to deal with agitations and mob upsurges in a humane and sensitive manner.

42.14 The effectiveness of police women's work would be greatly enhanced if they receive special training in social work in an institute of social science to qualify them to diagnose and treat social ailments. Women recruits, in addition to being trained like men, should be put through special courses in schools of social work so as to be able to perform their special role in relation to women and children. Intensive training should be imparted to them in the enforcement of the special Acts relating to children and vice

and also in the techniques of search of women and their belongings. At this juncture, we wish to make it clear that our identification of the above areas in which women police can be used with greater advantage, is not meant to dilute our recommendations that women police should become an integral part of the general police. They could and should in due course be entrusted with all the duties now performed by their male counter-parts, especially the following which are now performed by women police in other countries of the world as reported by the International Criminal Police Organisation (I.C.P.O.) :—

- (i) Road traffic regulation and road traffic control duties in large towns involving guarding of pedestrian crossings and approaches to schools ;
- (ii) Dealing with women including search, arrest, questioning women suspects who have or are suspected of having committed an offence ;
- (iii) Crime investigation in general ;
- (iv) Handling and investigating cases involving vice or sexual offences, such as rape, trafficking in women and sexual offences against children ;
- (v) General foot and/or vehicular patrol duty ;
- (vi) Social work and child welfare such as handling cases involving missing or badly treated children, liaison work with social welfare organisations and agencies, and assisting women and children in distress ;
- (vii) Juvenile delinquency case work ;
- (viii) Clerical work ;
- (ix) Telecommunications equipment operators, switchboard operators and related work ;
- (x) Prosecution duties in cases involving minor offences committed by young persons brought before Magistrates or Juvenile Courts ;
- (xi) Immigration duties and checks on travellers, especially female travellers, at airports and other points of entry into the country ;
- (xii) Guarding female prisoners ;
- (xiii) Fingerprinting work in CID ;
- (xiv) Public relations work in order to help create better image of police ;
- (xv) Instructors in police training institutes ;
- (xvi) Crime prevention work such as giving talks in Secondary Schools on police work and in particular, on road safety regulations ;
- (xvii) Crowd control duties at special events ;
- (xviii) Special branch and security work ;
- (xix) Protection of female VIPs ;
- (xx) Drug related case work ;

- (xxi) Administration and guard duties at prisons for women ;
- (xxii) Technical and document examination work ;
- (xxiii) Police drivers ; and
- (xxiv) Police social welfare activities.

Expansion of women police

42.15 In the years to come, it will be essential for the Police to enlist and involve more and more women in their strength and tasks. At present they constitute only 0.4 per cent of the entire Police force in the country. The percentage of women police in the police forces of several other countries is much higher. According to the figures published by the International Criminal Police Organisation in October, 1978, this percentage is 11 in Argentina, 4.3 in South Australia, 2.5 in Bangladesh, 1.65 in Canada (RCMP), 4.26 in Chile, 3.11 in France, 1.94 in Japan, 3 in Malaysia, 5 in Philippines, 12 in Singapore, 1 in Sri Lanka, 7 in England and Wales and about 5 in the United States. We would recommend enlistment of more women in the Police force, preferably in the ranks of Assistant Sub-Inspector or Sub-Inspector of Police rather than in the rank of Constable. The ASIs and SIs should be graduates, preferably with diploma in Social work. Provision should be made for recruiting the widows of policemen killed in action provided they are otherwise fit and qualified for the appropriate grade, of

Constable, ASI or SI. Residential accommodation and rest and retiring rooms for them should, as far as possible, be located near the place of work.

Deployment

42.16 We do not favour the present practice in some states of constituting a separate women police wing or branch and confining recruitment and promotion in it to women in that branch only. Apart from its being an exclusive branch secluded from the general police stream, promotion prospects in a small branch will remain limited and restricted. For instance, in one State we came across women Assistant Sub-Inspectors who had rendered 25 years of service but had not been able to earn a single promotion although most of their male counterparts in the general stream had in the meantime been promoted as Inspectors and above.

42.17 In order to have greater involvement of women police in the police administration as well as to provide equal opportunities to them, we recommend that they should be recruited in vacancies in general duty posts, after careful estimation of the requirements of women police in the force on the basis of analysis of factors such as population, incidence of crime by women and juveniles etc. We visualise that in the years to come women police would form an important integral part of the police force specially in the cities, towns and other thickly populated areas.

CHAPTER XLIII

SUMMARY OF OBSERVATIONS AND RECOMMENDATIONS

43.1 In future it would be necessary to limit recruitment to the police to two levels only, namely, (i) Constables and (ii) Indian Police Service. The recruitment to the other levels should be eliminated by a phased programme.

(Para 35.5)

43.2 Properly developed psychological tests are an important ingredient of a proper recruitment procedure. Despite the recommendations of the Committee on Police Training, nothing much has been done for developing these tests. A start should be made immediately by introducing these tests during training to weed out those who are not likely to shape into good policemen.

(Para 35.6)

43.3 There is need for creating interest among the youth in police work as a part of the school and college curriculum. This should be supplemented by establishment of a Police Cadet Corps to develop the necessary interest in the work of the police. Healthy student-Police interaction in an understanding atmosphere should be encouraged.

(Para 35.7)

43.4 The minimum educational qualification for recruitment as Constables in the armed as well as civil police should be High School pass uniformly throughout the country. This should not operate against attracting candidates of higher educational qualifications and some weightage in the form of bonus marks may be given to candidates with higher qualifications.

(Para 35.8)

43.5 There is no dearth of candidates with minimum educational and physical qualifications available from among the Scheduled Castes, Scheduled Tribes and backward classes. No relaxation, therefore, need be made in the prescribed educational qualifications and physical standards for recruiting candidates from these reserved classes.

(Para 35.9)

43.6 The minimum age for recruitment should be 17 years and the maximum 21 years with normal relaxation of upper age limit in the case of Scheduled Castes/Tribes and Backward Classes.

(Para 35.10)

43.7 The recommendations of the Committee of Police Training, 1973, in respect of height, chest and standard age-height-weight correlation are endorsed. The effectiveness of the policemen is directly proportionate to a large extent, to his physical fitness, stamina and appearance. Any relaxation in the physical qualifications will have an adverse impact on the performance of the policemen and the force as a whole. There should be no compromise, therefore, in regard to physical qualifications except where regional factors as in the case of hill tribes call for the same. No relaxation is required for the reserved classes either.

(Para 35.11 & 35.12)

43.8 Physical efficiency Test should form an essential criterion for recruitment. While one star standard is minimum for entry, appropriate weightage should be given to those with two and three star standard of physical efficiency.

(Para 35.13)

43.9 Recruitment to the constabulary shall be done at the district level to ensure adequate representation for every district in the police. But recruitment should be based on uniform standards of objectivity and impartiality throughout the State.

(Para 35.16)

43.10 Wide publicity is essential to ensure that sufficient number of suitable candidates come forward from all parts of the district and from the various cross-sections of the people. Predictability regarding the dates of recruitment should be introduced by fixing some dates on some months uniformly by the State Governments every year.

(Para 35.17)

43.11 All police stations, police lines and other police units and offices like offices of SDPO, SSP and DIG should make it a point to be courteous and helpful to young men and women coming to make enquiries about the recruitment or about police as career. This would include helping them to know if they would qualify in physical standards. This public relations exercise could be supported by suitable incentives to those units or offices who have been specially helpful to applicants. The publicity should make it clear that the recruitment is subject to fulfilment of minimum educational qualifications and physical efficiency standards.

(Para 35.18)

43.12 Recruitment involves two stages (i) elimination of the unfit and (ii) selection of the suitable. In the elimination process the District SP should scrutinise the application and exclude candidates who do not fulfil the minimum educational qualifications and physical standards on the basis of the applications. A list should be prepared of the applicants who satisfy the minimum qualifications with details of their qualifications and physical standards. The list should be published. Another list consisting of those found not eligible should also be published. This process will inspire confidence and promote objectivity. The Superintendent of Police may call any of the applicants if he thinks it necessary to check the contents of the applications.

(Para 35.19)

43.13 In the selection process equal weightage should be given to the following 3 factors :—

	Marks
(a) The percentage of marks in the High School Examination	100
(b) The marks awarded by the Selection Board	100
(c) Physical standards including Medical fitness category	100
	300

(Para 35.19)

43.14 The Selection Board should consist of the DIG as the Chairman, assisted by a Superintendent of Police from one of the districts and a Superintendent of Police in charge of an armed police battalion. The Board should also include a Sociologist or head of a local school and wherever possible the Head of the Police Training School or one of its senior Instructors. The Selection Board should interview each candidate and award marks out of 100 broadly on the following criterion :—

(i) Personality	
(ii) Comprehension	
(iii) Oral expression	
(iv) Temperament & Response	
(v) Social Consciousness	80
(vi) Bonus for higher qualifications.	20

S/6 HA/81—9

(a) 1st Division in Higher Secondary or Intermediate	10
(b) Second Division in Higher Secondary or Intermediate	5
(c) First Division in Graduation	10
(d) Second Division in Graduation	5

(Para 35.20)

43.15 The same Selection Board of another Board with the Medical Officer, the physical instructor and the District SP, Dy. SP should evaluate the physical standard of candidates and award marks as follows out of 100 :—

(i) Physical efficiency test	50
(ii) (a) One Star standard	10
(b) Two Star standard	30
(c) Three Star standard	50
(iii) Medical fitness in all respect	20
(iv) Additional weightage of height, chest, eye-sight, muscular powers and sports.	30
Total	100

(Para 35.21)

43.16 There is no need for any written examination and the percentage of marks in the High School Examination should form the basis in the final merit list.

(Para 35.22)

43.17 The minimum educational qualifications for recruitment to the post of Sub-Inspectors shall be a Graduate Degree from a recognised University. No special weightage need be given to post-Graduates. This should be uniform throughout the country for both armed and unarmed branches of the police. The minimum age limit for recruitment should be 20 years and the maximum 23 years. This is subject to usual relaxations in the case of Scheduled Castes and Scheduled Tribes. The physical standards as are applicable to the constabulary shall apply to the recruitment of the Sub-Inspectors also.

(Para 35.24)

43.18 The recruitment to the rank of Sub-Inspectors be made through a competitive examination by the State Public Service Commission. Due

weightage should be given for performance in an interview and physical efficiency test in the screening scheme for recruitment. The percentage of weightage of a candidate for performance in the three areas of test shall be as follows :—

(Actual marks can be correspondingly more).

Written test	65
Interview	25
Physical efficiency	10
	Total
	100

(Para 35.30)

43.19 The interview shall be carried out on a Service Selection Board model as in the Defence Forces but adopted for police needs. The Chairman of the Selection Board shall be a Member of the State Service Commission assisted by (i) Inspector General of Police or his representative (ii) a senior Police Office-in-charge of training or the head of the State Training College (iii) a Sociologist or an academician and (iv) a personnel management expert or behavioural scientist, if available, or an officer from another Department.

(Para 35.31)

Training of personnel in the Civil Police in the rank of Constables, Sub-Inspectors, Inspectors and Deputy Superintendents of Police with focus on implementation of the Committee on Police Training's Report, 1973.

43.20 There is an urgent need for a change and improvement in police attitudes and performance. Without this they will be unable to discharge the additional responsibilities and challenges in law enforcement that they have to face in present times. While prevention and detection of crime and maintenance of law and order will remain the core responsibility, they also have to face a new range of problems emerging from a wide spectrum of social welfare laws enacted in the last five decades.

(Para 36.1)

43.21 A qualitative change in police perspective and approach demands a total change in the police culture and much greater effort in training and education to develop greater professional competence.

Being aware of the above need, the Government of India appointed a Committee on Police Training in the year 1973.

(Para 36.4)

43.22 The Committee found that in general with the exception of some of the Central Police Organisation professional training was in a state of neglect qualitatively and inadequate quantitatively. The main reason for the same was the lack of genuine interest on the part of the Government and higher ranks in the police in the value of training. The Committee made a compact set of recommendations on all aspects of training and other allied areas in the police system :—

- (i) To ensure maximum level of professional competence;
- (ii) To ensure an optimum level of managerial competence in police work; and
- (iii) To ensure a higher level of personality competence which would include education and development of leadership qualities.

(Para 36.11 and 36.14)

43.23 Training, though an essential input, is not the only input for a total transformation. The whole organisational climate, environment in which the police has to function, official attitude etc. have to be simultaneously tackled to make training effective as an integral part of the total system. For this the co-operation of the State Governments. Inspectors General of Police and other senior police officers is very essential. The State Governments should take due note and correct the existing defects in the system.

(Para 36.15 and 36.16)

43.24 Training cannot be a substitute to intelligent supervision, purposeful inspection, favourable environmental conditions, mutual trust and willingness to delegate. A good training can at best support, enhance and optimise performance provided the other factors are taken care of.

(Para 36.17)

43.25 Time bound implementation of the Committee of Police Training, 1973's recommendations both on the core aspect of training and other important complementary factors will provide the necessary training support for realising the objectives of our recommendations on other aspects of police working. The task of implementation must be supplemented by reforms in structure, organisation and climate work.

(Para 36.19)

43.26 The implementation of the recommendations of the Committee of Police Training, 1973, despite

the lapse of more than five years is disappointing and frustratingly slow. There appears to have been no sustained effort either by the Centre or the States to implement the recommendations. While the syllabi and training format have been adopted fully by all States, in other areas like recruitment, organisation of training, training of trainers, motivation of trainers, preparation of training material etc., no perceptible improvement has been made. Lack of finances and adequate guidance and assistance from the Centre has prevented the State Governments from making such progress. The Centre has not spelt out a time-frame and the process of implementation. The role of the Centre and States has not been defined clearly.

(Paras 36.21, 36.22, 36.24 and 36.26)

43.27 The main reasons for the tardy implementation of the recommendations can be listed as follows :—

- (i) Lack of constructive contribution by the Central Government in the implementation process specially in matters of financial resources, both capital and recurring.
- (ii) Non-development of psychological tests due to lack of expertise and guidance.
- (iii) Continued lack of commitment to the concept of training in the police system, resulting in poor image of police training institutions and the role of training in police work.
- (iv) Non-availability of training material and basic instructional literature.
- (v) Poor planning of trainee man power release.
- (vi) Lack of rational staffing pattern in the training institutes without providing necessary motivators and career planning etc.

(Para 36.27)

43.28 In order to correct these shortcomings :—

- (i) The Central Government must undertake a leading role in the implementation process, after assessing the existing facilities and gaps in the State Training Institutions, the Central Government should undertake to provide the full capital cost for establishing the new training institutions and for improving the existing ones.
- (ii) The Central Government should bear the recurring cost initially for a period of five

years, starting with the first year at 75% to be reduced annually by 10%.

- (iii) The Centre should develop the parameters of psychological tests with the help of Ministry of Defence and recruit the necessary staff.
- (iv) A spell as Principal or a directing staff in the PTC should be made a very desirable requirement for consideration for promotion in the hierarchy.
- (v) Adequate incentives and other facilities must be provided to the staff selected for serving in Training Institutions.
- (vi) To remove the complaint that officers due for training are not relieved for the courses, a roster for attending in-service training and refresher courses, should be prepared at the Police Headquarters.
- (vii) Sufficient training reserves be provided to fill the posts of the officers deputed for training. The officer deputed for training should as far as possible be posted to the place from where he had proceeded on training. A training roster should be kept and strict compliance ensured.

(Para 36.28)

43.29 The posting in training institutions should carry attractive pay and other amenities. It will be desirable to select the staff by competition and on merit. They should be given training before they take over as trainers. Working in Training Institutions should be made one of the desirable qualifications for promotion to higher ranks upto IG.

(Para 36.31 and 36.32)

43.30 The training will be meaningful and purposeful if the health of the other components of the police system is good. The factors that are essential to make the other components function optimally have to be simultaneously attended to. In the absence of a climate which supports performance and innovation and trust in the officers, training can have only a limited impact.

(Para 36.33)

43.31 The maximum visibility of the police to the people as an organisation centres round the Constables. His interactions are not persons to person but with groups of people as well. He is the only limb of the Government who comes more in contact with the common man in his every day life than the personnel in any other wing of the Government. The Constable will be required to perform a variety of tasks in future

and thereby derive career/job satisfaction instead of being dehumanised under the monotony of being a mechanical lathi-weilding robot.

(Paras 36.34 and 36.35)

43.32 The Committee on Police Training, 1973's recommendations cover all aspects of training essential for induction to the new role of the constabulary. The implementations of the recommendations of the Committee will ensure necessary training support to the police in their enlarged role as envisaged. However, the training format prescribed by the Committee on Police Training, 1973 needs some addition for the new role of the Constable. In view of the fact it is envisaged that the Constables should be a potential investigating officer who can, with the experience, handle investigational work independently. It would be appropriate to provide for adequate training in the basic principles of investigational work and allow interaction with the public at this stage as a part of the promotional course for a period of about 4 months before the Constable becomes an Assistant Sub-Inspector.

(Para 36.39)

43.33 On the job training plays an important role for this level. It will condition the recruit to the culture of the police force. This involves responsibility at higher levels for the subordinate's development. This should be an essential ingredient in the system.

(Para 36.40)

43.34 The nature of the Constables interaction with the public needs greater attention. Hence, his attitudes, conduct and response, even how he addresses the fellow citizens, his politeness and courtesy, all those needs greater attention as part of the training and should be indoctrinated on the job by the personal example of superior officers. No amount of theoretical training will achieve this result unless the constables see their superiors act and behave in the same way.

(Para 36.41)

43.35 The training institution should make the Constable aware of his prospects for promotion in the career structure within the police system. The training institutions should help in identifying constables who show some real merit and aptitude and possess the potential to reach high ranks with necessary support. They should encourage such deserving candidates by guidance and other means.

(Para 36.42)

43.36 The Constables like Sub-Inspectors should be attached to some social service organisations. The initial on the job training should concentrate on exposing the Constable to several emergencies other than routine crime prevention, detection and law and order. This will create the proper attitudes in sensitive areas like dealing with weaker sections, women

and children and the other lower strata of society. Such civil emergencies can be stimulated for role play at regular intervals. This will help the growth of the correct attitudes and perceptions.

(Para 36.43)

43.37 The Sub-Inspector/Inspector occupies the most important functional area in the police hierarchy. He has enormous powers whose impact on citizens' rights is far-reaching. He combines in himself the preventive, detective, regulatory and control functions of law enforcement. Much depends upon his capacity to get the co-operation and assistance of the staff under his and the goodwill of the people whom he serves.

(Para 36.44)

43.38 His periodical exposure by way of refresher courses to increase his sensitivity and understanding of psychology and to enlighten him on management techniques and behavioural sciences will be desirable. He should be made an agent of change and develop the necessary attitude to accept change as a necessary factor in the developing society. He should also be periodically exposed to a change in technology and science pertaining to his profession by way of refresher courses.

(Para 36.48)

43.39 The course content for the promoted Sub-Inspector should be so designed that on the passing of the departmental examination, the candidate could be awarded a degree/diploma/certificate in police sciences. For this purpose each Academy may be declared as a centre of education in police sciences. just as IIT's, Institute of Management, Institute of Chartered Accountants etc. This will ensure that he will be able to feel a sense of equality and parity with the directly recruited Sub-Inspector and can hope to catch up with the IPS Officers as well. As a measures of incentive those who pass in first class should be given an award of Rs. 3,000 and those who pass in the 2nd Class with over 50% should be given Rs. 1,500.

(Para 36.52)

43.40 A special course may be organised in the State Training Institutions for those Sub-Inspectors who are selected for promotion as Inspectors. The duration of this course may be 6 weeks. Its objective would be to serve as a gap between the 2 ranks and be a refresher course which could blend knowledge of work with problem solving skills.

(Para 36.53)

43.41 A special course for Inspectors who have worked as SHO for a period of 3 years be conducted at the National Police Academy. Only outstanding and exceptional Inspectors should be nominated by the IG for this Course and it would be one of the very prestigious courses conducted by the NPA. Those who pass the course with credit should be given a

merit certificate plus cash awards ranging from Rs. 1,000 to Rs. 5,000 depending upon the percentage of marks obtained by them in the future examination.
(Paras 36.54 to 36.57)

43.42 The post of Deputy Superintendent of Police is a continuing historical reality. An experienced Deputy Superintendent of Police has years of working experience in all aspects of police functioning with the result that the system has to rely on him for bulk of the police work. He does the bulk of supervisory work in the field and also makes personally a large number of enquiries. The rank of the Deputy Superintendent of Police will have to continue as he has become an important functionary with a distinct role to play. This rank also provides a promotional level.

(Paras 36.58 and 36.59)

43.43 The directly recruited Deputy Superintendent of police should receive the training imparted to IPS trainees, during short interregnum till direct recruitment is stopped.

(Para 36.61)

43.44 In future, the rank of the Deputy Superintendent of Police will be filled by promotion from the level of Inspectors. A refresher course of about 3 months to equip them to understand and undertake the additional responsibilities is sufficient. The training format needs to be modified to give necessary exposure to the Administrative Side of the police work as the trainees will be experienced officers on the professional side. The focus should be on administration, supervision and leadership and other managerial techniques. A sensitivity training of a short duration is also recommended to orient them to the new role.

(Paras 36.62 and 36.63)

43.45 In future the training for officers promoted as Deputy Superintendents of Police should be conducted at the National Police Academy. Suitable course design will have to be evolved by the National Police Academy and the candidates would be required to be proficient in English so that some of them who later promoted to IPS are not handicapped. This will also reduce the gap between the Deputy Superintendent of Police and Assistant Superintendent of Police and bring them together in the same Institution.

(Paras 36.62 and 36.64)

Dacoities

43.46 The present recorded incidence of dacoities, 1.8 per lakh of population is considerably less than the actual figure.

(Para 37.3)

43.47 Dacoities should, for purposes of statistics and handling be classified into three categories :—

- (1) Technical dacoity, that is, a dacoity committed by persons who do not make a

habit of it but on account of a dispute they happen to have committed an offence which falls within the ambit of section 391 of the IPC. This may be called *simple dacoity*.

- (2) Dacoity committed by persons who treat it as a source of profit but who remain part of the society from which they assemble to commit it and into which they merge after they have committed it. These people may have normal avocations also. This may be called *professional dacoity*.

- (3) Dacoity committed by a gang of dacoits which lives outside the society as a separate cohesive group. The members of such gangs live only by a life of crime. Often their names and descriptive rolls are known. This may be called *gang dacoity*.

(Para 37.4)

43.48 The first type of dacoity is just as bad as any other crime. The second type of dacoity is a menace because it is indiscriminate and corrodes the vitals of a society. The seriousness of the third type of dacoity has been acknowledged for a long time. It is open and blatant defiance of law and society. The use of firearm makes any offence serious and, as things are, the type of firearm used, breach loading, muzzle loading, country made, licensed, unlicensed should also be a statistically recognizable fact.

(Para 37.5)

43.49 When the police come upon a dacoit gang in any way, the resistance on the part of the dacoits to evade arrest leads to use of force by both the dacoits and the police and this exchange—normally there is an exchange of fire because both the groups are armed—is commonly referred to as an encounter.

(Para 37.7)

43.50 There is a general public feeling in some areas that often encounters are stage-managed by the police in which the dacoits are killed in order to avoid going through the process of a trial which may or may not result in their conviction and a deterrent sentence. It has been alleged that even after being arrested, some notorious dacoits are done away with by documenting a fake encounter. We are aware of the various difficulties in collecting evidence against dangerous dacoits to prove their crimes to the satisfaction of a court. We are also aware that witnesses would not be forthcoming in trials against dacoits because of fear. An incident in which a large number of witnesses—more than thirty—were murdered when a trial against a notorious dacoit was going on in a court of law was in fact brought to our notice. In spite of all these practical difficulties, we strongly disapprove of any action on the part of the police which exceeds the limits imposed by law. The law demands that no person shall be considered a criminal unless pronounced to be so after a due and proper trial by a court of law.

(Para 37.8)

43.51 In order to strengthen the law against those who commit heinous crimes such as dacoity, section 82 of the Code of Criminal Procedure, 1973, should be amended and a new section 174-A added to the Indian Penal Code. The following may be added as sub-section (4) and (5) to section 82 Cr. P.C.—

Proclamation for person absconding

82.	(1)	***	***	***
	(2)	***	***	***
	(3)	***	***	***

(4) In a case where the proclamation published under sub-section (1) is in respect of a person accused of an offence punishable under any of the following sections of the Indian Penal Code, namely, 302, 304, 364, 365, 367, 368, 382, 392 to 400 (both inclusive), 402, 436, 449, 439 and 460, if that person fails to appear at the specified place and specified time mentioned in the proclamation, may thereupon, after making such inquiries as it thinks fit, declare him a proclaimed offender and make a declaration to that effect.

(5) The provisions of sub-section (2) and (3) shall also apply to declaration made by the Court under sub-section (4).

The new section 174A—to be added to the Indian Penal Code may be on the following lines :—

Non-attendance in obedience to a proclamation published by Court

174A Whoever, being legally bound to attend in person at a certain place and time in obedience to a proclamation published under sub-section (1) of section 82 of the Code of Criminal Procedure, 1973, intentionally omits to attend at that place or time or departs from the place where he is found to attend before the time at which it is lawful for him to depart, shall be punished with imprisonment of either description for a term which may extend upto three years; and in a case where, in addition to the aforesaid proclamation, a declaration has also been published under the provision of sub-section (4) of section 82 of the aforesaid Code, shall be punished with imprisonment of either description for a term which may extend to seven years.

(Para 37.9)

43.52 The concept of a proclaimed offender should then be included in section 46(3) of the Code of Criminal Procedure as below :—

Arrest how made

46.	***	***	***
	***	***	***

(3) Nothing in this section gives a right to cause the death of a person who is not

accused of an offence punishable with death or with imprisonment for life or is not a proclaimed offender as declared by a court under the provisions of sub-section (4) of section 82.

(Para 37.10)

43.53 Simple dacoities should be handled like any other crime, that is, investigated thoroughly and prosecuted competently in a court of law. Professional dacoities call for meticulous building up of police station records on the basis of continuous collection of intelligence, and preventing inflow of arms and ammunition into the hands of the criminal elements. Gang dacoities need to be handled in the same manner as insurgency: location, isolation and eradication. As all the five processes mentioned above, building up police station records, preventing inflow of arms and ammunition, location of gangs of dacoits including identification of membership, isolation of the gangs from their supporters and harbourers and their eradication through operations efficiently planned and mounted, require intelligence the first task is to collect information and process it. In a dacoity-infested area, the task of collecting intelligence should not be confined to a special group like the CID. Each armed police unit and each police station must help in gathering information and it should be a specific task of the officer in command to set targets and to see whether the uniform side is participating in the collection of intelligence in the correct manner.

(Para 37.11)

43.54 On the basis of continuous collection of intelligence, police station records that are normally neglected in areas in which the crime of dacoity is endemic, should be built up, particularly those relating to crime and criminals, suspected or otherwise, and gang history sheets should be prepared with comprehensive data on organisation of the dacoit gangs, membership, castes and relationships of members of the gangs, weapons in possession, the areas of depredation, helpers, harbourers, receivers, places from where food is obtained, sources of medical aid, etc.

(Para 37.12)

43.55 For sustained and expert investigation, particularly of professional dacoities, special investigation squads should be set up at the level of the range DIG. In the affected Ranges, there should be an officer of the rank of Superintendent of Police, attached to the office of the DIG, to supervise the work of this squad. All men posted in the dacoity area, whether in the armed police or the civil police, should be trained in fieldcraft and tactics and in all must be inculcated some degree of self-control. Many operations have failed because one man started smoking and the wind gave away the position of the party.

(Para 37.13)

43.56 In dacoity areas an important requirement is dedicated leadership. The police officer in command, whether of a section, platoon, company or a mixed group, should be able to bear privations, face

hazards and enforce discipline among the men. At all times he must manifestly be concerned about the welfare of his men. During operations, he should eat same food as his men. It is for him to decide the right time to strike. The most important leadership quality required is faithful reporting to the media and the government because false reports about an operation not only damage that operation but also do serious disservice to future operations.

(para 37.14)

43.57 The police strength in a dacoity area needs to be much more than usual. A heavy police presence is very essential. It has been the experience of the Chambal Valley that when after the surrenders in 1972-73 the presence of armed police battalions was reduced, crimes of dacoity and kidnapping shot up within a couple of years. Further, the affected area must have a good network of roads and a wireless network connecting every police station and every fixed police picket. Mobile police patrols should also be in communication with similar mobile patrols in the area and the concerned police station and supervisory officers in order to convey information and seek assistance. This would involve not only point to point communication but also inter-communication between groups patrolling the area.

(Para 37.15)

43.58 The village defence parties in selected dacoity-prone areas should be equipped with firearms, if they are to play an important role in dealing with dacoities. Village defence parties in dacoity-prone areas, which are earmarked for the purpose of playing a role in control of dacoities, should be properly trained in the care and use of firearms. For this purpose, a police officer of suitable rank should be earmarked in each district of such areas. It should be the function of this officer not only to train the members of the village defence parties in the care and use of firearms, but also to go round the villages and ensure that the firearms are kept in proper custody and in a safe place. By moving round the villages, the officer should also constantly update the expertise of the members of the village defence parties in collection of intelligence and any other activities connected with anti-dacoity operations.

(Para 37.16)

43.59 Something special should be done for the victims of the offence of dacoity. Often encounters take place between villagers and dacoits in which several villagers are either killed or injured. The valour and courage of those killed or injured, from among the villagers, are hardly recognised. In some States a very meagre pension is given to the dependents of those killed. Those villagers, who defend themselves and others against notorious dacoits, should be recognised as performing a very important public function in the face of serious hazards. In order to boost the morale of the villagers and as a matter of recognition of the courage and determination of these villagers, it is recommended that generous grants and pensions should be paid to the dependents of those villagers who are killed in encoun-

ters. Those, who are injured in encounters, should also be paid generous grants and disability pensions. Further, the death or the permanent maiming of the bread winner of a family in a dacoity is a matter of perpetual misery to that family. The Government should sanction suitable compensation to the dependents of a person who is killed in the course of a dacoity. Government should also pay suitable compensation by way of pension to a person who is permanently maimed due to injuries received during the commission of a dacoity. Such an action on the part of the government would go a long way in mobilising public support in the fight against dacoities.

(Para 37.17)

43.60 The police personnel who come to harm in areas ravaged by armed gangs of desperados may be given financial compensation and benefits on an enhanced scale, as compared to those applicable to police personnel in other areas not so infested. Depending on the crime situation operational areas, which would entitle police personnel to enhanced benefits under this arrangement, may be notified by the Government from time to time.

(Para 37.18)

43.61 Kidnapping for ransom, as a criminal activity, is increasingly being preferred to the commission of a regular dacoity by dacoit gangs. A new kind of crime is coming to notice, particularly in the towns and cities situated in the dacoity-infested area. Small time criminals and anti-social elements kidnap persons and sell them to a regular gang of dacoits for a price. The gang then negotiates release with the relatives of the kidnapped and extorts a much higher price. In other words, the powerful gangs kidnap people through agents living in society to whom only a commission is paid. It is, therefore, necessary that this emerging activity is studied carefully from now onwards and intelligence built up to put it down ruthlessly because this could otherwise become the crime of the next decade producing a more devastating impact upon the people than the heinous dacoities of the present times.

(Para 37.19)

43.62 One method of dealing with the problem of dacoity has been to accept conditional surrender by dacoits. As any criminal can always surrender to the police or the law court there can be no objection to a policy of accepting surrenders. As a dacoit would not surrender in order to be hanged this minimum condition that he will not be hanged has to be more or less accepted by the State. But beyond this no other condition should be accepted by the State. Dacoits surrender because of the mounting pressure of living the life of an outlaw, the pressure from police, the desire to enjoy the gains of the life of crime and now and then a change of heart.

(Para 37.23)

43.63 In order to check the flow of arms and ammunition to criminals it is recommended that the appropriate Departments should be directed to re-examine their procedures and practices to eliminate

loopholes so that the weapons and ammunition held by them do not fall into undesirable hands.

(Para 37.24)

43.64 For a durable solution of the problem, it is vital that the administration in these areas is made highly responsive to local needs and also keep itself in constant touch with the people so that their problems, grievances and disputes can be perceived and solved quickly. It is recommended that, in addition to the strengthening of the police, the entire civil administrative machinery in these areas should also be considerably strengthened and its capability increased. It is found that films have been made glamourising dacoits. Recently some crimes were committed, particularly a kidnapping for ransom, on the basis of an incident depicted in a film. The politicisation and glamourisation of dacoits who, under the law, are nothing more than dangerous criminals is strongly condemned. It is recommended that the Government should tighten the censorship of films to ensure that dacoits are not glamourised. Well planned and well-executed administrative and police efforts can only contain and perhaps eliminate the depredations of dacoits over brief spans of time, but they cannot root out the problem. There were some dacoity-infested areas in this country in the past e.g. PEPSU, northern Punjab, Saurashtra where now there is no trace of organised gangs of dacoits. The reason is economic development and that and an effectively functioning criminal justice system are the real remedies.

(Para 37.26)

Arms Act

43.65 The Arms Act 1959, which came into force from 1st October, 1962 brought in liberalisation of the licensing provisions. In the last two decades, there have been disturbing indications of easy availability of firearms to criminals, anti-social elements and extremists and their frequent use in commission of offences, armed hold-ups, elimination of rivals and even against policemen engaged in lawful discharge of duties. The threat posed by easy availability of firearms and ammunitions necessitates reforms to make the Arms Act stringent.

(Para 38.1)

43.66 In commission of offences, unlicensed weapons are being used in greater numbers and this has been predominant in States like Uttar Pradesh, Bihar and West Bengal although a number of other States have also shown an increasing accessibility of unlicensed firearms to anti-social elements. There is clandestine trade in the illegal manufacture, repair and conversion of firearms.

(Para 38.2)

43.67 Various considerations operate in the issue of firearms licences and only a few cases are decided on merits. An individual who has necessary resources and influence acquires any number of firearms as the Act does not specifically limit the number of

firearms to be held by an individual. Possession and display of firearms has become more a status symbol and in some parts of the country they are displayed on various occasions.

(Para 38.4)

43.68 There has been considerable increase in the number of firearm licences issued in the country. The bulk of ammunition used in unlicensed weapons comes from licensed weapons.

(Paras 38.5 and 38.6)

43.69 The number of offences registered for violation of the provisions of Arms Act has also been steadily mounting and in 1977, Uttar Pradesh showed the highest volume of Arms Act violations per lakh of population followed by Punjab.

(Para 38.7)

43.70 The existing conditions in the country warrant strict measures—both executive and legislative—to control the proliferation of legal and illegal firearms and ammunitions.

(Para 38.8)

43.71 A stricter control should be exercised over issue and renewal of licences. While there should not be any objection to issue of licences to law-abiding citizens for bonafide purposes, in a matter such as this, we feel, that private rights have to yield place to public interest. Holding of arms by individuals should be drastically reduced and maintained at a much lower level than now to ensure the use of arms only for bonafide purposes such as self defence. Sale of arms and specially ammunition should be carried out through government agencies instead of through private dealers as is presently being done. A stricter supervision and screening of those who have licensed firearms at present is also necessary in order to reduce arms traffic. It is our view that this will in practice be possible only if licences are reduced to the barest minimum. This really means that a new Arms Act is needed which provides for stricter conditions for issue of a licence and on the part of the licensee enhanced responsibility for security and accountability of ammunition.

(Para 38.9)

43.72 Under the new Act, the antecedents and proclivities of the intending licensee should be required to be thoroughly verified before grant of licence. The drive for recovery of unlicensed arms will become easier once strict control is introduced and licensed arms have been reduced in number.

(Para 38.10)

43.73 The new Arms Act and its operation should be the exclusive responsibility of the Central Government. The State Governments and authorities at the districts can be delegated with the necessary powers by the Central Government. The working of the Arms Act/Rules should be entrusted to a Central Board who should review the issue of arms and other licences and exercise check on the manufacture, sale, purchase and distribution of arms, ammunition and explosives.

(Para 38.11)

43.74 The provision contained in sub-section (3) of section 13 is very liberal and the licensing authority has practically no discretion to refuse licence and needs to be changed in the new Act.

(Para 38.12)

43.75 Not only a condition should be imposed that arms and ammunition shall be kept in safe places to avoid falling into unauthorised hands but it should also be ascertained whether the intending licences is in a position to ensure the safety of the weapons and account for the ammunition taken by him.

(Para 38.13)

43.76 Ordinarily an individual should not be allowed to hold more than one firearm. The amount of ammunition that can be bought by him should be limited in the course of a year with attendant obligation to maintain a strict account of the expenditure of ammunition purchased. Both shall be open to inspection in the normal course at least once a year along with the licence by the licensing and police authorities. These inspections should be carried out with great care and not as mere rituals and it should be made obligatory for the licensee to obtain an endorsement annually from the authorities concerned of having undergone such a scrutiny.

(Para 38.14)

43.77 The words "shall grant" appearing in section 13(3) should be substituted by the words "may grant" and it should further be stipulated in the new Act that besides having good reasons to obtain a licence for a firearm the applicant should be in a position to ensure the safe custody of the arms and ammunition and accept responsibility to account for the ammunition used.

(Para 38.15)

43.78 In section 22 officers-in-charge of Police Stations should be invested with powers also to conduct or cause a search of premises or recovery of arms etc. All police officers not below the rank of Sub-Inspector should be empowered to check gun licences for purposes of annual verification and when suspicion arises.

(Para 38.16)

43.79 Special task forces should be constituted to unearth illicit arms.

(Para 38.17)

43.80 The present Act does not make a distinction between inadvertent violation of law and rules and deliberate disregard or breach of law. Offences committed with firearms which are unlicensed or have been illegally or unauthorisedly acquired should be taken serious note of and visited with the award of much more deterrent punishment than at present prescribed. The Act should provide for a minimum sentence of one year being imposed on an accused on his conviction of offences which are serious.

(Paras 38.18 and 38.20)

43.81 Possession etc. of illicit firearms and other offences should be met by deterrent punishment. The punishment of 3 years prescribed in clauses (b), (c), (d), (e), (g), (i) and (j) of sub-section (1) of section 25 should be enhanced to 7 years and these together should constitute a new section 25A.

(Para 38.21)

43.82 The punishments of 6 months and 3 months imprisonment prescribed in sections 29 and 30 should be enhanced to 7 years and one year respectively, with fine.

(Paras 38.22 and 38.23)

District police and the executive magistracy

43.83 The district police is an integral part of the State-wide police set-up, which is hierarchically structured and held together by bonds of strong discipline. Over a period of time, the District Magistrate has come to assume a role of authority, command and control over the discharge of police functions within the district. The district police and the Superintendent of Police are thus subjected to two kinds of control—a hierarchical control exercised by the officers in the police and an operational control exercised by the Chief Executive of the district.

(Paras 39.1, 39.2 and 39.3)

43.84 The evolution of the police system in India was closely linked with the objectives of the Government in power and the need for maintaining a tight control over the people of this country so that the stability and growth of British rule was not threatened. The conditions prevailing immediately after 1857 and the growth of the national movement in India appear to have significantly conditioned the views of the British rulers on police reform.

(Paras 39.6 and 39.7)

43.85 The arrangement contemplated in law for the administration of the police in the district is set forth in paragraph 2 of section 4 of the Police Act 1861. The "general control and direction" of the District Magistrate mentioned in section 4 governs the relationship between the police and the magistracy in most parts of the country.

(Paras 39.9 and 39.12)

43.86 The words "general control and direction" have been left undefined in law.

(Para 39.13)

43.87 Even in the existing legal set up considerable amount of operational independence in matters relating to the internal management of the force is vested in the Superintendent of Police. The general control and direction of the District Magistrate cannot be construed as warranting any interference in the internal management of the police force. This control should be restricted to selective and individual situations and should be exercised more as an exception than as a rule. The

present position, in several States far exceeds this legal stipulation. This is untenable and needs to be corrected.

(Para 39.16)

43.88 If the police function of prevention and control of crime is to have a social purpose, then the police objective should be positive and should involve the soliciting of public cooperation in the fight against criminality, and the functioning with public support in the fight against the criminal. The enlarged duties and responsibilities with a shift from the restricted 'holding' function to a much larger service function makes it necessary to think in terms of a new organisational structure.

(Para 39.18)

43.89 Police functions fall under two broad categories—investigative and preventive. The maintenance of public order is in a way part of preventive function. The manner in which the investigative functions of the police are to be performed is described in detail in the Criminal Procedure Code. Most aspects of preventive action initiated by the police are justiciable and should not be considered as left to unfettered executive discretion.

(Paras 39.20 and 39.21)

43.90 After the adoption of our Constitution, matters affecting such rights will be tested against their Constitutional validity. Preventive action by the Police could also be questioned in a court of law and the police will have to account for its action before such a court.

(Para 39.22)

43.91 All aspects of police work are now subject to judicial scrutiny. Executive interference by an authority, not empowered in the law governing police functions, would be improper and untenable. The police should function under the law and be accountable for all the actions to the law and hence to impinge upon the police another executive direction could only lead to distortion of police performance and dilution of police accountability to the law of the land.

(Para 39.23)

43.92 A careful reading of the present police manuals leads to the conclusion that the only areas in which the DM is not expected to control the activities of the SP are drill, arms and accoutrements and discipline of the police force. The DM has come to acquire considerable authority to interfere with the internal management of the district police organisation. The positioning of personnel in the organisation, exercise of disciplinary control, providing of housing and other infrastructural facilities for the growth and well-being of the organisation, reporting on the competence of the members of the organisation and utilising the resources of the organisation in an optimum manner to achieve goals, are matters entirely within the purview of the internal management of police organisation.

(Paras 39.25 and 39.26)

43.93 The position on the ground today is one of total subordination of the police to the executive magistracy. This subordination is not contemplated even under the present law which vests the administration of the police force in a district solely in the Superintendent of Police, subject only to "the general control and direction" of the District Magistrate.

(Para 39.29)

43.94 The separation of the judiciary from the executive is now more or less complete in a few remote parts of the country. Prior to the separation even if there might have been some justification for subjecting the police to the control of the DM, such justification no longer exists. There are no reasons to subject the district police administration to any control other than that exercised by officers in the departmental hierarchy itself, and subject to only such coordination by the Chief Executive of the district as may be essential for the purposes of maintenance of public order, services and supplies essential to the community in certain specified situations and administrative effectiveness.

(Paras 39.35, 39.37 and 39.39)

43.95 The new police which is hoped to be created should have a self-contained organisational structure where there is no distortion of command and no dilution of accountability. The police should perform with full accountability to the law of the land. The activities of the police organisation require a high degree of interactive and multi-directional communicative skills with the community. Hence the police should have direct contact with the people whom they profess to serve.

(Para 39.40)

43.96 The police is a vital adjunct of the district administrative set up and its performance affects all aspects of public activity and public welfare. In this context the district officer and the SP have to work in close association with each other and cannot afford to assume postures which would tend to promote individualism and destroy collective performance. A positive approach would consist in identifying and removing all irritants and prescribing a clear procedure for effective and active coordination at the district level.

(Para 39.41)

43.97 Any police rule or regulation which unnecessarily or without purpose subordinates the police to the DM should be removed or amended in such a way that the requirements of administrative and public interest alone are kept in view. The list below includes some of the major areas which subordinate the police and the SP to the DM. They serve no administrative purpose and should be done away with.

- (a) The DM initiating the Annual Character Roll of the SP.
- (b) The DM commenting on ACRs of subordinate police officers particularly officers in charge of the police stations.

- (c) Posting and removal of officers with the prior approval of the DM.
- (d) The disposition of the police force within the district and its movement outside the district with the DM's approval.
- (e) DM's authority to countersign TA bills, grant of casual leave to SP and insistence on the SP taking prior approval before leaving the headquarters.
- (f) Proposals of building programmes, opening of new police stations, creation of additional strength of police force to be routed through the DM.
- (g) The inspection of police stations by the DM and subordinate magistrates.
- (h) Submission of a number of periodic reports about crimes in the district to the DM.

(Para 39.42)

43.98 While the police should have a distinct identity and adequate competence and operational independence to play an effective role in the administration, it cannot exist in isolation and away from other areas of administration affecting the people. While the police should belong to a sound centralised organisation which flow out of a sound organisational structure it should also have a high degree of interactive capability with other areas of administration, particularly at the grass root levels. The district officer can play an important role as an effective interface in dealing with the different administrative systems, including the district police system in his area.

(Paras 39.43 and 39.44)

43.99 There are a number of areas which would require the active cooperation of different departments and in such matters coordination by the District Officer would be necessary. The activities of the police in maintaining public order and controlling crime to the extent to which such action is essential to lay a foundation for orderly development is a matter which should concern the authorities charged with development processes. In this regard a measure of local coordination of police activity with other departments and by the District Officer is essential. In the existing set up the only authority which has some degree of influence with different agencies is the district officer and as such he should be entrusted with these coordinating functions.

(Para 39.45)

43.100 The role of the District Officer as the Chief Coordinating Authority in the district be recognised and respected by the police. The District Officer should have the capability to generally advise the police regarding the extent and quantum of performance for the purpose of achieving developmental targets and to maintain administrative standards.

(Para 39.46)

43.101 There should be frequent and intimate contact and consultation between the District Officer and Chief of the District Police. It should be obligatory for the SP to give the utmost consideration and attention to a communication from the District Officer. The SP should take prompt steps to look into and deal with any situation brought to his notice by the District Officer.

(Para 39.47)

43.102 Subordination of one agency to another is not essential for healthy cooperation between two agencies. On the contrary we feel that subordination is an extremely unsuitable factor to generate satisfactory coordination. Subordination pre-supposes the carrying out of orders and hence instead of there being a dialogue, discussion and thereafter a decision, there is only implicit compliance where one party performs under resentment and the other under apprehension. Therefore, it is recommended that subordination of the police to the District Officer should be removed.

(Para 39.48)

43.103 The SP should be adequately armed under the law to deal with situations independently and without recourse to detailed consultation and advice from any other authority. All powers which are required for regulation and control and for the promotion of order should vest in the SP and other appropriate ranks in the police.

(Para 39.50)

43.104 All powers relating to the removal of nuisances, the regulation and control of processions and other public activity, and powers of appointing special police officers should vest in police officers. In respect of powers of licensing, in any matter where the licensing will affect public order in a substantial manner, such as the Indian Arms Act, the Indian Explosives Act, the Motor Vehicles Act, should also vest in police, as is the case even now in areas where the Police Commissioner system is in force. Other powers particularly those which involve the judicial evaluation of a right, and which is not of an urgent nature need not vest in police officers.

(Para 39.52)

43.105 Powers under section 144 Cr. P.C., powers of disposing of cases under section 107 Cr. P.C., powers of externment of certain categories of persons, which at present already vest in some cities in the police, should be vested in police officers of similar status, in other areas also.

(Para 39.53)

43.106 The following amendments to section 4 of the Police Act 1861 be incorporated in the Police Act :—

Section : *Administration of District Police*

The administration of the police throughout a district, or part thereof, shall be vested in the Superintendent of Police appointed under section XXX.

Section : *Coordination in district administration*

- (i) For the purpose of efficiency in the general administration of the district it shall be lawful for the district officer, by whatever name he is called in the different States, to coordinate the functioning of the police with other agencies of the district administration in respect of the following :—
- (a) In matters relating to the promotion of land reforms and the settlement of land disputes;
 - (b) In matters relating to the extensive disturbance of the public peace and tranquillity in the district;
 - (c) In matters relating to the conduct of elections to any public duty;
 - (d) In matters relating to the handling of natural calamities, and the rehabilitation of the persons affected thereby;
 - (e) In matters relating to situations arising out of any external aggression;
 - (f) In any similar matter not within the purview of any one department, and affecting the general welfare of the people of the district.
- (ii) For the purpose of such coordination, the district officer, by whatever name he is called, may
- (a) call for information of a general or special nature, as and when required, from the police, and any other agency connected with the general administration of the district;
 - (b) call for a report regarding the steps taken by the police or other agency to deal with the situation;
 - (c) give such directions in respect of the matter, as are considered necessary by him to the police and the concerned agency.
- (iii) The Superintendent of Police or the head of the agency mentioned in the sub-section above, shall render assistance to the authority specified in sub-section (i) for the purpose of coordination, as specified above.

Explanation

For the purpose of this section, coordination means to combine, or integrate harmoniously.

All the provisions in the State Police Acts which would be contrary to the proposed amended sections of the Police Act would need to be deleted. For instance, some sections like 16, 17 and 18 of the Bombay Police Act, 1951 would be contrary to the amendment proposed and hence would need to be deleted.

(Para 39.54)

Code of behaviour for police officers

43.107 All officers irrespective of their rank should submit themselves to the requirements of the following code of behaviour which would supplement the organizational principles and codes. It would be the special responsibility of all police training institutions and the National Police Academy to ensure that all police personnel imbibe the code of behaviour in both letter and spirit :—

(1) *Neglect of duty*

No police officer without good and sufficient cause shall—

- (a) neglect or omit to attend to or carry out with due promptitude and diligence anything which it is his duty as a member of a police force to attend to or carry out, or
- (b) fail to work his beat in accordance with orders, or leave the place of duty to which he has been ordered, or having left his place of duty for a *bona fide* purpose fail to return thereto without undue delay, or
- (c) be absent without leave from or be late for any duty, or
- (d) fail properly to account for, or to make a prompt and true return of, any money or property received by him in the course of his duty.

(2) *Disobedience to orders*

No police officer shall, without good and sufficient cause, disobey or omit or neglect to carry out any lawful order, written or otherwise, or contravene any provision of the police regulations containing restrictions on the private lives of members of police forces, or requiring him to notify the chief officer of police that he, or a relation included in his family has a business interest in his jurisdiction within the meaning of those regulations.

(3) *Discreditable conduct*

No police officer shall act in any manner prejudicial to discipline or conduct himself in such a manner which is reasonably likely to bring discredit on the reputation of the police force or of the police service.

(4) *Misconduct towards a member of a police force*

- (i) A police officer shall be deemed to have committed misconduct towards a member of a police force, if—
 - (a) his conduct towards another such member is oppressive or abusive, or
 - (b) he assaults or misbehaves with him.
- (ii) No police officer shall, without good and sufficient cause, commit misconduct, as aforesaid.

(5) *Falsehood or prefabrication*

No police officer shall—

- (a) knowingly or through neglect make any false, misleading or inaccurate oral or written statement or entry in any record or document made, kept or required for police purposes, or
- (b) either wilfully and without proper authority or through lack of due care destroy or mutilate any record or document made, kept or required for police purposes, or
- (c) without good and sufficient cause alter or erase or add to any entry in such a record or document, or
- (d) knowingly or through neglect make any false, misleading or inaccurate statement in connection with his appointment to the police force.

(6) *Corrupt or improper practice*

No police officer shall—

- (a) in his capacity as a member of the force and without the consent of the chief officer of police or the police authority, directly or indirectly solicit or accept any gratuity, present or subscription, or
- (b) place himself under a pecuniary obligation to any person in such a manner as might affect his properly carrying out his duties as a member of the force, or
- (c) improperly use, or attempt so to use, his position as a member of the force for his private advantage, or
- (d) in his capacity as a member of the force and without the consent of the chief officer of police, write, sign or give a testimonial of character or other recommendation with the object of obtaining employment for any person or of supporting an application for the grant of a licence of any kind.

(7) *Abuse of authority*

- (i) A police officer shall be deemed to have committed abuse of authority if he—
 - (a) without good and sufficient cause makes an arrest, or
 - (b) uses any unnecessary violence towards any prisoner or other person with whom he may be brought into contact in the execution of his duty, or
 - (c) is uncivil to any member of the public.
- (ii) No police officer shall commit abuse of authority as aforesaid.

(8) *Neglect of health*

No police officer shall neglect his health or without good and sufficient reason neglect to carry out any instructions of a medical officer appointed by the police authority or, while absent from duty on account of sickness, commit any act or adopt any conduct calculated to retard his return to duty. It is essential and desirable that every officer takes special care to maintain and improve his health by proper exercises etc.

(9) *Improper dress and untidiness*

No police officer shall, without good and sufficient cause, while on duty, or while off duty but wearing uniform in a public place, be improperly dressed or be untidy in his appearance.

(10) *Drunkenness*

No police officer shall be in a state of drunkenness which renders him unfit for duties which he is or will be required to perform or which he may reasonably foresee having to perform.

(11) *Being an accessory to a disciplinary offence*

No police officer shall be an accessory to a disciplinary offence either by conniving at it or knowingly becoming accessory to any offence against discipline.

(12) *Damaging the unity of the force*

No police officer shall by commission or omission do or fail to do anything, which creates or is likely to create divisions in the police force on grounds of religion, caste or community or affect the reputation and effectiveness of the force as an unbiased and impartial agency.

(13) *Anti-national conduct*

No police officer shall do anything which affects or is likely to affect the security and integrity of the national or lowers or is likely to lower the repute of the country.

(Paras 40.1, 40.2 and 40.3)

Police-public relation

43.108 A healthy police-public relationship on a continuing day-to-day basis is vital to secure the

desired measure of public involvement and cooperation in police work to make it meaningful and acceptable to society and to further the cause of law enforcement.
(Paras 41.1 and 41.2)

43.109 One objective of the police-public relations should be the direct involvement of the people in the prevention and detection of crime and in the maintenance of order.

(Para 41.4)

43.110 The conclusions, on the present state of police-public relations, are as under :—

- (1) Police-public relations at present are in a very unsatisfactory state. While there are several reasons for it, police partiality, corruption, brutality and failure to register cognisable offences are the most important factors which contribute to this sad state of affairs.
- (2) Police do in fact harass even those people who try to help them.
- (3) There is a certain degree of ambivalence in people's views about police efficiency; by and large they do not think the police are inefficient. A change in the style of police functioning is what they desire foremost.
- (4) Due to lack of even the basic amenities, bullying cross examinations and inadequate financial compensation, both in coverage and quantum, people who appear in courts as witnesses have to undergo considerable inconvenience and hardship, and for this they blame the police more than the law courts because their appearance in a court of law is a consequence of their involvement in a police investigation. Therefore, very often the people, in order to avoid going to courts of law, try to avoid police.
- (5) Those who have interacted with the police have a slightly better opinion of it than those whose opinions are based on what they have heard.
- (6) Even though criminogenic factors are not under the control of police, and the forces which generate disorder are confused with normal dissent, the press and the political leaders generally blame the police for rise in crime and spread of disorder.
- (7) The Indian Police Commission of 1902-03 had after discussing police corruption 'practices of extortion and oppression', their 'unnecessary severity' and harassment of people, concluded (Para 26) : "What wonder, is it that the people are said to dread the police, and to do all they can to avoid any connection with a police

investigation". Those observations can very well apply to the conditions obtaining even today. People now may not dread the police but they certainly dread getting involved with it in any capacity.

- (8) Policemen, in general, do not believe that they are very much at fault. They believe that the 'system' is like that. The more cynical among them believe that no improvement is possible. It is considered basic and fundamental for promoting healthy police-public relationship that every police officer develops an attitude of utmost courtesy and consideration combined with sympathy and understanding towards any member of the public who comes to him seeking help. The manner in which the police officers at the lower level behave towards individual member of the public who approach them is largely conditioned by the manner in which these police officers are themselves treated by their own higher officers within the force. Therefore, there is a simultaneous need for reform in interdepartmental behaviour and conduct of police officers towards one another.

(Para 41.10)

43.111 The idea of a special Crime Prevention 'Week' should be given up; instead the police should perform the activities that form part of this week throughout the year in accordance with a schedule drawn up at the beginning of every calendar year. In any dialogue with the people through lectures, seminars, or through the media, the emphasis should be not so much on advising the people about their responsibilities as on making them aware of the genuine difficulties of police and what help the people can render to mitigate them. On good citizenship and police a number of short films have been made, particularly by the Films Division of the Government of India. Such films should continue to be made and be shown throughout the year, in all parts of the country, at regular intervals.

(Para 41.12)

43.112 A suggestion has been made that the scheme of special police officers should be extended by way of time and functions, that is such appointments should not be confined to occasions of law and order requirements only but should be an ongoing affair and the functions of the special police officers should not merely be to protect life and property during riots but also, once it becomes an ongoing institution, to investigate ordinary crimes. The suggestion is endorsed,

(Para 41.15)

43.113 The substantive message of training programmes in police should be :—

- (1) That the police is a service dedicated to the protection of the common citizen and it is a force against the elements of lawlessness and disorder.

- (2) That they are part of a democratic society and that citizens have a right to organize and express themselves; dissent on the part of the citizen is not to be construed as a threat to law and order unless there is a breach of apprehension of breach of the peace.
- (3) That policemen are in the 'business' of extending help and affording satisfaction to the people so that when they are approached for help their attitude should be to decide how best they can render the help sought and not how, through subterfuge of law and regulation, they can evade their legitimate responsibility.

(Para 41.17)

43.114 While the content of training is important in all orientation programmes, the process of imparting the training is even more important where attitudinal changes are sought to be brought about. One cannot teach people to be polite through curt orders and threats of disciplinary action. The existing attitudes are a result of a complex of factors including service conditions, actual behaviour of senior officials, the conduct of public men in power, etc. Training is one, though an important factor, among these. The recommendations on the need for improved training and on special reorientation programmes must, therefore, be read and taken together with the recommendations on other aspects of the police organisation.

(Para 41.18)

43.115 The police function in the context of a punishment-oriented judicial system. No matter what the offence, the objective of the criminal justice system is to catch the culprit and, if found guilty in a court of law, punish him with fine and/or imprisonment or death. As there is no concern for the victim of crime at any stage, the system does not offer any satisfaction to anyone except, perhaps, those who live off it. As a sub-system of the criminal justice system, the role of the police also becomes punitive and, therefore, negative. On paper this situation is balanced by the right of every victim of a crime to claim damages in a civil court but it is common knowledge that very few of us can afford the excessively lengthy processes of civil courts the end results of which are often uncertain and unsatisfactory. Given this situation, there is little even for the victim of a crime to motivate him to cooperate with the police except a wish to impose retribution. The legislation of a criminal injuries compensation act is recommended.

(Para 41.20)

43.116 While the in-built constraints of a negative role will remain, the police could place greater emphasis, wherever and whenever possible, on the service-oriented functions outlined in paras 14.49 and 14.50 of the Second Report.

(Para 41.22)

43.117 One service-oriented function, youth counselling, needs to be made a regular feature of police work. The police must concentrate on the young, particularly the youth in slum areas of cities. A positive relationship established with this section can prove an effective preventive service. Introduction of the Junior Police Call (JPC) scheme of the Hong Kong police is recommended to involve the young in community service, including prevention and detection of crime.

(Para 41.23)

43.118 The introduction of the scheme like Junior Police Call here should be feasible. Already there is a tradition of boys clubs, traffic patrols and police-sponsored games and competitions. These need to be strengthened and built upon. In all large cities, this scheme should be tried out by expanding the activities and facilities of existing clubs. It is hoped that ultimately every district headquarters will provide a clubhouse for young members of such clubs. But if police are only going to impart traffic training and harangue the young people on their duties and if the right kind of policemen and policewomen are not involved in it the scheme will become unsuccessful and counterproductive.

(Para 41.26)

43.119 In addition to the negative and punitive role of police arising out of the similar character of our criminal justice system, there is the historical change in the role performance of police which has yet to work itself through. Policemen now have to depend exclusively on law, but legal provisions cannot elicit public cooperation. In our democratic polity, the police must win public cooperation; in fact there is no other way. While there are several hindrances to securing such willing cooperation of the people, the police must remove those that are within their sphere of activity. To begin with, people should be able to come to police with information without fear of harassment by way of repeated summonses to police station and the ordeal of a court attendance and cross-examination. With respect to people who sometimes bring a road accident victim to a public hospital, the Delhi Police have issued written instructions that such persons should under no circumstances be detained in the hospital for interrogation and that there should be no insistence on knowing their personal particulars. It is recommended that this should be the practice not merely in regard to traffic offences but in all cases where people volunteer information to police.

(Para 41.27)

43.120 The remedies for the organisational constraints on police performance lie in proper living and working conditions for policemen and reform of the police organisation. Some of the constraints have been examined in earlier Reports. During tours to the various States, it was found that, in general, police station buildings have a forbidding aspect and the condition of lock-ups is dreadful. Further, hardly any police station has a visitors' room. So even if a well-meaning policeman were to try to be polite and courteous he has hardly anything to be courteous with.

As the objective is to create a new climate in the police organisation and thereby change the style of police work it is recommended that police station buildings should be properly furnished, well lit and should have a separate reception room for visitors. Large police stations should have facilities for drinking water, tea and coffee.

(Para 41.31)

43.121 In view of the very high visibility profile of policemen on traffic duty special attention should be paid to this activity. A similar visible activity is patrolling which has, in recent years, fallen into considerable disuse. The system of patrolling needs to be revived. As the West Bengal Police Commission had observed : "The sight of patrolling policemen is welcome to all and is regarded as a visible sign that the police are at work in preventing crime and keeping a watch over their localities. Patrols are, in our opinion, one of the best means of establishing good relations with the public (p. 255)". This view is endorsed. Beat patrolling should be revived and, in urban areas, combined with the system of neighbourhood policing.

(Para 41.32)

43.122 For better communication with the people, police will have to give up, to a considerable extent, the secrecy which surrounds their functioning. Just as structurally the police is accountable only to the executive and not to the immediate community it is supposed to serve, the information that is generated in and by police is also meant exclusively for the government. This matter has been considered very carefully and the conclusion is that all police activities, to the extent possible, should be open except for four specific areas. These four areas are (1) operations, (2) the intelligence on the basis of which operations are planned and conducted, (3) privacy of the individual citizen, and (4) judicial requirements. Barring these four considerations a change from the present practice of withholding every information to sharing as much information as possible is recommended. The exercise of discretion should be in favour of giving as much information as can be given.

(Para 41.33)

43.123 News of crime and disorder is of considerable interest to the people and, therefore, the press is interested in it. The police should establish a system of communication through which the authentic facts relating to crime and disorder can quickly be given to the press. If the police will not do it then the journalists will tend to depend on whatever they can gather. In several States the SP cannot hold a press conference and the SHO is not permitted to provide any information to the press. The present failure of police towards the press has thus been denial of prompt factual information to it either on the pretext of secrecy or because no regular facility exists for it. Every district Superintendent of Police should be permitted to deal directly with the Press. The police stations should also be permitted to give the statistical details of number of

crimes registered, under investigation, arrests made, cases convicted etc. When important or sensational cases occur, brief details can be given by police stations, subject to the four considerations for secrecy pointed out before.

(Paras 41.35 and 41.36)

Women Police

43.124 The change in social situation due to increased juvenile delinquency and female deviancy have necessitated the employment of women police officers in policing. At present women police form an integral part of police forces in almost all countries of the world.

(Para 42.1)

43.125 In the Indian system of police organisation, women police are of comparatively recent origin. After the partition of the country in 1947 and the large-scale violence that followed, the need was felt to look after the abandoned women and children. As a response to this, slowly women police got to be added to the police force during the last 30 years and at present women police form a part in the police force in all States and the Union Territories barring a few. Yet the total number of women in the police forces all over India is a little over 3,000 and is hardly .4% of the entire police force of the country.

(Para 42.7)

43.126 Women police have proved very useful in performing specialised task of dealing with women and children and specially women victims of crimes. They are now attached to city police stations, Juvenile Aid Police Units (JAPU) and other specialised units in different States. They have, however, upto now not been given an equal share in other areas of police work and as such the full extent of their role is yet to be developed.

(Para 42.8)

43.127 They should handle investigational work in much greater measure than at present. They should be entrusted with investigation of cases especially relating to women and children and employed in intelligence work connected with said crimes. Women police should become an integral part of the police organisation, with a special role in juvenile crime squads to be set up in urban areas.

(Para 42.9)

43.128 Delinquency among girls is a more serious problem than delinquency in boys as women play a vital role in the upbringing of the child and maintenance of some norms in the family. Women police should play a very constructive role in re-establishing and reforming delinquent girls. Young girls in danger of exploitation get some measure of protection under the Children Act as well as Suppression of Immoral Traffic Act, 1956. Women police can play a very useful role, both preventive and investigative, in this sphere. Day time patrolling of slums, labour colonies,

bus stands, railway stations should be undertaken by them to locate deviant children and women and help and guide women and children passengers. They should also be utilised in traffic control operations near schools, market places, fairs, festivals and similar situations attended by women and children in large numbers.

(Para 42.10)

43.129 In order to deal effectively with women and children demonstrators in the universities, college campus, in the industrial belts and in the streets, a sizeable contingent of women police would need to be deployed. Therefore, women police need to be fully trained and well-equipped to deal with such agitations in close coordination and fully supported by their counter-parts in the male police.

(Para 42.11)

43.130 Women police have great potential to cool, defuse and de-escalate many situations and, therefore, greater use should be made of them than at present. In non-combative roles requiring restraint, patience and endurance they can be employed with advantage. They are specially needed in areas where police come in contact with women, so as to obviate complaints of indignity and misbehaviour towards women. The presence of women police in police stations will greatly help in creating confidence and trust in the police. Women police can also help in giving better attention to service aspects of police work.

(Para 42.12)

43.131 The basic training course for different ranks of women police should be imparted at the same police training institute where policemen are trained. The duration and the content of the training should be the same as for the male counterparts. This will ensure uniformity in recruitment and training standards. However, certain modifications are suggested in the physical training programme for the women recruits. Besides adequate physical training, arrangements should be made for them to acquire mastery over tactics of unarmed combat such as "judo" and "karate". In addition they have to be given special training in the handling of women demonstrators and mob upsurges in a humane and sensitive manner.

(Para 42.13)

43.132 Women recruits, in addition to being trained like men should be put through special courses in schools of social work so as to be able to perform their special role in relation to women and children. Intensive training should be imparted to them in the matter of enforcement of special Act relating to children and vice and also in the technique of search of women and their belongings. They should, in due course, share all the duties now performed by their male counterparts especially the following which are now performed by women police in other countries of the world as

S/6 HA/81-11

reported by the International Criminal Police Organisation (ICPO) :

- (i) Road traffic regulation and road traffic control duties in large towns involving guarding of pedestrian crossings and the approaches to schools;
- (ii) Dealing with women including search, arrest, questioning women suspects who have or are suspected of having committed an offence;
- (iii) Crime investigation in general;
- (iv) Handling and investigating cases involving vice or sexual offences, such as rape, trafficking in women and sexual offences against children;
- (v) General foot and/or vehicular patrol duty;
- (vi) Social work and child welfare such as handling cases involving missing or badly treated children, liaison work with social welfare organisations and agencies, and assisting women and children in distress;
- (vii) Juvenile delinquency case work;
- (viii) Clerical work;
- (ix) Telecommunications equipment operators switchboard operators and related work;
- (x) Prosecution duties in cases involving minor offences committed by young persons brought before Magistrates or Juvenile courts;
- (xi) Immigration duties and checks on travellers, especially female travellers, at airports and other points of entry into the country;
- (xii) Guarding female prisoners;
- (xiii) Fingerprinting work in CID;
- (xiv) Public relations work in order to help create better image of police;
- (xv) Instructors in police training institutes;
- (xvi) Crime prevention work such as giving talks in Secondary Schools on police work and, in particular, on road safety regulations;
- (xvii) Crowd control duties at special events;
- (xviii) Special branch and security work;
- (xix) Protection of female VIPs;
- (xx) Drug related case work;
- (xxi) Administration and guard duties at prisons for women;
- (xxii) Technical and document examination work;

(xxiii) Police drivers; and

(xxiv) Police social welfare activities.

(Para 42.14)

43.133 Women police need to be recruited in much larger numbers than at present, preferably in the ranks of Assistant Sub-Inspectors or Sub-Inspectors of Police rather than in the rank of constables. Assistant sub-inspectors and sub-inspectors should be graduates preferably with diploma in social work. Provision should be made for recruiting the widows of police men killed in action provided they are otherwise fit and qualified for the appropriate grade of Constable, Assistant Sub-Inspector or Sub-Inspector. Residential accommodation and rest and retiring rooms for them should, as far as possible, be located near the place of work.

(Para 42.15)

43.134 In order to have a greater involvement of women police in police administration as well as to provide equal opportunities to them, they should be recruited in vacancies in general duty posts after careful estimation of requirements of women police in the force on the basis of analysis of factors such as population, incidence of crime by women and Juveniles etc. Women police should not constitute a separate branch of the police with recruitment and promotion confined to women in that branch only. Women police is con-

sidered essential for cities, the urban police stations and thickly populated areas

(Para 42.17)

Sd/-
(DHARMA VIRA)

Sd/-
(N. KRISHNASWAMY REDDY)

Sd/-
(K. F. RUSTAMJI)

Sd/-
(N. S. SAKSENA)

Sd/-
(M. S. GORE)

NEW DELHI,
12th November, 1980.

APPENDICES

Table showing Incidence of Dacoity and Volume of Dacoity per one lakh of population for the years 1968 to 1977

Sl. No.	State/UT	I—INCIDENCE V—VOLUME																			
		1968		1969		1970		1971		1972		1973		1974		1975		1976		1977	
		I	V	I	V	I	V	I	V	I	V	I	V	I	V	I	V	I	V	I	V
1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22
1.	Andhra Pradesh	151	0.4	249	0.6	137	0.32	147	0.34	165	0.37	191	0.42	176	0.4	156	0.3	162	0.3	217	X
2.	Assam	440	3.0	199	1.3	195	1.24	189	1.18	229	1.50	253	1.62	374	2.3	286	1.7	308	1.8	NA	
3.	Bihar	1580	2.9	1333	2.4	1626	2.81	2015	3.56	2142	3.71	1973	3.36	2994	5.0	2913	4.7	2356	3.8	2511	
4.	Gujarat	63	0.3	106	0.4	56	0.21	56	0.21	77	0.28	130	0.46	435	1.5	165	0.6	98	0.3	117	
5.	Haryana	1	0.01	10	0.1	12	0.13	2	0.02	9	0.09	6	0.06	10	0.1	15	0.1	20	0.2	17	
6.	Himachal Pradesh	1	..	2	0.1	1	0.03	1	0.03	2	0.06	1	0.03	10	0.3	3	0.1	2	..	7	
7.	Jammu & Kashmir	13	0.3	24	0.6	12	0.30	5	0.11	9	0.19	14	0.29	9	0.2	13	0.3	16	0.3	20	
8.	Karnataka	107	0.4	78	0.3	81	0.28	78	0.27	106	0.35	260	0.85	168	0.5	151	0.5	129	0.4	175	
9.	Kerala	30	0.1	26	0.1	42	0.20	40	0.19	34	0.15	49	0.22	51	0.2	31	0.1	22	0.1	23	
10.	Madhya Pradesh	363	0.9	347	0.9	416	1.02	443	1.06	387	0.90	372	0.85	487	1.1	569	1.2	349	0.7	353	
11.	Maharashtra	296	0.6	305	0.6	391	0.78	358	0.71	446	0.86	723	1.43	683	1.3	487	0.9	424	0.8	524	
12.	Manipur	72	7.3	23	2.1	10	0.89	15	1.40	22	2.00	12	1.07	27	2.4	30	2.4	24	1.9	16	
13.	Meghalaya . . . . .	..	..	..	..	..	..	..	..	5	0.48	9	0.85	15	1.4	16	1.4	18	1.5	12	
14.	Nagaland	10	2.4	9	2.1	13	3.00	14	2.71	17	3.29	36	6.75	21	3.9	15	2.5	10	1.6	7	
15.	Orissa	111	0.5	122	0.6	104	0.48	142	0.64	113	0.50	152	0.66	277	1.2	235	1.0	178	0.7	185	
16.	Punjab	2	0.0	3	..	..	..	6	0.04	4	0.03	8	0.06	8	0.1	3	Neg.	3	..	5	
17.	Rajasthan	132	0.5	130	0.5	111	0.42	100	0.39	160	0.60	149	0.55	164	0.6	141	0.5	105	0.4	141	
18.	Sikkim . . . . .	..	..	..	..	..	..	..	..	..	..	..	..	..	..	1	0.4	..	..	1	
19.	Tamil Nadu	35	0.1	58	0.1	94	0.24	22	0.05	40	0.09	24	0.06	30	0.1	21	Neg.	24	..	26	
20.	Tripura	88	6.3	41	2.8	21	1.39	43	2.75	41	2.57	48	2.94	49	2.9	76	4.3	55	N.A.	48	
21.	Uttar Pradesh	2023	2.3	2101	2.4	5202	5.71	6004	6.77	4909	5.44	4932	5.38	6392	6.8	6117	6.4	5643	5.8	5364	
22.	West Bengal	854	2.0	876	2.0	1271	2.83	1496	3.35	1461	3.21	1255	2.69	1270	2.7	1032	2.1	953	1.9	1141	
23.	A. & N. Islands . . . . .	..	..	1	1.1	..	..	..	..	..	..	..	..	..	..	..	..	..	..	1	
24.	Arunachal Pradesh . . . . .	..	..	..	..	..	..	..	..	..	..	..	..	..	..	2	2.4	..	..	4	
25.	Chandigarh . . . . .	..	..	..	..	1	0.63	..	..	..	..	..	..	..	..	..	..	..	..	2	
26.	D & N Haveli	2	2.9	..	..	3	4.11	..	..	1	1.32	..	..	..	..	..	..	1	1.2	3	
27.	Delhi	7	0.2	2	0.05	29	0.68	14	0.34	27	0.63	27	0.60	32	0.7	18	0.4	6	0.1	23	
28.	Goa, Daman & Diu	6	0.4	4	0.6	4	0.58	2	0.23	5	0.57	2	0.22	7	0.8	3	0.3	3	0.3	2	
29.	Lakshadweep . . . . .	..	..	..	..	..	..	..	..	..	..	..	..	..	..	1	2.9	..	..	..
30.	Mizoram . . . . .	..	..	..	..	..	..	..	..	..	..	..	..	7	1.9	6	1.6	3	0.8	2	
31.	Pondicherry	1	0.2	..	..	5	1.11	1	0.21	..	..	1	..	1	0.2	..	..	1	0.2	1	
	TOTAL	6384	1.2	6049	1.1	9837	1.79	11193	2.04	10411	1.85	10627	1.85	13697	2.3	12506	2.1	10506	1.8	10948	

Source : Crime in India.

'X' Figures not available.

APPENDIX II

Para 37.7, Chapter XXXVII

(For Period from 1969—1979)

	1969	1970	1971	1972	1973	1974	1975	1976	1977	1978	1979
1. Number of Encounters :											
(a) With the Police	180	155	165	336	413	867	1195	1793	1325	1956	2792
(b) With Villagers	185	193	254	190	194	165	166	107	138	241	128
2. Dacoits killed :											
(a) By Police [in (a) above]	63	50	59	70	78	145	243	512	204	359	596
(b) By Villagers [in (b) above]	80	37	44	57	59	67	104	90	97	156	110
3. Dacoits arrested :											
(a) By Police	670	461	537	1656	1713	3839	4813	6771	5186	7616	10225
(b) By Villagers	N.A.	59	100	112	95	99	84	90	136	174	67
4. (a) No. of Policemen killed											
(b) No. of Policemen injured											
(c) No. of Villagers killed								12	29	44	48
(d) No. of Villagers injured								84	88	216	103

JUNIOR POLICE CALL
(ROYAL HONG KONG POLICE)

The Junior Police Call programme was started in July, 1974 as a weekly 5 minute television programme in order "to create a better understanding between youth and police by providing a means by which youngsters can actively participate in the fight against crime by responding to police requests for assistance made in each programme". Now this programme includes a 15 minute weekly television programme, a weekly 30 minute radio programme called the Voice of JPC, a monthly JPC magazine and regular JPC columns in the Chinese and English Press, a number of regular activities organised at the divisional level and some major events organised by the JPC Central Office.

2. *Objectives of the J.P.C.*

The objectives of the J.P.C. have been defined as under :

- (i) Harnessing the youth of Hong Kong in the fight against all forms of crime; forging a close and positive link between Police and the young and, in the long term, helping to build a unified adult population on the side of Law and Order; and
- (ii) Educating the youth of Hong Kong in their civic responsibilities by encouraging them to actively participate in the creation and maintenance of a healthy society and by affording assistance to those members of the Community—young and old—who are underprivileged, infirm or socially less well off.

3. *Membership*

All young people between the ages 9—17 years can become members of the J.P.C. by filling an application form which can be obtained from any police station. The form consists of two parts. In part A are given the personal particulars of the applicant; name, sex, date of birth, home address, school address and telephone number and in Part B is given the consent of the parent/guardian to their ward joining the J.P.C. programme as a member. Under the J.P.C. Leadership Scheme, started in December, 1976, members who are between the ages 18—21 can be retained as instructors and leaders for the J.P.C. classes. By the end of 1979, the membership of the J.P.C. was well over 250,000 and of the Leaders well over 2,500.

4. *Organisation*

One of the charges of the Police Civil Secretary, an officer who works under the Commissioner of Police, is the Police Public Relations Bureau. This Bureau is headed by the Chief Police Public Relations Officer (CPPRO) and has five sections : the news and information room, the publicity office, the television and films liaison office, the police newspaper "Off Beat" and the junior police call. The J.P.C. central office handles policy and applications for membership. This office is staffed by one Chief Inspector of Police, two women Inspectors, 2 women Sergeants, one Police Constable and one woman Police Constable. At the field level, the hub of all activity is the J.P.C. Clubhouse. As the objective is to have a Clubhouse in every police division, and most of them by now have it, the operational aspects of the J.P.C. are organised and controlled by the Divisional Police Community/Relations Officers who hold the rank of Chief Inspector. A PCRO is assisted by 2 Sergeants and one or two women Police Constables. The PCRO is helped in his work by Divisional Councils which were started in February, 1976. The objective was to involve, under the PCRO, J.P.C. members to promote, coordinate and administer J.P.C. activities. Some concrete objectives were then put before these Divisional Councils each of which, chaired by the PCRO is assisted by the women police constables and 7 JPC members selected by the PCRO in rotation from within his divisional area. From the Divisional Councils representatives one each from a Council and all PCROs form part of the Central Committee the head of which is the CPPRO. The Central Committee meets once every quarter. The objectives of the Divisional Councils are :—

- (i) to foster good police/public relations and to generally enhance the police image by winning the respect and co-operation of all young people residing in divisional areas;
- (ii) to encourage JPC members to actively participate in all forms of community service and to organise, in conjunction with the C.D.Os the best ways in which they may be accomplished;
- (iii) to promote a close relationship between youth and divisional officers by organising inter-divisional and divisional sporting and social events;
- (iv) to promote youth awareness of crime within their divisional area and to advise and direct all possible means in which youngsters may safely assist the Force in the fight against crime; and
- (v) allied to (iv) above—to educate youngsters in all aspects of crime prevention and, by so doing, provide them with the knowledge to enable them to improve both their home and personal security.

5. *Activities*

The activities undertaken in the JPC programme are as under:—

- (1) *Community Service* : Community Service Units of the JPC help hospitals, home for the blind, deaf and aged, children's centres and centres for handicapped children. Assistance is given to rural and remote areas in road repairs, construction works, beach cleaning, etc. The special duties performed are reports to police on crime, missing persons, wanted vehicles, found property, etc., distribution of "Report Crime", and "Anti-Burglary" leaflets; assistance to "Clean Hong Kong" campaign, drug crime prevention, road safety and recruiting campaigns.
- (2) *Sports* : Swimming, football, basketball, volleyball, table tennis, net ball, badminton.
- (3) *Training Courses* : Training is given in First Aid, Taekwando, Photography, Kung Fu, Judo, Junior Leadership, Self Defence, Adventure Training, Home Nursing, Chinese Flute, Life Saving, Swimming, Folk dancing, Gymnastics, Physical training, Karate and Leadership.
- (4) *Clubs* : Music, Guitar, Drama, Folk dancing, Photography, Painting, Art and Band.
- (5) *Media* : JPC TV programme "Voice of JPC" Radio show, 8 JPC newspaper/magazine columns, TV appearance by members.
- (6) *Events* : Walk for a Million, New year "Operation Iaisse" Talent Contests and Shows, Road Safety Carnival, Anniversary functions and variety shows, Kai Tak Amusement Park Open Day, Variety Troupe Entertainment, Camps, Picnics, Film Shows, Christmas and New Year Parties and Shows, Barbecues, Slide Shows, Launch outings "Peter Pan" Shows, Jet trips round Hong Kong, Games days, Po Leung Kuk Tay, Grand Exhibition, Debate Competition, Summer Youth Programme, JPC Jubilee Procession Float.
- (7) *Miscellaneous* : Visits to PTS Passing out Parades, Visits to Police formations, Visits to Ocean Park, Lectures involving Government organisations and schools, Visit to Police launch, Visit to armed services, Overseas trips (Australia, U.K., USA) by winners of "Young People's Help the Police" competitions, Career Planning and Mutual Aid Committees.

6. The centre of all the activities is the JPC Clubhouse. The Clubhouse provides accommodation not merely for these activities but also for members to study for which purpose a Clubhouse seeks to have accommodation for meetings, lectures, film shows, a study room with desks and a small library, games room equipped with table tennis and other indoor sports and store room.

7. *Finance*

While the Government gives some financial assistance, \$ 1000 per month per division, the J.P.C. themselves raise funds through various activities because the government assistance represents less than one dollar per member per year. The Governor also gives some additional grant from his special fund. Various organisations such as Rotary, Lions, business houses, individual members of the community also give financial assistance. One of the main problems faced by the programme is accommodation for Clubhouses.

8. The Hong Kong Police have found the JPC programme very useful. By the middle of 1978 information had been received from JPC members, and sometimes from their parents in over a 1000 criminal cases. Further, more than 100 missing vehicles and many missing persons had been traced and over 120 suspects arrested with their help. Information given by JPC members is generally like this :

- (i) On 1-9-75, whilst playing at street corners, two JPC members, both 11 years old, overheard someone shout robbery from a Medical Clinic upstairs. They then saw 3 youths rush down from staircases and run away. They followed the youths and found the culprits board a private car and drive away. The boys took down the registration mark of the vehicle and telephoned JPC telephone hotline. The information was then passed to 999 control. Within 5 minutes of the incident, the car was intercepted by Police. All culprits were arrested and all stolen property recovered.
- (ii) On 14-8-77 at No. 1 hawking stall, Marble Road, a Chinese man took away a lady's underpant from the stall and ran away without paying money to the owner who raised a hue and cry. The JPC member aged 15 years old followed the culprit on his bicycle in response to the cry. On reaching North Point Road/Chun Yeung Street he informed a patrolling PC who arrested the culprit who was charged with 'Theft' and convicted. The JPC was presented a plaque on 10-9-1977.

9. Apart from actual involvement of the young people in the fight against crime the significant gain has been in the area of police-public relations which have shown a definite improvement. It is understood that the UNESCO had appreciated this scheme and circulated information about it to 140 countries.

SUBJECT :—Police Assistance to the Injured in Accident.

There is a large number of people who are willing to help an injured person involved in an accident by taking him to the hospital for medical aid. But they are hesitant, fearing harassment by the Police officer at the hospital or the medical officer who insists upon knowing the identity of the person who escorts the injured to the hospital.

The reluctance of these persons to help the injured results in loss of precious time and many accident victims who could be saved by early medical attention do not survive for lack of it.

It is thus essential to allay the apprehensions of general public and encourage them to help the injured persons by securing early medical aid. Such person who brings an injured to the hospital for medical aid should not be looked at with suspicion.

It would suffice if the following Questions are asked to the person who brings the injured to the hospital :—

- (1) Where have you brought this person from ?
- (2) Do you know anything about the cause of the injury of the person ?
- (3) May I have your particulars ?

It is likely that the person would answer the first question, may not have an answer for the second, and hesitant to reply the third in which case it should not be insisted upon. The escorter should, under no circumstances, be detained in the hospital for interrogation. On the other hand, he should be treated with courtesy.

Sd/-
(N. K. SHINGHAL)
Addl. Commissioner of Police (Range)
Delhi

dated, New Delhi, the 7-2-80

No. 2270-2380/T-Genl.

Copy to :—

1. All Dy. Commrs. of Police, Addl. Dy. Commrs. of Police and Asstt. Commrs. of Police, Districts/Units, Delhi/New Delhi.
2. All S.H.Os. and Traffic Inspectors.
3. All ACPs/Traffic.
4. Police Officer Incharge attached to Casualty Departments in Hospitals.
5. Copy for information to the Secretary (Medical) and Director Health Services, Delhi Administration, Delhi.
6. Medical Supdts. of all major Hospitals, Delhi/New Delhi.

Price : Inland Rs. 9.00
Foreign £ 1.05 or \$ 3.24

SIXTH REPORT
of the
NATIONAL POLICE COMMISSION



Government of India

March, 1981

SIXTH REPORT

of the

NATIONAL POLICE COMMISSION

Government of India

March 1981

CONTENTS

	PAGES
CHAPTER XLIV Police leadership—the Indian Police Service	1—11
CHAPTER XLV Training and career development of Indian Police Service officers	12—18
CHAPTER XLVI Police and students	19—23
CHAPTER XLVII Communal riots	24—35
CHAPTER XLVIII Urban policing	36—42
CHAPTER XLIX Summary of observations and recommendations	43—55
Appendices	59—67

CHAPTER XLIV

POLICE LEADERSHIP—THE INDIAN POLICE SERVICE

44.1 The police organisation has withstood the diverse stresses and demands placed upon it since independence, many of which were unique. The Indian Police acquitted itself well in handling many difficult and complex problems. While there have been failures here and there the police have, on the whole, maintained law and order and thereby ensured basic stability in society. Above all, the Indian police have ensured that elections to Parliament and a large number of State Assemblies were impartial and fairly peaceful despite the acrimony of election propaganda.

44.2 While in the past challenges had been well met, the failures which now beset the police are many and varied and not all of them relate to the police capability to handle the contemporary problems. Leaving aside many other factors, some of them vital, we have here addressed ourselves to the question of the quality of the leadership of the police service which has to appreciate and adequately respond to the following factors in the contemporary Indian scheme :—

- (1) Our society is in a state of ferment. The social structure is changing fast and the spread of education has rightly increased the awareness of masses of what they have and what they ought to have.
- (2) About 48% of our population lives below the poverty line. But the rich are becoming richer and economic disparities are increasing.
- (3) Our resources including such bare necessities as housing and drinking water, have not kept pace with the requirements of our rising population.
- (4) The system, specially the political leadership and the civil service, is finding it difficult to adjust and respond to the rapid changes in the social and economic environment and the rising aspirations of the people.
- (5) Every cross-section of the society, including the privileged sections, are resorting to agitations and strikes, as pressure groups to demand more than their share of the national cake and have often succeeded in getting it, which has whetted their appetite for more.
- (6) The even greater challenges facing both the police and the society on account of rapid increase in population, and the large numbers of the educated and the uneducated who are entering the employment market only to face frustration and failure; some of them

are so disillusioned that they are inclined to destroy the existing institutions and to attack the privileged sections. As the number of such frustrated and disgruntled people continues to increase, the present police capacity for response and control may not be able to match the demands of the situations.

- (7) Intermittent disasters, God-made and man-made.

44.3 The above are only a few dimensions of the problems which the IPS officers will have to understand and respond to in the face of inadequate resources and limited options. This will require the service to recruit some of the ablest and highly educated and sensitive officers. Thus it cannot be said that officers of a relatively inferior calibre than in any other service will do for the IPS. Such a view, which was held in the past has already, to some extent, damaged the service. Now special efforts will be needed to cure the IPS of the ills owing from imposed inferiority and the frustrations arising therefrom because the challenges of the future will require new skills in personnel management and a much higher level of professional knowledge, competence and leadership from the senior officers in the police.

44.4 We have in our earlier Reports made several recommendations to improve the service conditions of the rank and file besides their emoluments and prospects. We are happy to note that these recommendations have found general acceptance. We hope that they will now be implemented speedily by the Centre and the States. In our view there is now a wide consensus that the police needs greater attention to improve its performance. We have made recommendations to improve the communication and contact between the police and community and between the police and the press, so that ill-informed criticism does not damage the police and at the same time legitimate and constructive criticism keeps them alert and responsive. We are also making various recommendations to improve outmoded practices and procedures. We propose to suggest a new Police Act. It is our view that all these together bring to the forefront the need for a higher calibre of leadership to be provided by the IPS officers. Their tasks in the future are likely to be very much more difficult and complex than in the past. This concern has been foremost in our minds.

44.5 In this context, it would be relevant to note some of the criticisms that are being advanced against a rigid career service like the IPS. It has been said that a pre-occupation with a career structure, basically

generalist, neglects professionally qualified specialists. In this background the IAS, IPS and other Class I Services appear to be elitist, amateurish and lacking in professional knowledge and competence. Many officers in these services embody ideas and values which are either outmoded or discredited in the present day society. Above all what strikes one is that every Class I Service has become a trade union which pleads for better and better terms for itself but stands for *status quo* in matters of professional skills and standards. In such services the officers are opposed to any subsequent competition to select the more able for higher posts even from within their ranks. They are also opposed to any lateral entry of outside talent. To the extent those defects have crept into the IPS we propose to suggest measures to remove them.

44.6 In brief, the whole culture continues to be bureaucratic and structure-oriented and not dynamic and performance-oriented. We have observed that in business and industry managers are assessed on the basis of overall success but in the police, officers tend to be judged by failure. Hence we notice an increasing tendency among police officers to take refuge in unnecessary paper work, excessive monitoring, and consultation. Field officers are often found seeking orders from superiors up to Government level or absenting themselves from the scene of trouble. This has caused us deep concern and we feel that the values and the working culture in the police have to be changed if the demands of the future are to be met. It is necessary to attach greater importance to overall success rather than be obsessed by the fear of a possible failure. As matters stand, just one failure, even an ordinary failure which gets publicised, can wipe out years of success and achievement of a police officer. This naturally inhibits police officers and makes them security conscious in situations which call for dynamism and innovation, courage, deep understanding and a quick response in the fullest confidence that any action done in good faith would be supported. We, therefore, feel that it is very essential to strengthen the role and position of officers in districts and range charges by reposing in them greater trust and confidence. Government must encourage officers to take initiative, accept responsibility and take decisions.

44.7 Some of the difficulties faced by the IPS officers arise out of the managerial problems created by the over increasing size and numbers of police personnel and the continuing demand for more men and resources. Large departments like those of Inspectors General of Police have considerable problems of internal communications and hence of decision making. The police officers who may be administering a policy in the district may have had very little contact with those who have devised the policy. They may have little appreciation of its objectives. The dangers of isolation of the police from the community which it serves indicates that the growth in scope and complexity of Government activities which impinge upon police work have caused the Government to acquire the image of a huge insensitive machine with an ever-increasing momentum of its own. There is considerable confusion and diffusion between the roles and responsibilities of

Central and State Governments, Central Police Organisations, para-military forces and the State Police authorities. Hence police officers, whether Station House Officers or Superintendents of Police, or Deputy Inspectors General of Police, are quite often faced with a situation where a small incident in the interior gets high-lighted in the Parliament, the national press, the State Assembly, the local press and by the various forums of the Opposition Parties, before the concerned and competent authority has had any time to investigate or deal with the situation. The Government and the concerned officers are then forced into a defensive position with the result that the responsibility for rectification gets completely blurred.

44.8 Among some of the other limiting factors and constraints that operate upon the performance of police officers are the following :—

- (1) Security of service and emphasis on seniority resulting in the toleration of mediocrity. It is, therefore, desirable that mediocrity be eliminated during selection for posts of Deputy Inspector General of Police and above, as that the quality of performance can be ensured and stability of tenures becomes more meaningful.
- (2) Central control of financial resources reduces the flexibility available to States and the latter begin to look to the Centre.
- (3) Increasing conflicts of direction and control from higher echelons who, with improved means of communication, intervene, or seek information, give directions, or monitor action leaving the officer on the spot with little or no time or discretion to work out a solution based on his understanding of the realities of the situation. He, therefore, complies with the orders received. In most cases, errors of judgement are often a choice which with hindsight appears inferior to a possible alternative. Except in cases of neglect and callousness, it would be better to trust the officers and allow them to learn from experience and improve their performance instead of transferring them at the slightest provocation or complaint.
- (4) Government will always attract criticism because in a pluralist, democratic and sub-continental country like India judgements will differ as to the proper ends, policies and objectives. In such a situation the police will also get its due share of criticism. The police officers can achieve a lot if they are professionally competent, impartial, helpful and positive in their approach. They will need to show greater awareness of the needs of society and take a hand in explaining proposals and objectives to their men and also to the public. There is, therefore, no alternative but to have an informed dialogue between the police and the people to enlist public support and responsiveness. The success of an officer

will depend upon his own professional competence, his ability to inspire his team and his ability to win public support and response.

44.9 We have observed that for quite some time now police officers tend to abdicate their role, initiative and responsibility. Some of them have convinced themselves that they are helpless due to scarcity of resources, problems of staff, and the overbearing control of and interference by the political leadership. Things would not have degenerated so much if the deficiencies of the politicians had been made up by the ability, courage, vision, competence and leadership of the senior civil servants and police officers. But it seems to us that the very process of survival, and of going up in this system, exhausts and dehydrates many of them. Those officers who do win and reach the top are too tired and worn out to be able to do much, or even want to do much. The little energy that remains goes into (1) surviving on the post, (2) keeping the powers that be pleased, (3) dealing with the dead burden of routine paper work, and (4) making arrangements for post retirement jobs or supplementing their incomes. This insecurity often prevents them from delegating, trusting and supporting their subordinates and they have no time to think, study or initiate new ideas and policies. Some senior officers increase their routine work-load manifold by wanting to see, monitor and approve every activity. They tend to lose contact with problems and issues. This is fatal for any organisation. Many of our officers forget their assets and strengths: (1) they are among the better paid and better educated in India, (2) they have facilities like housing and health care that are better than what are available to the common man, (3) they have sizeable human resources needing their care and attention, and (4) they have provisions in the Constitution safeguarding their service interests. We feel very strongly that the public has a right to expect a standard of performance from our police officers which is commensurate with the advantages they enjoy.

44.10 We have in Chapter XV of our Second Report made several observations and recommendations about political interference with the police and observed that senior police officers will have to make it a part of their Code of Conduct to resist all kinds of pressures and unlawful interference. We recognise that the political leadership has a very crucial role to play in a democracy. What we attach greater importance to is that police officers should be politically neutral and give objective advice. They should perform their duties in accordance with law and in the public interest. In our conception, neutrality and objectivity do not preclude political judgement. A judgement can be objective, disinterested, unbiased and yet remain political in its awareness of the political consequences of a particular course of action. The essence of this political neutrality is the requirement that the impartiality and fairness of police officers and policemen should be beyond question. It should be respected by the political leadership and the people. In this respect we feel that not only must police officers carry out their duties with complete impartiality

but anyone coming in contact with them must have the utmost confidence that they do so. The IPS officers must not only be impartial and objective but must also give courageous leadership to their men. They should always be fully aware of the public interest and public service and do their duty as servants of law. We would not, therefore, agree to any compromise on this or accept any excuse. We feel that the police service can have no future unless it earns the respect and confidence of its men and the public. We accordingly are of the view that the standards for the conduct and performance of the IPS officers should be set at an appropriately high level.

44.11 The State Study Groups, the replies to the Questionnaire issued by us, the Memoranda of the Associations of IPS and other ranks and the numerous policemen of all ranks whom we met, have practically unanimously expressed the view that police problems and needs have been greatly neglected, that there is inadequate appreciation of their role and burden and that they have to work in a hostile atmosphere with little public support and very limited resources. On this matter the Committee on Police Training while dealing with police efficiency had observed that "the first and foremost among the considerations is that of the morale of the police force..... Morale is dependent on a number of factors such as terms and conditions of service, public opinion, and, additionally in the case of the police, status in the eyes of the law" (Para 3 page 30). In our view it is equally dependent upon the confidence that comes from adequate professional knowledge, competence and experience of the officer corps. We would, therefore, like the IPS officers to be able to raise the morale of their force by their ability, qualities of leadership and by observing a high standard of personal conduct.

44.12 We are of the view that the competence, confidence and morale of both the police officers and the rank and file can be built up by the following measures:—

- (1) Proper recruitment to attract to the service competent persons with ability and character.
- (2) Training and education to develop professional competence and expertise.
- (3) Able leadership.
- (4) High standards of discipline and integrity.
- (5) Fair and impartial administration.
- (6) Proper rewards, appreciation and punishment.
- (7) Sensitive concern and respect for the people.
- (8) Prompt response, courtesy and consideration by those in authority to any representation.

Some factors of concern among IPS officers

44.13 While the above observations apply to the IPS and other police officers generally, we have been able to identify the following factors on which there

is considerable discussion and concern among IPS officers. These are—

- (1) Inadequate laws and a criminal justice system that is at once too sophisticated for our society and too expensive as well as corrupt for our people.
- (2) Distrust in law specially in the Evidence Act which leaves policemen with the feeling that the whole scheme of things is to ensure that they cannot legally do what they are expected to do.
- (3) Political and executive interference.
- (4) Weakening of the position and the role of the Inspectors General of Police of States on account of the constantly increasing intrusion of the State Secretariat into even routine administrative decisions.
- (5) Uncertainty of tenure specially on the key posts of Inspector General, Deputy Inspector General and Superintendent of Police. In recent years the changes have been too frequent to be conducive to good and stable administration.
- (6) Subordination to the IAS—supremacy of the District Magistrate—dual control—initiation of annual confidential report by District Magistrate in certain States.
- (7) Differences in the pay scales and career prospects between the IPS and IAS and also other services. Inadequate appreciation of the risky and arduous nature of the police service. What specially irks the IPS officers is the lower career value, lower status and lower prospects of promotion in the IPS in comparison with the IAS officers with whom the IPS officers work in the districts, State Governments and the Central Government.
- (8) Cadre management of the IPS being done by the IAS officers both in the State and Central Governments, who are alleged to have consistently neglected the IPS and increased only the importance and status of the IAS.
- (9) The absence of any new ideas to improve cadre management.
- (10) Authoritarian approach of some senior police officers and the need for more democratic and participative functioning of the officer corps.
- (11) Absence of a fair performance appraisal system and promotion policy.
- (12) Frustration and problems of State Police officers promoted to the IPS, their sense of grievance due to their poor prospects of promotion into the IPS and thereafter stagnation at the lower levels in the IPS.
- (13) Shortcomings in training. Inadequate knowledge and experience of the work of SHOs and investigating officers—consequent over-dependence of IPS officers upon lower ranks of Deputy Superintendent of Police, Inspector and Sub-Inspector.
- (14) Increase in paper work at all levels—lack of adequate personal contact with both the subordinate officials and the public.
- (15) Tradition of suspicion, distrust and secrecy in personnel management. The need for a more open system which inspires confidence in the officer corps.
- (16) Professionalism at a discount in the IPS and the emergence of wrong methods of advancing career objectives.
- (17) Poor representation of IPS officers in policy making positions in State and Central Governments and in forums examining policy and police problems particularly those of law making, planning for urbanisation and decision-making on factors directly connected with the life and well-being of the people.

The above is about the most exhaustive list of points on which existing officers in the IPS want redress. We have recommended in our earlier reports certain remedial measures to some of these problems, while other areas are receiving our attention. However, we wish to stress that much will also depend upon the quality and commitment of all ranks. We would like to mention that some of the police officers whom we met and the IAS Association which submitted a memorandum and also met us felt that there was considerable exaggeration on a number of points and that generally speaking IAS and IPS officers get along quite well. They added that some irritants that come in the way of harmony could be removed. The IPS Association, however, laid great stress on these points and painted a grim picture of their service conditions and prospects.

44.14 We have observed that the functions of the IPS officers have not only multiplied manifold, but are becoming more complex, hard and hazardous. In our Fifth Report we have envisaged certain additional responsibilities, and for these officers many more are emerging day by day at the district level, which call for higher professional and technical skills and competence. This requires the IPS to take special measures to attract some of the ablest officers from the lower echelons and also from the outside world. This requires that the terms and conditions of this service should be comparable with those of the best services. There appears, in our view, to be no justification for the emoluments and prospects of the IPS being in any way inferior to those of the IAS.

44.15 We have observed that minor improvements in the senior scale of the IPS over those of the Central Services or some improvements in the selection grade and the scale of DIG over the years did not adequately improve the career values of the service because the yawning gap with the IAS has remained. At present

the country is facing such serious dangers that its very integrity and unity are threatened. We need in the IPS, men whose calibre is not only equal to that of IAS officers but who also possess certain mental qualities, courage and higher physical standards, that are specially needed for effective police work. Therefore, in our view, the present differentials are counter-productive and it would be cost-effective for the Government to improve the quality of recruitment, emoluments and career prospects of the IPS by bringing them on par with those of the IAS.

44.16 We are making these recommendations because of the importance we attach to stability in society and therefore, to improving the calibre and performance of this most essential Service. This recommendation, we may add, flows logically from the recommendations of the Kothari Committee which looked into the whole question of recruitment to the non-technical Class I Services including both the IAS and the IPS. We would like those recommendations to be implemented in full, so that the best officers who are specially suited for police work are allotted to this Service and find the police career challenging and satisfying.

Recruitment to IPS

44.17 There is a feeling, both inside and outside the Service, that under the previous system of direct recruitment, the IPS did not secure its due share of the ablest young men in the country. This problem has, however, to be considered in its proper perspective. It cannot be said that this difficulty does not exist, though in varying degrees, in respect of the other public services also. To the extent to which the best talent is not being attracted by the public services in general, the problem of recruitment to the IPS is on par with that of the other services. On account of the general fall in educational standards and because of the much larger intake there has been a dilution in the quality of candidates entering the public services generally. Other avenues in the spheres of industry, business, engineering etc., now provide attractive openings which draw bright young aspirants away from the public services. From the larger point of view and in the interest of national development it cannot be said that this general unattractiveness is a calamity. It is just as well, that a fair cross-section of promising young men should go to other avocations: Sciences and Arts, Technology and Engineering, Industry and Business, Medicine and Agriculture, Universities and Research Establishments. The main point that we have to consider is whether the IPS as a service is more unattractive than the other services and, if that be so, what are the causes and how the situation can be remedied in order to recruit the best available.

The ground position

44.18 According to a study made by a Committee, set up in 1968, by the Government of India in the Ministry of Home Affairs, of Directors General/Inspectors General of Police, there had been a fall in the quality of candidates entering the IPS during the years 1948 to 1966. The number of those who had First class in the last degree examination prior to

entering the service was 34.1% in 1948, it rose to 50.9% in 1959 and 50.7% in 1960 and then fell to 24.6% and 16.1% in the years 1965 and 1966, respectively. The number of Second class was 63.3% in 1948, declined to 45.3% and 45.2% in 1959 and 1960 and rose to 65.8% and 61.4% in the years 1965 and 1966. The number of Third class was 2.6% in 1948, 3.8% and 4.1% in 1959 and 1960, and 9.6% and 22.5% in 1965 and 1966. As regards performance in the UPSC examination 23% obtained over 60% marks in 1948 but in the years 1965 and 1966 the number of such candidates was nil. The data for the years 1959 and 1960 was not available. The percentage of entrants who obtained more than 45% marks but less than 60% was 76.3 in 1948, 100% in 1949, 85% in 1965 and 94.4% in 1966. As regards the actual performance, the Committee, basing itself on the reports of the Inspectors General of Police, found that whereas the number of officers who were graded above average both in the years 1959 and 1960 was 50% it was 17.8% and 14% in 1965 and 1966. Comparing the educational standards of those entering the IAS it was found that the percentage of First class in the last degree examination fell from 57.6% and 54.6% in 1948 and 1949 to 34.9% and 52.9% in 1965 and 1966. The number of Second class rose from 33.3% and 45.4% in 1948 and 1949 to 58.1% and 39.9% in 1965 and 1966. The number of Third class declined from 9.1% in 1948 to 7.2% in 1966. It seems that though there had been a slight general fall in the academic standards of candidates joining the services, the fall during those years in the case of new entrants to the IPS was more than in the case of IAS. Our own study of figures reveals that the situation improved after implementation of the recommendations of the Third Pay Commission which had slightly improved the pay structure of the IPS. An analysis of the marks obtained by the 49 candidates who joined the IPS in 1978 and 54 in 1979 shows that they have performed as well as those who were selected in the IPS in the earlier years referred to by IsGP Committee.

Position	%age marks in 1978	%age marks in 1979
Ist	61.24	60.95
10th	58.10	57.62
20th	56.67	56.38
25th	56.19	55.81
30th	55.90	55.71
40th	47.81	55.33
Last	39.62	48.57 (55th position)

Comparative popularity

44.19 As regards the comparative attractiveness of the various services it is found that, of late the IPS is generally given higher preference after IAS/IFS by candidates taking the combined competitive examinations. It is, however, seen that after being selected for and even after joining the IPS most candidates continue, if they are eligible, to try for the IAS and IFS. According to the figures collected by the IsGP Committee, during the years 1962 to 1968, the number of IPS probationers who left for the IAS

was 56 and of those who left for other Central Services was 15. From 1959 to 1966 the number of IPS officers who resigned was 18 out of whom 10 joined the IAS or other services. For some time now about 10 officers leave the IPS every year either during the period of training or later to join the IAS and other services. In 1978, 61 candidates were offered appointment to the IPS, but only 49 joined. In 1979, 60 were offered appointment but only 54 joined. About the comparative unpopularity of the IPS from the view point of prospective candidates in comparison with the IAS and IFS there could, therefore, be little doubt. Subsequent studies have, however, shown that after 1973 the preference for the IPS has improved due to improvement in the scales of pay of Senior Time Scale, Selection Grade and Deputy Inspector General after the Third Pay Commission. The ranking in the Combined Services Examination 1979 of officers allotted to the IPS in 1980 in the 1st, 10th, 20th, 30th, 40th and 47th position are 124, 154, 183, 211, 232 and 252. Thereafter the officers placed at positions 50, 55 and 60 belong to the Scheduled Castes etc., and their ranking are 548, 569 and 594. Thus it is seen that even the last few candidates appointed to the IPS from the open line and the Scheduled Castes are having a higher ranking in the Examination than the last few candidates allotted to other Central Services.

The position relating to the allotment to the other Central Services in 1980 is as follows :—

The Indian P&T Accounts and Finance Service	136—639
The Indian Audit and Accounts Service	123—620
The Indian Customs & Central Excise Service	126—616
The Indian Defence Accounts Service	143—664
The Indian Income-tax Service	45—635
The Indian Ordnance Factories Service	166—623
The Indian Postal Service	253—663
The Indian Civil Accounts Service	243—664
Indian Railway Traffic Service	122—653
Indian Railway Accounts Service	133—666
Military Land & Cantonments Service	387—668
Indian Police Service	124—594

Yet any officer howsoever eminently suitable for the IPS would leave the service to join the IAS and IFS, if subsequently selected, only due to the better career prospects and the glamour attached to those services. In the process the IPS gets deprived of the services of some very suitable officers and those left in the service asquire a complex of being left-outs.

44.20 Of greater concern, in our view is the acute frustration the IPS officers develop within a few years of being in service. The realities of life in the IPS are not visible to many candidates when they apply for it. But soon the difficult service conditions, increasing professional hazards, lack of, prestige *vis-a-vis* the other services, and a sense of uncertainty arising from political situations give rise to frustrations. Confrontations with Government generally turn into confrontations with the police which is the visible symbol of authority. Quite often the youth is involved in such conflicts and the hostility and feeling of antagonism engendered during such situations are

reflected in the prejudice against the police service as a whole. There is persistent public criticism of the police and its role in society which is in contradiction to the glamour associated with some other services. We feel that a service which is thus associated with a high degree of personal risk and professional hazards, which suffers from lack of status because of the very nature of its work and which does not have within its pay structure and service conditions an adequate element of compensation cannot be expected to be popular with young men while choosing a career from among a number of avenues open to them specially when, in some services, the hazards and risks are negligible, conditions of work are not so exacting, emoluments and benefits are greater and social status and recognition better.

Conditions of police service

44.21 While the causes of unpopularity of the IPS amongst prospective candidates relate mostly to the terms and conditions of service and the demands and requirements of police work, some of the difficulties, handicaps and drawbacks are inherent in police work. They cannot be removed but they can partially be compensated for. There are hazards and risks in police work which have to be borne. There are occasions when unpleasant action has to be taken. There are times when personal considerations have to be sacrificed for the public good. Of late, an additional factor unconnected with actual police work, is posing as a deterrent for the IPS. A feeling has gone round that police officers are liable to be made scapegoats and victims of political pulls and pressures. In this context the Committee on Police Training, 1973 had made the following observation with which we agree :—

“A change in the system of recruitment alone will not ensure that candidates of the required calibre are attracted to the service. The testimony of the witnesses who appeared before us and the replies that we have received show that the main factors which inhibit better quality candidates from entering the IPS, are the general unpopularity of the service due to an unattractive pay structure not commensurate with the responsibilities and hazardous nature of duties, meagre promotion prospects, lack of social recognition *vis-a-vis* the other services and a sense of uncertainty arising from political situations.” (Para 63, page 37).

44.22 These factors and the fact that the IPS officers shoulder a heavy burden and carry a great responsibility as custodians of law and order should be kept in view when considering their terms and conditions of service. To secure contentment and efficiency it is necessary to ensure that the IPS officers do not feel that they are not on par with officers of the highest services. As mentioned previously the work of the IPS officers has now become extremely complex. They require not merely physical stamina and qualities of leadership but also mental attributes and intellectual capacity of a high order. Their's is a dual role in modern society. While they constitute the strong arm of the the law, they have also to be capable of providing the healing and soothing touch. The terms and conditions of service of the IPS officers

have to be determined with these requirements in view. That is why we recommend equality in the pay scales and parity in prospects of the IPS with the IAS.

44.23 As mentioned earlier, the IPS has been given a lower preference than the IAS and IFS by many really good candidates. In actual practice, even after joining the IPS most officers keep trying for other grade A services and leave the IPS as soon as they get an opening elsewhere; and some of those who fail in these attempts remain disgruntled. This not only leads to an all round waste and dislocation of recruitment programmes for the IPS but also, ultimately, leaves several disgruntled officers in the Service. Also, it involves considerable wastage of training effort on those who leave the IPS during and after training and the disturbance they cause to others and the service as a whole. We have come to the conclusion that the qualities and attributes expected and required of IPS officers are in the context of present day conditions and circumstances, in no way inferior to the standards required for the IAS, IFS or any other service. Therefore, there was a good case for the previous system to be changed, which has been achieved to some extent by the uniform examination introduced from 1979 on the recommendation of the Kothari Committee. The results of this change have yet to be evaluated in respect of the IPS but we are doubtful if even after this change the IPS will be able to attract its due share of the better candidates unless all the recommendations of the Kothari Committee are accepted and the IPS is brought on par with the IAS/IFS. The Kothari Committee had suggested that officers be assigned to the various services on the basis of aptitude and suitability, after the completion of the foundational course, a subsequent examination and more specialised interview to provide for individual psychological and aptitude tests. We endorse those recommendations of the Kothari Committee and more particularly that part which suggests allotment of officers to various Services on the basis of aptitude. This makes it essential that the scales and prospects of these Services should be made equal.

Direct recruitment from the Civil Services Examination

44.24 In order to provide more avenues to the various ranks in police for promotion to the IPS we recommend that direct recruitment to the IPS be reduced to 50% of the vacancies and this should continue to be made from the Civil Services Examination introduced from the year 1979. We do, however, consider it desirable to recommend the following modifications in the case of the IPS :—

- (1) The age limit for the IPS should be restricted to 21—24 years as we are recommending a combination of institutional and on-the-job training spread over a period of 5 years, due to which the officer will be around 27—30 when he will assume charge of the post of a District Superintendent of Police. It would be difficult for an officer in the older age group to submit himself to such a rigorous training schedule as we are proposing in the next chapter on "Training and Career Development of IPS officers".

- (2) No officer, who is selected for the IPS and accepts the offer of appointment and proceeds for training, be permitted to appear at a competition for any other Service or released to join any other Service. However, this point should be settled by the officer himself who should indicate, when the offer of appointment is made, whether he wishes to compete again for other Services. In case he wishes to do so the offer of appointment should be held in abeyance and he should be allowed to make the attempt. It should be open to the candidate to accept the offer, after a year, should he so desire. In that case he would be given a place in the next batch of the IPS and he would thus lose one year of service and pay. This would save the Government from wastage of the training effort at the National Police Academy, Hyderabad and ensure that any officer who joins the IPS continues in the Service and devotes his full attention to training.

Limited competitive examination for recruitment to IPS

44.25 Earlier we have pointed out that the promotion prospects for supervisory grades into the IPS are poor and there is need in the IPS for ground level expertise. We, therefore, recommend that greater opportunities for rapid advancement should be opened for the rank and file. To enable this to happen we have suggested reducing the percentage of direct recruitment in the IPS from 66⅔% to 50%. The 16⅔% of the vacancies thus released from the direct recruitment quota may be filled by a limited competitive examination conducted by the Union Public Service Commission which would be open to any police officer, which would include all CPOs, in the age group 30—35 who has put in a minimum of 8 years of service. The remaining 33⅓% of the promotion quota will continue to be reserved for the serving State Police Officers in the rank of Deputy Superintendent of Police, as at present. The written examination for the limited competitive examination should be designed to include subjects relevant to police work such as Law, Criminology, Police organisation, Sociology, Psychology besides the usual General Knowledge and English. Those who qualify should be required to appear for a personality test of 300 marks and their Annual Confidential Reports should be evaluated for which 200 marks be allotted, bringing the total to 500. Thereafter, the successful competitors be required to appear before a Board for physical fitness tests carrying 200 marks.

44.26 We feel that this would provide adequate incentive and motivation to the rank and file and bring a valuable addition of grass-root experience to the IPS. The candidates successful at the limited competitive examination will be allotted to States, other than those in which they were serving before appearing for the limited competitive examination.

Promotion of departmental officers to the IPS

44.27 We recommend that departmental officers namely Deputy Superintendents of Police with 8 years

of service in the grade and whose age does not exceed 52 years on 1st January of the year of selection may be recommended for inclusion in the IPS cadres by the UPSC. This selection would, however, be based upon the following :—

(i) A qualifying written examination to assess professional knowledge, ability to comprehend and solve practical problems and the officers' efforts to keep abreast of changes and developments	200 marks
(ii) Evaluation of ACRs by the UPSC assisted by Police Advisers including a serving IGP	500 marks
(iii) Interview by the UPSC Board	200 marks
(iv) Physical fitness to be assessed by a Selection Board through some tests	100 marks
TOTAL	1000 marks

The list of those who qualify shall be prepared State-wise and the officers who are promoted to IPS after 45 years of age will continue to be allotted to their respective States and given, on promotion, to the IPS, due credit for their service in the lower ranks, as at present. Those who are promoted to IPS before they have crossed the age of 45 will be allotted to other States.

Cadre structure of the IPS

44.28 Both the IAS and the IPS are constituted into State cadres and joint cadres with an in-built provision for deputation to the Central Government. In both the Services a Union Territory cadre was created under the Ministry of Home Affairs to staff posts in Delhi and other Union Territories. The Central Government, viz., Ministry of Home Affairs plays a dominant role in the management of both the Services though the IAS is managed by the Department of Personnel and the IPS by the Police Division of the Ministry of Home Affairs. Before, we describe what constitutes the cadre strength, it may be stated that the cadre strengths of the IAS and IPS have increased over the years as follows :—

Year	IAS	IPS
1950	897	590
1956	1542	938
1961	2010	1104
1966	2575	1342
1970	3400	1791
1977	4109	2091 (1975)
1978	4221	2438

The district posts of DMs and SPs are around 400 and about 100 posts are of Divisional Commissioners and Range DIGs. The above figures will show that the field component of the IAS has sharply declined making it principally a secretariat service. Similar trends are visible in the IPS in which also more and more desk jobs are being added to the Service. We would like to emphasise that the importance and status

of field posts should not be diluted in any way but should in fact be improved in every possible manner.

Components that constitute the cadre strength

44.29 The following are the components that go to determine the cadre strength of IPS in a State :—

- (1) All the posts of Superintendents of Police and above, under the State Government, are called Senior posts.
- (2) Central Deputation Reserve @ 40% of (1) above.
- (3) Posts to be filled by Promotion and Selection under Rule 9 of the Indian Police Service (Recruitment) Rules, 1954 @ 53⅓% of (1) and (2) above.
- (4) Posts to be filled by Direct Recruitment [(1) and (2) minus (3) above].
- (5) Deputation reserve about 22% of the posts to be filled by Direct Recruitment.
- (6) Leave Reserve about 5% of the posts to be filled by Direct Recruitment.
- (7) Junior posts about 23% of the posts to be filled by Direct Recruitment.
- (8) Training Reserve about 11% of the posts to be filled by Direct Recruitment.

In brief, the cadre strength works out to double the numbers of Senior posts. There is no indication or guideline about the internal structure of the service. The cadre strength is formalised by a High Powered Cadre Review Committee under the Cabinet Secretary which conducts a Triennial Review. This committee is required to scrutinise proposals of the States for inclusion of posts in the IPS cadre and is expected to include only those that have adequate job content. The strength of the various cadres as on 1-1-1978 is given in Appendix-I.

44.30 Confining ourselves strictly to the comparison of the cadre structure of the IAS and IPS, we find that the number of senior posts in the IAS and IPS (not cadre strength) were 2945 and 1709 respectively as on 1-1-1978 but the pyramid of the two Services in terms of salary of officers in the two Services approximately works out as follows :—

Salary	IAS	IPS
3500	61	2
3000—3250	85	7
2500—2750	729	81
2000—2250	422	465
Senior Time Scale	1648	1154

The career prospects of the two Services are approximately as follows :—

Length of Service	Salary Band in IAS	Salary Band in IPS
	Rs.	Rs.
5—13 years	1200—2000	1200—1700
14th year	1000—2250	1800
16th year	2500—2750	1800
20th year	2500—2750	2000—2250
25th year	3000	2000—2250
28th year	3500	2500—2750

The differential in the career prospects at senior levels comes to 6—10 years between IPS and IAS officers which has led to a lot of frustration and heart-burning among the IPS officers.

44.31 There is a strong case for rationalising and improving the internal structure of the Indian Police Service and bringing it on par with the IAS in pay structure and promotion prospects. We recommend that the pay of the DIG should be the same as that of a Commissioner, of the IG the same as that of an Additional Secretary in the Government of India and of the Director General the same as that of a Secretary in the Government of India. We would at the same time like to insist upon much higher standards of selection to the higher ranks in the Police. All-India selection panels for these posts should be drawn up, based upon performance in various courses, evaluation of ACRs, interview by a UPSC Board and assessment of physical fitness. This will prevent the promotion of medicore officers to higher levels and thereby assure the police of able and competent leadership. We have described this in detail in the next Chapter.

44.32 Before we make specific recommendations about the cadre structure, the following facts deserve to be placed on record :—

- (1) There are 664 directly recruited Deputy Superintendents of Police and their total number including both directly recruited and promoted is 2800. They have put in varying number of years of service as Dy. SP. The total number of promotion posts is 552. It is, therefore, inevitable that some able and competent Deputy Superintendents of Police are not promoted to the IPS even on acquiring eligibility for promotion due to the structure of the service and the percentage reserved for promotion.
- (2) The Central Police Organisations have a total number of 1416 posts of Class I officers out of which 269 *i.e.* 19% are occupied by IPS officers and the bulk of these are in the ranks of DIsG, IsG and above. There are only 2 non-IPS IsG and 31 non-IPS DIsG and they belong to the respective CPOs.

There are now 1114 officers in the Senior Time Scale belonging to these organisations who aspire for the higher posts in the Central Police Organisations.

44.33 We would like to make the following observations and recommendations on the subject of the cadre structure of the IPS :—

- (1) There is a wide variation in the promotion prospects to the level of DIG and IG of IPS officers from cadre to cadre and in comparison to the Central Police Organisations. In some States officers of 1959 batch have not become DIsG while, in others, officers of 1964 batch are occupying this post. In the same batch one officer becomes a DIG at the Centre but another in the State stagnates in the selection grade. Some officers of 1955 batch have become IsG at the Centre but some officers of 1950 batch are still working as DIsG in some States. This position, in our view, is quite unsatisfactory. There is need for uniformity of prospects within the IPS irrespective of cadres. This necessitates the creation of central selection panels for the ranks of DIG and IG. In the next chapter we have made the necessary recommendations.
- (2) The various components which add up to constitute the cadre strength will need a second look in view of the recommendations that we are making. For example the training reserve may have to be enhanced.
- (3) We are concerned about the alliances that develop between some IPS officers and the local interests of caste, creed etc. in their home States. Such alliances come in the way of clean and honest administration. We find that quite a few officers working in their home States lend their weight to parochialism and regionalism—something which is contrary to the interests of national integration. One of the recommendations of the States Reorganisation Commission (SRC), which was appointed in 1956, was that as the States were now being reorganised mainly on a linguistic basis in order to preserve the unity of India and to promote national integration, 50% of the direct recruits to the All India Services *i.e.* IAS and the IPS should be from outside the State. It might be recalled that at that time the promotion quota for State Service Officers was only 25%. This was later increased to 33⅓%. Further it has been the experience that in the 40% central deputation reserve those who go out of the State are mostly those who do not belong to their cadre State. This has actually resulted in a situation in which more than 70% officers in the two All India Services serving in the State are from within the State itself which has greatly

reduced the impact of the recommendation of the S.R.C. There is also the further consideration that in the situation as it has developed in the country today parochialism and alliances between the members of the services and the local interests on the basis of caste, creed etc., has greatly increased. In the interest of clean and impartial administration, therefore, we recommend that every direct recruit who has been recruited through either the Civil Services Examination, or through the Limited Competitive Examination, recommended by us separately, should be posted outside his own State. This, we believe, will promote the interest of national integration and clean and impartial administration, matters which have become of great concern to everybody in this country. Whilst we have recommended this system for the Indian Police Service, as we are dealing with that Service alone, we feel that it should be equally applicable to all other All India Services. Simultaneously with the adoption of this system of posting of directly recruited officers, who are posted to States other than their home States, should be provided enhanced TA facilities on the same lines as in the case of commissioned officers in the Armed Forces. This would enable these officers to reach their homes on occasions of emergency without much expenditure and inconvenience as otherwise they may be put to much avoidable hardship.

- (4) Later on, in this Chapter, we are suggesting creation of two Central IPS cadres. We envisage that there should be liberal exchange of officers between the States and these two cadres. In fact every officer should do a spell of duty in a CPO cadre. At a time, however, the period of such deputation should not exceed five years. Similarly, IPS officers in the Central Cadres should do two stints in the States. As 100% of the directly recruited IPS officers belonging to various State cadres will have to serve in the Centre at least twice in their service this will have to be done on the basis of a roster; there is no question of selecting officers after scrutiny of ACRs. It will be open to the Government of India to allot them to any CPO. This will not only help the officers to diversify their experience, it will also give to the new organisations which they join on deputation the advantage of their experience in their previous assignments. We have, however, noticed that most of the IPS officers coming on deputation from the States to the Government of India at present are direct recruits to the IPS. We would like each and every officer promoted from the State Police Service to work in the Central Government also unless he is promoted after the age of 48 i.e. he has less than 10 years to retire. State service officers promoted to the IPS

before the age of 48 must do a minimum of one deputation at the Centre of 3 to 5 years.

- (5) We are of the view that IPS officers should be exposed to a variety of jobs in and outside the police organisation in order to broaden their outlook. There are certain jobs outside the police organisation that require the special knowledge that police officers acquire. We would like to observe that IPS officers, who receive the benefit of such postings, ought in no way, be considered superior to those who work in the field because, as we visualise it, after such experience they must go back to the field and do a better job of it than before.
- (6) Field posts in the Service are not getting the importance they deserve. In our view the field posts need the ablest officers in the service and it should be made a hallmark of recognition and distinction to be selected and posted to a field charge.
- (7) We recommend that the management of the IPS cadre should be by police officers, at the Centre, through the Central Police Establishment Board and in the States by similar Boards set up under the State Security Commissions.
- (8) The High Powered Cadre Review Committee has no IPS officer on it and operates more or less mechanically with little scope for going deep into the cadre increase proposals. We recommend that for purposes of expert advice two heads of CPCs should by rotation be included in this Committee, in addition to its present membership. The review is usually confined to decadering and encadering posts. The rules for this review require that at intervals of every three years the *strength and composition* of each cadre should be examined by the Central Government in consultation with the State Government concerned. We recommend that the Triennial Cadre Review must involve in addition to the representatives of the State concerned the IGP/DG also and go into the following matters :—
- (i) Review the performance of the State police against its IPS strength and the relative management by the IPS officers of the Civil and Armed Police.
 - (ii) Analyse with reference to the current needs and problems of the cadre structure of the State, the Central Deputation Reserve, the Deputation Reserve, the Training Reserve, the Leave Reserve and the number of junior posts.
 - (iii) Formulate plans for the pattern of growth in the light of the future needs of the State police, the challenges it will have to face

and its pattern of growth. To begin with the first stage plan should be made for at least a decade on the basis of the recommendations made from time to time in the Triennial Review.

Entry of IPS officers into Central Police Organisations

44.34 The Central Police Organisations have a role to play in maintaining and safeguarding the security and integrity of the country. The para-military forces have an intermediate position between the military and the police. There are some units like the Central Reserve Police Force which are closer to the police. There are others like the Border Security Force which are closer to the Army. The main point is that they have a unique position from which assistance, when required, can be given either to the military or to the police. Then we have other Central Police Organisations like the Intelligence Bureau, the Research and Analysis Wing, the Central Bureau of Investigation etc, which have their own distinct role and require a high calibre of officers drawn from a variety of sources of which the police will remain the main base. We are aware of the opinions expressed in some quarters favouring the conversion of the para-military forces into either units of the Armed Forces or of the police. We do not favour either course and consider any talk of the para-military forces being turned into military units just as meaningless as the talk of converting them into police units. We will elaborate this when we deal with the 'Armed Police'.

44.35 The unique character of the para-military organisations is maintained by a delicate balance in officering, in rules and regulations and in the philosophy of their work. These organisations need officers from a wide variety of sources such as the Police, the Armed Forces, the Engineers—Civil and Electrical—the Computer Experts and other specialists. We recommend that two Central IPS cadres should be constituted one for the para-military organisations like the BSF, CRPF, ITBP and the other for such organisations as the IB, CBI and RAW. We are of the view that such Central cadres can be constituted within the framework of Article 312 of the Constitution. The Constitution says that the Parliament may by law provide for the creation of one or more All India Services *common to*

the Union and the States. The essential constitutional requirement that the All India Services should be common to the Union and the States cannot only be met but would also be desirable in respect of these two Central cadres. As we have already said each and every IPS officer of these cadres, should be sent out to various States for spells of duty on the basis of a roster while IPS officers from the States would continue to come to these organisations on mandatory deputations. Rule 3(1) of the Indian Police Service (Cadre) Rules, 1954 will, however, need to be modified. It says that, "there shall be constituted for each State or group of States an Indian Police Service Cadre". The two Central cadres will have to be added in this Rule. We envisage three sources of recruitment in these Central cadres. The first would be direct intake of IPS officers through the Civil Services Examinations. This means the CPOs will no longer directly recruit any officer other than IPS officers coming through the U.P.S.C. The second source would be Army officers and specialists such as engineers, doctors, computer specialists etc., who would enter laterally as considered necessary from time to time. These officers will have the option to join the IPS through a process of selection. The third source would be IPS officers on deputation from the various States.

44.36 The creation of two Central cadres would throw up a large number of vacancies. We recommend that the non-IPS officers, who are at present working in these organisations, be considered for filling up the new vacancies through a special recruitment to IPS to be conducted by the Union Public Service Commission.

44.37 A demoralised leadership lacking motivation and professional expertise is bad for the police and, therefore, bad for stability in society, an essential condition for growth and development. We believe that full implementation of the recommendations we have made would provide the right kind of leadership to police which is a very essential and sizeable wing of the growing service sector of the nation. This very large service organisation which works round the clock needs a highly devoted and capable leadership in order to ensure that it renders to the people the service that is the peoples' due.

CHAPTER XLV

TRAINING AND CAREER DEVELOPMENT OF INDIAN POLICE SERVICE OFFICERS

Introduction

45.1 In the previous chapter we have made recommendations on recruitment, service conditions and cadre management of the IPS. We have stressed that the contemporary problems facing the service and the future challenges, would require not only the recruitment of abler officers to the IPS, but also a greater effort to equip them for their tasks through sustained education and training. There is a greater need now than ever before to ensure that the professional skills of IPS officers continue to be improved and maintained at a high level. We are, therefore, devoting this separate chapter to the subject of initial and advance training and education of IPS officers in order to stress the importance and value we attach to this matter. We would, however, emphasise that these improvements require the prior acceptance of the basic principle that the scales of pay and the prospects of the IPS should be at par with those of the IAS. It is on that basis that we are recommending intensive training and rigorous selection procedures for promotion to higher ranks.

45.2 At the outset we would like to outline a few of the problems and challenges which will need to be overcome through an abler, better trained, professionally more skilled and better equipped officer corps constituting the Indian Police Service.

(1) *Concealment of crime*—The police have for several decades adopted a systematic policy of concealment and minimisation of crime with the result that crime figures have ceased to be a reliable index of the crime situation in the country. If all cognizable crime were properly recorded, the total figures for I.P.C. crime alone might easily rise from about 13 lakhs per year recorded at present to several times this number. We wish to emphasise that a special responsibility to break this vicious circle, so that hereafter there is no concealment of crime, has to be accepted by IPS officers. As mere registration would not suffice, greater attention will also have to be given to improving the investigative skills and knowledge of policemen.

(2) *Economic crimes — no semblance of control* — Profiteering, blackmarketing and rampant corruption hardly receive the priority they deserve in the crimes handled by the police in the present times. Big business crimes indulged in by large and influential concerns almost go beyond the pale of law. The link of big and medium business with the underworld is now a fact of life. There is practically little or no information in police records about the actual state of economic crimes which have grown rapidly during the recent years. These crimes affecting, as they do, the entire community and not only individuals, are today of much

greater relevance to the society than individual cases of thefts, burglaries, robberies etc. The following is only an illustrative list :—

Those who smuggle, in and out, various dangerous narcotic drugs which poison millions of citizens. This is a very big business with its network spread across the world.

Those who adulterate food, drinks and life saving drugs endanger and destroy the lives of millions of people as compared to those who physically injure or even kill a person.

Those who live and prosper by fraud, embezzlement and hoarding etc. The embezzlements in cooperative societies alone, if mercilessly exposed, are likely to run into many crores of rupees. And now banking has got added to the list. We have already drawn attention to the dangers of economic crimes and the urgent need for the police to develop the expertise to deal with them in Chapter XXIII of our Third Report.

(3) *Illegal firearms*.—The menace of illegal firearms has been increasingly felt by all police officers in the field for the last several years. Hundreds of policemen have lost their lives at the hands of criminals who were armed. Crimes in which firearms are being used by criminals have shown an increasing trend. The recent disturbances in some parts of the country have brought to light, in a very marked manner, the extent of this evil. Firearms are posing a great challenge to the police and it points out the necessity for the officers of the IPS to be knowledgeable and proficient not only in the handling of all kinds of arms and explosives but also in the organising of intelligence to unearth illicit arms and explosives.

(4) *Police response*.—Urbanisation is going on at a fast pace. Cities are getting bigger and bigger. They present special policing problems. Time is of great importance. The quick and efficient functioning of the police machinery in such big cities will be assessed by positive answers to the following types of questions :—

— What is the response time of the police control room wireless fitted vehicles? Can they reach any trouble spot in the city within 5 minutes, 10 minutes, 20 minutes?

— Can all the existing roads of a city be effectively sealed off by the police within 10 minutes of a danger signal?

- A professional criminal is arrested in one of the big cities of Uttar Pradesh or Bihar. His finger-prints and criminal history are on record in the Finger Print Bureau. Can this information be cross-checked within 24 hours so that the court can be moved for remand?

A magistrate in Delhi is inclined to release an accused as a first offender. It is believed that the accused has a criminal record in Uttar Pradesh. Can the Delhi Police get this criminal's record within 12 hours?

Ten notorious criminals, serving life-sentences for dacoity, murder, escape from a jail and the alarm is sounded within half an hour of their escape. They have no alternative but to hide in that very city. Can their photographs be in the hands of the policemen in that city within 12 hours?

These situations are indicative of the kind of education and training that will need to be imparted to IPS officers in the future. The modernisation of the police, its equipment and working practices will place several new demands upon the officers corps.

(5) *Legal knowledge.*—The fundamental requisites of democracy are the rule of law and the Fundamental Rights and freedoms granted to the citizens under the Constitution. The police as the premier law enforcement agency has a big role to play in ensuring order and peace. Therefore, law enforcement in a democracy has to be carried out with extreme care and caution so as not to transgress the Fundamental Rights and liberties of people. The police have to be constantly aware of the limits within which all police action has to lie under the law. It is, however, seen that, in practice, policemen at the levels of Constable/Sub-Inspector/Inspector working amidst the dust and din of public order situations, and quite often under the stress and strain of rapidly developing situations in the field, sometimes tend to overlook the legal requirements of police action. In such situations a special responsibility falls on the officers who have to aid and guide them to ensure all round propriety of police action. We are, therefore, of the view that every IPS officer should be fully conversant with the laws which he applies everyday, e.g. the IPC, Cr.P.C., the Evidence Act, the Excise Act, the Motor Vehicles Act, the Opium Act, the Essential Commodities Act, etc. Legal experts are not always handy when an IPS officer faces a problem in the field. If the officers have adequate legal knowledge they would be able to take the appropriate decision and guide and control the actions of their forces, accordingly. Again when senior officers are in a conference room they should be able to say with confidence that certain procedures suggested are legal or illegal. This would not only expedite the decision making process but more often ensure that both the decisions and the actions taken are in conformity with the laws of the land. It is in this background that we feel that the IPS officers in the future will need to have greater knowledge of law to be able to deal with all the legal aspects of cases. This knowledge will have to be refreshed and updated periodically so that whenever required they

S/2 HA/81—3

are in a position to discuss matters with legal experts with greater confidence and competence.

(6) *IPS officers as trainers and motivators of men.*—Each profession has its own knowledge content but certain specialised training techniques have to be learnt in addition. Training cannot be confined to training institutions only. When a Superintendent of Police is in charge of a body of 1,000 to 3,000 persons, he has to apply himself consistently to raising the professional competence of his men. Training is carried out everyday in the Police Lines and an IPS officer who is ignorant of the techniques cannot do this job well. Therefore, he has to be made to realise that he has to perform the role of a trainer in his daily work and contact with his men.

(7) *Science and technology in police work.*—Science and technology have come to play an increasing role in police work. The expert staff needed to use them cannot function outside the police, but have to be integrated with the organisation under the same leadership. Though there have to be separate police technical services for specialised needs such as wireless, motor vehicles, engineering, forensic science laboratories, electronic data processing, etc., yet the officers of the IPS have to have adequate knowledge and understanding of these technologies to administer these services and utilise them effectively.

(8) *Organised crime.*—Some senior police officers have little idea or appreciation of how organised crime operates, specially in big cities and urban complexes. For example, they are content to catch minor carriers of, say, opium or hashish and prosecute them. It does not occur to many of them that person could be a link in a big chain. The usual police attitude to rest content with a conviction prevails. Organised crime has grown fast in India during the last 25 years and it now poses a serious problem for the police and the people.

Training of the IPS in the perspective of the Committee on Police Training, 1973, some ideas for reorganisation of training as a part of career development

45.3 The IPS officers occupy the middle executive, administrative and the senior management positions in the police. The police performance at the cutting edge level of constable and middle operational and supervisory levels of sub-inspector and inspector largely depends on the quality of leadership and professional competence of the officers of the IPS. It has been stressed in the chapter dealing with the training of the operative and supervisory levels that we envisage a marked change in the profile of the police and additional responsibilities in the service-oriented functions of the police to enable it to win public goodwill, support and confidence. At the same time, the traditional functions of maintenance of order and investigation of crimes have to be strengthened. New knowledge and skills have to be imparted to effectively deal with the new problems and requirements discussed in the preceding paragraphs. Our basic approach in stressing the importance of training and education in police at all levels is to build a new organisational and

performance culture based on greater professional competence, enriched job content, improved inter-personnel as well as police-public relationships.

45.4 The IPS has a difficult, challenging and stimulating task ahead. The very preservation of the social order and the implementation of the various laws with public understanding and support depend on several new skills and techniques of management. It is in this context that the Committee on Police Training, 1973 had pointed out that the future image of the police force, as a whole, will depend to a large extent on the proper attitudes, character, professional skills and knowledge of the IPS officers and the quality of the leadership they can provide to the force. Their personal example, initiative and dynamism will set the tone for the lower ranks and the impact of their knowledge, skills and personality can result in an overall improvement in the effectiveness and conduct of the force. We are in complete agreement with these observations and attach very great importance to the development of such qualities of leadership in the IPS officers in the course of their training and career management.

45.5 The Committee on Police Training 1973 had reviewed the then existing training arrangement for IPS officers in the above perspective. Regarding the basic course, the Committee had observed that the objective of the probationers' course is to equip them with all such professional knowledge and skills and attitudes as will not only prepare them for effective performance of their tasks but also for higher responsibilities. In order to enable them to guide and supervise the work of their subordinates, these officers must be thoroughly trained in the latest techniques of police work. They should be helped to develop a proper sense of values, faith in the rule of law and a spirit of public service. They should have an understanding of the socio-economic changes taking place in the country. Their thinking should be in tune with the national goals and value systems and the urges and aspirations of the people.

45.6 The Committee also observed that the then existing syllabus did not give due recognition to the management concepts and techniques. They further observed that due emphasis in the training of IPS officers should be placed on the preventive aspects of police work and on social defence specially because some of the administrators are inclined to be sceptical about them.

45.7 Unlike a few other services, the standards of health and fitness of the IPS officers have to be particularly high. A continuing awareness in this regard can only be created if practical work and physical fitness are given an important place in evaluation and subsequent training. The Committee had restructured the curriculum of the probationers' course in the light of their findings by changing the emphasis and without reducing either the indoor or outdoor contents of the existing programmes. While endorsing both the perspective and the changes suggested by the Committee, we would like to emphasise the need for

adequate knowledge of laws, training in weapons and use of science and technology. We suggest that instead of packing all this knowledge and skill in one Basic Course, it should be spread over the first five years of service and should alternate between training in the National Police Academy and training on the job.

Present training

45.8 In the year 1976 the Union Home Secretary wrote to all the State Governments suggesting an integrated approach to the training of IPS officers keeping in view, it seems, the recommendations of the Committee on Police Training 1973. The Committee had suggested a training programme spaced in such a fashion that an IPS officer would be exposed to technical as well as managerial training suitable to each level which he is likely to reach as he advances in his career. It was also suggested that IPS officers should do courses not only in the country but also abroad, mainly under the Colombo Plan. It also requested the State Governments to ensure that the officers nominated for courses are spared if selected. We are in general agreement with the approach spelt out in the letter (dt. 29-4-1976) of the Union Home Secretary. Our main point of emphasis and difference both with the Committee on Police Training and the scheme of the Home Ministry is that we would like to spread the post-recruitment institutional and on the job training over a period of 5 years and would also like to provide greater job experience to IPS officers at the operative level of the police station. At present the IPS officers undergo a 4 month Foundational Course at the Lal Bahadur Shastri National Academy of Administration, Mussoorie (LBSNAA) following which they go to the National Civil Defence College and the Chief Inspectorate of Explosives at Nagpur for 20 days. Then they go to Sardar Vallabhbhai Patel National Police Academy (SVPNPA), Hyderabad, for 11 months for the Basic Course which is followed by a 15 days attachment with the Army. After this they go to the State Police Training College for a period of 3 months and then do field training for a period of 8 months. From 1979 a Basic Training Terminal Course of 1 month duration has been started in accordance with the recommendations of the Committee on Police Training. We would like to split the period spent in SVPNPA into three spells so that an IPS officer instead of getting the entire dose of training in one go alternates between a training course and a field job. This would enable the work experience to be re-appraised in the SVPNPA and built upon with suitable modifications. In regard to on the job training we place great emphasis on the job of Station House Officer which we would like every IPS officer to do for a year as against one month as at present. We consider this experience crucial for later performance of IPS officers and the leadership requirements of the future. After functioning as a Sub-Divisional Police Officer, the IPS officer should undergo a Junior Management Course in the SVPNPA for a period of 3 months. This course should be an indispensable pre-condition for holding charge of a district. We, however, wish to add that this arrangement should not prejudice an IPS officer getting his senior scale after completing 5 years of service, as generally is the case at present.

45.9 As we have visualised the training of IPS officers, it would be essential for the Central Government as the Central Cadre Authority to assume full responsibility to plan in consultation with the State Governments the training and posting of IPS officers for the first 5 years. The Central Government should be able to move officers for the purpose of training, date-wise as planned in a roster. It is very important that the State Governments should not deviate from the training and postings schedule as arranged by the Central Government for the first 5 years of service of IPS officers.

Training schedule for direct recruits to IPS

45.10 Keeping in view our observations, approach and the perspective outlined in the preceding paragraphs, our endorsement of the recommendations of the Committee on Police Training, 1973 as also of the training schedule recommended by the Ministry of Home Affairs, Government of India, we recommend the following pattern of training and career development for directly recruited IPS officers :—

S. No.	Course	Duration in months
1.	Foundational Course of LBSNAA	4
2.	Civil Defence and handling of Explosives	1
3.	Basic course at SVPNPA	6
4.	Army Attachment	1/2
5.	State PTC including a 12-day fleet Managements course at the Central School of Motor Transport, Sagar (M.P.) and 15-day course at the Central School of Weapons and Tactics at Indore (M.P.)	2
6.	Working in a P.S. as Constable and Head Constable	1
7.	Working as Sub-Inspector in a Police Station	2
8.	Attachments to Prosecution Branch, CID, Headquarters Lines and at District Police Office	2
9.	SHO rural police station	6
10.	Review Course at SVPNPA	2
11.	SHO urban police station	6
12.	SDPO	24
13.	Junior Management Course at SVPNPA	3
TOTAL :		59-1/2

It would be seen that while we have stuck to the Gore Committee recommendations and the Ministry of Home Affairs proforma we have placed emphasis on greater knowledge of police station work and periodical returns to National Police Academy.

45.11 The Basic Course could focus on the following :—

- (1) Police history and implications of the changing social scene on the role of police in India.

- (2) The police organisation in the general administrative set up—(a) Divisional and District Administrative set-up ; (b) Judiciary including Gram Nayalayas ; and (c) Local Self Government Institutions, urban and rural.
- (3) Police organisations in the States, laws relating to police, office records and procedures.
- (4) Human behaviour and police attitudes.
- (5) Laws—Cr.P.C., I.P.C., Indian Evidence Act, Criminal Jurisprudence as a foundation for these laws.
- (6) Police Sciences with focus on (a) crime prevention and (b) crime investigation.
- (7) Map reading and plan drawing, First-Aid and Ambulance drill and wireless communication.
- (8) Knowledge of Hindi and a local language.
- (9) Physical fitness programme and out-door training drill and weapons as at present.
- (10) Role, duties and responsibilities of SHOs.

After completing attachments to Prosecution Branch, C.I.D., Hqr. Lines and the District Police Office, I.P.S. officers allotted to the two Central Cadres shall branch off to their respective organisation for 6 months orientation training within their organisations and then come back to the SVPNPA for the Revised Course. They will go back to their organisations again and return for the Junior Management Course.

45.12 The State Police Training College should develop a suitable course to introduce the officers to the working and the traditions of the State Police and acquaint them with the State and its special problems. After working as Constable and Head Constable during which the officer should among others do the actual beat duty and maintain the prescribed police station records he should submit a report for evaluation by the SHO and the SP. His 2 months as a Sub-Inspector at a Police Station investigating cases should prepare him for holding independent charge of a police station. Throughout this period very close attention has to be paid to his work and progress by his SP and DIG. In the Review Course at the SVPNPA the emphasis should be on the following :—

- (1) Reappraisal of rural police problems and the socio-economic scene in rural areas.
- (2) Introduction to urban policing with emphasis on differences and skills needed with special reference to urban police stations.
- (3) Knowledge of laws continuing from the first course.
- (4) Criminology, police science, forensic theory and medicine (continuation of the first course and as part of the present course content).

(5) Role of Central Police Organisations and institutions specially the following :—

- Intelligence Bureau and Central Bureau of Investigation.
- Central Police and Para-Military forces viz., Central Reserve Police Force, Border Security Force, Railway Protection Force, Central Industrial Security Force and Indo-Tibetan Border Police.
- Bureau of Police Research and Development, the Institute of Criminology and Forensic Science, Delhi and the Laboratory at Hyderabad.
- Central Detective Training Schools at Calcutta, Hyderabad and Chandigarh.
- Central Finger Print Bureau and offices of Government Examiners of Questioned Documents.

(6) Now the officer should be posted as S.H.O. of an urban police station for a period of 6 months. During this period he should be able to apply the knowledge acquired in the Review Course. His periodical reports to SP should be able to reflect what he had learnt as SHO of a rural PS, the degree to which the Review Course reoriented him and the extent to which he is able to apply his synthesised knowledge in the urban PS.

(7) After the SHO period, the officer should be posted to a sub-division and allowed to continue there for a total period of 2 years.

45.13 In view of the requirements of the future, already spelt out, from the leadership of police we consider it essential that only officers of proved ability go up to the higher ranks of police. It is essential to eliminate the manifestly unfit through an objective process of selection. We, therefore, propose that before promotion to the ranks of SP, DIG and IG all IPS officers should undergo specifically designed pre-promotion courses followed by an examination and an objective selection process.

Promotion to the rank of Superintendent of Police

45.14 After an officer has completed 2 years in a Sub-Division he should go to the SVP National Police Academy for a Junior Management Course. This 3-months course should focus on the following :—

- | | |
|---|-----|
| (1) General Management and administrative problems of a district SP including working in cooperation with officers of other departments | 20% |
| (2) Sociology and the changing society, Industrial relations and labour law | 10% |
| (3) Behavioural sciences and personnel management | 20% |
| (4) Economic Crimes | 20% |
| (5) Advance techniques of Investigation | 20% |
| (6) Stress on physical fitness must continue to be essential part of the training | 10% |

At the end of the course there should be evaluation by the Ministry of Home Affairs through five papers of 100 marks each and 100 marks by the Head of the Academy on the officer's general development, efficiency, fitness, suitability, etc. On successful completion of this course, the officer can be posted as Superintendent of Police incharge of a district. It is suggested that this posting should have a minimum tenure of two years. Those officers who get more than 60% marks in the evaluation should be given Rs. 2,000 as incentive, and those who get over 50% but less than 60% marks should be given Rs. 1,000. Of course to cater for inflation these amounts can be increased from time to time. Those who secure less than 50% marks should be required to repeat the examination at their own expense until such time as they obtain at least 50% marks and thus qualify in the course.

Promotion to the rank of Deputy Inspector General of Police

45.15 After the completion of 15 years of service and upto 18 years of service as IPS officer will be sent to attend a 5-month Senior Management Course at the SVP National Police Academy. The main emphasis in this course will be on coordinated thinking in facing the major problems confronting the police and each officer will be required to submit a thesis on a selected subject relating to the practical problems of police, law and order, economic crimes, intelligence and investigation. The Chief of the State Police will nominate officers for this course in accordance with seniority and ensure that all IPS officers who are in the rank of Superintendent of Police/Commandant are, in rotation, sent for this course. Successful completion of this course would be an essential qualification for promotion to the rank of DIG. As marks in this course are vital for the career of an IPS officer, it should be ensured by the Ministry of Home Affairs that the examination is conducted by a high-powered Board and no single examiner should have more than 20% of the marks at his disposal. In other words, there must be at least 5 examiners—each an expert of known integrity and impartiality. The following factors would determine promotion to the rank of DIG :—

	Marks
(1) Percentage of marks in the Senior Management Course	200
(2) Marks allotted on the basis of Annual Confidential Reports	500
(3) Interview to be conducted by a Member of the UPSC assisted by Police Advisers and other specialists	200
(4) Standard of physical fitness to be assessed by a Board through a series of tests to be designed by the Director, SVPNPA	100
TOTAL	1000

A certain percentage of marks out of 100 would be fixed as the qualifying total necessary for promotion to the rank of DIG. Those who thus qualify shall in the 18th year of service be given the rank and pay

scale of DIG while their actual posting can remain dependent on various factors such as vacancies available etc. This would prevent officers in the States from jockeying for positions and creating pressures for new posts and would also ensure that the selection for this important level of higher management in the police organisation is free from bias.

45.16 Promotion to the rank of Inspector General of Police

All those who have worked in the rank of DIG for a period of 5 years and over and are between the 23rd and 25th year of service shall be sent to the SVP National Police Academy for a 3-months Top Management Course. The main emphasis in this course would be on decision making, problem solving skills, and organisational development. This examination should be conducted by the UPSC and this body should appoint examiners and get the answer books marked. For promotion to the rank of Inspector General, an all-India panel will be formed of all the officers who are successful in this course as also in the selection board before which they will have to appear at the end of this course. This selection board will be presided over by the Chairman of the UPSC, the other members will be a couple of distinguished police officers, sociologists, management experts and the Union Home Secretary. The criteria for selection and empanelment should be as follows :—

	Marks
(1) Percentage at the final selection for promotion to DIG.	100
(2) Percentage in the top management Course	100
(3) Evaluation of Annual Confidential reports by the UPSC assisted by police advisers and the Home Secretary.	300
(4) Interview by the Chairman, UPSC assisted by Police Advisers, Sociologists, Specialists and the Union Home Secretary.	100
TOTAL	600

The above marks are indicative of the weightages we have in view. Here again a certain percentage of marks out of 600 shall be considered qualifying for promotion to the rank of Inspector-General. All those who are brought on this All-India Panel of Inspectors General shall be given the pay scales of Inspector General while their actual posting would only be a matter of deployment. Here we would like to refer to the recommendations made by us in para 15.45 of our Second Report for appointment of the Chief of State Police. We have recommended that the posting of the Chief of Police in a State should be from a panel of IPS officers of that State cadre prepared by a Committee on which the Chairman of the UPSC will be the Chairman etc. We would like to mention here that this small panel shall be from out of this large panel of officers in the grade of Inspector General in the concerned State. As is already evident through the presence, in the States, of Additional Inspectors

General, Special Inspectors General etc., there would in each State be a number of officers in the grade of Inspector General following their successful completion of the Top Management Course and the subsequent evaluation by the UPSC. It is from this group of Inspectors General that the Chief of Police should be appointed in accordance with our recommendations made in the Second Report. We would like to add that we do not consider the level of IG as one of mere reward and recognition for years of service. The level of IG with its enhanced position, status and emoluments as recommended by us would be a level which would play a crucial role in the modernisation of police and in organisation building and development of human resource. It would also be a level which would provide communication and contact with the community and with the administrative and political leadership. This again is a level which would play a major role in police research, education and training for which we expect an all round upgradation of rank and status of persons who show the required promise and competence. The most important point we desire to stress in this regard is that the selection of IG should begin in the 24th Year of service and the process can continue upto the 26th year of service. All those who qualify after completing 26 years of service be promoted to the rank and pay scale of an Inspector-General.

45.17 Training of officers taken in the IPS through the Limited Competitive Examination and on promotion from the rank of Deputy Superintendent of Police

In the previous chapter we have recommended that in future direct recruitment to the IPS from the open market should be confined to only 50% of the posts in the cadre and the remaining posts should be filled 16⅓% by a limited competitive examination confined to subordinate police officers of a specific age group and experience and 33⅓% by promotion from the rank of Deputy Superintendent of Police. Those who join the IPS through the limited competitive examination should be sent for the Basic Course for IPS officers in the SVPNPA together with other directly recruited IPS officers. If they have actually worked earlier as SHOs they need not, after the Basic Course, work at that level; they should straightaway be posted as Sub-Divisional Officers of Police in rural and urban areas. As they should preferably be allotted to other States they must learn the language of the State to which they are allotted. The Junior Management Course which will prepare IPS officers for holding charge of a district is of special importance to these officers and they should attend it together with other directly recruited IPS officers.

45.18 For officers who are promoted into the IPS we suggest the development by the SVPNPA of a special six months course. The course should equip them to assume higher administrative responsibilities as Superintendents of Police and above. After this 6-month course they need not be posted as SHO and Sub-Divisional Police Officers if they have already acquired this experience before. Otherwise they should go through the same job experience of one year

as SHO and at least 2 years as a Sub-Divisional Police Officer. They should also attend with the other IPS officers, the Junior Management Course.

45.19 Those officers who are not able to get selected for promotion to the rank of Deputy Inspector-General shall be permitted to make two more attempts within the next five years at the examination and if they fail in these also then their cases shall be reviewed with an inference that they are unfit for further retention in service. Those who are retired shall for pension purposes, be given a five year credit of service. Those who do not qualify for promotion to the rank of IG shall be given two more chances, and if they fail they should be retired with a five year credit or credit till their normal date of superannuation, whichever is earlier, for purposes of pension.

Sardar Vallabhbhai Patel National Police Academy

45.20 For the three management courses, Junior Management Course, Senior Management Course and the Top Management Course the SVPNPA shall have to be strengthened. It will have to be in a position to meet the enhanced training requirements we have outlined in the foregoing paragraphs. The present SVPNPA will not be able to meet these needs without expansion and organisation. It would, therefore, be best if within the SVPNPA is opened a Centre of Higher Police Studies. This Centre will prepare for and run the three crucial management courses and a number of specialised courses on organised crime, terrorism, economic crimes etc. These will need years of preparation and we are in no position now to spell out details of the course contents. We do, however, wish to suggest that entry into specialised courses must be by competitive selection to test the preparation and interest of the officer. We further recommend that completion of each such course should result in a lump sum award of Rs. 3,000 or Rs. 5,000 to serve as an incentive. Selection and performance at these courses should also be given due recognition by the Selection Boards at the time of consideration of an officer for promotion. Lastly, we wish to emphasise that the staffing of this Centre should not be confined to police officers but should include academicians and other specialists. For

various courses, the Centre may also have to draw on the talent available in our Universities and Institutes of Management who could come on deputation for short periods on attractive terms. We hope that in course of time the required talent would develop in the Centre itself. The prestige, status and importance that we hope will be attached to the role of training and education in police, will make the selection of the staff for the Centre competitive and sought after as a hall mark of distinction among IPS officers. We, therefore, recommend that such a Centre be created as a part of the SVPNPA.

45.21 We consider it important to recommend as an essential part of the career management of the IPS officers allotted to States that their postings at the level of Superintendent of Police should be so organised that they should have served on field jobs like District Superintendent of Police/Deputy Commissioner of Police/Additional Superintendent of Police for a period of five years or so.

Conclusion

45.22 In conclusion we wish to observe that the IPS has played an important role in the police system of the country. Though it has performed its multifarious and difficult tasks during the past 30 years yet contemporary demands require major changes in its training to equip it professionally as well as attitudinally to meet those demands. Success in the role envisaged by us for the police in the present context would depend largely on the professional competence, the attitudes and the initiatives of this leadership group in the police organisation. We feel that training should be a continuous process for all officers at all stages throughout their career and instead of being forced, officers should be encouraged and enthused to seek selection to courses at all levels in the interest of their career prospects. An attempt has been made in our recommendations to make training and continuing education play a greater role in the development of professional competence and career advancement of IPS officers. We expect that each rank in the future will bear the stamp of professional competence acquired through education, training and on the job experience.

CHAPTER XLVI

POLICE AND STUDENTS

46.1 Student unrest reflecting a sense of disillusionment, frustration and anger of the student community against perceived injustices is not limited to the academic confines alone but has become a universal phenomenon. In some places, the explosion is purposive, in others it surfaces as a reaction to the very existence of an "establishment". Student anger, in certain other places, is directed towards the object of bringing about improvement in the curriculum, honest administration of academic affairs and for providing the basic amenities which they feel are essential for any academic institution. They feel, the facilities to which they are entitled are being denied, the courses of education purposeless and obsolete and the administration inefficient, corrupt and nepotistic, denying them any voice in the academic affairs. The lack of proper communication and understanding between teachers, students and administrators of a university remains in all these cases a common factor.

46.2 Student unrest surfaces in the form of inter and intra-union rivalry between student fronts, in clashes between them and academic administrators who are seen as symbol of the establishment and it often spills out of the campus confines creating problems of public order. This is much more so when there is a political undercurrent in student unrest. The Orissa Student Agitation, 1964, the Anti-Hindi Agitation in Tamil Nadu, 1965, the Telengana Agitation, 1968, Andhra Agitation, 1973, Nav Nirman Agitation 1973, Jayaprakash Narayan's Total Revolution of 1973-74, Poonch Stir of 1978, Job Reservation Agitation of 1978-79 in Bihar, the current Orissa Stir and the agitation on the foreigners' issue in Assam, all show that the student power is often harnessed towards agitations on non-academic issues—on campus and off campus, by concerted efforts of leaders of student movements.

46.3 Against this backdrop, we propose to examine this sensitive area of police-student interaction. The table* below shows the extent of the problem of student unrest from 1968 onwards both in terms of total incidents and those involving violence :—

Year	No. of incidents	No. of violent incidents
1968	2600	675
1969	3064	895
1970	3861	1859
1971	4381	1408
1972	6365	2528
1973	5551	1677
1974	11540	2339
1975	3847	732
1976	1190	519
1977	7520	1146
1978	9174	1926

*MHA — CM's Conference September, 1978.

It will be seen from the above table that as against 2,600 incidents of student unrest occurring in 1968, the year 1972 and 1974 witnessed 6,365 and 11,540 incidents respectively. There was a fall during the period 1975 and 1976 but again the incidents of unrest have shown an upward trend from 1977 onwards. There has also been a sharp rise in violent incidents of student unrest in the recent past after 1976.

46.4 Another disturbing aspect of violent behaviour on the part of students is their increased association with the anti-social elements and the more frequent use of fire-arms and other lethal weapons during the course of clashes. Further, student agitations have invariably been given an ugly impetus due to political interference which is on the increase. Elections to student bodies are fought in most Universities on political lines. It is unfortunate that a growing tendency is seen amongst the political parties to exploit student power towards non-academic and partisan goals by dividing the student community along party lines. Various unhealthy practices flow from this tendency; for instance, "goondas" and non-students are inducted into the campuses and they indulge in violence which brings the entire student community into disrepute. These anti-social elements compel the closure of colleges, the postponement of examinations, incite assaults on teachers and University administrators, destroy and damage public property and create chaotic conditions to the detriment of academic growth.

46.5 We observe that in the year 1978* the University of Patna was closed for more than 3 months, the Universities of Lucknow, Kanpur and Allahabad for periods upto 2 months due to student unrest, as a part of the agitation against job reservation. Similarly the University of Jammu was closed following student agitation against police firing at Poonch.

46.6 We also find that political interference is one of the main causes for student agitations taking a violent turn. While we are strongly in favour of students and the teaching community being politically conscious and taking active interest in national life, we are against activities of political parties which hamper the smooth functioning of academic institutions. We feel that the activities of student bodies and employees' unions should not be dominated by external political issues.

46.7 A general analysis of the various academic and non-academic causes of student trouble shows that the broad spread of education in the post-Independence era in the country is not matched by a commensurate

*Ministry of Education, Rajya Sabha Starred Q. No. 132, dated 28-2-1979.

increase in the basic campus facilities for the students. There were about 98 million students in 1978 as against 23 million in 1950-51*. The increase in the number of educational institutions since 1951 has been more than double and the number of teachers and the students has gone up by about four times. There are at present 105 Universities. But the absence of necessary and adequate infrastructure such as suitable buildings, well-qualified teachers, non-availability of textbooks and extra-curricular facilities has induced an agitational climate. The perceptions of the student community regarding the value of the education system in the context of the increasing volume of unemployment and lack of career opportunities create psychological pressures. It is borne out by the fact that on June 30, 1978, there were 72.97 lakh educated job seekers on the live registers of employment exchanges in the country. The educated unemployed included 1,11,837 Post-Graduates, 1,87,840 Graduates, 4,70,389 Under-Graduates and 4,41,332 Matriculates.

46.8 Various suggestions have been made by different Committees and Commissions on the handling of student unrest. We feel that prompt measures to redress the grievances of the students taken timely by the establishment will defuse a number of otherwise explosive situations. These cases mainly pertain to grievances in the academic area. Sympathetic response to the problems of the students, elimination of the existing communication gaps, participative strategies in the administration of the Universities and Colleges, deserve consideration in promoting a healthy and congenial atmosphere within the institutions. This will provide sufficient modalities for various forums, to the Vice-Chancellors, Principals, Wardens, Proctors and Deans of student welfare etc. to prevent agitations before they become uncontrollable.

46.9 We are concerned mainly with police responsibility in the sensitive area of police-student relations. We begin by recognising the fact that the primary responsibility for resolving and mitigating campus problems of indiscipline involving students shall be that of the academic authorities. We are also of the view that the police should not be unnecessarily brought into situations which do not involve problems of crime or problems of law and order. Such involvement not only affects police efficiency and responsibility but also tends to blur the image of the police in the minds of the students and the community at large. Creation of such a poor image is not in the interest of effective law enforcement. In this context, we are concerned to note that the academic authorities often show a tendency to abdicate their authority and rely on the police even in situations where the solutions are within their own sphere. It is essential for the system to be shaped in such a fashion that police intervention is minimal but prompt and effective when situations so warrant. Institutions dealing with discipline and control within the campus have to be strengthened to ensure minimal police intervention.

*India — 1979.

46.10 The Proctor System which exists in some of the Universities and Colleges is one such institution which at present takes care of acts of indiscipline varying from disrespect to the teachers, officers, other authorities and employees of the Universities and Colleges, to misbehaviour towards other students, misappropriation and destruction of the property of the academic institutions which border on criminal mischief. The Proctors also have the right to deal with disobedience of orders and rules issued by the University. The system also takes care of other acts which may involve minor incidents of fights and unruly behaviour, handling of which does not justify police action. Proctors have powers to warn, impose fines on and suspend students. They can also recommend expulsion of students to the Vice-Chancellors for serious acts of indiscipline.

46.11 The proctorial system does not obtain in all institutions and where it obtains it can become ineffective if the Proctors do not assert themselves or abdicate their authority. The Banaras Hindu University Inquiry Committee, 1967, had observed "the Chief Proctor as well as other members of the Proctorial Board should be senior teachers commanding the respect of the teaching as well as the student community and should not be saddled with other responsibilities. It may also be considered necessary if senior students could be associated with the Proctor System. Another difficulty being experienced with regard to the system is the lack of sufficient delegation of authority to the Proctors to deal with minor acts of indiscipline. There should be a system of a court of appeal to an independent organisation in which teachers and students both are represented. For the review of the student cases the Vice-Chancellor should act as a final court of appeal". We endorse the views of the Committee.

46.12 We further recommend that the Proctors should keep close and constant liaison with the police authorities so that whenever there is possibility of a situation getting out of control, effective preventive intervention by police can be ensured. The Proctors should, therefore, be generally aware of what is happening in various faculties and of such facts that are likely to cause student dissatisfaction and possible agitation. Such an information base will enable the Proctors to deal with situations more effectively and nip the causes of agitation in the bud. Despite its limitations, we feel the Proctor System holds a promise if properly developed and implemented. We recommend that the system should be adopted at least in Universities and Colleges which have large campuses and many hundred students in residence.

46.13 However, the Proctor System as currently devised is primarily meant to ensure disciplinary control in situations involving individual misconduct. It may not by itself be effective in preventing cases of group indiscipline or sporadic violence by a large number of students which may result in damage to campus property by way of vandalism, pilferage, theft, arson etc.

46.14 We are not in favour of police intervention for preventing such cases of group indiscipline and

violence which can be otherwise regulated and controlled by the authorities of the educational institutions. For this purpose we recommend the creation of a separate Protection Force as part of the proctorial system. The force should be raised statutorily for the security and safety programmes of residential Universities. A similar force can be constituted for bigger Colleges in non-residential/affiliated Universities.

46.15 The Protection Force shall be responsible for the security of campus property against vandalism, pilferage, theft, sabotage and arson. It will also help the Proctors in the maintenance of internal discipline. Being a body of trained and disciplined men, though without arms, the Protection Force should be able to undertake the following functions :—

- (i) Protection of the property *i.e.* departments, faculties and laboratories and person of the University officers.
- (ii) Providing a guard to residential areas of Universities.
- (iii) Dealing with localised demonstrations by employees, students and teachers under instructions of the competent authority.
- (iv) Provide adequate information base for ensuring security of person and property.
- (v) Carry out searches in University premises whenever necessary at the instance of the Proctor/University authorities.
- (vi) Assist the University authorities during examination, VIP visits and other bandobust arrangements.

46.16 We, however, want to stress that the Protection Force should not be militant in character but should try to accomplish its role normally by persuasion and conciliation in its interaction with the students. We do not, therefore, recommend any para-military orientation for the Force. The Protection Force should be properly trained in civil defence, collection of intelligence regarding unlawful activities among students and 'karamcharis', identification of students, trespassers and other anti-social elements entering the campus, first-aid, traffic control, laws of arrest, use of minimal force, unarmed combat, etc.

46.17 The role of the Force is dual. While it would help the educational authorities to carry out the day-to-day responsibilities regarding security, safety and discipline within the campus, it would also prevent any agitation escalating into violence. Therefore, this Force would be required to intervene and contain difficult situations under the direction of the Proctor till police presence becomes imperative.

46.18 The members of the Protection Force and the other authorities concerned with discipline within the campus may be declared "public servants" within the meaning of Section 21 IPC. We feel that this is a necessary concomitant if the Force is to be clothed

with sufficient powers. This will also create in them a sense of security by providing them protection under sections 186, 188, 189, 332, 333, 342, 353, 509, IPC against unprovoked assaults and other forms of aggressive behaviour towards members of the Force. Knowledge of their being "public servants" will deter otherwise unlawful elements among the student community and outside goondas resorting to violence or preventing them from the discharge of their lawful duties.

46.19 Police intervention should be restricted to situations of grave disorder or criminal activity or where such situations are apprehended. Issues involving minor acts of indiscipline on the part of individuals or security and protection of property of academic institutions should be handled internally by the University authorities.

46.20 The intervention of police in student demonstrations or agitations has been considered at length by a Sub-Committee appointed by the Conference of Inspectors General of Police in the year 1966. The Committee has stressed among other things that the police responsibility in such situations is characterised by certain special features and considerations. While there is need for caution and restraint, there is need equally for firmness. So long as the activities by the students are peaceful and lawful, interference by police is not called for. Only when violence involving injury to person or damage to property sets in or is imminent, does the police need to intervene. It is a part of their duty to prevent the commission of an offence, maintain order and prevent injury or damage. This duty of the police has to be performed with all firmness irrespective of the persons involved.

46.21 We endorse these recommendations of the Sub-Committee. We, however, stress that force when it is to be used, should be timely but with maximum restraint especially in the use of lethal weapons. Resorting to firearms should be avoided as far as possible unless there is a provocation by use of firearms by the agitators.

46.22 We are strongly of the view that the maintenance of law and order as distinct from dealing with problems of indiscipline within the University campus is one of the duties of the police and they cannot escape from this responsibility. We notice with concern that there is a tendency on the part of the police to wait for a request from the University authorities before intervention. We are of the opinion that the delay caused by this attitude has been responsible for the situations later on getting out of control resulting in considerable damage to property and persons. We notice with concern that there is a tendency among some University authorities including responsible academicians to feel that the portals of educational institutions are sacrosanct and inviolable. It appears that the old concept of the teachers' corporeal jurisdiction over the student has unconsciously been extended to the geographical jurisdiction of the campus. This impression of the academicians has created in the minds of the students,

a wrong notion that the educational campuses are out of bounds for the police and they cannot enter the same without the prior permission of the authorities. This, in our opinion, has been the main constraint on effective police action in situations which could have been prevented. This has also resulted in a poor image of the police in the minds of the students.

46.23 The concept of the sanctity of an academic campus cannot negate the injunction that police should prevent and deal with problems of law and order whenever they occur within their jurisdiction. We would, however, recommend that as a rule, the police should inform if possible, the head of the institution or the competent academic authority before entering the campus. This is both a matter of courtesy and prudence. We are, however, clear in our mind that the law does not give an academic campus immunity against due enforcement of law by the police. On the contrary, the law makes it the duty of the police to enter any premises when a situation so warrants and take such action as is necessary. The legal issue has been settled by the Kerala High Court in the reported case of A. K. Veeramani v/s. State of Kerala 1971 (1971-KLR-376) wherein the Court had gone into the issue of the police duty to enter campuses in the event of violence or breakdown of law and order. The Court has observed :—

“We find that there is some notion in some quarters that when the Police exercise their power to disperse an unlawful assembly, which they are enabled to do and we conceive they are enjoined to do in the discharge of their duties, they must get prior permission of some authority such as the head of an Institution like the Principal of a College or the Headmaster of a School. This is a very erroneous notion. The Police have not only the right, but have the duty to maintain law and order in given circumstances. Section 128 of the Code of Criminal Procedure enables to use civil force in the discharge of their duties. If circumstances warrant the use of force the Police have the right to use it. Nay, we would say, it is the duty of the Police to use force and that power does not stem from the permission to be granted by any private person or authority. We do not think that the Principal of a College or the Head of an Institution has a higher right in this regard than a house owner. Even a private house can be entered by the police in given circumstances and the house owner has no right to resist. Section 149 of the Code of Criminal Procedure enjoins that every police officer shall, to the best of his ability, prevent the commission of any cognizable offence. Section 29 of the Kerala Police Act, 1960 has imposed a large number of duties on police officers. The discharge of these duties imposed by law on the Police Officers cannot be made to depend on the permission of any private person or authority.”

46.24 On the other hand there is a complaint from academic authorities that police do not respond to

their requests on the plea that the situations of unrest have been created by arbitrary and unjust decisions of the University authorities. We are of the view that the police should not go into the causes of agitations or indulge in criticism of University administration but should address themselves to assess the situation and satisfy themselves whether the situation is serious enough to warrant their intervention. Routine disposal of such requests for assistance from academic authorities is, in our opinion, not justified.

46.25 The necessity for the police to enter an academic campus and take action arises in the following situations :—

- (i) prevention of crime and other unlawful activities ;
- (ii) the detection and investigation of crime ; and
- (iii) where the authorities request for police intervention.

In the first two categories the police has a duty to enter the campus in the normal discharge of their duties for taking such action to the extent required and authorised by law. This covers situations developing from student agitations/demonstrations :—

- (a) When serious breach of peace or injury to a person or damage to property is threatened or is actually taking place.
- (b) When other serious criminal offences are being committed inside the campus.
- (c) When the campus is being utilised as a base for mounting attacks on surrounding areas or on public roads.
- (d) When there is information that weapons and missiles have been concealed for the purpose of their likely use in the commission of offences.

In category (iii) above where the educational authorities request for police help and intervention, the police should intervene provided they are satisfied that the situation is serious and is likely to result in a breach of law and order. In this case the police has a discretion depending upon their assessment of the situation. We would, however, recommend the presence of a senior police officer as an essential requirement in all campus interventions. This is intended to ensure that the force is firmly and fully under control and there is no vindictive action on the part of individual policeman. The police should have sufficient knowledge about the happenings on the campuses within their jurisdiction if they are to effectively deal with problems therein. They should maintain close touch with educational institutions, exchange intelligence to facilitate timely action and to prevent troubles. To achieve this objective, wherever there is a large concentration of students, the police

should constitute a Special Cell comprising of carefully selected officers to deal with such situations.

Illicit firearms on the campus

46.26 We notice with concern that of late, there are reports of illegal firearms and other lethal weapons being collected and stored by militant groups within the campus. When violence breaks out, the arsenal is freely used causing considerable damage to property and injury to persons. The very fact that factions of students have the propensity to acquire, conceal and use such illegal arms portends dangerous possibilities for the future. This trend is on the increase now-a-days. We feel, that it is the primary responsibility of the police to have adequate intelligence regarding such collection of illegal arms and explosives. For this purpose, the right of police, to enter the premises, to search and seize firearms and ammunition cannot be circumscribed by any conditions. We would, however, recommend that the institutional authorities concerned should be appropriately informed at the time any search is carried out. Also, while it is the primary responsibility of the police to carry out searches and seize firearms, it does not absolve the academic authorities of the responsibility to keep a constant vigil and to prevent students from acquiring and storing firearms and explosives. On receipt of any such information or on reasonable suspicion, it shall be the duty of the academic authorities to inform the police forthwith to seek their help. We have also made this as one of the duties of the University Protection Force.

46.27 Student agitations when they spill out of campus, often erupt in acts of violence. Outside goondas and other anti-social elements mix freely with the student body and commit cognizable offences affecting person and property. They incite the students to disrupt public traffic, assault people, commit trespass, kidnap, 'gherao' and to riot. Public transport and buses are invariably attacked, damaged and hijacked. In such situations the police should intervene and enforce law and maintain order as they do in similar other situations where students are not involved. In off-campus situations the question of disciplinary action by the University authority does not arise. The police should take action as per law against the offenders. We recommend that in such cases of offences outside the campus either connected with student agitations or otherwise, the police should take action under the normal law and no special preference or consideration be shown mainly for the reason that the party committing the offence happens to be students. The police should not however be averse to applying Probation of Offenders Act, by the Courts if they so deem fit.

Withdrawal of cases

46.28 We observe that there is a tendency on the part of political and executive authorities to withdraw cases filed against students even where serious offences are involved. This creates an unhealthy impression that students can violate the law with impunity. We have already expressed our views on the general question of withdrawal of criminal cases from court in para 28.29 of our Fourth Report and have recommended a revised arrangement in law for the withdrawal of criminal cases to be entertained only on grounds of justice or public interest and not on a mere executive desire for compromise in any particular case. Such an arrangement, we feel would arrest the trend of withdrawal from courts on irrelevant considerations. We wish to stress that this arrangement should equally apply to the cases involving students.

Student-police relationship

46.29 We have stressed in our earlier Report that the police should develop healthy contacts with the student community and make them take interest in police as a profession. We have in this context encouraged police-student interaction in non-conflict situations, on the play-fields, community projects and similar extra curricular activities. The police should endeavour to remove the impression among the students that they are hostile to them. There is need for sympathy and honest dealing wherever there are genuine grievances from students. The police should always be prompt and fair, in conducting inquiries and investigations and in generally dealing with complaints from students. It is not advisable to keep students (or any one else) in police lock-ups and resort to third degree, indiscriminate arrests or handcuffing. Release on bail should be a rule rather than an exception. Wherever students are apprehended or arrested, their parents should be informed forthwith of the place of detention of the student and reasons for the apprehension and arrest. Experienced and specially trained personnel, preferably of the rank of Sub-Inspectors and above should normally be deputed to deal with situations involving students. The Committee on Police Training, 1973 has observed in this context that 'the lower ranks of police should be more educated and better trained than at present for compatible interaction and proper behaviour with students'. Special orientation courses covering student psychology case studies of police handling of such cases analysing the causes of police failures in dealing with students should be included as a part of the training curriculum. The general approach of the police in conflict situations with the students should be to project themselves as a neutral catalyst willing to help the students, wherever necessary.

CHAPTER XLVII

COMMUNAL RIOTS

47.1 The term "communal problem" which could normally be applied to describing situations of tension, with or without violence, between any two communities is used here primarily to refer to the Hindu-Muslim problem in the Indian context. This problem has existed for centuries and it has many dimensions. Volumes have been written to analyse the nature of the problem, to understand the many causes that account for its existence, and to suggest ways of solving the problem. Like any other major societal problem this one has many facets both as to its causes and consequences. Political factors such as those of the role of the British prior to Independence and the role of international Muslim propaganda in the present decade, the economic factors such as the hegemony of the Hindu businessmen who may be seen as exploiters of Muslim artisans, and the alleged discriminatory employment policies of the majority dominated public and private institutions, the socio-cultural factors such as the lack of educational advancement among the Muslims which has prevented their effective participation in governmental services and urban-industrial white collar employment, the factor of real and imaginary utterances in the religious practices of the communities, the alleged tendency of the Muslims to be partial to Pakistan, the tendency of the Indian political parties—both of the right and of the left—to ensure political backing of conservative, illiterate Muslim voters by legitimising and strengthening the position of the Muslim religious leaders—all these have been used to explain the basic dilemmas of Hindu-Muslim relationships. While as a Commission we take cognisance of all these possible various factors we are not required by the nature of our work either to identify one single factor which explains the totality of the Hindu-Muslim problem nor even to arrange the various factors in any order of priority. Our first concern is to recognise that the problem exists, particularly insofar as it erupts from time to time in different places in the country, in the form of riots, posing a threat and a challenge to the maintenance of law and order. Our next and more important task is to suggest ways in which the police—as a force of professionally trained men—can help prevent and contain the occurrence of these law and order problems, in which precious human lives are lost and national wealth is dissipated.

47.2 Very often a communal riot is sparked off by some trivial incident. Prior to the eruption of a communal riot the fear and the tension between the two communities may get accentuated by many small incidents which often go unnoticed and sometimes get ignored by the authorities. While the underlying causes are important, these small incidents, which tend to take the tension beyond breaking point and result in

a major riot, need to be studied in greater detail. Some of the proximate causes for the riots could be classified under the following broad heads :—

I. RELIGIOUS

- (i) The playing of music before mosques and other places of Muslim worship either during prayer or afterwards ;
- (ii) the claiming of a place, as a place of worship, by both the communities ;
- (iii) desecration of a place of worship of the Muslim by the Hindu or *vice versa* ;
- (iv) killing or alleged killing of a cow or an animal held sacred by Hindus, by a member of the Muslim community ; and
- (v) desecration of a religious congregation by some loitering animals abhorred by a community.

II. PERSONAL

- (i) The alleged molestation or rape of a woman of one community by a member of the other community ;
- (ii) the assault on a member of one community by a member of the other community, though the assault might itself be due to some private quarrel ;
- (iii) quarrel between a tenant of one community with a landlord of the other community ;
- (iv) a dispute between two neighbours belonging to different communities over some minor matter ; and
- (v) in some of the recent incidents, buying of property in urban areas for commercial exploitation had created serious tensions. Properties have to be sold at a price below the market price, because they carry some legal encumbrances. Efforts to remove these encumbrances particularly of those caused by the members of the opposite community, rouse communal passions which may lead to communal riots

III. REACTIVE

- (i) a reaction to a situation which happens elsewhere in the country ; and
- (ii) a reaction generally by Muslims to some incidents taking place outside the country.

This reaction normally manifests in large processions by the Muslims which creates a sense of insecurity and fear in the minds of the opposite community (for example, reaction of the Muslims to the desecration of the Al Aqua mosque in Jerusalem).

IV. RITUAL

- (i) Taking out of customary processions by the Hindus during Durga Puja, Ganapati and other festivals, and by the Muslims on the occasion of Moharram ;
- (ii) the disputes over the routes to be taken by the processions, the concept of traditional routes and the insistence by the Muslims that such processions should not go through their localities ;
- (iii) throwing of Gulal, coloured water and other coloured substances on the Muslims in and around their places of worship during such processions ; and
- (iv) the raising of slogans by both communities on such occasions which are considered provocative and abusive by the opposite community.

47.3 A communal riot may be sparked off by an odd incident of stabbing, but it can soon escalate into large scale violence, arson and looting. The use of firearms in the riots is relatively a new phenomenon. The anti-social elements get social sanction for other activities in such situations and they take a lead in perpetrating acts of violence on the members of the other community. Small number of houses and shops in the localities with predominant population of the opposite community become convenient targets. Rumours spread like wild fire and soon the venom of the communal virus starts infecting even the saner members of the community. The anti-social elements are given protection and active support even by the people who are normally law abiding.

47.4 The serious communal riots which occurred in the wake of the partition of the sub-continent are well known and remembered for the destruction they caused to life and property. The period 1951—63 recorded comparatively fewer communal incidents, compared to subsequent years. There was a marked increase in the number and the intensity of riots during the period 1964 to 1972. From 1972 to 1977 the situation again showed a marked improvement. The number of casualties during these 5 years went down considerably. The statement showing the number of communal incidents/casualties year-wise from 1954 to 1979 is furnished in Appendix . The situation deteriorated, when the response from the administration was weak. Between 1970 to 1977 there was a substantial increase in the strength of the state armed police and para-military forces. The availability of force, on the ground, to tackle such riots almost doubled ; and the availability of wireless equipments increased almost by 6 times in

these 7 years. Unfortunately, the momentum got lost in the subsequent years. The administrative problem of handling the communal riots cannot be separated from the general health of the administration, especially the health of the police force based on an objective policy of recruitment, promotions, postings and transfers etc.

Failure in the handling of communal riots—some causes

47.5 Some allegations have been made that the handling of several communal riots in recent years by the police and the administration has been ineffective and tardy. We would, however, like to emphasise that this charge of failure cannot be levied against the authorities in all such situations. We are aware of the fact that some of the riots have been handled in an effective and prompt manner, but the failures are too glaring to be ignored. We are also conscious of the fact that the factors leading to communal riots are multiplying and the role of the police in controlling these riots is becoming increasingly difficult for many reasons, specially because of the growing public sentiment against the police. Such failures in ineffectively dealing with the riots, which result in extensive damage to life and property, bring the Government into disrepute. The capability of the Government to govern and to provide basic security to its citizens comes to be questioned. We have made study of some of the major communal riots that have taken place in recent years. The extent of damage caused in these riots is indicated in Appendix . The State Governments concerned had appointed Commissions to enquire into some of these incidents. These Commissions of Inquiry made several useful and important recommendations. A gist of the recommendations of the National Integration Council, the Raghubar Dayal Commission, the Prasad Commission, the Jaganmohan Reddy Commission and the D. P. Madon Commission is furnished in Appendix III. Unfortunately a few of the most important recommendations of these Commissions have hardly ever been followed—for example points numbers, 1, 2, 3, 4, 5 and 17 of Raghubar Dayal Commission. As a result, riots have continued to take place, sometimes in increasingly virulent forms. The riots at Jamshedpur, Aligarh and Moradabad and several other places in recent years are examples. This situation leads us to examine in some detail the reasons for the persisting failure on the part of the authorities in handling these riots.

47.6 Our examination reveals a pattern in the failures to deal effectively with some of the riots that have taken place recently. District officers were not always posted on objective considerations and for a long enough tenure. Invariably, the district administration failed to anticipate the trouble and to make adequate planning on the ground. The arrangements were inadequate, because proper assessment of the situation had not been done. Either the intelligence about the impending trouble was not available or the district administration failed to take notice of all the minor incidents and the subsequent tension between the two

communities. Moreover, the deployment of available resources was not only inadequate both in manpower and equipment, but also unimaginative, which did not take into account the vulnerable areas. The force was dispersed in penny-packets and sufficient striking reserves were not kept. At quite a few places, the police was hopelessly out-numbered and unprepared to deal with the miscreants. It appears to us that even the available resources with the district authorities are not fully taken advantage of on such occasions. We find that even the meagre armed reserves available in the districts are often frittered away on many unauthorised duties. The dissipation of forces in this manner results not only in numerical depletion of the strength, but also in serious loss of capability on the part of the police to act in a concerted fashion in a riot situation.

47.7 We have been told of several instances where police forces were deployed without any briefing whatsoever. Even the senior officers deployed with the force were inadequately briefed, with the result that they could not act decisively in a moment of crisis. Moreover, in some cases of recent riots the armed police detailed to supplement the resources of the district police was collected at very short notice from different units, wherever they could be made available from. Such a body of men not under the command of their own officers can hardly be expected to operate in a disciplined and concerted manner. We strongly deprecate such a practice and recommend that the armed police should move only in proper formation, along with full complement of their officers.

47.8 In some of the case-studies undertaken by the Commission, it came out in some detail that in many areas of troubled cities, the police and the magistracy just withdrew when anti-social groups indulged in violent crimes. The deployment of magistrates on such occasions appears to have been reduced to almost a farce. In some of these cases a large number of magistrates were hastily assembled and deployed on duties. These magistrates were in reality junior functionaries from several civil departments, who had neither any knowledge of the law, nor any idea of their powers, duties and responsibilities or any comprehension of the nature of communal riots. They were hastily invested with magisterial authority for the occasion. They failed to act effectively and in actual practice inhibited the police from acting, with the result that the anti-social groups were allowed to perpetrate many crimes without check.

47.9 It has also come to our notice that in many cases the deployment of forces on the ground was substantially different from the deployment shown in the charts, and included in the orders. Thus, in reality, only a part of even those forces said to have been deployed are actually available for duty in a riot situation. We feel that this defect is largely due to senior officers themselves not planning the deployment but leaving this important task to junior functionaries, and not ensuring that their orders are properly and correctly implemented by the latter.

47.10 We were informed that on several occasions officers at all levels including the D.M. and the S.P. have been found hesitant in taking quick and firm decisions. We note with concern the growing tendency on part of the district authorities to seek instructions from higher quarters, where none are necessary. We understand that in one town where a serious communal riot was raging for a very long period and where curfew was imposed continuously for days, the district officers could not even decide on the arrest of anti-social elements, as there was continuous and unwarranted interference with their discretion by the political executive. Constant consultation and seeking of instructions in riot situations is a totally impractical procedure. Time generally works against the administration and initial hesitation in dealing firmly with a riotous situation soon results in the escalation of its size and intensity with the result that total suppression later can only be achieved by heavier casualties and by a more indiscriminate use of force.

47.11 The leadership not only failed to act decisively but was also unable to control the force. In the absence of their officers, the force at times retaliates more like a mob in anger, more so after an incident occurs in which some police officers get injured. We also heard of stringent criticism from many responsible quarters that the police do not often act with impartiality and objectively. Several instances have been cited where police officers and men appear to have shown unmistakable bias against a particular community while dealing with communal situations. Serious allegations of highhandedness and other atrocities, including such criminal activities as arson and looting, molestation of women etc. have been levelled against the police deployed to protect the citizens. There is evidence to suggest that in one recent riot, the police resorted to uncontrolled firing, killing many people of the congregation and later indulged in looting and arson, when some of their colleagues were assaulted by the crowd. In another incident, it is alleged that a group of anti-social elements was able to brutally kill many persons, including women and children, while the police was present in the vicinity. In yet another recent incident it has been alleged that the force ran amuck after one of their colleagues was stabbed. All these incidents are only symptoms of the underlying malaise. The failure of leadership coupled with the low morale of the force leads to such indisciplined reaction from the force. There is a tendency amongst the officers to avoid taking responsibility for dealing with the situation. They either avoid to go to the trouble spot or when they happen to be present there, they try not to order the use of force when the situation so demands, or better still slip away from the scene leaving the force leaderless. We have reasons to believe that this reaction of the officers was more a calculated decision on their part, rather than a reflex action out of cowardice. They consider it prudent to avoid getting involved in ordering the use of force. It is unfortunate that after such riots it is only those officers, who had taken some action in dealing with the situation, are accused of all sorts of allegations and they have to face harassment and humiliation in the inquiries that follow. The real villain, who allows the situation to

deteriorate by not taking firm action in the initial stages to control the situation, manages to go scot free. This reluctance to order the use of force to control the situation leads to serious consequences later. The force gets the impression that their senior officers are not going to order any action for their protection. They go on helplessly watching the beating of their colleagues. The demoralised force, lacking confidence in their senior officers, often retaliates in anger and fear to settle score with the rioters.

47.12 The training of the police force leaves much to be desired. In some of the recent cases the force was unable to react and move about like a disciplined body of men, who are trained to deal with such situations. In one of the recent riots the force ran away from the scene and locked themselves in the nearest building. In another incident the police force ran to the police station and locked themselves there.

47.13 We are informed that in some of the recent riots the police action was halting and hesitant because of the differences amongst various administrative officers. In one case the Commissioner publicly rebuked the District Magistrate in a police station. In another case the SP was dis-owned by his subordinates and accused of communal bias. The impression that officers are being posted and transferred due to political pressures, adversely affects the morale and discipline of the force. The spate of frequent transfers in the last 3 years or so has seriously undermined the credibility of the administration. In one recent riot, every one from the SHO onward in the police and the magistracy were new to the city and had little local knowledge. Appointments on caste and other extraneous considerations have further weakened the administration.

47.14 We have heard views expressed in several responsible quarters that one main reason for lack of objectivity on the part of the police is the composition of the force itself, which is heavily weighted in favour of the majority community. A view has also been expressed that in order to make the police fully representative of the society in which it functions, reservation of vacancies in the police should be made for minorities and other weaker sections, on the basis of their share in the population. We have commented on this suggestion later in the chapter.

47.15 Notwithstanding the fact that there are clear instructions about the role of the armed and the para-military forces, there are frequent instances of frictions between these forces and the district administration. There is no question of the armed or the para-military forces taking over the situation. They go in aid of the civil power and the local police. Their aim and objective should be to strengthen the hands of the local administration and they should refrain from any dissemination of news to the media to give the impression that they have replaced the local administration.

47.16 There is a general tendency to hide the true facts even amongst senior officers. In one recent riot,

the official figures of the number of persons killed was given so low that no one believed it. It only gave rise to wild rumours. The official figures given to the Press and the Radio were 26, when 86 persons had lost their lives. People who could see the dead bodies being removed in police vehicles, found it difficult to believe the official figures of the dead. Such minimisation of casualties has the opposite effect and even today the public in the city does not believe that only 86 persons were really killed. They put the figures in hundreds. Not revealing the true facts gives rise to rumours. People start believing sources other than the administration and the government media.

Recommendations

47.17 The importance of meaningful anticipation based upon well-defined data both in qualitative and quantitative terms cannot be over-emphasised. Data pertaining to an area should not only be collected with great care but should also be constantly updated. Changes in the population and the distribution of population in the various towns and other significant areas in the district should be carefully observed. The reasons for such migration should be ascertained and analysed.

47.18 The communities are usually inter-dependent for day-to-day living, and, therefore, communal differences are usually dormant. However, the day-to-day living problems like the drawing of water from common wells or taps, economic relationship between an employer and his employee, the differentials in the wage structure for different kinds of work, the availability and utilisation of markets for village produce, and the modes of worship and celebrations of festivals, are matters which are prone to exploitation. The extraneous motivation could easily sow the seeds of discord for communal riots. A strict vigilance needs to be kept on these extraneous motivating factors as well as on the problems creating tensions between the two communities. Whenever stresses are observed in any given area, the police and the administration should be able to identify them quickly, and pinpoint the reasons for the stress and take prompt steps to defuse them.

47.19 We note that several records are maintained at the district and the village level by the police which contain a good deal of physical data. For instance, village records have substantial information about the population structure of the village, the traditional vocations available in the village, the presence of influential people, and of places of worship, festivals, etc. The district records contain data relating to past incidents and a critical appreciation of these incidents contemporaneously recorded by the officer-in-charge of the district. We feel that the importance of these records is being under-estimated by senior officers in recent years with the result that these records are not updated and even the available records are not studied critically in order to derive the usual pointers, from the fluctuations noticed in the data in these records. We, therefore, recommend that such records should be properly maintained by the police authorities

in-charge of the districts and police stations. It is also desirable to maintain such records at the State level. We would once again like to emphasise the need for keeping these records up-to-date so that their utility is maintained at the maximum level.

47.20 In the intelligence agencies available at the district level and at the State level a separate cell should be earmarked whose only function should be to look for significant data which would indicate an imbalance in any particular area. The district level agency should constantly update the data available with them and should feed this data to the State level agency. The State level agency should interpret this data on a total basis for the whole State. We feel that if this were done, the advice of the State intelligence agencies to the district units regarding the possibilities of tension in their respective areas would be more precise and useful than what it is today. Such an exercise would lead to anticipation of events and would provide capability and confidence to district and police station levels to develop well-thought-out plans in advance to deal with any situation that might confront them. Moreover, dependence on the intelligence collected by the plain clothed staff alone is not desirable. The collection of intelligence by the uniformed units needs to be reactivated. Many of the failures in the recent riots were largely due to the negligence of the uniformed staff to monitor intelligence.

47.21 It appears that the present practice is for the intelligence agencies to alert the district in a general way indicating the possibility of a law and order situation. We are told that this is done mostly on the basis of historic data relating to past incidents. We are of the view that a general alert of this kind should be replaced by a compact, comprehensive and continuous advice based on carefully analysed current data which should flow from the intelligence agency to the district and other operational units in the police.

47.22 It is noticed that there is little or no interaction between the district authorities and the army and the para-military forces during peace time, when there are no riot situations in the district. In our view there should be rehearsals to coordinate the law and order arrangements with the army and the para-military forces during peace time as well, so that there is no misunderstanding or lack of coordination, when they come to the aid of the civil authorities during riot situations. Close coordination between these agencies is very essential.

47.23 The next step in the police strategy for dealing with communal riots is the quantum and quality of preventive action which the police should initiate. There is a common misunderstanding amongst most policemen that preventive action is restricted only to preventive arrests and the launching of cases under section 107 of the Code of Criminal Procedure. Prevention can be brought about by regulation, restraint, constraint, and control. Regulation is usually a strategy suitable in normal situations for dealing with non-aggressive crowds, such as a crowd attending a major religious fair or even a crowd which takes part in a procession. But regulation also

involves a fairly well dispersed police presence which creates a climate of confidence for the law abiding citizen. In a place where there is tension developing, if policemen perform their normal tasks such as beat-patrols which they send out during peak hours, the usual regulation of crowds, the normal control and direction of traffic etc. normalcy is not only kept up in the area but is also seen and felt by the people. Normalcy always acts as an antidote to tension and hence prevents it from growing beyond breaking point. Even if there is some risk in the relaxation of restrictive measures for the restoration of normalcy, the risk is worth taking.

47.24 To bring about a restraining influence on those elements in society who may be out to create panic and confusion in the locality, restraint can be brought about by increasing police presence and by arresting those who are likely to indulge in acts prejudicial to public order. But restraint has to be imposed only upon those who are potential law breakers. If it is general and indiscriminate, it can be counter-productive. Quite often the police tend to be indiscriminate in identifying anti-social elements. They fail to distinguish the genuinely frightened person from the mischievously aggressive one. Indiscriminate arrests of both kinds are made with the result that those who expect the law to protect them get frustrated with the agents of law.

47.25 Once the law abiding citizen doubts the capability of law to protect him, he is likely to seek other avenues for protection and thus a person who should normally be a counter rioter is pushed by injudicious action into the very vortex of the riot. The strategy should be to strengthen police presence not only in the area of normal police functions, but also to abnormal levels in selected pockets so as to instil confidence in those who are afraid, and fear in those who wish to dare. Unless potential mischief mongers are clearly identified well in advance and these mischief mongers effectively prevented from taking part in a riot situation, preventive arrests can create no impact. It is unfortunate that in most of the communal riots which have occurred all over the country, the common impression has been that a large number of anti-social elements were allowed to roam around freely. This happens because the so called list of goondas whose records are maintained at police stations and district levels are often hopelessly out of date, and even if they are complete, these anti-social elements disappear at the nick of time so that the police are unable to arrest them. We consider it very important for the police to have an up-to-date and correct list of anti-social elements and to be able to identify and arrest them in a moment of crisis. Great care should be taken in the preparation of this list to ensure that law-abiding persons are not included in these lists because of local controversies and jealousies. Including petty criminals in this list may not also be of any value. An anti-social element included in this list should be a person, who either by his own acts, or by instigation is able to create insecurity amongst large sections of a community. We also recommend that the policemen who would be able to identify these anti-social elements quickly are earmarked in

advance, so that effective action can be taken by them when required.

47.26 Care should be taken to ensure that names of wrong persons are not entered in the list. The failure to command confidence of the general public is very often due to the fact that the police is often obliged to include names of wrong persons in such a list. The police also fail to take action against real goondas either because they feel inhibited to do so or because they are not to do so by local politicians and other interested persons. Here identification of the mischief makers will not be enough. There is need for constant vigilance and action against such persons, even at times other than during the communal riots. It has been alleged that such anti-social elements have the protection of some influential politicians. We strongly deprecate any interference from any quarter in the preparation of lists of anti-social elements and in the initiation of action against them. If police officers themselves prepare a defective list or refrain from action wherever called for, the responsibility for such omission should be laid squarely upon them. If a person, whose antecedents are such as to lead to the inference that he is an anti-social element, is found actively participating in a riot, the circumstances under which he was allowed to be at large should be examined and those responsible for this state of affairs should be punished.

47.27 Prevention does not stop with increasing police presence or with immobilising anti-social elements. A developing situation can be defused effectively by enlisting public cooperation. The role of Peace Committees in this regard has been stressed by several Commissions in the past. It should be ensured that important publicmen with considerable local influence, and who are acceptable to both the communities because of their proven impartiality, are included as members of these committees. These committees should be given every assistance by the administration so that they can go round in the area and prevail upon the people to refrain from violent activities. The Peace Committees can also play a very important role in removing fear, mitigating panic, reducing tension and restoring normalcy in the area. In sensitive areas with a history of communal riots such Peace Committees should be constituted on a permanent basis and the membership of such committees should be constantly reviewed.

47.28 We are aware that in a riot situation all kinds of rumours are set afloat by interested parties, and sometimes even by well meaning persons acting under fear and tension. The administration should, therefore, take steps to disseminate correct and proper information to the public through all available means. In this connection we would emphasise the use of the radio and loudspeakers as an effective communication media. If correct and frank reports of the incidents occurring and the steps taken by the authorities to control these incidents are broadcast frequently, the morale of the people would be kept high and this itself would allay feelings of fear and insecurity in the population. The Commissions of Inquiry who have gone into some of the riots in recent years have repeatedly advocated the need for

prompt and effective control and contradiction of rumours. We would like to add that unless this is done in an open manner the general public is not likely to trust the administration and to extend its cooperation to it. The emphasis should be on concrete steps taken for correcting the situation and not on authoritative demands on the people for cooperation. It should be realised that the law abiding citizens would only be eager to cooperate if the administration created the necessary climate that such cooperation would be welcome. The district authorities should utilise the facilities of the Radio and every other means of quick mass communication to publicize the correct situation of the riot including the figures of casualty etc. It is important for the administration to establish its credibility, if it is to get public cooperation in tackling the situation.

47.29 The Criminal and Election Laws (Amendment) Act, 1969 (Act No. 35 of 1969) contains provisions for the control of prejudicial publications. In spite of the availability of legal provisions under this Act for controlling objectionable publications in the press, we are told that very little action under this law is taken by State Governments and local administrations. While no Government in a democratic system should attempt to compromise the freedom of the press, the Government cannot abrogate its functions if mischievous reporting in the press is likely to lead to a breach of the public peace. The Criminal Law (Amendment) Act, 1972 (Act No. 31 of 1972) introduced a new section 153B in the Indian Penal Code which makes imputations, assertions etc., prejudicial to national integration, an offence punishable with imprisonment which may extend upto three years or with fine or with both. Thus, legal provisions already exist for the control of prejudicial publications and other activities prejudicial to national integration and public order. The poor action taken upto now can only be attributed to the inhibitions on the part of the State Governments, whatever may be the reasons. We would strongly recommend that in this important and sensitive matter the State Governments and local administrations should act impartially and use every weapon in their legal armoury to fight obnoxious propaganda which may be prejudicial to the maintenance of communal harmony.

47.30 Section 151 of the Cr. P.C. empowers a police officer knowing of a design to commit any cognizable offence to arrest without orders of the magistrate and without a warrant the person so designing, if it appears to such officer that the commission of the offence cannot be otherwise prevented. This legal position is useful and is often invoked to arrest anti-social elements during riot situations. We are told that the utility of this provision has been considerably reduced because of the constitutional requirement that the person so arrested cannot be held in custody for a period exceeding 24 hours unless his further detention is required or authorised under any other provisions of the Code or other law for the time being in force. We have taken note of the operational difficulty that would be created in a situation of serious riot because of this legal requirement. We have already recommended an amendment to section 151 of Cr. P.C. in Chapter XXI of our Third Report which should

enable the police to hold a person arrested as above for a period upto 15 days under orders from a Magistrate.

47.31 Any control activity by the police should aim to isolate a minor incident as and when it occurs and deal with it effectively and quickly. A quarrel between persons should not be disposed of in a routine manner as a non-cognizable crime. We are of the view that if a scene of occurrence is visited by a responsible police officer and the quarrelling parties are dealt with firmly on the spot, considerable damage could be averted. We have reasons to believe that there is a growing tendency on the part of the police to either ignore such quarrels altogether or to allow them to be dealt with by an odd constable ill-briefed and sent out after the quarrel had taken place. We would recommend that any small quarrel or any minor incident involving members of the two communities should be attended to and dealt with by a responsible senior police officer and the dispute nipped in the bud so that it does not escalate into a major riot. We would place a high degree of importance on the quality, quantum and timing of police response in such situations.

47.32 In dealing with processions likely to generate communal trouble there is much greater scope for the police to be prepared in advance. We feel that the police should, to the extent possible, collect information about the mood and intentions of the processionists and the attitude and preparedness of those who oppose the processions. Trouble spots should be identified and places of worship should be protected and cordoned off. We are of the view that processions which are likely to generate tensions and riotous situations should be properly regulated and controlled under the law. In extreme cases, if the situation so demands, such processions should even be prohibited under the law. The Raghubar Dayal Commission, which inquired into a series of communal riots, was of the view that places of worship should be searched by the police to find out if brickbats or other offensive materials are stored in these places. We would endorse this view and would add a suggestion that in doing so, the police should go strictly by intelligence available to them and not at the behest of one group or the other. Instances are well known when brickbats, acid, bulbs, swords and even fire-arms etc., had been collected particularly in places of worship.

47.33 We are of the view that the police in cooperation with other branches of the administration can ensure a safe and peaceful movement of a procession through a controversial area by attending to small matters like providing adequate lighting in the area and removal of heaps of stones and debris which may be lying around in the lanes and by-lanes and by providing alternative source of power by hiring generators etc. We feel that such steps can instil a good deal of confidence in the inhabitants of the locality through which a controversial procession is likely to pass. The police should also adopt different strategies for escorting processions, depending upon situations. For instance, providing protection to the inhabitants of a locality instead of merely following

the procession might be effective in certain circumstances. We cannot lay any hard and fast rules about this matter but would recommend that the senior most officer present and in charge of arrangements must appreciate the local problems and after applying his mind, lay out the arrangements in such a way as to demonstrate to the local population that the police would act impartially, effectively and firmly.

47.34 We recognise that a communal riot could take place in spite of all possible measures taken by the police and the administration to prevent it. Several communal riots in recent years have been allowed to escalate and to continue for several days because of lack of decisive action on the part of the authorities. A communal riot is different from any other law and order situation because it has its origin in deep seated passions and jealousies. Its consequences can be harmful not only to a particular locality but may also seriously affect many other areas. Therefore, in dealing with communal riots the authorities should recognise the distinction and should show extreme firmness from the very beginning. We note the requirement of administrative instructions that the use of fire arms in dispersing an unlawful assembly should only be the last resort and should be preceded by several lesser methods, like the bursting of tear gas shells, lathi charge etc. We understand that for this reason many authorities hesitate to use fire arms till the situation goes entirely out of hand. Firing is usually resorted to after considerable damage has already occurred, and such firing makes no impact on goondas and anti-social elements who by then withdraw. In this context, our attention has been drawn to a communication from the Union Home Secretary in his D.O. letter No. 19/69/70-Poll. I(A) dated June 10, 1970 to the State Governments on this subject. In this communication a clear distinction has been made between communal riots and other law and order situations and emphasis has been laid on the need for taking the most stringent action at the first sign of communal trouble. We would wholly endorse the views expressed in this communication and would strongly recommend that the authorities in dealing with communal riots should not be inhibited, by any consideration, to adopt luke-warm measures at the early stages of any communal trouble which may push the situation beyond a point of no return.

47.35 Immediate and exemplary action should be taken against those who wilfully fail to go to the trouble spot or slip away from there after trouble has erupted. Officers who have successfully controlled the situation at the initial stages with firm action should be suitably rewarded. An impression should not be allowed to remain that it is wiser to face the accusation of no action rather than go through the harassment and humiliation of an inquiry into the accusation of excessive use of force.

47.36 The efficiency of District Administration cannot be separated from the general health of the administration and we strongly disapprove of the practice of posting and transfers on political pressures. The faith of the people in the District Administration and the police gets shaken, because of frequent transfers. Loss of credibility in the police has serious

repercussions. How can we expect the public to cooperate with such a district and the police administration in dealing firmly with the situation? And without active public cooperation, it is just not possible to control communal riots. Therefore, we suggest that only specially selected experienced officers with an image of impartiality and fair play should be posted to the communally sensitive districts. They should not normally be transferred before the completion of their tenure and in any case all district and police officers should not be transferred at the same time.

47.37 In spite of several recommendations made earlier on different occasions and in spite of repeated instructions issued by the Government, we find that control rooms do not exist in several places in the country and even where they exist their organisation and operation leave much to be desired. We are of the view that a control room hastily assembled and set up during a moment of crisis cannot be of much value. A control room should be an on-going facility available to the public for the purpose of communicating with police authorities. Therefore, if a control room functions effectively during normal times, then alone can it have value and utility during a riot situation. The efficacy of a control room does not depend upon available equipment alone, but upon the qualities of the persons in charge, whose ability to assess and direct can make a valuable contribution to the quality of action taken. In our metropolitan and other large cities, well equipped control rooms do exist. Several cities and towns have introduced the system of patrolling by wireless fitted vehicles. In spite of this sophistication, there is a general complaint that control rooms do not get information in time. We are informed that the presence and utility of control rooms is generally not known to the members of the public and they also do not feel adequately confident to telephone the control room and pass on information because they feel that they would be subjected to annoying interrogation by the officers in the control room. We recommend that there should be a control room at least in all those places which have been identified as prone to communal trouble. These control rooms should function on an on-going basis and should be kept under the charge of officers who are polite and responsive and who are also professionally competent to assess the information passed on to them and indicate action to be taken on such information. Even though some information passed on to the control room may not be useful or may even prove infructuous and frivolous, every bit of information passed on to the control room should be taken down by the officers in charge and acted upon as if it were genuine. We would like to emphasise that if control rooms function during normal times in such a way as to inspire confidence in the public mind, then they would receive a vast mass of valuable information during crisis situations which can be of great value to the authorities in controlling such situations.

47.38 We recommend that the control room should have an adequate team of well briefed police officers who can be expeditiously despatched to a scene of trouble and who can be expected to deal with it

effectively. Briefing of these teams by senior officers in the control room is an extremely important exercise which should not be neglected.

47.39 A riot scheme is a document which indicates the course of action that the police should embark upon in case of a riot. The scheme is prepared during normal times and generally contains factual data relating to the area for which the scheme is prepared and also includes deployment strategies to deal with a riot. We are informed that several riot schemes have been prepared in a routine manner without comprehensively visualising the various kinds of conditions that may emerge in a crisis. Most riot schemes are said to be impracticable because they are designed for a given area in total isolation of the surrounding areas. In practice, communal riots do not confine themselves to isolated pockets but have a tendency to spread quickly to the neighbouring areas. If this factor is not taken into consideration, the objective of a riot scheme would be defeated. Many schemes cannot be implemented because the manpower contemplated in the schemes is not worked out on a realistic basis. For these reasons a riot scheme becomes a routine document not really useful for the purpose for which it is intended, namely, that it should provide a broad guideline for action in a real crisis situation.

47.40 We realise that it would not be possible to conceive of a model riot scheme to cover all possible situations in this vast country. But we recommend that the riot scheme should incorporate at least the following features :—

- (a) The scheme must have complete background information of the area for which it is prepared.
- (b) It must have a list of bad characters with their addresses and with the names of policemen who will be able to identify them in a moment of crisis.
- (c) It should include a list of important areas where trouble could erupt, in the order of their importance.
- (d) It should indicate the localities where minority communities and weaker sections normally reside in sizeable numbers.
- (e) It should provide for a maximum and minimum scheme of static deployment of the police.
- (f) It should indicate the placement of reserves and the maximum and minimum specifications of these reserves.
- (g) It should include statistical information regarding hospitals, fire brigades, and availability of other civic services.
- (h) The scheme should be carefully and constantly updated. Item (b) would require particular attention in this regard.

47.41 We would lay emphasis on rehearsing riot schemes from time to time so that those including the Army who have to implement them would know what

role they have to play during a crisis. In this connection we would commend the use of "sand model" exercises. During these exercises, a clear view would be available of the effect the concentration of force in any one area may have upon the adjacent pockets. The experience gained from these exercises would give those involved in the exercise an idea of the pattern of mobilisation of forces, which would leave no gaps, and which would leave no community unprotected. Alternative routes in case of road blocks or other damage and sitting of reserves at easily accessible points so that they can reach trouble spots quickly, can also be re-drawn and re-oriented. The experience gained from these exercises should be ploughed back into the updating of the riot scheme. Such a scheme, properly exercised and updated, could be of great value during a real crisis situation.

47.42 Though the word 'curfew' as such is not used in any law, it has come to mean in common parlance a prohibitory order which is issued to restrict the movements of the residents of a locality so that they do not come out in public places during specified hours. Curfew is imposed under section 144 of the Code of Criminal Procedure. We note that in recent times the imposition of curfew is resorted to quite frequently and perhaps without adequate thought and preparation. It should be realised that curfew is an extreme measure. It not only curbs the freedom of movement of the citizens but also causes considerable inconvenience to citizens a vast majority of whom are law abiding. Therefore, we feel that the imposition of curfew in any area should be resorted to after careful thought and in such a manner that the least amount of inconvenience is caused to law abiding citizens.

47.43 We do, however, feel that where a situation demands, curfew should be imposed and implemented effectively. We are aware that on many occasions senior authorities impose curfew which prevents the movement of law abiding citizens while anti-social elements actually roam about the area without any kind of restraint. This not only defeats the very purpose of the curfew but also reflects the Government and the administration in very poor light. The faith and confidence of a majority of the people in the capability and effectiveness of the administration are eroded. We, therefore, recommend that curfew should be restricted to those areas where curtailment of the movement of the people is absolutely necessary for the purpose of suppression of large scale illegal activity. Once a curfew is imposed, it should be enforced very strictly. Even before the imposition of the curfew or immediately thereafter adequate police and security forces should be moved into the area bound by the curfew. Anybody found violating the curfew should be arrested and prosecuted. We note that in the existing law the prosecution for violating a curfew is neither easy nor does it carry deterrent punishment. We have, in our Third Report, suggested the enactment of a special law called "The Disturbed Areas (Criminal Law Amendment) Act" to be made applicable to certain areas when they get seriously disturbed by communal riots or otherwise. In this law we have provided for deterrent punishment to a person violating a curfew order in a disturbed area.

47.44 Curfew could become a matter of considerable hardship to the common citizen because no special agency is earmarked to help an individual in need of immediate help. For instance, one would not know what to do if he had a sick person at home or if he had some other similar urgent problem requiring immediate assistance. Even if a policeman is found on the beat he may be of no help because he may not have the resources to help or even if he has, he may not be inclined to help for the reason that his mandate is only to enforce the curfew and to do nothing beyond. We, therefore, recommend that instructions regarding the procedure for obtaining curfew passes should be widely publicised through, as we have said earlier, radio and other media. There should be many centres from where these passes could be issued so that people living in different localities need not rush towards a central area to get such passes. Exceptions should be made in respect of people, going in search of medical assistance, wanting to catch trains, buses etc. to go out of station, or for some other urgent work. Policemen and other government officials should be briefed that they should be helpful to the law abiding citizens. If the authorities are helpful on such occasions they would win over a majority of the citizens to their side and enforcement of the curfew itself would become much easier.

47.45 A curfew is sometimes relaxed for a few hours ostensibly to enable the people to make essential purchases. We have noticed in several instances that after announcing the relaxation of the curfew no other arrangements are made by the authorities with the result that large crowds collect at the few shops which are opened. A riot is an abnormal situation accompanied by fear and violence. Therefore, we recommend that the administration while relaxing the curfew should provide adequate protection and also ensure that families in curfew bound areas are supplied with essential services and commodities. We feel that if the administration attends to these vital needs of the population it could quickly normalise an abnormal situation and put an end to the riot itself. We strongly urge that, in imposing and enforcing curfew, the police and the administration should act with kindness and consideration so far as the ordinary citizen is concerned and in a firm and uncompromising manner with those who violate the law.

47.46 We have already stated that a distinction will have to be drawn between a communal riot and other public disorder situations and in respect of the former, effective decisive action at the earliest possible stage is not only desirable but is also necessary. Once a communal riot flares up, controlling of such a riot even by the use of force may become very difficult. Several instances were mentioned to us in which the authorities were alleged to have used force on groups of people collected together purely for self-protection. We recognise that in a major situation it may be difficult for the police party to go into the causes for the collection of a group of people in a particular place and then decide on its course of action. We, however, feel that all this can be avoided if effective stringent action is taken at the earliest possible time and is not resorted to after the situation has gone out of control. We understand that the Bureau

of Police Research and Development has been conducting research in developing a type of bullet which could be used for the purpose of immobilising without killing or maiming a person indulging in rioting and violent crimes. We note that this research and particularly the held trials which are a part of this research are still in progress, and the development of a bullet of the above characteristics is still not complete. Since we have observed that the use of effective force in a communal riot situation at the earliest point of time is important, we would also suggest that the research undertaken for the development of a non-lethal bullet which will have the effect of immobilising a person without killing or injuring seriously should be speeded up so that the police action could be effective without causing death or maiming of any person. We are of the view that the police is duty bound to render all assistance to the injured and make quick arrangements for the removal of the dead if there are any casualties during their action. We, therefore, recommend that the police party dealing with riots should be accompanied by ambulance and first-aid services.

47.47 The police role in dealing with communal riots does not end with the controlling of a communal situation. Several offences are committed in the course of a riot. Many of these are heinous offences committed by criminals and anti-social elements who take advantage of the chaotic situation prevailing either to settle personal scores or to create terror in the community. Unless crimes committed are registered, investigated and the criminals identified and prosecuted, the police would not have completely fulfilled its role as a law enforcement agency. The investigation and successful prosecution of a crime prevents further crimes and discourages potential criminals. It also restores the confidence of the people in the rule of law. We feel that this important legal function is presently being given a low priority by the police. The police should realise that the task of investigation and prosecution is a mandatory duty cast upon it and any indifference to this task can attract legal sanctions. The police should also note that the registration and investigation of offences, prosecution of offenders, and the deterrent judicial sentence that may be imposed on criminals will act as a preventive against a recurrence of further riotous situations. If stringent judicial action is taken against a criminal and well publicised, it would impose a high degree of constraint upon others from indulging in criminal activities. At the risk of being accused of using a cliché we would urge that the police by its action should drive home the point that "crime does not pay".

47.48 We are aware that in the confused and chaotic situation which prevails during a riot, registration of offences becomes a major casualty. It is futile to expect the victim of a crime to reach a police station risking his own life and report a crime to the police. Even if a crime is reported, the police in their pre-occupation, seldom pay heed to the grievances of the person reporting, and seldom register the offence reported by him. In our view, this practice should be condemned in the strongest possible terms. We recognise that a higher priority should be given to the

restoration or order in a riot torn area but this should not be done to the exclusion of other legal functions of the police. We would, therefore, recommend that the police should open several reporting centres at different points in a riot torn area. These reporting centres should be placed under the charge of competent police officers who should be firmly instructed to record all crimes reported to them. Agitated persons coming to such centres may not be in a position to give cogent account of the crimes committed against them. Information as given by them should be faithfully recorded. The very fact that an aggrieved party is provided a facility to approach an agent of the law to report its grievance, consoles and comforts. If it is treated with kindness and consideration and in a humane fashion its trust and confidence in the police and the administration would increase considerably. Public approval, sympathy and cooperation are the most important factors which could help the administration in restoring normalcy. The simple act of registering a reported crime at a place easily accessible to an aggrieved person, would itself go a long way in restoring public confidence.

47.49 The investigation of crimes recorded is a matter which calls for professional skill and expertise of a different variety. Investigations of crimes cannot be undertaken in moments of tension and confusion. The National Integration Council has observed that special investigation squads should be set up to investigate crimes committed in the course of serious riots. We endorse this observation and recommend that such squads should be set up under the State investigating agency [State CID (Crime)] to investigate all crimes committed in the course of a riot.

47.50 The Madon Commission which inquired into the communal riots in Bhiwandi, Jalgaon and Mahad in the State of Maharashtra in 1969 passed severe strictures against the special investigation squads set up to investigate crimes committed in the course of those riots. The Commission observed that these special investigation squads had acted in a partial and biased manner against one community. We take note of this finding and feel that there are many instances where the special investigation squads were not set up properly with the result that some of them acted in an incompetent and biased manner. We would, therefore, recommend that the special investigation squads for investigating into crimes reported in the course of a riot, should consist of officers of high ability who could be expected to act without fear or favour, and without bias or prejudice. These squads should function under the supervision of a fairly senior officer.

47.51 We are also aware that once a riot gets under control several forces come into prominence and these forces try to interfere in the registration and investigation of crimes. There is an alarming tendency on the part of several local big wigs to prevent the initiation of action against well-known goondas and anti-social elements. We are aware that the police also is not entirely free from blame in this regard. It should be realised by politicians, officials and policemen that non-initiation of action against those

SIXTH REPORT
of the
NATIONAL POLICE COMMISSION



Government of India

March, 1981

or biased behaviour on the part of their subordinates, they can by their example instil confidence in the minds of the people regarding the ability and impartiality of not only themselves but of the entire force.

47.58 We, however, agree that there is a strong case for encouraging the recruitment of members of the minority community and other weaker sections at various levels in the police force. Such recruitment should be without prejudice to the educational and other standards considered necessary for recruitment to the police. Though we have not recommended the reservation of vacancies for the minority and other groups in the police, we would like to stress that any inhibition on the part of the authorities in recruiting members of the minority community in the police merely because they belong to a particular community should be strongly discouraged. While reiterating that the police forces of the various States in the country should truly represent the social structure in the respective States, we would urge that such a situation should be brought about by a competitive, fair, impartial recruitment and training process and not by a protective process like the reservation of vacancies for members of the minority communities, in this sensitive wing of Government administration.

47.59 When a large body of men go into action, it is possible that some of them act in a wrong manner. There may also be unscrupulous policemen who may take advantage of the situation for their own personal aggrandisement. We would recommend that whenever such allegations are made they should not be brushed aside by senior officers, but should be carefully examined and if specific instances of misbehaviour on the part of any policemen are found to be true, such policemen should be punished in an exemplary manner so that the credibility of the police organisation, as such, with the people, is not impaired.

47.60 We are aware that large bodies of Home Guards have been raised in several States and are also efficiently organised under proper command. The Home Guards are generally local people and can play a useful role during serious riot situations. We note that the utilisation of Home Guards in an emergent situation would require that these Home Guards, at least in selected formations, are given addi-

tional training and are also suitably compensated when they are pressed into such difficult tasks. We recommend that the availability and capability of Home Guards in districts should be fully made use of by the police. In an emergent situation the local authorities themselves should be empowered to requisition the services of Home Guards by framing appropriate rules for this purpose. We shall be making our recommendations about the Home Guards Organisation in a separate chapter.

47.61 While there are many causes for communal riots we have looked at the problem mainly to find out how the police could help in preventing these riots and to contain and effectively control them when they occur. For adequate planning of the police arrangements, a proper assessment of the situation is essential. The intelligence agencies have an important role to play in this, both for anticipating the communal tension, which may erupt into riot and in identifying the mischievous elements. The need for proper training and briefing cannot be over-emphasised. The force should be deployed in an imaginative manner and some striking force should be an important component of such arrangements. Firm and effective action should be taken at the initial stages of the riot. The police leadership cannot be permitted to shirk its responsibility. The anti-social elements have to be kept in check and preventive action under the law taken against them. All reports of criminal cases should be registered, thoroughly investigated and prosecuted. The police has to function in an impartial manner and must establish its credibility for fair dealing with all sections of the society. All complaints against individual police officers should be promptly enquired into and exemplary punishment given to those found guilty. In conclusion, we would urge that only a strong political will, determined official commitment to duty, and impartial administration of the laws of the land, and a wide-spread popular condemnation of all those who incite communal passions and instigate communal riots, can in the long run contribute to the solution of this problem.

47.62 The problem of communal riots cannot be isolated from the general law enforcement in a State. A strict and impartial law enforcement on a 365-day basis reduced the chances of a prolonged communal riot.

CHAPTER XLVIII

URBAN POLICING

48.1 Our Census describes an urban area as any place with a minimum population of 5,000 and it categorises all towns with a population of one lakh and over as cities. Section 8 of the Code of Criminal Procedure (Act 2 of 1974) defines any city whose population exceeds one million as a Metropolitan area. For purposes of this chapter, urban area means all cities as defined in our census.

48.2 During the mediaeval period, policing was confined to urban centres and the hinterlands were left to the landlords or zamindars. Their primary task was to make travel between the various urban centres safe and the Village Police was left to the whims and fancies of the local landlord. With the advent of the British Raj, and the enactment of the Police Act of 1861, the British Government tried to extend the regular system of policing to the rural areas but the police stations were so sparsely located in the rural areas that the Village Police continued to play a vital role and the regular police was mostly engaged in the maintenance of order and assisting in the collection of revenue. In all other matters, the police temporarily responded to a given criminal situation and otherwise the bulk of the police resources were reserved for the urban areas. After Independence, the trend has continued and in addition the supervisory officers are getting more and more confined to the district headquarters town or city with its perennial problems of law and order, V.I.P. bandobast and excessive paper work. We, however, feel that such a state of affairs cannot continue for long. In the last three decades, our Five Year Plans have laid greater and greater emphasis on allocation of resources for the development of the rural areas. This has led to much awareness among the people in the rural areas of their rights and privileges and of the unjust social order. This social order is now under severe pressure. The recent farmers' agitations in Maharashtra, Tamil Nadu, Karnataka and elsewhere and frequent caste and class conflicts in the rural areas all over the country indicate the likelihood of unrest in the rural areas. In terms of urban policing this would imply that the police reserves which had so far been exclusively kept for use in the urban areas would now be required for the rural areas also, and the supervisory officers would have to devote greater attention to those areas. Urban police will thus have to be more cohesive and self-contained and less dependent on large reserves of manpower. The recommendations made in this chapter have, therefore, kept in view these factors and the resource constraint that is likely to arise on account of the increased and unavoidable needs of rural policing.

48.3 For purposes of policing, the relevant characteristics of an urban area are frequent and rapid

development of law and order problems, greater variety of organised and unorganised crime, demands made on the police for performing additional regulatory functions, and the need for a more immediate response to crime both because of the more exacting expectations of urban residents and also because of the more far-flung consequences of urban crime.

48.4 Law and order problems develop rapidly and arise frequently in urban areas because of the existence of various organised groups such as students, labour, white-collar workers, all concerned in a small area. As the services and facilities such as housing and transport are far from adequate, there is a struggle for the available services which creates points of friction. Apart from regulation of normal traffic, big social gatherings such as sports meets demand bandobust duty. The expression of dissent and dissatisfaction through various types of processions and morchas takes place in cities where government offices are located and where members of government live. Thus bandhs are an urban phenomenon. The existence of a large floating population, the presence of gullible rural migrants, give rise to crimes involving cheating, confidence tricks, etc. Large population and heavy densities increase anonymity. The flow of large cash in the handling of business through banks, cinema houses, and major retail outlets increases the temptation as well as the opportunity for crime. Some forms of urban crime also seem to have gained a measure of social acceptance. The prevalence of black money, corruption and large scale racketeering in drugs, drink and women seem to be accepted as unavoidable evils. On the other hand, urban areas are also characterized by much greater awareness of the rights of the citizen. Offences against person always draw excited attention. Per lakh of population there is greater criminality in urban areas. Public opinion is vocal and there is a vigilant and active press and these put pressure on police for improved behaviour and better performance.

48.5 While the problems of urban policing are very complex, the existence of an informed and vocal public which is willing to cooperate with the police by giving information can go a long way in helping the police to tackle these problems. Here we would again refer to the importance of registering all crimes that are reported or noticed though we have made this point in our earlier Reports. This is of particular importance in urban policing because a substantial portion of the property stolen in urban areas is identifiable. It is in the nature of property offences that the detection of one property offence leads to the recovery of properties involved in several other crimes which had remained undetected. We, therefore, feel that all property offences reported to the police should be

registered and a detailed description of all the stolen properties kept on record. In this chapter, we have later suggested computerisation of such records so that when a criminal gang is detected, all property recovered from the gang can be traced through available records and the detection of a large number of similar offences is facilitated. To cite one example, if all cycle thefts are correctly recorded and promptly registered, the detection of one gang and the recovery of a few hundred cycles would immediately imply the detection of that many cases. At present, the cycles are recovered but they lie for indefinite periods in the police stations because the thefts had not been registered and so the police do not know to whom they belong.

48.6 It is obvious that in urban areas police should be fully equipped to act promptly and effectively, should have an intelligence organisation to collect information on crime, criminals and other related matters, should have the capacity to undertake various duties relating to security and should have the means to take effective preventive and regulatory action to ensure order in the urban society. We now proceed to make recommendations on specific areas like manpower, equipment, training, specialisation, organisational structure, traffic control, public relations and special patterns of policing.

48.7 *Manpower.*—In terms of manpower, we have noticed that while additional duties are constantly given to police, generally through enactment of new laws, there seldom is a similar increase in police manpower. We suggest that for every city a triennial assessment of manpower should be made.

48.8 *Equipment.*—In terms of equipment, the requirements of the police in general have been spelt out by us in Chapter XXIV of our Third Report dealing with the modernisation of the police. The areas identified for urban policing are as follows :—

(1) *Transport.*—The police need adequate transport to reach a scene of crime quickly and to mobilise manpower to deal with a law and order problem. Preventive work calls for patrol cars and flying squads. We have in our Third Report already recommended that transport should be available right down to the police station level. Here we only wish to reiterate that police should be in a position to respond very quickly to requests for police intervention.

(2) *Communication.*—Communication facilities for the police must serve two objectives; facilitating communication with the public and facilitating intra-departmental communication for exchange of information and mobilisation of manpower to respond to a crime or a disorder situation. In urban areas the need for these facilities is all the greater because of the greater volume of crime and the speed with which situations of public disorder can develop. People should be able to get through to the police over the telephone quickly instead of listening for a long period to the engaged signal. To meet the requirement of accessibility to the general public, the police require the general P&T telephone link, in addition to their own police internal communication

S/2 HA/81—6

network. It is, therefore, essential that all police stations and outposts should have a regular P&T telephone and all operational officers in the city police should be equipped with telephones both in their offices and residences. This would also assist the police to communicate with the people and gather timely information. However, even in a city, not all members of the public have easy access to a telephone despite the fact that the P&T authorities do make arrangements to make available a large number of public call offices. In some countries this difficulty is overcome by placing police telephone booths in strategic places in the city. These booths can be used for dialling, free of cost, any police number or an emergency service such as the fire brigade or the ambulance. These police call booths could also be fitted with a light indicator which would indicate to the beat constable in the area when he is required by his police station. We feel that in the larger cities this facility should be provided to the people. For intra-departmental communication such as between control room, police stations, patrol vehicles, and patrol parties on the streets a VHP network of radio telephones is vital. The police in Indian cities have been given these facilities to some extent under the Police Modernisation Scheme. Their continuance and expansion would be a step in the right direction. This has already been recommended in our Third Report and is being further reiterated in the context of urban policing. In addition we have found that in a few cities the police have the system of an internal PBX. This proves very useful when the P&T telephones fail to work or get congested. The P&T telephones in addition carry the risk of vulnerability of interception by undesirable elements. We feel that these facilities should be set up in all the larger cities in India. Where possible, underground cables should be used to prevent sabotage.

(3) *Scientific aids.*—The availability of scientific aids to the police in terms of Investigation Boxes and Scene of Crime Vehicles has been emphasized by us in our Third Report. In the context of urban policing it is recommended that all cities with a population of 5 lakhs or more should be provided with an exclusive Scene of Crime Vehicle and the larger cities should have more such vehicles. Similarly, all police stations should be provided with Investigation Boxes and particular care should be taken to ensure that police officers posted for investigation work are trained in the appreciation, collection and utilisation of scientific evidence. In brief, scientific aids must be physically available and the police should have the ability to use them.

(4) *Single Digit Bureau.*—Single Digit Bureaux assist the police in detecting the identity of a criminal on the basis of a single chance finger-print found at the scene of crime. In our Third Report we have already emphasised its importance and recommended its spread. In the context of urban policing it is recommended that cities with 5 lakhs and above population should have a Single Digit Bureau.

(5) *Computers.*—In our Third Report we have recommended that computers should be available to the police in all the States for storage and instant

retrieval of records of crimes and criminals. We also envisage the use of computers for registration of all motor vehicles and the antecedents of persons of doubtful character. In urban areas, criminals have the advantage of mobility and police response would be adequate only if records are speedily available to them. This is possible only with the help of computers. As only one computer would be made available to each State police force, not all urban areas in the States are likely to have access to a computer unless all these cities have direct communication through the police wireless network with the State level computer. The creation of a National Crime Records Bureau with a spread down to police station level has already been recommended by us in our Second Report. However, in urban areas, this could be taken up on a priority basis.

(6) *Control Rooms.*—In our Third Report we have endorsed the guidelines for setting up the Police Control Room for all cities with more than one lakh population as spelt out by the Directorate of Coordination, Police Wireless, Ministry of Home Affairs, Government of India. The importance of a Control Room in urban areas cannot be over-emphasised and its role as the centre of all police operations, a centre for receipt of calls for police aid, a coordinator of all police mobiles and as the place from where all police activity is directed to meet a public disorder situation or a natural calamity, requires no reiteration. We strongly recommend that our earlier recommendations in this regard should expeditiously be implemented in all urban areas. With regard to Control Rooms, the question often asked is whether it should be located in the main police station of the city or in the Office of the Chief of the City Police. We have seen that in Bombay the Control Room is located in the Office of the Commissioner of Police and senior police officers are able to attend to their routine work while awaiting a law and order situation to develop. But wherever the Control Room is away from the Office of the Chief of the City Police, senior police officers sit idle in the Control Room pending their participation in a law and order situation. We recommend that Control Rooms should be located within the Office of the Chief of the City Police.

(7) *Law and Order equipment.*—Policemen in urban areas should have adequate supply of law and order equipment such as helmets, visors, body guards, shields, tear gas masks and ammunition to meet their full requirements. This aspect is often neglected. However, its availability helps in improving police performance and morale. When policemen do not have proper equipment to face a barrage of stones they tend to react in panic and use firearms.

(8) *Police station buildings.*—All over the country we have seen the distressing state of affairs in regard to the condition of police station buildings. A police station building should have adequate space for its staff as well as reception facilities for members of the public. It should have conveniences for the staff and visitors. Ideally, there should be provision for staff quarters within the police station precincts to ensure availability of police manpower round the clock. Besides, in large cities a great deal of time is

spent on commuting from home to police station and back leaving the men, on account of their long hours of duty, little or no time for their personal affairs. Police station buildings in urban areas should be developed on these lines.

Training and specialisation

48.9 At present all policemen whether they have to work in a rural or an urban area are trained in identical fashion. In some of the larger cities in the country such as Bombay and Calcutta, the subordinate ranks, particularly the constabulary, is exclusively recruited for the city. But this does not mean that their training is specifically aimed at improving their operational efficiency in urban areas. Urban policemen at present learn through experience. We recommend that policemen in urban areas should be specifically trained to handle (1) sophisticated equipment; (2) withstand stress; and (3) respond quickly to directions received. This response training is very important. In this connection a question that arises is whether policemen should be permanently earmarked for the urban areas and allowed to specialise in urban policing or there should be exchanges of talent and expertise between the rural and urban areas. In some States we have noticed a tendency on the part of the Government to keep some police officers, particularly at the subordinate ranks, permanently in the urban areas while in a few other States there is no definite policy of keeping the subordinate ranks either in the urban areas or in the rural areas for any length of time to specialise in a particular kind of policing. In medium size cities particularly those between one lakh to ten lakh population there is no personnel policy as far as policing is concerned. Policemen are brought in from the rural areas for reasons other than policing and are for similar reasons sent out of the city to remote corners of the State or district. We are of the view that rigid compartmentalisation as also frequent inter-changes are both equally undesirable. Rigid compartmentalisation leads to unequal promotion prospects in the subordinate ranks in the rural and urban areas while their frequent transfers do not meet the requirements of specialisation necessary for urban policing. We feel that in the gazetted ranks there should be a free interchange of officers between urban and rural areas while in the subordinate ranks officers should be given a longer tenure, something like ten years, to specialise in either rural or urban policing without ruling out the need for inter-change of expertise and talent for the healthy development of police in both the areas. We wish to discourage the creation and development of an elite feeling among the ranks of urban policemen. In a city the subordinate ranks of policemen, are under close and continuous supervision of higher officers and, therefore, the one key professional requirement from them is quick response to directions given. In the rural area a Sub-Inspector posted as SHO in a remote corner with poor communication facilities may be able to manage with a slow response to difficult situations but cannot manage without taking decisions, and decision-making requires ability. It is, therefore, wrong to consider that those posted in urban areas are in any way superior to their counterparts in the rural areas.

48.10 In our First Report we have visualised a higher status for the constable and recommended his association in the investigation of minor offences. A beginning in this regard could be made in the urban areas as such constables would have the benefit of close supervision from their superior officers. Full utilisation of every policeman is essential to meet the resource constraint that we envisage.

Organisation

48.11 In a few large cities we have the Commissioner of Police system while elsewhere the policing is done under a Superintendent of Police. In Chapter XXXIX of our Fifth Report we have discussed the need to invest the S.P. with adequate authority and power in order that he may be able to perform adequately the functions entrusted to him. In this context we have referred to the need to make the S.P. operationally independent of the control of the Magistrate of the District, to ensure a unified line commanding the Police and also to define areas of responsibility and accountability. In the Commissionerate system of policing the responsibility for all aspects of policing vests in the Commissioner and the accountability for adequate performance is also that of the Commissioner. To fulfil this responsibility the Commissioner is vested with powers of regulation, control, licensing, etc., in addition to the usual police powers. An operationally autonomous police force functioning under professional command is as responsible and accountable to the Government, the legislature, the press and the public as the District Police Force under the District Magistrate. All that happens is that the police function under their own professional leadership and this leadership is in turn accountable to the Government and the various other forums in our democratic society.

48.12 We have ascertained that opinion is generally in favour of having a unified professional command system and accountability at least in large cities. The State Study Groups have expressed the view that the Commissionerate system should be extended to all metropolitan cities and other large cities. The Bihar Police Commission approved of this system and recommended it for Patna and Jamshedpur. The West Bengal Police Commission appreciated its working in Calcutta. The Maharashtra Police Commission approved of the system and recommended its spread to other large cities. The system now exists in Poona and Nagpur cities in addition to Bombay and it is proposed to introduce it in Thana also. We might add that the Delhi Police Commission headed by Justice G. D. Khosla had, following an exhaustive examination of the Commissionerate system, found that functional autonomy leading to prompt and coordinated police action in response to crime and disorder is desirable and it does not mean that the police ceases to be accountable to the government and the legislature. We found that the Police in Commissionerates, not only in Bombay, Madras and Calcutta, but also in smaller cities have given a much better account of themselves than the Police in districts. We also feel that in large urban areas several problems arising out of social tensions, more opportunities for crime, and the occasionally spontaneous explosion of law and order situations call

for an extremely quick response from the police at the operational levels and precise, comprehensive and prompt directions from the superior levels. There is seldom any time for discussion and debate and assessments and agreements. Quick action springing from purposeful direction is called for. This can be achieved only when the police are organised in a unitary chain of command which embraces the two basic functions of decision-making and implementation. Particularly in large cities these two functions have to go together. We, therefore, recommend that in large cities that is those with a population of 5 lakhs and above and even in places where there may be special reasons like speedy urbanisation, industrialisation et cetera the system of Police Commissionerates as it exists in Bombay, Calcutta, Delhi, Madras, Nagpur, Poona, Hyderabad, Ahmedabad and Bangalore should be introduced. In view of the complexity and the enormous dimensions of police problems that frequently arise in large cities the Commissioner should be a police officer of adequate maturity, seniority and expertise. This is important because an advantage of this system is the direct, and not supervisory, involvement of a senior and mature police officer in the day to day policing of the city. It is this that operationally distinguishes a Police Commissioner from a Superintendent of Police in a district. The Police Commissioner should have complete authority over his force and should be functionally autonomous.

48.13 The next question is whether the Commissioner of Police should be answerable to the Government directly or through the Police Chief of the State. In Madras the Commissioner of Police is subordinate to the Director General of Police while in Calcutta he is directly responsible to the Government. In Bombay, he is an independent head of department but is answerable to the Inspector General of Police. All the concerned State Police Commissions have generally supported the *status quo* as it exists in their States. We feel that the Inspector General or the Director General of Police, since he is responsible for the policing of the State, should have control over the police forces in the major cities of his State. For this reason we feel that while the Commissioner of Police should be delegated all financial and disciplinary powers of a head of department to facilitate his working he should remain subordinate to the Police Chief of the State.

48.14 For cities below five lakhs and above one lakh population we visualise a separate city police force exclusively earmarked for the urban areas, working under the direct supervision and control of the Senior Superintendent of Police for the district. However, cities of 3 lakh to 5 lakh population should have an officer of the rank of Superintendent of Police as the head of its city police force and this head in cities with one lakh to three lakh population could be an Additional or a Deputy Superintendent of Police depending upon the complexities of the problems of that city. At the police station level also the problems faced in urban areas are multifarious, and difficult and the people expect a better response from the police at this operational level of the police organisation. This implies that the officer in-charge

of an urban police station should be of a senior rank, at least that of an Inspector. In police stations, in important commercial areas and in the industrial belts where the police have to face complex situations and frequent breakdowns of law and order we anticipate that even a Deputy Superintendent of Police could be posted as the officer in charge.

Functional division of work

48.15 We had collected some data regarding the duties performed by the staff of the police stations in the various States in terms of investigation, court attendance, process serving, beats and patrols, law and order, traffic, VIP duties, office work, sentry duties and miscellaneous work. In analysing the work relating to the subordinate ranks of the police we found that the same staff perform duties relatable to law and order and investigation. Law and order and VIP bandobust in actual practice take priority over prevention and detection of crime. In view of this unavoidable priority we find that in cities criminal investigation work suffers. This creates great dissatisfaction among the people who have been victims of crimes. One remedy which was suggested to us and has been tried out in Punjab is separation of law and order staff from Investigation staff. If a certain portion of the staff is exclusively earmarked for investigation such as a corps of detectives, investigation of crimes would not be neglected to the extent that it is being neglected at present. We, however, find that so long as the responsibility of the head of the city police for law and order remains, even people who are meant only for investigation work, are also drawn into law and order work. This has, for example, been persistently happening in Calcutta. On the other hand if the separation is very rigid then at the police station level the law and order staff lose their authority and become less effective in controlling disorder. Besides, crime situations very rapidly develop into law and order situations and *vice versa*. We are, therefore, of the view that the separation of law and order and detective staff should be at the police station level only and they should all remain under the Station House Officer. Higher officers *i.e.* those above the SHO can remain territorially responsible for both law and order and investigation of crimes. It would, however, be advantageous to have a gazetted officer, for close supervision of investigation work regardless of the police station involved. Depending upon the size of the city, the numbers in this supervisory rank can be increased and their ranks upgraded. Besides, some special types of crimes would have to be handled by specialist squads under the chief of the city police.

Specialist squads

48.16 Urban areas are characterised by specialised and sophisticated crimes and all investigating officers are not equally well trained and equipped to deal with their variety and complexity. It is, therefore, essential that cities should have a local Crime Branch to deal with special crimes while the police stations are left to deal with routine crimes. Even in the police stations there would be need for some special squads to deal with social offences like prostitution, gambling and prohibition or special kinds of criminals like pick

pockets. The types and numbers of crime in a city do not always depend upon the size of the city but also depend upon the nature of the population in the city. In view of this we cannot determine a universal principle on the kind of special squads that should be available for each city. But, broadly speaking, all cities with more than 5 lakh population should have the special squads indentified by us in the following paragraphs. In other cities there should be special city squads depending upon the particular needs of that city. The special city CID squads which will function under the control of the Commissioner of Police or the Superintendent of Police, as the case may be, we visualise, for the larger cities, as follows :—

- (1) Homicide Squad.
- (2) Burglary Squad.
- (3) Economic Offences and Forgery Squad.
- (4) Kidnapping/Missing Persons Squad.
- (5) Robbery/Dacoity Squad.
- (6) Automobile Thefts Squad.

In real terms it implies that in city police stations staff would be earmarked for investigation and law and order but where a complicated crime requiring the assistance of a specialist is required, the police station would register the offence and take up preliminary investigation pending the arrival of a specialist. As the special squads would be available within the city we visualise that they would come into action immediately.

48.17 Urban police forces require a sizeable complement of women police to deal with the problems of women and children. Enforcement of the laws relating to them should involve increasing numbers of women police. The women police officers should be made available down to the police station level and among other things they could very profitably be utilised as receptionists in police stations.

48.18 Urban police forces, particularly in the larger cities, require an effective and well equipped intelligence agency to gather information regarding law and order. We, therefore, visualise that every city with a population of five lakh and above and in the smaller cities there should be City Special Branch for collection of intelligence relating to law and order. These special Branches could also look after the special security requirements of airports and other vital installations and perform specialised duties relatable to VIPs.

The legal framework

48.19 The next question that arises in the context of the organisational requirement outlined in the foregoing paragraphs is how to provide the legal framework for it. We feel that there should be a provision in the Police Act itself that there should be a Commissioner of Police for all cities with a population of 5 lakh or more. The powers to be exercised by the Commissioner of Police should be those that are spelt out in the Delhi Police Act 1978. However, though this provision would give the legal cover to

the creation of the post of Commissioner of Police to implement our recommendations we feel that the Code of Criminal Procedure 1974 also requires a suitable modification. Under Section 8 of the Code of Criminal Procedure the term "Metropolitan Area" has been defined as any area in a State comprising a city or town whose population exceeds one million. In Section 20 of the same Code it is provided that some of the powers of a Executive Magistrate could be conferred on a Commissioner of Police in metropolitan areas. The system of conferring powers of an Executive Magistrate on a Commissioner of Police is already in vogue in cities with more than one million population. We have recommended that all cities with 5 lakh or more population should be regarded as metropolitan areas. This could only be done if Section 8 of the Code of Criminal Procedure 1974 is suitably amended. We, therefore, recommend that the term "Metropolitan Area" appearing in Section 8 of the Code should be modified to include "any area in the State comprising a city or town whose population exceeds 5 lakh" as against "a population of one million" as at present.

Press and public relations

48.20 As has been pointed out in the special features of urban policing, the press and the public play a very important role in the urban areas. We have already highlighted this fact in our recommendations relating to the police-public relations in Chapter XLI of our Fifth Report. All large cities generally have an element of the local press in addition to correspondents from the national and State level papers and journals. Incalculable harm is done if there is a communication gap between the press and the police. It not only spreads panic among the people but also tarnishes the image of the police and in the process makes the work of the police all the more difficult. We, therefore, recommend that in all cities with a population of 5 lakh or more there should be a Public Relations Officer under the Chief of the City Police with the following charter of duties :—

- (1) To release briefs to the press on news of public interest.
- (2) To organise exhibitions and conduct lectures in schools, colleges and other institutions, to educate the public about their rights and responsibilities.
- (3) To act as a counsellor to the people when they are in difficulty and guide them correctly in the police procedures and regulations and help them in getting their work done quickly through liaison with the concerned police officers.

Special patterns of policing in urban areas

48.21 In urban areas the police have of necessity to adopt certain special patterns to ensure their effectiveness. In Bhopal, a larger police spread was ensured by strategically placing police aid posts consisting of prominent kiosks in which one or two policemen were located in front of cinema houses,

parcs, market places and other places where there were large gatherings of people. These posts were successful but could not be sustained because no additional sanction of staff was given for their creation and maintenance. In urban areas, this system could be tried with success provided these posts are given either telephone or wireless facility to summon, in case of need, help or the special investigating squads. In this connection we studied the system of local constables introduced in Malaysia under the Salleh system as also the system of Kobans in Japan. Japan also has a system of resident constables in localities. In our own country we have a system of outposts. We, however, feel that in urban areas watch and ward outposts will not meet the requirements of immediate registration of offences and their investigation until such time as, should it be required, specialist squads can take over. In urban areas it would, therefore, be relatively better to have small police stations rather than outposts. Such an arrangement will also provide for better control of and supervision over the staff. Every police station need not, however, have male and female lock-ups, malkhans, kot and, therefore, sentries. Groups of 2-3 police stations could use these facilities at a larger police station. We, therefore, recommend, for easy availability of police to the people and the greater spread of police presence in urban areas, the establishment of more police stations rather than outposts and the grouping of these police stations, for purposes of lock-ups, etc., under a larger police station in their middle.

48.22 In our study of various cities in India we found that the majority of urban residents collectively or individually appoint chowkidars to do watch and ward in their localities, or homes. The main difficulty with the present system is that people are unable to find reliable persons to undertake this job and there is no method to check whether the chowkidars are performing their duties well at night unless the employer himself gets up in the night and checks. These private chowkidars on the other hand have the capacity to prevent burglaries and thefts if they could be effectively organised. A way out could be for the police to verify the antecedents of these chowkidars and check them in the course of their night rounds.

48.23 There have been several suggestions on what is the best way to patrol a city. There are three basic systems, namely :—

- (1) Wireless equipped patrol cars that constantly patrol the city during day and night to show police presence and to rush to a scene of crime when instructed by the city control room.
- (2) Beat patrol on foot or on cycles by police parties in the various localities of the city particularly at night to prevent thefts and to round up suspicious characters or people who are creating a nuisance.
- (3) The Bobby system of patrolling wherein the police visit the various residential localities and call on the people and find out their difficulties.

The first two are being successfully and effectively tried in all the cities. The third was tried in Bombay but given up for lack of additional staff required. We recommend the strengthening of the first two with suitable addition to manpower. But we feel that it would be more cost effective to have patrols on foot and on cycles rather than on motor vehicles which should generally be kept at various locations for doing the job of a dispersed flying squad. We feel that there should not be an over emphasis on patrol cars as they tend to be impersonal and are very expensive.

48.24 We have also seen that urban areas in India are growing very rapidly and new colonies are coming up without adequate provision for police presence through outposts and police stations. As a result these new colonies are specially vulnerable to criminals and bad characters. It is, therefore, necessary that police officers should have a say in urbanisation plans of a city by being associated with the development authority or the town planning board so that the police point of view is taken into consideration in drafting

the urbanisation plans and the growth of the city. Whenever a new colony or area is to be developed adequate space should be earmarked for the creation of a police station with staff quarters so that in the ultimate development of the city the police is not handicapped by lack of accommodation to ensure its presence. We have instances even in Delhi where a new colony does not have space for a police station which then is located in rented quarters often shared by others.

48.25 Towards the end we would like to mention that though in urban areas the assistance of outside police forces is available very rapidly, we feel that the requirements of CRPF and BSF should be very limited and request for Army assistance ought to be a very rare feature indeed. A well organised police system can ensure this : a case in example is Bombay city. What is required is a police organisation suited to the requirements of the city and working within a suitable framework of laws and rules such as have been recommended by us in this chapter.

CHAPTER XLIX
SUMMARY OF OBSERVATIONS AND RECOMMENDATIONS

Police leadership—the Indian Police Service

49.1 The police service can have no future unless it earns the respect and confidence of its men and the public, and therefore the standards for the conduct and performance of the IPS officers should be set at an appropriately high level.

(Para 44.10)

49.2 As the functions of the IPS officers have not only multiplied manifold, but are becoming more complex, hard and hazardous, calling for higher professional and technical skills and competence, special measures to attract some of the ablest officers from the lower echelons and also from the outside world are required. This means that the terms and conditions of this service should be comparable with those of the best services. There appears, therefore, no justification for the emoluments and prospects of the IPS being in any way inferior to those of the IAS. The minor improvements in the various pay scales of the IPS did not adequately improve the career value of the service because the yawning gap with the IAS has remained. At present the country is facing such serious dangers that its very integrity and unity are threatened. Needed in the IPS are men whose calibre is not only equal to that of the IAS officers but who also possess certain mental qualities, courage and higher physical standards, that are specially needed for effective police work. Therefore, the present differentials are counter-productive and it would be cost-effective for the Government to improve the quality of recruitment, emoluments and career prospects of the IPS by bringing them on par with those of the IAS. This recommendation is made because of the importance of stability in society and, therefore, to improve the calibre and performance of this most essential service. This recommendation also flows logically from the recommendations of the Kothari Committee which should be implemented in full.

(Paras 44.14, 44.15 and 44.16)

There is persistent public criticism of the police and its role in society which is in contradiction to the glamour associated with some other services. A service which is thus associated with a high degree of personal risk and professional hazards, which suffers from lack of status because of the very nature of its work and which does not have within its pay structure and service conditions an adequate element of compensation cannot be expected to be popular with young men while choosing a career from among a number of avenues open to them specially when, in some services, the hazards and risks are negligible, conditions of work are not so exacting, emoluments and benefits are greater and social status and recognition

better. While the handicaps and drawbacks inherent in police work cannot be removed they can partially be compensated for, by putting them on par with officers of other services. That is why the equality in the pay scales and parity in prospects of the IPS with the IAS is recommended.

(Paras 44.20, 44.21 and 44.22)

49.3 The Kothari Committee had suggested that officers be assigned to the various Services on the basis of aptitude and suitability, after the completion of the foundational course, a subsequent examination and more specialised interview to provide for individual psychological and aptitude tests. These recommendations of the Kothari Committee and more particularly that part which suggests allotment of officers to various Services on the basis of aptitude are endorsed.

(Para 44.23)

49.4 To allow greater avenues for promotion to the various lower ranks in police direct recruitment to the IPS should be reduced to 50% of the vacancies and this should continue to be made from the Civil Services Examination introduced from the year 1979, but the age limit for the IPS should be restricted to 21—24 years on account of the long training period of five years which is recommended later. Appointment of a candidate to the IPS after he has been selected for it should be held in abeyance if he wishes to compete again for other Services. It should be open to the candidate to accept the offer, after a year, should he so desire. In that case he would be given a place in the next batch of the IPS and he would thus lose one year of service and pay. This would save the Government from wastage of the training effort at the National Police Academy, Hyderabad and ensure that any officer who joins the IPS continues in the service and devotes his full attention to training.

(Para 44.24)

49.5 The 16 $\frac{2}{3}$ % of the total vacancies may be filled by a Limited Competitive Examination to be conducted by the Union Public Service Commission which should be open to any police officer, including those in the CPOs, in the age group of 30—35 with a minimum service of 8 years. The remaining 33 $\frac{1}{3}$ % promotion quota should continue to be reserved for serving police officers in the rank of Deputy Superintendent of Police, as at present. The written examination for the Limited Competitive Examination should be designed to include subjects relevant to police work such as law, Criminology, Police organisation, Sociology, Psychology besides the usual General Knowledge and English. Those, who qualify, should be required to appear for a personality test of 300 marks and their

ACRs should be evaluated for which 200 marks be allotted. Thereafter, the successful competitors be required to appear before a Board for physical fitness tests carrying 200 marks. Candidates successful at the Limited Competitive Examination should be allotted to States other than those in which they were serving before appearing for the Limited Competitive Examination.

(Paras 44.25 and 44.26)

49.6 Promotion of Deputy Superintendents of Police with 8 years of service in the grade whose age does not exceed 52 years in the year of selection may be recommended for inclusion in the IPS Cadres by the UPSC. This selection would, however, be based upon the following :—

(i) A qualifying written examination to assess professional knowledge, ability to comprehend and solve practical problems and the officers' efforts to keep abreast of changes and developments	200 marks
(ii) Evaluation of ACRs by the UPSC assisted by Police Advisers including a serving IGP.	500 marks
(iii) Interview by the UPSC Board.	200 marks
(iv) Physical fitness to be assessed by a Selection Board through some tests	100 marks
TOTAL :	<u>1000 marks</u>

The list of those who qualify shall be prepared State-wise and the officers who are promoted to IPS after 45 years of age will continue to be allotted to their respective States and given, on promotion to the IPS due credit for their service in the lower ranks, as at present. Those who are promoted to IPS before they have crossed the age of 45 will be allotted to other States.

(Para 44.27)

49.7 There is a strong case for rationalising and improving the internal structure of the Indian Police Service and bringing it on par with the IAS in pay structure and promotion prospects. It is recommended that the pay of the DIG should be the same as that of a Commissioner, of the IG the same as that of an Additional Secretary in the Government of India and of the Director General the same as that of a Secretary in the Government of India. Much higher standards of selection to the higher ranks in the police would be needed. All-India selection panels for those posts should be drawn up, based upon performance in various courses, evaluation of ACRs, interview by a UPSC Board and assessment of physical fitness. This will prevent the promotion of mediocre officers to higher levels and thereby assure the police of able and competent leadership.

(Para 44.31)

49.8 There is a wide variation in the promotion prospects to the levels of DIG and IG of IPS officers from cadre to cadre and in comparison to the Central Police Organisations. This position, is quite unsatisfactory. There is need for uniformity of prospects

within the IPS irrespective of cadres. This necessitates the creation of Central selection panels for the ranks of DIG and IG.

[Para 44.33(1)]

49.9 In the interest of clean and Impartial administration, every direct recruit taken through either the Civil Services Examination, or the Limited Competitive Examination should be posted outside his own State. This will promote the interest of national integration and clean and impartial administration, matters which have become of great concern to everybody in this country. Simultaneously with the adoption of this system of posting directly recruited officers, to States other than their home States, should be provided enhanced TA facilities on the same lines as in the case of commissioned officers in the Armed Forces. This would enable these officers to reach their homes on occasions of emergency without much expenditure and inconvenience.

[Para 44.33(3)]

49.10 Each and every officer promoted from the State Police Service should work in the Central Government also unless he is promoted after the age of 48 years *i.e.* he has less than 10 years to retire. State Service Officers promoted to the IPS before the age of 48 must do a minimum of one deputation at the Centre of 3 to 5 years. IPS officers should be exposed to a variety of jobs in and outside the police organisation in order to broaden their outlook. There are certain jobs outside the police organisation that require the special knowledge that police officers acquire.

[Paras 44.33(4) and 44.33(5)]

49.11 The management of the IPS cadre should be by police officers, at the Centre, through the Central Police Establishment Board and in the States by similar Boards set up under the State Security Commissions. The High Powered Cadre Review Committee has no IPS officer on it and operates more or less mechanically with little scope for going deep into the cadre increase proposals. For purposes of expert advice, two heads of CPOs should by rotation be included in this Committee, in addition to its present membership. The Triennial Cadre Review must involve, in addition to the representatives of the State concerned, the IGP/DG also and go into the following matters :—

- (i) Review the performance of the State police against its IPS strength and the relative management by the IPS officers of the Civil and Armed Police.
- (ii) Analyse with reference to the current needs and problems of the cadre structure of the State, the Central Deputation Reserve, the Deputation Reserve, the Training Reserve, the Leave Reserve and the number of junior posts.
- (iii) Formulate plans for the pattern growth in the light of the future needs of the State

police, the challenges it will have to face and its pattern of growth. To begin with the first stage plan should be made or at least a decade on the basis of the recommendations made from time to time in the Triennial Review.

[Paras 44.33(7) and 44.33(8)]

49.12 Two Central IPS cadres should be constituted—one for the para-military organisations like the BSF, CRPF, ITBP and the other for such organisations as the IB, CBI and RAW. Such Central cadres can be constituted within the framework of Article 312 of the Constitution. The Constitution says that the Parliament may by law provide for the creation of one or more All India Services *common to the Union and the States*. The essential constitutional requirement that the All India Services should be common to the Union and the States can, not only be met but would also be desirable in respect of these two Central cadres. As already said, each and every IPS officer of these cadres should be sent to various States for spells of duty on the basis of a roster while IPS officers from the States would continue to come to these organisations on mandatory deputations. Rule 3(1) of the Indian Police Service (Cadre) Rules, 1954 will, however, need to be modified. It says that, "there shall be constituted for each State or group of States an Indian Police Service Cadre". The two Central cadres will have to be added in this Rule. There shall be three sources of recruitment in these Central cadres. The first would be direct intake of IPS officers through the Civil Services Examinations. This means the CPOs will no longer directly recruit any officer other than IPS officers coming through the U.P.S.C. The second source would be army officers and specialists such as engineers, doctors, computer specialists etc., who would enter laterally as considered necessary from time to time. These officers will have the option to join the IPS through a process of selection. The third source would be IPS officers on deputation from the various States.

(Para 44.35)

49.13 The creation of two Central cadres would throw up a large number of vacancies. It is recommended that the non-IPS officers, who are at present working in these organisations, be considered for filling up the new vacancies through a special recruitment to IPS to be conducted by the Union Public Service Commission.

(Para 44.36)

Training and career development of Indian Police Service officers

49.14 The police performance at the cutting edge level of constable and middle operational and supervisory levels of sub-inspector and inspector largely depends on the quality of leadership and professional competence of the officers of the IPS. New knowledge and skills have to be imparted to IPS officers to effectively deal with the new problems and requirements. The basic approach in stressing the importance of training and education in police at all levels is to

S/2 HA/81—7

build a new organisational and performance culture based on greater professional competence, enriched job content, improved inter-personnel as well as police-public relations.

(Para 45.3)

49.15 The Committee on Police Training had restructured the curriculum of the probationers' course by changing the emphasis and without reducing either the indoor or outdoor contents of the existing programme. While both the perspective and the changes suggested by that Committee are endorsed it is suggested that instead of packing the entire knowledge and skill in one basic course it should be spread over the first five years of service and should alternate between training in the National Police Academy and training on the job. Accordingly, the following pattern of training and career development for directly recruited IPS officers is recommended :—

S. No.	Course	Duration in months
1.	Foundational Course at LBSNAA	4
2.	Civil Defence and handling of explosives	1
3.	Basic course at SVPNPA	6
4.	Army attachment	½
5.	State PTC including a 12-day fleet Management Course at the Central School of Motor Transport, Sagar (M.P.) and 15-day course at the Central School of Weapons and Tactics at Indore (M.P.)	2
6.	Working in a P.S. as Constable and Head Constable	1
7.	Working as Sub-Inspector in a Police Station	2
8.	Attachments to Prosecution Branch, CID, Headquarters Lines and at District Police Office	2
9.	SHO rural police station	6
10.	Review Course at SVPNPA	2
11.	SHO urban police station	6
12.	SDPO	24
13.	Junior Management course at SVPNPA	3
TOTAL :		59½

(Paras 45.7 and 45.10)

49.16 It is proposed that before promotion to the ranks of Superintendent of Police, DIG and IG, all IPS officers should undergo specifically designed pre-promotion courses followed by an examination and an objective selection process.

(Para 45.13)

49.17 After an officer has completed 2 years in a Sub-Division he should go to the SVP National Police Academy for a Junior Management Course. At the end of the course there should be evaluation by the Ministry of Home Affairs through five papers of 100 marks each and 100 marks by the Head of the Academy on the officer's general development, efficiency,

fitness, suitability etc. On successful completion of this course, the officer can be posted as Superintendent of Police incharge of a district. It is suggested that this posting should have a minimum tenure of two years. Those officers who get more than 60% marks in the evaluation should be given Rs. 2,000 as incentive, and those who get over 50% but less than 60% marks should be given Rs. 1,000. Of course to cater for inflation these amounts can be increased from time to time. Those who secure less than 50% marks should be required to repeat the examination at their own expense until such time as they obtain at least 50% marks and thus qualify in the course.

(Para 45.14)

49.18 After the completion of 15 years of service and upto 18 years of service an IPS officer will be sent to attend a five-month Senior Management Course at the SVP National Police Academy. The main emphasis in this course will be on coordinated thinking in facing the major problems confronting the police and each officer will be required to submit a thesis on a selected subject relating to the practical problems of police, law and order, economic crimes, intelligence and investigation. The Chief of the State Police will nominate officers for this course in accordance with seniority and ensure that all IPS officers who are, in the rank of Superintendent of Police/Commandant are, in rotation, sent for this course. Successful completion of this course would be an essential qualification for promotion to the rank of DIG.

(Para 45.15)

49.19 All those who have worked in the rank of DIG for a period of 5 years and over and are between the 23rd and 25th year of service shall be sent to the SVP National Police Academy for a three-months Top Management Course. The main emphasis in this course would be on decision making, problem solving skills, and organisational development. This examination should be conducted by the UPSC and this body should appoint examiners and get the answer-books marked. For promotion to the rank of Inspector General, an all-India panel will be formed of all the officers who are successful in this course as also in the selection board before which they will have to appear at the end of this course. This selection board will be presided over by the Chairman of the UPSC, the other members will be a couple of distinguished police officers, sociologists, management experts and the Union Home Secretary. All those who are brought on this all-India Panel of Inspectors General shall be given the pay scale of Inspector General while their actual posting would only be a matter of deployment.

(Para 45.16)

49.20 Those who join the IPS through the Limited Competitive Examination should be sent for the Basic Course for IPS officers in the SVPNPA together with other directly recruited IPS officers. If they have actually worked earlier as SHOs they need not, after the Basic Course, work at that level they should straightaway be posted as Sub-Divisional Officers of Police in rural and urban areas. As they should preferably be allotted to other States they must learn

the language of the State to which they are allotted. The Junior Management Course which will prepare IPS officers for holding charge of a district is of special importance to these officers and they should attend it together with other directly recruited IPS officers.

(Para 45.17)

49.21 For officers who are promoted to the IPS is suggested the development by the SVPNPA of a special six-month course. The course should equip them to assume higher administrative responsibilities as Superintendents of Police and above. After this six-month course they need not be posted as SHO and Sub-Divisional Police Officers if they have already acquired this experience before. Otherwise they should go through the same job experience of one year as SHO and at least 2 years as a Sub-Divisional Police Officer. They should also attend, with the other IPS officers, the Junior Management Course.

(Para 45.18)

49.22 Those officers who are not able to get selected for promotion to the rank of Deputy Inspector-General shall be permitted to make two more attempts within the next five years at the examination and if they fail in these also then their cases shall be reviewed with an inference that they are unfit for further retention in service. Those who are retired shall for pension purposes, be given a five year credit of service. Those who do not qualify for promotion to the rank of IG shall be given two more chances, and if they fail, they should be retired with a five year credit or credit till their normal date of superannuation, whichever is earlier, for purposes of pension.

(Para 45.19)

49.23 For the three management courses, Junior Management Course, Senior Management Course and the Top Management Course the SVPNPA shall have to be strengthened. It will have to be in a position to meet the enhanced training requirements we have outlined in the foregoing paragraphs. The present SVPNPA will not be able to meet these needs without expansion and organisation. It would, therefore, be best if within the SVPNPA is opened a Centre of Higher Police Studies. This Centre will prepare for an run the three crucial management courses and a number of specialised courses on organised crime, terrorism, economic crimes etc. Entry into specialised courses must be by competitive selection to test the preparation and interest of the officer. It is further recommended that completion of each such course should result in a lump sum award of Rs. 3,000 or Rs. 5,000 to serve as an incentive. Selection and performance at these courses should also be given due recognition by the Selection Boards at the time of consideration of an officer for promotion. The staffing of this Centre should not be confined to police officers but should include academicians and other specialists. For various courses, the Centre may also have to draw on the talent available in our Universities and Institutes of Management who could come on deputation for short periods on attractive terms. It is recommended that such a Centre be created as a part of the SVPNPA.

(Para 45.20)

49.24 It is recommended that an essential part of the career management of the IPS officers allotted to States should be their postings at the level of Superintendent of Police so organised that they serve on field jobs like District Superintendent of Police/Deputy Commissioner of Police/Additional Superintendent of Police for a period of five years or so.

(Para 45.21)

49.25 It is, however, emphasised that these improvements require the prior acceptance of the basic principle that the scales of pay and the prospects of the IPS should be at par with those of the IAS. Intensive training and rigorous selection procedures for promotion to higher ranks have been recommended on the basis of that parity.

(Para 45.1)

Police and students

49.26 Sympathetic response to the problems of the students, elimination of the existing communication gaps and participative strategies in the administration of the Universities and Colleges deserve consideration in promoting a healthy and congenial atmosphere within the institutions to prevent agitations before they become uncontrollable.

(Para 46.8)

49.27 The primary responsibility for resolving and mitigating campus problems of indiscipline involving students shall be that of the academic authorities. The police should not be unnecessarily brought into situations which do not involve problems of crime or of law and order. It is essential for the system to be shaped in such a fashion that police intervention is minimal but prompt and effective when situations so warrant. Institutions dealing with discipline and control within the campus have to be strengthened to ensure minimal police intervention.

(Para 46.9)

49.28 The proctorial system does not obtain in all institutions and where it obtains, it can become ineffective if the Proctors do not assert themselves or abdicate their authority. The Proctors should keep close and constant liaison with the police authorities so that whenever there is possibility of a situation getting out of control, effective preventive intervention by police can be ensured. A sound information base will enable the Proctors to deal with situations more effectively and nip the agitations in the bud. Despite its limitations, the Proctor System holds a promise if properly developed and implemented. It is recommended that the system should be adopted at least in Universities and Colleges which have large campuses and many hundred students in residence.

(Paras 46.11 and 46.12)

49.29 Police intervention should be avoided for preventing cases of group indiscipline and sporadic violence which can otherwise be regulated and controlled by the educational authorities. For this purpose and for security and safety problems, the creation of

a separate Protection Force for residential Universities and bigger Colleges in non-residential/affiliated ones as part of the proctorial system is recommended.

(Paras 46.13 and 46.14)

49.30 The Protection Force shall be responsible for the prevention of vandalism, pilferage, theft, sabotage and arson. It will also help the Proctors in the maintenance of internal discipline. The Protection Force should, among other things, undertake the following functions :—

- (i) Protection of the property of departments, faculties and laboratories and person of the University officers.
- (ii) Providing a guard to residential areas of Universities.
- (iii) Dealing with localised demonstrations by employees, students and teachers under instructions of the competent authority.
- (iv) Providing adequate information base for ensuring security of person and property.
- (v) Carrying out searches in University premises whenever necessary at the instance of the Proctor/University authorities.
- (vi) Assisting the University authorities during examinations, VIP visits and other bandobust arrangements.

(Para 46.15)

The Protection Force should not be militant in character but should try to accomplish its role normally by persuasion and conciliation in its interaction with the students. Orientation of a non-para-military nature for the Force is, therefore, recommended. The Protection Force should be properly trained in civil defence, collection of intelligence, regarding unlawful activities among students and 'Karamcharis', identification of students, trespassers *i.e.* non-students and other anti-social elements entering the campus, first-aid, traffic control, laws of arrest, use of minimal force, unarmed combat, etc.

(Para 46.16)

The Protection Force would be required to intervene and contain developing situations under the direction of the Proctor till police presence becomes imperative.

(Para 46.17)

The members of the Protection Force and other authorities concerned with discipline within the campus may be declared "public servants" under Section 21 IPC.

(Para 46.18)

49.31 Police intervention should be restricted to situations of grave disorder or criminal activity or where such situations are apprehended. Police intervention in student agitations while being cautious,

restrained and firm should be without any preferential treatment. It is recommended that force, when it is used, should be timely but within maximum restraint especially in the use of lethal weapons.

(Paras 46.19, 46.20 and 46.21)

49.32 The University authorities and other academicians consider the portals of educational institutions as sacrosanct and inviolable. The Police also wait for requests from the University authorities before intervention. The delay caused by these indecisive attitudes has been responsible for the situations getting out of control, resulting in considerable damage to property and person. The law does not give an academic campus immunity against due enforcement of law by the police. On the contrary law makes it the duty of police to enter any premises when a situation so warrants and take such action as is necessary. It is, however, recommended that as a rule, the police may inform, if possible, the head of the institution or the competent academic authority before entering the campus.

(Paras 46.22 and 46.23)

The necessity for the police to enter an academic campus and take action arisen in the normal discharge of duties—

- (i) in the prevention of crime and other unlawful activities ;
- (ii) in the detection and investigation of crime ; and
- (iii) in cases where the authorities request for police intervention.

In category (iii) above where the educational authorities request for police help and intervention, the police should intervene provided they are satisfied that the situation is serious and is likely to result in a breach of law and order. The police should assess the situation and satisfy themselves whether the situation is serious enough to warrant their intervention. Routine disposal of requests for assistance from academic authorities is not justified. The presence of a senior police officer is an essential requirement in all campus interventions. This is intended to ensure that the force is firmly and fully under control and there is no vindictive action on the part of individual policemen. The police should have sufficient knowledge about the happenings on the campuses within their jurisdiction if they are to effectively deal with problems there. They should maintain close touch with educational institutions and exchange intelligence to facilitate timely action to prevent troubles. To achieve this objective, wherever there is a large concentration of students, the police should constitute a Special Cell comprising of carefully selected officers to deal with such situations

(Paras 46.24 and 46.25)

49.33 The police should also have adequate intelligence regarding collection of illegal arms, explosives and other lethal weapons within the campus. For

this purpose, the right of police to enter the premises to search and seize firearms and ammunition cannot be circumscribed by any conditions. The institutional authorities concerned should, however, be informed at the time any search is carried out. The primary responsibility of the police to carry out searches and seize firearms does not absolve the academic authorities of their responsibility to keep a constant vigil and to prevent students from acquiring and storing firearms and explosives. On receipt of any such information or on reasonable suspicion, it shall be the duty of the academic authorities to inform the police forthwith and seek their help.

(Para 46.26)

49.34 Student agitations when they spill out of campus, often erupt in acts of violence. In off-campus situations the question of disciplinary action by the University authority does not arise. The police should take action as per law against the offenders. No special preference or consideration be shown mainly for the reason that the party committing the offence happens to be students.

(Para 46.27)

49.35 In para 28.29 of our Fourth Report a revised arrangement in law has been recommended for the withdrawal of criminal cases to be entertained only on grounds of justice or public interest and not on a mere executive desire for compromise in any particular case. This arrangement should equally apply to the cases involving students.

(Para 46.28)

49.36 Police interaction in non-conflict situations, needs encouragement as it will remove the impression among the students that the police are generally hostile to them. Students should be kept in police lock-ups and indiscriminate arrests or handcuffing should be avoided. Release on bail should be a rule rather than an exception. Wherever students are apprehended or arrested, their parents should be informed forthwith of the place of detention of the student and reasons for the apprehension and arrests. The general approach of the police in conflict situations with the students should be to project themselves as a neutral catalyst willing to help the students, wherever necessary.

(Para 40.29)

Communal riots

49.37 The examination reveals a pattern in the failures to deal effectively with some of the riots that have taken place recently. Invariably the district administration failed to anticipate the trouble and to make adequate planning on the ground. Either the intelligence of the impending trouble was not available or the administration failed to take notice of all the minor incidents and tensions.

(Para 47.6)

49.38 In several instances police forces were deployed without any briefing whatsoever. In some cases, the armed police was collected at very short notice from different units wherever they could be made available

rom. Such a body not under the command of their own officers cannot be expected to operate in a disciplined and concerted manner. It is recommended that the armed police should move only in proper formation, along with full complement of their officers.

(Para 47.7)

49.39 It is noticed with concern the growing tendency on part of the district authorities to seek instructions from higher quarters, where none are necessary.

(Para 47.10)

There is a tendency among the officers to avoid taking responsibility for dealing with communal situations. They either avoid to go to the troubled spot or when they happen to be present there they try not to order the use of force when the situation so demands or better still slip away from the scene leaving the force leaderless.

(Para 47.11)

It is unfortunate that after such riots, it is only those officer who had taken some action in dealing with the situation, are accused of all sorts of allegations and they have to face harassment and humiliations in the inquiries that follow.

(Para 47.11)

The officer who allows the situation to deteriorate by not taking firm action in the initial stages to control the situation, manages to go scot free. The force gets the impression that their senior officers are not going to give any order for their protection and they go on helplessly watching the beating of their colleagues. The demoralised force, lacking confidence in their senior officers, often retaliates in anger and fear to settle score with the rioters.

(Para 47.11)

The failure of the leadership coupled with the low morale of the force leads to many serious allegations of highhandedness and other atrocities including criminal activity such as arson and looting, molestation of women etc., from the force.

(Para 47.11)

49.40 The training of police force leaves much to be desired

(Para 47.12)

49.41 There are frequent instances of friction between armed forces and the district administration in a communal situation. The aim and objective in a communal situation should be to strengthen the hands of the local administration and they should refrain from any dissemination of news to the media to give the impression that they have replaced the local administration.

(Para 47.15)

49.42 Data pertaining to an area should be collected with great care. It should also be constantly updated.

Changes in population and the distribution of population in the various towns and other significant areas in the district should be carefully observed and the reasons for such migration should be ascertained and analysed.

(Para 47.17)

Records maintained at district and village level should be properly maintained by the police authorities in-charge of districts and police stations. It is also desirable to maintain such records at the State level.

(Para 47.19)

A separate cell in the intelligence agencies available at the district level and at the State level should be earmarked whose only function should be to look for significant data which would indicate an imbalance in any particular area. The State level agency should interpret this data on a total basis for the whole State.

(Para 47.20)

49.43 A strict vigilance is to be kept on day to day living problems as well as on the problems creating tension between the two communities. Whenever stresses are observed in any given area the police and the administration should identify them quickly and take prompt steps to defuse them.

(Para 47.18)

49.44 Dependence on the intelligence collected by the plain-clothed staff alone is not desirable. Collection of intelligence by uniformed units needs to be reactivated.

(Para 47.20)

49.45 There should be rehearsals to coordinate the law and order arrangements with the army and the para-military forces during the peace time as well so that there is no misunderstanding or lack of coordination with the army and para-military forces when they come to the aid of the civil authorities during riot situations.

(Para 47.22)

49.46 Preventive action is not restricted to arrest and launching of cases under Section 107 Cr.P.C. Prevention can be brought about by regulation, restraint, constraint and control. In place where there is tension developing, if the policemen perform their normal tasks such as beat patrols which they send out during peak hours, the usual regulation of crowds, the normal control and direction of traffic etc., normalcy is not only kept in the area but is also seen and felt by the people. Normalcy always acts as an anti-dote to tension and hence prevents it from growing beyond breaking point. Even if there is some risk in the relaxation of restrictive measures, for the restoration of normalcy, the risk is worth taking.

(Para 47.23)

49.47 Restraint can be brought out by increasing police presence and by arresting those who are likely to indulge in acts prejudicial to public order. But

restraint has to be imposed only upon those who are potential law breakers.

(Para 47.24)

49.48 It is very important for the police to have an up-to-date and correct list of anti-social elements and to be able to identify and arrest them in a moment of crisis.

(Para 47.25)

Mere identification of the mischief makers will not be enough. There is need for constant vigilance and action against such persons, even at times other than during the communal riots.

(Para 47.26)

49.49 A developing situation can be defused effectively by enlisting public cooperation. The role of Peace Committees in this regard has been stressed by several Commissions in the past. It should be ensured that important publicmen with considerable local influence, and who are acceptable to both the communities because of their proven impartiality, are included as members of these committees.

(Para 47.27)

49.50 In a riot situation, the administration should, take steps to disseminate correct and proper information to the public through all available means. In this connection we would emphasise the use of the radio and loudspeakers as an effective communication media. If correct and frank reports of the incidents occurring, and the steps taken by the authority are broadcast frequently, the morale of the people would be kept high and this itself allay feelings of fear and insecurity in the population.

(Para 47.28)

In the case of mischievous reporting in the press which is likely to be prejudicial to national integration and public order, the State Government and local administrations should act impartially and use every weapon in their legal armoury to fight obnoxious propaganda which may be prejudicial to the maintenance of communal harmony.

(Para 47.29)

49.51 Even a small quarrel or a minor incident involving members of the two communities should be attended to and dealt with by a responsible senior police officer and the dispute nipped in the bud so that it does not escalate into a major riot. The quality, quantum and timing of police response in such situations are important.

(Para 47.31)

49.52 In dealing with processions likely to generate communal trouble there is such greater scope for the police to be prepared in advance. The police should, to the extent possible, collect information about the mood and intentions of the processionists and the attitude and preparedness of those who oppose the processions. Trouble spots should be identified and places of worship should be protected and cordoned

off. Processions which are likely to generate tensions and riotous situations should be properly regulated and controlled under the law. In extreme cases, if the situation so demands, such processions should even be prohibited under the law.

(Para 47.32)

While no hard and fast rules can be laid down for the regulation of a procession, the senior-most officer present and in-charge of arrangements must appreciate the local problems and after applying his mind, lay out the arrangements in such a way as to demonstrate to the local population that the police would act impartially, effectively and firmly.

(Para 47.33)

As recommended by the Raghubar Dayal Commission the places of worship should be searched by the police to find out if brickbats or other offensive materials are stored in these places. In doing so, the police should go strictly by the intelligence available to them and not at the behest of one group or the other.

(Para 47.32)

49.53 The authorities in dealing with communal riots should not be inhibited, by any consideration, to adopt luke-warm measures at the early stages of any communal trouble which may push the situation beyond a point of no return. A communal riot is different from any other law and order situation because it has its origin in deep seated passions and jealousies. The authorities should recognise the distinction and should show extreme firmness from the very beginning.

(Para 47.34)

49.54 Immediate and exemplary action should be taken against the officers who wilfully fail to go to the trouble spot or slip away from there after trouble has erupted. Officers who have successfully controlled the situation at the initial stages with firm action should be suitably rewarded.

(Para 47.35)

49.55 Only specially selected experienced officers with an image of impartiality and fair play should be posted to the communally sensitive districts. They should not normally be transferred before the completion of their tenure and in any case all district and police officers should not be transferred at the same time.

(Para 47.36)

49.56 There should be a control room at least in all those places which have been identified as prone to communal trouble. These control rooms should function on an on-going basis and should be kept under the charge of officers who are polite and responsive and who are also professionally competent to assess the information passed on to them and indicate action to be taken on such information.

(Para 47.37)

The control room should have an adequate team of well-briefed police officers who can be expeditiously despatched to a scene of trouble and who can be expected to deal with it effectively.

(Para 47.38)

49.57 Most riot schemes are prepared in a routine manner and they are said to be impracticable because they are designed for a given area in total isolation of the surrounding areas. Many schemes cannot be implemented because the man-power contemplated in these schemes is not worked out in a realistic basis.

(Para 47.39)

The riot schemes may be rehearsed from time to time and in this connection "Sand model" exercises could be useful.

(Para 47.41)

49.58 The imposition of curfew in any area should be resorted to after careful thought and in such a manner that the least amount of inconvenience is caused to law abiding citizens.

(Para 47.42)

Curfew should be restricted to those areas where curtailment of the movement of the people is absolutely necessary for the purpose of suppression of large scale illegal activity. Once a curfew is imposed, it should be enforced very strictly. Even before the imposition of the curfew or immediately thereafter, adequate police and security forces should be moved into the area bound by the curfew. Anybody found violating the curfew should be arrested and prosecuted.

(Para 47.43)

49.59 The police party dealing with riots should be accompanied by ambulance and first-aid services.

(Para 47.46)

49.60 Unless crimes committed during the riots are registered, investigated and the criminal identified and prosecuted, police would not have completely fulfilled its role as a law enforcement agency. This important legal function is presently being given a low priority by the police. If stringent judicial action is taken against a criminal and well publicised, it would impose a high degree of constraint upon others from indulging in criminal activities.

(Para 47.47)

In a riot situation registration of offences becomes major casualty. It is futile to expect the victim of a crime to reach a police station risking his own life and report a crime to the police. The police should open several reporting centres at different points in a riot torn area. These reporting centres should be placed under the charge of competent police officers who should be firmly instructed to record all crimes reported to them.

(Para 47.48)

Special investigation squads should be set up to investigate crimes committed in course of serious riots.

Such squads should be set up under the State investigating agency [State CID (Crime)] to investigate all crimes committed in the course of a riot.

(Para 47.49)

The investigation of reported crimes in serious riot situations should be done thoroughly, competently, quickly and impartially by special teams of competent officers working under the supervision of senior officers. Any interference in this process by any group, however, powerful it may be and whatever may be the reasons, should be strongly condemned.

(Para 47.51)

Special courts with special procedure prescribed in the Disturbed Areas (Criminal Law Amendment) Act as recommended in the Third Report would be useful in the investigation and prosecution of offences committed during violent public disorder situations.

(Para 47.53)

49.61 In a major riot it is the duty of the administration to compensate the unfortunate sufferers for the loss and suffering undergone by them and to assist them in their rehabilitation.

(Para 47.55)

The police should play a very active and positive role in the rehabilitation of the people affected in the riots. They should record the extent of damage in the course of their investigations and enquiries in the cases reported to them and furnish copies of these documents to the appropriate authorities.

(Para 47.56)

49.62 It is not desirable to reserve any fixed percentage as such among the vacancies in the police for the minority groups, since that would go against the fundamentals of police philosophy that the police as a system has to function impartially as an agent of the law and cannot have any caste or communal approach to the problem dealt with by it.

(Para 47.57)

The police forces of the various States in the country should truly represent the social structure in the respective States. Such a situation should be brought about by a competitive, fair, impartial recruitment and training process and not by a protective process like the reservation of vacancies for members of the minority communities, in this sensitive wing of Government administration.

(Para 47.58)

49.63 It is recommended that whenever allegations of personal aggrandisement are made, such allegations should be carefully examined and if specific instances of misbehaviour on the part of any policemen are found to be true, such policemen should be punished in an exemplary manner so that the credibility of the police organisation, as such, with the people, is not impaired.

(Para 47.59)

49.64 The availability and capability of Home Guards in districts should be fully made use of by the police. In an emergent situation the local authorities themselves should be empowered to requisition the services of Home Guards, by framing appropriate rules for this purpose.

(Para 47.60)

Urban policing

49.65 While the problems of urban policing are very complex, the existence of an informed and vocal public which is willing to cooperate with the police by giving information can go a long way in helping the police to tackle these problems.

(Para 48.5)

49.66 It is obvious that in urban areas police should be fully equipped to act promptly and effectively, should have an intelligence organisation to collect information on crime, criminals and other related matters, should have the capacity to undertake various duties relating to security and should have the means to take effective preventive and regulatory action to ensure order in the urban society.

(Para 48.6)

49.67 In terms of manpower it is noticed that while additional duties are constantly given to police, generally through enactment of new laws, there seldom is a similar increase in police manpower. It is recommended that for every city a triennial assessment of manpower should be made.

(Para 48.7)

49.68 The police need adequate transport to reach a scene of crime quickly and to mobilise manpower to deal with a law and order problem. Preventive work calls for patrol cars and flying squads.

[Para 48.8(1)]

49.69 Communication facilities for the police must serve two objectives : facilitating communication with the public and facilitating intra-departmental communication for exchange of information and mobilisation of manpower to respond to a crime or a disorder situation. To meet the requirement of accessibility to the general public, the police require the general P&T telephone link, in addition to their own internal communication network. It is, therefore, essential that all police stations and outposts should have a regular P&T telephone and all operational officers in the city police should be equipped with telephones both in their offices and residences. However, even in a city, not all members of the public have easy access to a telephone despite the fact that the P&T authorities do make arrangements to make available a large number of public call offices. In some countries this difficulty is overcome by placing police telephone booths in strategic places in the city. These booths can be used for dialling, free of cost, any police number or an emergency service such as the fire brigade or the ambulance. These police call booths could also be fitted with a light indicator which would indicate to the beat constable in the area when he is required by his police station. In the larger cities

this facility should be provided to the people. For intra-departmental communication such as between control room, police stations, patrol vehicles, and patrol parties on the streets a VHF network of radio telephones is vital. The police in Indian cities have been given these facilities to some extent under the Police Modernisation Scheme. Their continuance and expansion would be a step in the right direction. In addition it is found that in a few cities the police have the systems of an internal PBX. This proves very useful when the P&T telephones fail to work or get congested. The P&T telephones in addition carry the risk of vulnerability of interception by undesirable elements. It is felt that these facilities should be set up in all the larger cities in India. Where possible, underground cables should be used to prevent sabotage.

[Para 48.8(2)]

49.70 It is recommended that all cities with a population of 5 lakhs or more should be provided with an exclusive Scene of Crime Vehicle and the larger cities should have more such vehicles. Similarly, all police stations should be provided with Investigation Boxes and particular care should be taken to ensure that police officers posted for investigation work are trained in the appreciation, collection and utilisation of scientific evidence.

[Para 48.8(3)]

49.71 Cities with 5 lakhs and above population should have a Single Digit Bureau.

[Para 48.8(4)]

49.72 In urban areas, criminals have the advantage of mobility and police response would be adequate only if records are speedily available to them. This is possible only with the help of computers. The creation of a National Crime Records Bureau with spread down to police station level has already been recommended in the Second Report. The use of computers for registration of all motor vehicles and the antecedents of persons of doubtful character is also envisaged.

[Para 48.8(5)]

49.73 The importance of a Control Room in urban areas cannot be over-emphasised and its role as the centre of all police operations, a centre for receipt of calls for police aid, a coordinator of all police mobiles and as the place from where all police activity is directed to meet a public disorder situation or natural calamity, requires no reiteration. It is recommended that Control Rooms should be located within the Office of the Chief of City Police.

[Para 48.8(6)]

49.74 Policemen in urban areas should have adequate supply of law and order equipment, such as helmet visors, body-guards, shields, tear gas masks and ammunition to meet their full requirements. When policemen do not have proper equipment to face a barrage of stones they tend to react in panic and use firearms.

[Para 48.8(7)]

49.75 All over the country the condition of police station buildings is distressing. A police station building should have adequate space for its staff as well as reception facilities for members of the public. It should have conveniences for the staff and visitors. Ideally, there should be provision for staff quarters within the police station precincts to ensure availability of police manpower round the clock. Besides, in large cities a great deal of time is spent on commuting from home to police station and back leaving the men, on account of their long hours of duty, little or no time for their personal affairs. Police station buildings in urban areas should be developed on these lines.

[Para 48.8(8)]

49.76 At present all policemen whether they have to work in a rural or an urban area are trained in identical fashion. Urban policemen at present learn through experience. It is recommended that policemen in urban areas should be specifically trained to handle (1) sophisticated equipment; (2) withstand stress; and (3) respond quickly to directions received. This response training is very important. In the gazetted ranks there should be a free inter-change of officers between urban and rural areas while in the subordinate ranks officers should be given a longer tenure, something like ten years, to specialise in either rural or urban policing without ruling out the need for inter-change of expertise and talent for the healthy development of police in both the areas. In a city the subordinate ranks of policemen, are under close and continuous supervision of higher officers and, therefore, the one key professional requirement from them is quick response to directions given. In the rural area a Sub-Inspector posted as SHO in a remote corner with poor communication facilities may be able to manage with a slow response to difficult situations but cannot manage without taking decisions, and decision-making requires ability. It is, therefore, wrong to consider that those posted in urban areas are in any way superior to their counterparts in the rural areas.

(Para 48.9)

49.77 A higher status for the constable and his association in the investigation of minor offences has already been recommended in the First Report. A beginning in this regard could be made in the urban areas as constables would have the benefit of close supervision from their superior officers. Full utilization of every policeman is essential to meet the resource constraint that we envisage.

(Para 48.10)

49.78 In large urban areas several problems arising out of social tensions, more opportunities for crime, and the occasionally spontaneous explosion of law and order situations called for an extremely quick response from the police at the operational levels and precise, comprehensive and prompt directions from the superior levels. There is seldom any time for discussion and debate and assessments and agreements. Quick action springing from purposeful direction is called for. This can be achieved only when the police are organised in a unitary chain of command which embraces the two basic functions of

1/2 HA/81—8

decision-making and implementation. Particularly in large cities these two functions have to go together. It is, therefore, recommended that in large cities that is those with a population of 5 lakhs and above and even in places where there may be special reasons like speedy urbanisation, industrialisation et cetera the system of Police Commissionerates as it exists in Bombay, Calcutta, Delhi, Madras, Nagpur, Poona, Hyderabad, Ahmedabad and Bangalore should be introduced. In view of the complexity and enormous dimensions of police problems that frequently arise in large cities the Commissioner should be a police officer of adequate maturity, seniority and expertise. This is important because an advantage of this system is the direct, and not supervisory, involvement of a senior and mature police officer in the day to day policing of the city. It is this that operationally distinguishes a Police Commissioner from a Superintendent of Police in a district. The Police Commissioner should have complete authority over his force and should be functionally autonomous.

(Para 48.12)

49.79 It is felt that the Inspector General or the Director General of Police, since he is responsible for the policing of the State, should have control over the police forces in the major cities of his State. For this reason it is felt that while the Commissioner of Police should be delegated all financial and disciplinary powers of a head of department to facilitate his working he should remain subordinate to the Police Chief of the State.

(Para 48.13)

49.80 For cities below five lakhs and above one lakh population is visualised a separate city police force exclusively earmarked for the urban areas, working under the direct supervision and control of the Senior Superintendent of Police for the district. Cities of 3 lakh to 5 lakh population should have an officer of the rank of Superintendent of Police as the head of its city police force and this head in cities with one lakh to three lakh population could be an Additional or a Deputy Superintendent of Police depending upon the complexities of the problems of that city. At the police station level the problems faced in urban areas are multifarious, and difficult and the people expect a better response from the police at this operational level of the police organisation. This implies that the officer in charge of an urban police station should be of a senior rank, at least that of an Inspector. In police stations, in important commercial areas and in the industrial belts where the police have to face complex situations and frequent breakdowns of law and order it is anticipated that even a Deputy Superintendent of Police could be posted as the officer in charge.

(Para 48.14)

49.81 The separation of law and order and detective staff should be at the police station level only and they should all remain under the Station House Officer. Higher officers i.e. those above the SHO can remain territorially responsible for both law and order and investigation of crimes. It would, however, be advantageous to have a gazetted officer, for close

supervision of investigation work regardless of the police station involved. Depending upon the size of the city, the numbers in this supervisory rank can be increased and their ranks upgraded.

(Para 48.15)

49.82 Cities should have a local Crime Branch to deal with special crimes while the police stations are left to deal with routine crimes. Broadly speaking, all cities with more than 5 lakh population should have the special squads identified below :—

- (1) Homicide Squad.
- (2) Burglary Squad.
- (3) Economic Offences and Forgery Squad.
- (4) Robbery/Dacoity Squad.
- (5) Kidnapping/Missing Persons Squad.
- (6) Automobile Thefts Squad.

These special city C.I.D. squads will function under the control of the Commissioner of Police or the Superintendent of Police, as the case may be.

(Para 48.16)

49.83 Urban police forces require a sizeable complement of women police to deal with the problems of women and children. Enforcement of the laws relating to them should involve increasing numbers of women police. The women police officers should be made available down to the police station level and, among other things, they could very profitably be utilised as receptionists in police stations.

(Para 48.17)

49.84 Urban police forces, particularly in the larger cities require an effective and well equipped intelligence agency to gather information regarding law and order. It is, therefore, visualised that every city with a population of 5 lakh and above and in the smaller cities there should be a City Special Branch for collection of intelligence relating to law and order. These Special Branches could also look after the special security requirements of airports and other vital installations and perform specialised duties relating to VIPs.

(Para 48.18)

49.85 There should be a provision in the Police Act itself that there should be a Commissioner of Police for all cities with a population of 5 lakh or more. The powers to be exercised by the Commissioner of Police should be those that are spelt out in the Delhi Police Act, 1978. The Code of Criminal Procedure 1973 also requires a suitable modification. Under Section 8 of the Code of Criminal Procedure the term "Metropolitan Area" has been defined as any area in a State comprising a city or town whose population exceeds one million. In Section 20 of the same Code it is provided that some of the powers of an Executive Magistrate could be conferred on a Commissioner of Police in metropolitan areas. The system of conferring powers of an Executive Magistrate on a Commissioner of Police is already in vogue in cities

with more than one million population. It has already been recommended that all cities with 5 lakh or more population should be regarded as metropolitan areas. This could only be done if Section 8 of the Code of Criminal Procedure 1974 is suitably amended. It is, therefore, recommended that the term "Metropolitan Area" appearing in Section 8 of the Code should be modified to include "any area in the State comprising a city or town whose population exceeds 5 lakh" as against "a population of one million" as at present.

(Para 48.19)

49.86 All large cities generally have an element of the local press in addition to correspondents from the national and State level papers and journals. Incalculable harm is done if there is a communication gap between the press and the police. It not only spreads panic among the people but also tarnishes the image of the police and in the process makes the work of the police all the more difficult. It is, therefore, recommended that in all cities with a population of 5 lakh or more there should be a Public Relations Officer under the Chief of the City Police with the following charter of duties :—

- (1) To release briefs to the press on news of public interest.
- (2) To organise exhibitions and conduct lectures in schools, colleges and other institutions, to educate the public about their rights and responsibilities.
- (3) To act as a counsellor to the people when they are in difficulty and guide them correctly in the police procedures and regulations and help them in getting their work done quickly through liaison with the concerned police officers.

(Para 48.20)

49.87 In urban areas the police have of necessity to adopt certain specific patterns to ensure their effectiveness. In India there is a system of outposts. It is, however, felt that in urban areas watch and ward outposts will not meet the requirements of immediate registration of offences, and their investigation until such time as, should it be required, specialist squads can take over. In urban areas it would, therefore, be relatively better to have small police stations rather than outposts. Such an arrangement will also provide for better control and supervision of the staff. Every police station need not, however, have male and female lock-ups, malkhana, kot and, therefore, sentries. Groups of 2-3 police stations could use these facilities at a larger police station. For easy availability of police to the people and the greater spread of police presence the establishment of more police stations in urban areas and the grouping of these police stations, for purposes of lock-ups, etc., under a larger police station in their middle, is recommended.

(Para 48.21)

49.88 Police should undertake the duty of verifying the antecedents of chowkidars whom urban residents

collectively or individually appoint, and should, during their night rounds, check if these chowkidars are doing their duty properly.

(Para 48.22)

49.89 Patrols on foot and on cycles are more cost effective than those on motor vehicles. Vehicles should generally be kept at various locations for doing the job of a dispersed flying squad. There should not be an over emphasis on patrol cars as they tend to be impersonal and are very expensive.

(Para 48.23)

49.90 We have also seen that urban areas in India are growing very rapidly and new colonies are coming up without adequate provision for police presence through outposts and police stations. As a result these outlying colonies are specially vulnerable to criminals and bad characters. It is, therefore, necessary that police officers should have a say in urbanisation plans of a city by being associated with the development authority or the town planning board so that the police point of view is taken into consideration in drafting the urbanisation plans and the growth of the city. Whenever a new colony or area is to be developed adequate space should be earmarked for the creation of a police station with staff quarters so that in the ultimate development of the city the police is not handicapped by lack of accommodation to ensure its presence.

(Para 48.24)

49.91 The requirement of CRPF and BSF should be very limited and request for Army assistance ought to be a very rare feature indeed. A well organised police system can ensure this. What is required

is a police organisation suited to the requirements of the city and working within a suitable framework of laws and rules such as have been recommended.

(Para 48.25)

Sd/-
(DHARMA VIRA)

Sd/-
(N. KRISHNASWAMY REDDY)

Sd/-
(K. P. RUSTAMJI)

Sd/-
(N. S. SAKSENA)

Sd/-
(M. S. GORE)

NEW DELHI
March , 1981.

APPENDICES

APPENDIX I

(Para 44.29, Chapter XLIV)

AUTHORISED CADRE STRENGTH OF THE INDIAN POLICE SERVICE AS ON 1-1-1978

S. No.	Name of State	Total Senior posts	Authorised Cadre strength
1.	Andhra Pradesh	95	136
2.	Assam-Meghalaya	56	79
3.	Bihar	123	176
4.	Gujarat	71	102
5.	Haryana	49	70
6.	Himachal Pradesh	38	54
7.	Jammu & Kashmir	38	49
8.	Karnataka	70	101
9.	Kerala	55	78
10.	Madhya Pradesh	154	219
11.	Maharashtra	116	164
12.	Manipur-Tripura	41	58
13.	Orissa	73	104
14.	Punjab	66	94
15.	Rajasthan	74	107
16.	Sikkim	14	18
17.	Tamil Nadu	80	113
18.	Union Territories	60	85
19.	Uttar Pradesh	234	333
20.	West Bengal	144	204
	TOTAL	1651	2344

APPENDIX II
(Para 47.4, Chapter XLVII)

STATEMENT SHOWING THE NUMBER OF COMMUNAL INCIDENTS AND NUMBER OF PERSONS KILLED AND INJURED IN THESE INCIDENTS DURING THE YEARS 1954 TO 1979

Year	No. of incidents	Killed	Injured
1954	84	34	512
1955	75	24	457
1956	82	35	575
1957	58	12	316
1958	40	7	369
1959	42	41	1344
1960	26	14	262
1961	92	108	593
1962	60	43	348
1963	61	26	489
1964	1070	1919	2053
1965	173	34	758
1966	144	45	467
1967	198	251	880
1968	346	133	1549
1969	519	674	2977
1970	521	298	1723
1971	321	103	1330
1972	240	70	1207
1973	242	72	1550
1974	248	87	1266
1975	205	33	962
1976	169	39	794
1977	188	36	1122
1978	230	110	1853
1979	304	261	2379

APPENDIX III

(Para 47.5, Chapter XLVII)

EXTENT OF DAMAGES IN CERTAIN MAJOR RIOTS

S. No.	Place of Disturbance	No. Killed	No. Injured	Damage to Property (In Rs.)
1	2	3	4	5
1.	Sanchi Hatia	184	NA	14,20,000
2.	Ahmedabad	NA	1084	4,23,24,069
	(i) Bhiwandi	78	NA	1,40,10,860
	In Thana Distt. (excluding the limits of Bhiwandi-Nizampur Municipal Council and Khoni and Nagaon villages)	86	189	NA
	(ii) Jalgaon	43	NA	34,74,722
	(iii) Nahad	Nil	15	3,00,063
4.	Delhi	NA	NA	14,31,651

NA—Not Available.

Important Recommendations of National Integration Council, Raghubar Dayal Commission, Prasad Commission, Reddy Commission and Madon Commission

NATIONAL INTEGRATION COUNCIL

I. Preventive Measures

1. As communal disturbances result from building up of communal tensions, it is essential to have prompt and correct intelligence available to the Government. For this the following measures should be taken :—

- (a) A special Intelligence Unit should be constituted at the State and Central levels. The Unit should be composed of persons, especially trained and possessing aptitude and absolute impartiality needed for this type of work.
- (b) Intelligence agencies should furnish their reports and assessments to the District Magistrates and District Superintendents of Police regularly and without delay.
- (c) The District Magistrates and District Superintendents of Police should be charged with personal responsibility for scrutinising these reports and taking preventive action promptly to forestall any communal disturbances.
- (d) A close watch should be kept on rumour-mongering.

2. Places of worship should not be used to hold meetings, which tend to create a communal disharmony or ill-will. Special measures to prevent and deal with such meetings should be taken.

3. Government should have power to prevent the publication of alarming, incorrect or provocative news or of views likely to promote communal ill-will or hatred to disturb communal harmony. This power can be taken on the lines of provisions of section 2 of the Punjab Special Powers (Press) Act, 1956. The Act provides that the State Government if satisfied that action is necessary in the interest of maintenance of communal harmony, may by order prohibit the printing or publication of any matter for a specified period not exceeding two months.

II. Punitive Measures

1. The District Magistrates and Superintendents of Police should be made personally responsible for prompt action to prevent or stop communal disturbances.

2. Special teams of Investigators should be detailed for investigation of offences committed during communal disturbances.

3. Failure to take prompt and effective action should be considered as a dereliction of duty and the officer concerned should be dealt with accordingly. Services Rules should be amended, if necessary.

4. A system of suitable recognition of services rendered in preventing or dealing with communal disturbances should be introduced.

5. Offences should be investigated and the offenders prosecuted promptly. Prosecutions once launched should not be withdrawn. Special courts with summary powers to deal with offences connected with communal incidents should be constituted.

III. General

1. (a) Section 153-A of the Indian Penal Code should be amended to provide for punishment of communal activities which term should be defined to mean any activity which promotes or attempts to promote on the grounds of religion, race, caste or community or on any other ground whatsoever feelings of enmity or hatred between different religious or racial groups, castes or communities.

The offences should be cognizable and conviction for this offence should constitute disqualification under the Representation of People Act.

(b) Rumour-mongering and publication of alarming news and views should be made an offence under section 153-A of the Indian Penal Code.

2. On conviction of an offence under section 153-A of the Indian Penal Code, amended as above, news-print quota of the newspaper concerned and issue of government advertisements to it should be suspended.

3. A special inquiry should be taken to ensure that discrimination is not made in the recruitment to services at all levels.

4. Citizens Committees may be constituted as consultative bodies at the State, district and thana levels to promote and maintain communal harmony. Their function should include the holding of advance con-

sultation with leaders of religious groups to ensure peaceful celebration of festivals. They should endeavour to promote joint participation by all communities in the festivals.

5. The Committee has not gone into the educational aspects of national integration which are of paramount importance and the effective use of mass media of communication to promote communal harmony, as another Committee is going into these important matters in the field of education. Teachers in Primary and Secondary schools and Colleges play a vital role in moulding the minds of young men and women at the formative years of their lives. To discharge this heavy responsibility, the members of the teaching profession should refrain from any activity which is anti-secular or which tends to create communal disharmony. State Governments should examine immediately the need to modify service regulations prescribed for teachers in Government or Government aided schools and colleges and make provisions which should facilitate the removal from service of teachers who may be found guilty of such activity. Similar action may be taken by the Universities in respect of University and College teachers.

6. The Committee recommends that a Sub-Committee of the National Integration Council be constituted at the national level to review from time to time the communal situation, the progress of implementation of the recommendations of the National Integration Council in regard to communalism and to advise the Government.

RAGHUBAR DAYAL COMMISSION

1. It would be useful if the people of all the communities were to organise permanent non-official organisations for doing necessary propaganda to allay the mistrust between communities.

2. The press or the speeches from the platform should avoid any expression which may tend to create ill-will between various communities.

3. Ministers constituting the Government should not speak in different voices about any agitation in the State as this is likely to lead to communal disaffection. Once the disturbances start the Ministers should not express their views about the causes of disturbances and the way they had been dealt with. Any comment by a Minister as to how the situation is being dealt with by the local officers is bound to affect the steps taken by local administrators. There should be a self-imposed ban on making statements.

4. The Minister should not try to unduly influence the local officers which tend to undermine the respect for authority.

5. The political parties should change their attitude while approaching the people for their party gains. They should not exploit communal/caste feeling especially at the time of elections for political purposes. No political/economic/cultural issues should be discussed or agitated purely from communal angles. Communal politics should also be kept out of labour unions.

6. Leaders of communal parties should not be allowed to hold non-official inquiries into communal riots.

7. Text-books in schools should contain matters relating to all religions and mythology referring to all great men/religious leaders of all the communities with respect. History books should particularly highlight facts relating to unifying acts of previous rulers and refer to unfavourable acts only objectively.

8. In order to allay fears of the minority communities, a periodical review should be made of the actual implementation of the provisions under Articles 15(1) and 16 of the Constitution relating to non-discrimination on grounds *inter alia* of religion and caste and about equality of opportunity in the matters of public employment.

9. Deterrent punishment should be inflicted on the person found guilty in communal riots by introducing some special provision in the Indian Penal Code.

10. The right to play music in certain situations by the processionist before mosques has been established in court. It is for the authority to see that peace is not disturbed on such occasion.

11. All preventive measures should be taken on the mere possibility of communal disturbances. There should be no hesitation to arrest unlawful elements before hand. All local disputes likely to give rise to communal trouble should be dealt with promptly and attempt should be made to resolve them amicably. It is desirable to have arrangements at a higher scale than on the lower scale to prevent occurrence of communal disturbances as the deficiency of an arrangement cannot be speedily made up in case the disturbances require more elaborate arrangements than have been made.

12. Firm legal action should be taken against the persons acting in a manner likely to create ill-will and hatred between communities. Such cases once sent to the Court should not be withdrawn for political reasons and cases arising out of communal riots should be investigated promptly.

13. The rumours likely to inflame communal tension should be contradicted and the manner of contradicting rumours should be so decided as to ensure its quick and wide circulation.

14. Collection of intelligence relating to communal matters should be strengthened and the district authority should also have direct contact with the people.

15. Mosques should be searched by the police close to the time of the passage of the procession to ensure that there is no collection of materials which could be used as weapons of offence. Police officers searching the mosques should make sure that all entrances to the mosques are guarded and searched properly. The policemen who are posted on roof-tops should be in uniforms and not in plain clothes.

16. Arrangement should be made for a photographer to monitor processions.

17. There should be proper arrangements for the enforcement of the curfew and other prohibitory orders.

18. Postings of District Magistrates and Superintendents of Police to various districts should be according to importance of the places and comparative experience of the officers concerned.

19. Peace Committees on more or less permanent basis should be established and should consist of people belonging to all communities who should work regularly in educating the people in general about the demands/requirements for secular democracy.

20. All dependents of a person killed in communal riots should be paid adequate financial assistance. Some compensation to victims for the loss suffered during the disturbances and for rehabilitation should also be given.

PRASAD COMMISSION

1. Police should resort to the use of provisions of Section 110 of the Code of Criminal Procedures and relevant provisions of Bombay Police Act, rather than section 107 of the Code of Criminal Procedure. While action under the preventive sections of the Criminal Procedure Code is important it should not be a substitute for appropriate action under the substantive provisions of the Criminal Law. Whenever such substantive provisions of the Criminal Law can be attracted in regard to the facts of a particular case, regular charge-sheet for the offence or offences should be filed. There is much greater scope for externment of persons under the Bombay Police Act. More liberal use should also be made of different provisions of the Bombay Police Act and the Punjab Security of the State Act in force in Delhi.

2. Regular Ekta Samitis or Integration Committees should be constituted both at the Sub-Divisional and at the Thana level, bearing in mind the observations of the Tandon Report and the advice given by the Home Minister to States and Union Territories in regard to their composition.

3. Battalion Commanders of the Home Guards and also some other suitable personnel in the organisation even below the Battalion Commander level, be made special police officers for their respective localities under section 17 of the Police Act, 1861. This may be extended to the Delhi Civil Defence Organisation. This step may be taken in sensitive areas where unlawful assemblies or riots or disturbances had taken place or are reasonably apprehended.

4. An independent machinery to supervise investigation and prosecutions may be set up under the Director of Prosecutions who may be of the rank of a Chief Judicial Magistrate and appointed in consultation with the High Court.

5. A full up-to-date review of the Police strength may be made.

6. The Delhi Police should have a PABX or PBX system connecting all Police Stations, Police posts and supervising officers.

7. The number of mobile vans in Delhi should be increased urgently.

8. A separate police station may be set up for Division-I localities of the existing Sadar Bazar Police Station with the usual staff.

9. Government may consider whether a declaration by proclamation in exercise of the power under Section 15 of the Police Act, 1861, may be issued in respect of the Sadar Bazar area and half of the additional police force to be sanctioned regarded as "Additional Police Force" and the cost thereof borne by inhabitants of the area.

10. The arrangements in the deployment of an emergency Reserve/Striking Force in the Union Territory should be made permanent and the required strength for this force should be separately sanctioned immediately even before the general review of the police strength in Delhi is made (*vide* recommendation No. 5 above).

11. Action may be taken on the suggestion made by Shri K. F. Rustamji, Special Secretary to the Government of India that (i) there should be proper training of all officers and men on the police side and annual exercises and proper understanding between the magistracy and the police regarding the action to be taken in such riotous situations of a communal nature; (ii) on the equipment side apart from the shortage of vehicles, there is a serious deficiency in the supply of tear-smoke and this is an important item which ought to be produced indigenously.

12. Experiments which are being made with the use of riot-gun (which instead of bullets, uses plastic pellets that can injure but not kill) may be concluded early and it may be made one of the standard equipments for the police force.

13. The dependence on the out-side forces, specially on the CRPF, in Delhi should be reduced and the Delhi Armed Police be strengthened.

14. During the riots, the CRPF obtained "firing orders" even from police officers which is not warranted by law. Some clear instructions in this regard may be issued to the Magistracy and Police of States/Union Territories as well as officials of the CRPF.

15. The Delhi Armed Police which now has 5 battalions may be made 7 battalions strong as the first step with two additional battalions to be raised as early as possible.

16. Considering that within the course of 12 months, Sadar Bazar Area had trouble twice (in Bara Hindu Rao in June 1973 and in Kishanganj in May 1974), the authorities in Delhi may make a critical re-examination as to whether some further improvements in the machinery and modes of gathering intelligence both at the Thana level and in the CID, are not called for.

17. Greater efforts should be made to bring in a larger number of persons of the minority community into the Delhi Police Force. Cooperation of local leaders of the community should be sought and army recruitment methods should be studied.

18. Rules and procedures in respect of All India Arms licences or licences issued outside Delhi require to be tightened up. Under these rules, weapons are being kept in Delhi by persons who are now staying in Delhi without intimation being given to the authorities. Whenever such a case comes to light, a severe view should be taken and prosecution launched irrespective of the standing of the defaulters.

19. A high level review of the entire police and the legal and constitutional position in respect of issue of arms licences and possession of fire arms may be made, so that it becomes possible for the Licensing Authorities to follow a much more restrictive and selective approach in the grant of Arms Act Licences.

20. A fresh and activist approach to the problem of urban re-development and social welfare should be brought to bear by the authorities, namely the DDA, the Municipal Corporation, the Delhi Administration and the Central Government. Within the basic policy and objective of reducing the congestion of population and promoting its shifts to new areas, every effort should be made under the provisions of different laws to penalise strictly illegal or non-conforming activity to the maximum degree and to give every possible incentive which promotes the basic objective. In particular, no time should be lost in taking up the scheme of transfer of slaughter house in Motia Khan and in initiating the shifting of wholesale markets and noxious and hazardous trades out of the area of Sadar Bazar.

JAGANMOHAN REDDY COMMISSION (1970)

1. Moral and cultural education should be inculcated in the youths, so as to imbibe in them a sense of toleration and to broaden their outlook. The concept of a secular State is compatible with the moral aspect of religion.

2. Documentary films should be used to propagate the idea of fraternisation of one community in the functions of the other and participation in the festivals of one another.

3. At the time of opening ceremonies, laying of foundation stones etc., by Heads of State and Ministers, the practice of using Hindu rites and prayers may be stopped.

4. Mohalla Peace Committees consisting of influential residents should be formed.

5. Through radio broadcasts, false and exaggerated rumours should be contradicted, promptly. Live appeals by religious and social leaders at frequent intervals through broadcasts may have a salutary effect when tension is building up or rioting has started.

6. An officer shall be appointed to scrutinise publications and for considering the impact of any incident occurring outside the State or within, upon the law and order situation. A pre-censorship of news relating to communal matters and measures to prevent entry of or distribution of outside newspapers which contain matters likely to inflame communal passions should be enforced.

7. A Press Code should provide certain guidelines for not giving publicity to statements and speeches which will aggravate a communal situation.

8. In each State a riot Commissioner of sufficiently high calibre without in any way derogating from the prestige or authority of the IGP or the Commissioner of Police of a city, may be appointed to coordinate the efforts of the law-enforcing agencies during the disturbances.

9. Whenever an area becomes disturbed, the concerned authority should cause it to be broadcast that if disturbances take place in the area or areas so affected a punitive tax will be imposed on the people. Action also should be taken to proclaim this area as disturbed area or areas under the Police Act.

10. There should be unofficial organisation consisting of leading citizens of all communities to render assistance and relief to the victims during the riots. All relief given by the State should be routed through such an organisation.

11. There should be an efficient and effective Special Branch whose report would immediately reflect the ripples of disharmony. The Special Branch should be re-organised so that the gathering of information is not dependent upon the Head Constables and Constables. The Special Branch should continue to function even during the spread of disturbances and riots. A list of trouble-makers, communally minded persons, goondas and other unsocial elements should be kept and revised periodically. Steps should be taken to see that these persons do not disappear in times of trouble. In the Daily and Special Reports sent to the Government, a correct and full and objective reporting should be ensured.

12. The number of police stations and chowkies should be increased having regard to the area.

13. There should be increase in the police force and the yardstick, having regard to the experience of riots, should be redefined.

14. All police stations should have fire arms with arrangement for safeguarding their safety.

15. Revolver should be provided to all officers as well as to such selected Head Constables and above who may be considered fit.

16. There should be more mobile patrol. Motor cycles which can cover larger areas in shorter time and these vehicles should be fitted with suitable wireless sets to convey information with speed. The strength of mobile patrol should also be increased.

17. The state reserve police should not be used as ordinary police, but only as an armed police operating in the same manner as the BSF, CRP or the Army. The question of its control while operating as an independent force, on the lines of the three forces referred to, should be examined.

18. During the riots, the police force should not be utilised for duties such as clearing debris, removing corpses, escorting persons in danger, giving protection to persons and property etc. The force consisting of Home Guards, N.C.C. etc., should be availed of for such work as an auxiliary force and the police could assist it without in any way dissipating its energy for the main task of restoring order.

19. Though it is not possible to lay down with an exactitude all the considerations which justify the ordering of judicial inquiry, some of them could be indicated. Presence of large scale casualties amongst the public, use of fire power against a small crowd or against a crowd not lethally armed or against a crowd where there is large element of women and young persons, *prima facie* evidence of use of force by police against persons not on the streets but in their own habitations and such other factors would be indicative of a need for an inquiry.

20. Before ordering of a Judicial Inquiry, an executive inquiry by an officer of semi-judicial status like the Vigilance Commissioner, may be directed with a view primarily to ascertaining whether a Judicial Inquiry is called for.

21. When a Judicial Inquiry is decided upon, all evidence in favour of and against the authorities should be unreservedly placed before the Commission of Inquiry by the Government itself and that Government should not adopt a partisan attitude before the Commission.

22. The political leaders should inculcate the idea of oneness in all sections of people of India. The problems of communal disturbance must be solved by political and social leaders as it is they who can initiate action and create conditions and prescribe norms and give proper orientation to inculcate that feeling and achieve harmony and make for a better society than what we live in.

MADON COMMISSION (1974)

A number of processions all over the country have led to violent clashes and destruction of property and even loss of life. Though the people must have a right to voice their dissatisfaction through public demonstrations, this should not be allowed to become a public menace. These processions should be regulated by executive orders. In case where the insistence of the organisers to take a procession through a particular locality is motivated by a desire to provoke trouble, the authorities should not grant such permission. Any protest meeting or *morcha* against such refusal should be banned. Similarly, where it appears that the objection to a procession through a particular locality

is unreasonable or based purely on a false sense of prestige, the authorities should grant the permission asked for in spite of objections from others and in case of trouble they should take the sternest measures against the trouble makers.

2. While granting permission the route of the procession should be divided into sectors and each sector should be put in charge of an officer who will be responsible for the law and order situation there. A reserve should be detailed for each sector and there should be constant liaison between the various sector commandants. Mammoth processions should never be permitted to march through streets even if they are peaceful. Where a mammoth procession is expected, the processionists should move only in groups of one hundred each with a distance of about 100 to 200 metres between each group. No procession with lathis and other missiles should be permitted.

3. Preventive measures should continue till a procession is completely dispersed.

4. If an incident takes place during the course of a procession like throwing of stones etc., the police should endeavour to isolate the affected area by placing a cordon around it.

5. No Minister should even participate in a function, meeting or procession which is of a controversial nature or has given rise to a communal controversy.

6. Prohibition regarding shouting of slogans other than those set out in the permission, should be specifically provided in the order permitting the procession.

7. Playing of music near a mosque/temple at prayer time should be prohibited. If any one violates this prohibitory order, he should be arrested and punished.

8. If the circumstances are such that a riot is bound to take place during the course of a procession, the taking out of such a procession should be banned.

9. No meeting should be permitted to be held and procession or march be permitted to be taken out in order to protest against any communal disturbance.

10. On the occasion of Bakr-Id, a route should be prescribed requiring animals to be carried out to the slaughter house through certain specified Muslim localities only. Animals should be prohibited from being taken out in groups or processions except through the prescribed localities. Meat should be carried out only in closed vehicles.

11. When the authorities decide to conduct searches on the basis of information about the collection of weapons or missiles in certain places, they should hold surprise searches simultaneously in all the places.

12. When a crash wireless message has been received about the outbreak of serious communal disturbance in other district or city which is likely to have a possible repercussion within the district, the police station should be manned under the charge of

a police officer of the rank of at least Sub-Inspector until the emergency is over. Information regarding crash wireless message from the Government and other authorities should be given at once to the DM/Addl. D.M./S.D.M./S.D./S.D.P.O.

13. The most effective way of bringing down a disturbance which has taken a serious turn or is about to take a serious turn is to use fire-arms. Police firing should never take place in the air and should not be long delayed. The police should not be afraid of judicial inquiries. The police should open fire on the most determined part of the mob keeping their arm low so as to avoid taking life as far as possible.

14. In every case of police firing the Government need not accept the demand for a public or judicial inquiry.

15. In cases of serious communal disturbance, special public prosecutors, preferably from outside the district concerned, or in any event from outside the affected area, should be appointed.

16. Booklets containing official instructions for dealing with communal disturbances should be prepared with greater care and the same should convey an objective picture.

17. Fire services in the districts should be run by the State Government.

18. The peace committees should be constituted for a period of one year and the important meetings should be presided over by a responsible officer like DM/ADM.

19. Any officer found to have made false or inaccurate reports to his superiors unless he proves that he made that report *bona fide*, should be severely dealt with.

20. Political parties and communal organisations indulging in communal activities in a State must be labelled as such and treated as communal organisations and communal bodies.

21. When a person repeatedly indulges in communal speeches, his speeches should be recorded by a State intelligence shorthand reporter and action should be taken to prosecute the person under Section 153A of JPC.

22. Restrictions should be placed on the possession or transport of acids.

23. Use of flags with religious significance, for political or non-religious purposes should be prohibited by law and made a punishable offence.

24. Party flags should not be allowed to be put on public places for an indefinite length of time.

25. There should be some check on the manner of reporting communal disturbances. There should be a pre-censorship of the news relating to communal disturbances. The authorities should themselves issue news bulletins which should be published by all the newspapers. The news given by the authorities should be factual, objective and not couched in vague terms.

26. When any police officer shows communal discrimination in favour of a community such officer should be severely dealt with.

27. Whenever a disputed structure in possession of one community or the other attracts controversy and makes a cause of communal disturbances such property should be acquired by the Government under Land Acquisition Act for a public purpose. Such action would resolve any communal controversy that may be raised in future with respect to such disputed structure.

Price : Indian Rs. 3.75
Foreign £ 1.32 or \$ 3.15

SEVENTH REPORT
of the
NATIONAL POLICE COMMISSION



Government of India

May, 1981

SEVENTH REPORT

of the

NATIONAL POLICE COMMISSION

Government of India

May, 1981

CONTENTS

Chapter		<i>Page</i>
L	Organisation and structure of police	1—15
LI	State armed police battalions and district armed reserve	16—21
LII	Delegation of financial powers to police officers	22—20
LIII	Traffic regulation	30—37
LIV	The ministerial staff and administrative work in the police department	38—46
LV	Auxiliary to police—Home Guards	47—52
LVI	Performance appraisal of police personnel	53—58
LVII	Disciplinary control	59—67
LVIII	Role of the Centre in planning, evaluation and co-ordination	68—75
LIX	Policing in the North-East	76—83
LX	Summary of observations and recommendations	84—103
	Appendices	104—112

CHAPTER L

ORGANISATION AND STRUCTURE OF POLICE

50.1 The hierarchical structure of the Indian Police was evolved in 1861 in the shadow of the Mutiny of 1857 with the main objective of ensuring imperial rule. This objective is no longer valid now. At that time exacting standards of efficiency were not required of the police and there was not even any sense of accountability to the people. Independence, a democratic Constitution and the flux of social change in this century have changed the picture entirely. There is escalation in the volume and seriousness of crime and there are threats to public order. The police problems have gone on multiplying and the force has expanded considerably to handle a wide variety of situations. The enlarged duties, responsibilities and objectives have been assigned to the police by us in Chapters XIV and XXXIX of our Reports. We have also sought to give a different orientation to police work in the service oriented aspects and made recommendations to improve the quality of recruitment and training. We expect the police to become a more effective and efficient force than it has been so far. It is in this background that we propose to examine the need for re-appraisal of the policing needs and restructuring of the existing system. We shall deal first with the Police Station, then with restructuring the Civil Police and finally with the supervisory structure at higher levels of police administration.

Police Station

50.2 The matter, which should be given a high priority in restructuring, is the strengthening of the Police Station—the basic unit of all police work and policing. A Police Station is the most important unit of the police administration. For the bulk of citizens in our country, whether located in a city or town or in a remote village, it is almost the only or predominant point of contact with the people. It is at the level of Police Station that the public are most in touch with the police and the police with the public. People come to the Police Station with their grievances or complaints against persons known or unknown, from whom they have suffered or apprehend injury or harm to their person or property. They lodge this information or complaint. The public expectations from the police can only be fulfilled if the public are satisfied with the integrity, professionalism, fortitude, impartiality and promptness in the services rendered by the jurisdictional Police Station. The fulfilment of the organisational goals of the police department would, in our opinion, get tested at the level of the Police Station. Therefore, any reform to strengthen policing, either in urban or rural areas, has to deal with the organisation, location and working of the Police Station.

Disparities in area, jurisdiction and staffing pattern of Police Stations

50.3 Before proceeding to evolve norms for strengthening the Police Station, we would like to draw attention to some statistical dimensions and profile of the present-day police stations in the country as revealed from our visits and sample studies made—

- (i) Many Police Stations are vast and unwieldy in size. This indicates that their areas were not cut down to 150 sq. miles as suggested by the Indian Police Commission (1902-3) in para 200(11) of its report. Some Police Stations which have an area of 1176 sq. miles or which cater to a population of 1.9 lakhs still exist in some parts of the country.
- (ii) Many Police Stations have been strengthened by the establishment of one or more auxiliary outposts, some of them permanently and some as a temporary measure by re-distribution of staff. In one district, 21 outposts/patrol posts have been opened as adjunct of police stations and out of these, 18 are temporary. These were initially created by redistribution of staff of the parent Police Station but have been functioning for years together without any change. This has denuded and scattered the meagre strength of the parent Police Stations, in the process making the entire structure weak and ineffective.
- (iii) The outposts are not declared as investigation centres with the result that people have to traverse long distances to lodge information at the Police Station. The ultimate responsibility for the prevention and detection of crime and maintenance of law and order is that of the Station House Officer of the Police Station. Therefore, the Sub-Inspector or Head Constable in charge of an outpost does not exhibit the same sense of responsibility. They work most of the times outside the gaze of the Station House Officer resulting in dilution of control and supervision.
- (iv) While the headquarters of some Police Stations have continued to remain in the rural area, certain villages have grown into proper townships. Therefore, it is necessary that every 10 years there is a review of the areas and jurisdiction of Police Stations.

- (v) The allocation of staff at Police Station has mostly been determined on the basis of suppressed crime registration and there is generally no separate sanction of staff for law and order and miscellaneous order duties which are making heavy demands on police manpower resources. This results in the utilisation of practically the entire staff in law and order duties and investigative and preventive work suffers a great deal.
- (vi) Police Stations are manned on an average by very few men and officers. In some States, the usual strength of a Police Station is 1 Sub-Inspector, 2 Assistant Sub-Inspectors/Head Constables and 10 Constables regardless of the area, incidence of crime etc. The meagre staff remains engaged mostly in house-keeping functions. Therefore, the contact between the community and the police is maintained by erratic and casual visits. The 'response time' to attend to any policing needs, particularly report of cognizable crime or breach of the peace is rather high and needs to be reduced.
- (vii) In a few States (Maharashtra, Karnataka, Tamil Nadu, Uttar Pradesh and Delhi) there is a separate allocation of staff in the sanctioned strength of Police Stations for beat patrolling. It is, however, seen that in these States also, as referred to by us in para 41.32 of our Fifth Report, beat-patrolling has fallen into considerable disuse.
- (viii) In a majority of Police Stations barring the ones in metropolitan and important cities, the Station House Officer is of the rank of Sub-Inspector. Even in Police Stations with a complement of staff of 19 Sub-Inspectors, the Station House Officer or the immediate superior officer is also of the rank of Sub-Inspector giving rise to administrative difficulties. It is also not possible for the Station House Officer to check the investigation work of more than about 10 Investigating Officers.
- (ix) A number of urban Police Stations cater to a large population. They also handle a heavy workload of 1,000 or more cases annually. The heavy manpower deployment at the Police Station results in difficulties of command, control and supervision.
- (x) Many Police Stations though sanctioned are unable to function statutorily because the exercise of redefining the jurisdiction of Police Stations u/s 2(S) Cr. P.C. constituting Police Stations has not been undertaken, even where it is overdue.

The ineffectiveness and neglect of Police Station

50.4 In the course of our visits to the States, our attention was repeatedly drawn to the indifference of

the Station House Staff to complaints lodged. We were told that there is a general reluctance to come to the aid of the people. Persons, who come with a complaint or any grievances, are either not heard promptly or are sometimes abused for coming and troubling the police. At other times the nature of the complaint is belittled to avoid work. The general trend seems to be not to register cases in order to keep down the crime figures. The result is that a large percentage of cases are not registered at all. There is gross delay in the investigation of even those cases which are registered.

50.5 We have also observed that important items of Police Station work namely criminal investigation, beat duties and surveillance were almost going by default. This happens because the staff remains always overburdened with law and order and bandobast and other duties. We found that crime registers, history sheets, crime maps etc. which are the important tools needed in Police Stations to control crime are often not updated. Hardly much has been added in equipment or knowledge. The laboratory facilities still remain beyond the easy reach of an Investigator. The help from experts during investigations is just not available to most of the Police Stations. A large number of Police Posts still do not have even a telephone. In many Police Stations, the staff do not intimately know the important citizens of the locality. They are also not aware of bad characters, goondas and criminals residing within their jurisdiction. They have become somewhat ineffective and indifferent to their duties and responsibilities. These are the reasons why quite often outside forces have to be inducted in large numbers to control situations.

50.6 This paradox becomes more complicated when we learn that excessive attention is paid to public order and bandobast situations as compared to investigation work. The successful detection and investigation of crimes should normally be followed by successful prosecution of individual criminals to deter them from resorting to crime again. This does not however happen because crime and investigation work are given low priority.

50.7 It is also true that in spite of the increase in the nature, magnitude and complexity of the workload of the police and the practical constraints imposed upon their working, the size of police stations and their strength of personnel have almost remained unaltered. Even these inadequate numbers of men continue to be of different standards of training. They have in spite of long hours of work often failed to cope with the increasing demands from the public to protect their lives and property. In addition to these there are several other equally important aspects of neglect of police stations which are briefly mentioned below :

- (a) Almost all Police Station buildings are old and dilapidated and lack the minimum essential facilities. Some lack grants for repairs and electrification works.

- (b) The number of married quarters available are very few and even in the barracks the living facilities are often sub-standard.
- (c) There is often a serious shortage of furniture and the usual broken furniture, poor electricity fittings present a sorry spectacle.
- (d) There is generally a shortage of stationery and even paper. The crime records and essential registers generally remain unbound and in neglect.
- (e) Lock-ups do not exist in many Police Stations. The arrested persons are hand-cuffed and chained to window bars in the main room or verandah in some Police Stations. Even where lock-ups exist, they are short of space and are not fit for human beings. Some of them are cramped, gloomy, damp and unhygienic. The toilet facilities are often missing and where they exist they are often in a deplorable condition.
- (f) The Police Station staff is put to serious difficulty in feeding prisoners within the limits of the diet money permitted.

It was strongly emphasised upon us that the Police Station is the most neglected unit of Police administration though every one recognised it to be the most important. We have no doubt that unless the police stations are strengthened and given due attention, the efficiency of the police organisation will continue to suffer. It could even deteriorate further.

Need for strengthening of Police Stations

50.8 It has been our view, expressed in our earlier reports also, that the prevention and detection of crime and handling of public order situations are very onerous duties. In order to earn acceptance of the people, these duties must be performed efficiently by the police station staff. We feel that the efficient performance of duties cannot be achieved merely by addition or creation of specialised units in the organisation. The basic problems will have to be tackled at the level of Police Station itself. Therefore, the Police Stations have to be strengthened and made effective. The integrity, professional competence and impartiality of its members have to be improved. It is only then that the public expectation of a high quality of professional work and conduct from police will be fulfilled. The staff has also to be in strength commensurate with the volume of work in a number of areas. We feel that efficient civil policing could take care of a large number of problems. It is due to want of timely and effective action that some of them develop into major threats to public peace. We are, therefore, of the view that an effective civil police would be in a better position to interact with the public. This will reduce the need for any large scale expansion of armed police.

50.9 We would, however, like to emphasise that the strengthening of Police ranks at the level of Assistant

Sub-Inspectors, Sub-Inspectors, Inspectors, Deputy Superintendents of Police will contribute to more efficient public service only if these ranks are freed from political interference and a high standard of integrity is ensured. Also their professional knowledge etc. needs to be improved by training and education by periodic refresher courses and on the job supervision as have been recommended in the Fifth Report.

Delimiting of large rural Police Stations

50.10 The Police Stations in rural areas are too few and far between. Some have a very vast and unwieldy jurisdiction. In the case of Police Stations having vast jurisdiction, the beats and patrols become unmanageable and consequently the police presence and policing becomes diffused and diluted. The police personnel at the Police Station are also unable to acquire an intimate contact with the community living in the area. In para 20.15 of our Third Report, we have referred to the thin spread of police in rural areas. We have impressed upon the necessity to increase the spread of regular police in the rural areas. That would also reduce gap in the density of police presence in the urban and the rural areas as compared to each other.

50.11 We are of the view that to achieve the dual objective of crime prevention and detection and establishing community relations, the maximum number of men from the Civil Police force should be brought as close as possible to the community. If they are brought closer to the community, they will be able to respond to public needs and expectations and serve the community better. They will be able to provide a greater measure of security of life and property to the rural areas where tensions are showing signs of increase. This is particularly important because insecurity of life and property is increasing due to feuds, factions, farmers' movement, caste disputes and other agitations etc. Thus better policing will be possible in our view only if the jurisdictions of large rural Police Stations are delimited and made more compact and manageable.

Patterns of Police Station

50.12 A Police Station to be effective should be a compact unit. It should be properly equipped to respond to perform all the main duties of the police namely investigation of crime, maintenance of law and order, traffic control, etc. The jurisdiction should neither be so large as to defeat the very purpose for which it is created, nor so small as to lead to an unnecessary expenditure on mere house keeping functions. Accessibility of police service to the community at large should be the main criterion for the location of Police Stations. Therefore, the jurisdiction or the location of the Police Stations need not necessarily be made co-terminous with other units like Block, Tehsil etc. in the district. The Conference of Inspectors General of Police (1958) recommended the normal area of a Police Station to be 75 sq. miles (equivalent to 195 sq. km.) with a population between 50,000 and 60,000.

50.13 In our view the number of IPC offences registered and investigated is also an important

criterion. This determines the number of Sub-Inspectors/Assistant Sub-Inspectors posted to a Police Station for investigation and the degree of supervision required. We feel that with the increase in the density of population, as is evident from the 1981 census, the volume and pattern of crime in rural areas have changed and the problems of law and order have also increased due to various factors. Therefore, in our view an area of 150 sq. km. (as against 195 sq. km.) for a rural Police Station may now be adequate for the efficient functioning of a Police Station. We are aware that reduction in the size of large rural Police Station is likely to involve expenditure. In our view this is necessary as we have to provide a greater measure of security of life and property in the rural areas. In urban areas besides other factors the population density of the community should be one of the main considerations in determining the establishment of a Police Station. The towns and cities which are totally unplanned and have a large number of people living in very small areas present totally different problems. These areas, being congested, can be policed by a smaller number of men than a planned and dispersed area. However, if the population in any given area exceeds 60,000, it can become difficult for the Police Station to manage it. In such cases it may be necessary to bifurcate and carve a new Police Station by delineating the jurisdiction of the neighbouring Police Station. Similarly, if the number of crimes registered at a Police Station are numerous then the sheer number produces a pressure of work which leaves little time to shift facts and work out clues successfully and detect crimes. The volume of crime has considerable bearing on every aspect of Police Station work. From the crime point of view, if a Police Station registers more than 700 crimes annually, there would be full justification for creation of another Police Station. For this purpose, the area of all the Police Stations in the neighbourhood should be rationally adjusted either to set up another Police Station or to readjust boundaries.

50.14 In our view, the urban areas should have exclusive Police Stations. It is not desirable for a Police Station to cater to both urban and rural areas. It is our view that area, population, extent of crime reported and the frequency of public order situations should constitute the norms for organisation and constitution of Police Stations and their location.

50.15 We also recommend that in order to meet the needs of policing, there should be a review every ten years of the jurisdiction of Police Stations. Whenever new Police Stations are sanctioned or the jurisdiction altered, the notification under section 2(S) Cr. P.C. constituting the Police Station should be issued promptly. Delay in the issue of the notification unnecessarily hampers the functioning of a new Police Station.

50.16 We feel that Police Stations may be broadly divided into three categories depending on the number of crimes to be investigated, the area in which law and order have to be maintained and the population

which they have to serve. The first category will be a few of the biggest police stations in cities investigating over 900 cognizable IPC offences and, therefore, having an investigation staff of at least 3 Inspectors and 15 Sub-Inspectors/Assistant Sub-Inspectors. Here, the Station House Officer should be a Deputy Superintendent of Police/Assistant Superintendent of Police. The second category will be Police Stations in Cities/Towns and even in rural areas investigating over 300 IPC offences per year. Here the Station House Officer should be an Inspector. The third category will consist of smaller police stations headed by a Sub-Inspector. Though the main criterion for the formation of a Police Station should be the number of IPC offences to be investigated, population, area, law and order problems, traffic and other problems will also have to be given due weight.

50.17 We are of the view that more compact Police Stations can accomplish better results and ensure closer working relationship and would ensure direct control of the Station House Officer. There is no need to create and proliferate police outposts. However, areas where the terrain is difficult because of mountains, thick forests or where communications are poor due to rain or snow, police outposts may have to be established as feeder points between the community and the Police Station. Police outposts may also be necessary sometimes in areas with urban agglomeration or where new colonies are coming up. It is, however, our view that ultimately they must be upgraded as regular Police Stations. The establishment of Police outposts should be with a view to achieving a desired level of policing in any particular area for reasons like proximity to border or frequent occurrence of disorders or crime or inaccessible topographical features and not to serve or fulfil the desires of influential persons. In para 27.5 of our Fourth Report, we have already recommended that the constituent units of a Police Station like police outpost should be enabled to register First Information Report as and when information or complaints about offences are lodged with them direct. For this purpose, we have already suggested that section 154 Cr. P.C. should be suitably amended.

Functional division of staff at the police station

50.18 Several State Police Commissions and other bodies which went into various aspects of policing in the post-independence era were in favour of a functional division of staff for investigation, law and order and traffic duties. The Law Commission in its 77th Report, while examining factors causing delay and arrears in trial courts, was of the view that separate staff should be earmarked for investigational duties at the Police Stations and that this staff should not be, as far as possible, deputed for other duties.

50.19 We have examined, in detail, the scheme of functional division of staff for investigation and law and order introduced in several States. This has been done mostly in cities and urban areas. However, in Punjab, the scheme has been extended recently even in the Police Stations in rural areas. The

separation of investigation work from the law and order has been undertaken with a view to preventing the investigation staff from being drafted for law and order and other duties. The desirability of achieving continuity in investigation, and developing expertise to achieve greater efficiency and results in investigation are the other objectives.

50.20 We found in some places especially in the Southern States, that the separation of staff for law and order, crime, as well as traffic duties has not only been carried out at the Police Station level, but these functions are separate even upto and inclusive of the Deputy Commissioner's level. Officers of the Crime Division investigate offences against property and other grave offences in the entire city. The Traffic Wing investigates all traffic offences in the city. In Punjab at each Police Station, a small component of staff is earmarked as detective (investigation) staff for investigation of all IPC cases. This staff is under the supervisory control of the detective branch of the district who are answerable to the District Superintendent of Police. The Sub-Inspector in charge of law and order is the Station House Officer of the Police Station and exercises administrative control over the detective staff. While the staff of the Police Station, besides dealing with law and order, investigates cases under local and special acts, and detective branch investigates all cases under IPC. In Greater Bombay, the functional division of staff is confined to the Police Station level and the jurisdiction of Assistant and Deputy Commissioners are territorial and as such they look after both law and order and investigation. These are some of the variations of the existing functional division of staff in some States.

50.21 The deployment of police personnel in law and order duties at the expense of investigation work in Police Stations, in our view, arises primarily from inadequacy of manpower resources at the Police Station. There is not always a separate allocation of staff for law and order duties and this makes heavy demands on police manpower resources. It is necessary now to assess our requirements for law and order also in the light of our experiences in the 1970s. We are of the view that once adequate manpower resources are available at the Police Station the need for utilisation of investigation staff for law and order duties may not arise so frequently as today. Our assessment is that even after having separate hierarchial set-ups for law and order and investigation wings, the functional division of law and order and crime work has neither attained the desired level of independence nor specialisation. The law and order police are mostly pre-occupied with immediate day-to-day problems of VIP bandobust, processions, demonstrations and hence can give very low priority to beats and patrols which are neglected. The crime wing is grossly understaffed to undertake any crime prevention programme. The beats and patrols have become inoperative due to their utilisation in law and order duties. In all these situations, it is the crime work that suffers.

S/5 HA/82—2

50.22 We, however, feel that the nature of police duties are such that there are obvious disadvantages in placing the two branches viz. crime investigation and law and order—in watertight compartments. If the lines of command and control for law and order and crime investigation wings are totally separate, the contact between these two wings will tend to be practically eliminated resulting in their isolation from each other. We are, therefore, of the view that the Station House Officer of Police Station should have an overall control and responsibility for all the police tasks within the Police Station limits. This should in no circumstances be diluted by making the crime investigation wings of the Police Station answerable to hierarchies other than the Station House Officer. It is essential that at the Police Station level the division of duties and functions is not carried out to the other extreme as would make the Police Station appear as a house divided into two separate watertight compartments. Therefore, while maintaining the composite integrity of the Police Station under the Station House Officer, our main object of stressing the functional aspect in the bigger police stations is to ensure that adequate time and attention is given to crime investigation work which is often neglected at present.

Beat patrolling

50.23 We have stated earlier that in very few States (Maharashtra, Karnataka, Tamil Nadu, Uttar Pradesh and Delhi) there is separate allocation of staff for beat work. But even in these States, the actual deployment of staff on patrolling duties is neglected. This is on account of existing deficiencies in the staffing pattern as well as due to other pre-occupations of staff. A study group set up at our instance found out in four different States/Union Territory of the country where staff has been allocated for beat work, that the daily average figures of patrolling was 3.46 hours out of the daily average duty hours of 12.1 hours excluding travelling time. This meant that 28.6% of the time spent on duty was spent on patrolling both in the rural and urban Police Stations. In the urban Police Stations the daily average for patrolling during day was 1.57 hours. In the rural Police Station, patrolling during day consumed 0.22 hours only although patrolling during the night hours claimed more time than during day. Thus the daily average of patrolling both by day and by night forms a very small part of the daily work in a Police Station. This is the situation in Police Stations in which staff has been sanctioned for beat work. Even there it is seen that there is lack of emphasis on the actual presence of policemen in the locality or in the street. This is the reason why the policemen are not seen patrolling the streets or visiting the villages. Naturally the public does not feel the impact of beat patrolling.

50.24 The situation in Police Stations in which separate staff has not been sanctioned is much worse. The beat patrolling work is understandably more casual and erratic. Again the needs for patrolling in all beats is not the same. Some beats require intensive patrolling during certain periods of the day while

certain beats require longer hours and some round the clock. There are also beats which would require more patrolling during the night. These are the reasons which have compelled us to restore the role of beat patrolling and we feel that there should be at least 4 hours of patrolling by day and 4 by night, which can be progressively increased depending upon the requirements.

50.25 We have already referred in para 41.32 of our Fifth Report that beat patrols are one of the best means of establishing good relations with the public. They will not only render help to the people who are in distress, but will also promptly obtain all informations of interest. The beat patrols are in a better position to undertake surveillance over suspects and known criminals. We would, therefore, like to recommend that all urban and rural areas should be divided into convenient beats and a specific number of policemen should be put in charge of each beats. We strongly feel that the advantages gained by having an effective beat patrolling system would be invaluable.

50.26 The policemen in charge of beat work have to be of a higher quality and intelligence than those who do this work at present, because they are expected to be aware of the social milieu in which they work. The very sight of a uniformed policeman in the locality or in the street should serve as a deterrent to potential criminals, toughs and eve teasers etc. The absence of the policeman from there on the other hand can create a feeling of insecurity in the minds of the public, specially in families whose men-folk remain out during the day. Therefore, the very presence of a policeman can prevent crime.

Prevention of crime and surveillance

50.27 The prevention of crime is an important aspect of police work and calls for considerable planning at the Police Station level. The history sheets and surveillance records have to be built up and maintained from court records. The information has to be obtained and collected by police from other sources as well. These very often have to be correlated and facts marshalled for initiating preventive proceedings against criminals and anti-social elements. This record becomes very important in deciding externment cases. Well-conceived studies in the fluctuation and extent of crime within the Police Station limits and in the neighbourhood areas and its constant analysis will enable the Police Station staff to evolve well coordinated plans for preventive aspects of crime control. At present this function is neglected.

Leadership at the Police Station level—the Station House Officer

50.28 The Officer-in-charge (SHO) of a Police Station is an important functionary and superior police officers assume powers of an officer-in-charge for the performance of investigative functions by virtue of section 36 Cr. P.C. The general pattern in most of

the States is for an Sub-Inspector of Police to be the Station House Officer of a Police Station regardless of the importance and the quantum of staff manning the Police Station. In para 39.19 of our Fifth Report, we have identified the various activities the police have to undertake. We visualise that all these activities, which are interactive in nature, will take place at the level of the Police Station. It is the Police Station which has to function as a static base for preventive and investigative functions and as a point of contact with the community. The Station House Officer thus has to be an officer who can inspire his officers and men and at the same time create the right kind of atmosphere under which they can work for the achievement of the organisational goals. This role in our view requires a better and higher degree of leadership at the Police Station level. The leadership should be commensurate with the status and importance of the Police Station, the staff posted and the number of crimes registered.

50.29 In recent years, in some States important Police Stations have already been placed under the charge of Inspectors of Police. We feel that this is a step in the right direction. We visualise that in the restructured hierarchy all Police Stations with a crime figure of 300 cognizable IPC offences and above and important Police Stations requiring sizeable manpower should be placed under Inspectors. Similarly in Police Stations with a crime record of over 900, no officer below the rank of Deputy Superintendent of Police/Assistant Superintendent of Police should be the Station House Officer. When this takes place, the officer would perform dual functions *i.e.* he will be SDPO or Circle Officer plus the Station House Officer. This would imply that the next supervisory level will be the Additional Superintendent of Police or Superintendent of Police. This will add to the general efficiency of the Police Stations and improve the quality of investigation. It is also necessary that only officers with proven ability and integrity are posted as Station House Officers.

50.30 The Officer posted as Officer-in-Charge of a Police Station should be designated as Station House Officer (SHO) to distinguish him from other subordinate officers who also can become officer-in-charge in the absence of the permanent incumbent from the Police Station. In order that another mature officer takes up the reins of the Police Station during the absence of Station House Officer on duty or otherwise, the officer next in seniority to the Station House Officer, who may be an Inspector or a Sub-Inspector, as the case may be, should be designated and posted as Second Officer of the Police Station. Both the Station House Officer and the second officer will share responsibilities and the work-load amongst themselves. They will allocate duties, monitor manpower requirements and utilisation functions which are at present the most neglected duties in the Police Stations. In this way, every Police Station would have at least two Sub-Inspectors so that at least one Sub-Inspector is available at the Police Station all the time.

Adequate reserves for weekly off, leave and training reserve and emergent duty

50.31 It is very important to have appropriate provision of adequate reserves for weekly day off, leave, training and emergent duties. This alone can ensure that the functioning strength of the police station is not depleted below the level of operational efficiency. This important matter, we are afraid, is being neglected resulting in many Police Stations functioning with staff below the level of operational efficiency. The nature of police work is such that it is absolutely essential to be able to call for reserves.

Police Station buildings

50.32 We have already mentioned about the state of neglect of the buildings housing the Police Stations which lack in the essential minimum needs and amenities for the staff as well as the public. The Government of India in the Ministry of Works, Housing and Urban Development constituted a panel to lay down planning norms and construction design of Police Station buildings. After collecting information from Heads of police departments in various States, within the country, and the Ministry of Home, United Kingdom, the panel visited some representative Police Stations. The panel then laid down space requirements and drew up imaginative plans for Police Station buildings. In these suggestive plans, modifications, as required, could be made to suit the operational needs of the area. A booklet has been published by the National Building Organisation (1967) as a reference guide for designing new Police Station buildings and remodelling the existing ones along functional lines.

50.33 In para 41.31 of our Fifth Report, we have already mentioned that in order to create a new climate in the police organisation and to bring about a change in the style of police work, the Police Station buildings should be commodious, clean, well furnished and well lit. In addition we also recommend the following :—

- (i) the existing dilapidated Police Station buildings be reconstructed or remodelled. The object should be to ensure that Police Stations have sufficient accommodation and are properly equipped for its functions and are decent enough to receive the citizen of a free and progressive country;
- (ii) it is essential to provide rest rooms for the staff when off duty. Provision should also be made for suitable catering facilities;
- (iii) it is also necessary to have a separate reception-cum-waiting room for visitors;
- (iv) the lock-ups instead of the present dungeons with awful sanitary conditions should be such in which our citizens can be kept, without going through extreme hardship and discomfort.

50.34 We may, however, add that most of the old buildings are quite useless and past

remodelling. It would be better to rebuild them rather than to waste money on unsuccessful efforts to remodel them. Adequate residential accommodation for the staff should be made available near the Police Station buildings. The Police Station building and its surroundings have to be made neat and clean to suit both the security needs and the aesthetic sense. In case where the space is short, the construction of buildings may be planned as a multi-storied structure. It may be difficult to get alternate centrally located sites and it may not be desirable to shift the police station to a new location.

II. RESTRUCTURE OF THE CIVIL POLICE UPTO DEPUTY SUPERINTENDENT OF POLICE LEVEL

50.35 The delimiting of the jurisdiction of Police Stations and its strengthening as proposed above would not by itself bring about improved performance, enhanced standards of service and professionalism in the police station staff unless reforms and changes are brought about in the structure of the civil police, hierarchy manning the police stations. The public has most of its dealings with the subordinate ranks of the civil police. The operational effectiveness of these ranks determines the quality of services rendered in preventive, investigative and regulatory fields. We feel that the civil police has, therefore, to be so restructured that it is able to provide both adequate volume and quality of services to the people. In the existing civil police organisational structure in the country, there is preponderance of the constabulary (Constables and Head Constables) constituting 89.2% of the entire civil police force, whereas the Sub-Inspectors and Assistant Sub-Inspectors together constitute 9.2%, the Inspectors 1.2% and the Deputy Superintendent of Police and Additional Superintendent of Police 0.4%. The first basic need in our view is improvement in the qualitative performance. Therefore, we feel that, without embarking on an undue increase in strength, the same can be brought about within even the existing strength by larger numbers at middle levels of Assistant Sub-Inspector/Sub-Inspector/Inspector offset by smaller numbers at the lower levels of constabulary. There may, however, be police stations where additional staff may be needed.

50.36 We have earlier referred to the acute dis-satisfaction among the people in relation to non-registration of complaints at the police stations and the gross delays in the investigation of those which are registered. In this context we have stressed the urgent need for increasing the numbers of investigating officers. The principle of limitation has been introduced for the first time in the Indian Criminal Law and has been enumerated in Chapter XXXVI of Cr.P.C. 1973. This also underlines the need for speedier investigation. It is our view that quickness and efficiency with which individual criminals are investigated by the police with apprehension of offenders and return of lost properties to the victims of crime will determine the police image. The only way to win the trust of the people and refurbish the

image of the police is for the police station to render expeditious aid to the people who have suffered harm or damage or are in danger. The present impression that complaints will not be registered and investigations will be apathetic, dilatory and protracted has to be removed.

50.37 We are confident that as a result of our emphasis on correct registration of crime and coming to the aid of the people in trouble, the people will start looking up to the police and the police station as a friend in need. Once such a rapport is established, necessary cooperation and support from the people will be forthcoming. The increased registration of cases and their investigation would necessitate considerable increase in the number of investigating officers and middle level officers. The changing socio-economic scene and shifting values in society have unleashed tensions under which the task of the police becomes a difficult one. There is not only an increasing readiness to challenge authority at every level of society but also a growing disrespect for law and order and the property and rights of others. In our opinion, increased numbers at the middle level and an officer orientation of the organisation would enable the police and the police station to meet the situation in a more competent, effective and, above all, courteous and honest manner.

50.38 Any restructuring of the police hierarchy needs primarily to be directed towards promoting greater efficiency in the police service by improvement in its operational effectiveness especially in investigation of crime, and promoting employee satisfaction. The Civil Police must be so structured that it is able to provide efficient quantitative as well as qualitative service to the people. Improved quality can be brought about even within the existing strength of the civil police by larger numbers at the middle levels of Assistant Sub-Inspector/Sub-Inspector/Inspector offset by somewhat smaller numbers at the lower levels of Constables. We have in our Fifth Report already made recommendations to improve the quality of recruitment at the level of the Constabulary and have also laid emphasis on the proper training of the Constables so that they are enabled to perform their new tasks with much greater efficiency than before. They should also be enabled to develop capabilities which would make them suitable for promotion to higher posts.

50.39 The proportionate increase in the ranks of Assistant Sub-Inspectors, Sub-Inspectors, Inspectors was some important objectives. These are as follows :

- (a) *Functional*.—It will produce a larger number of urgently needed officers at the investigation levels. These officials, most of whom are likely to have risen from the ranks of the constabulary, will have greater knowledge and work experience at the grass root level. These higher level functionaries in the ranks of Assistant Sub-Inspector/

Sub-Inspector/Inspector/Deputy Superintendent of Police will be available to handle and supervise the heavy work of investigation, which is sadly neglected at present.

- (b) *Motivational*.—For any system to function well motivational incentives are extremely important. At present the constabulary, which constitutes about 90% of the entire force, has practically nothing to look forward to. Being ill paid, ill equipped, ill housed and overworked, they can see nothing but hard toil and grind before them. Such an ill motivated force cannot be expected to be very mindful of its duty to the citizens or to worry very much about canons of integrity and devotion to duty. Once a constable always a constable has come to be accepted as the normal prospect of a constable. To get over the motivational block we have separately suggested certain changes in the emoluments, perquisites, minimum educational qualifications and duties of a constable. We have also recommended that direct recruitment to the police should hereafter be only at two levels viz., at the level of the constable and at the level of the Indian Police Service. All intermediate levels would be required to be filled by officials promoted at various stages from the level of the constable. This, along with a larger number of officers at the middle level, should operate as effective motivation and morale booster to the rank and file in the police for better service to the people.

All these changes, however, cannot be brought about overnight and there would have to be an interregnum during which, for a short period, direct recruitment in decreasing numbers will be required at the Sub-Inspector level.

- (c) *Financial*.—As already explained in the previous paragraph, the financial impact of these changes is not likely to be burdensome as side by side with the increase of officials at the middle levels there would be a corresponding proportionate reduction in the numbers of the constabulary. In any case even if some additional financial burden has to be borne, it must be borne in the overall interests of the better functioning of a force on the efficient working of which, law and order and peaceful conditions in the country can be maintained. Law and order and peaceful conditions are the only base on which the progress of the country can be ensured.

Yardsticks

50.40 In view of the references made above to overall numbers and workload, it would be useful to consider the subject of yardsticks at this point i.e., standards laid down for sanction of staff at different

levels. We are conscious that in the face of the increasing pressure of work at various levels, there is a persistent demand for more and more staff to be sanctioned at all levels including that of the constables. We, however, feel that great caution and circumspection is required in dealing with this complex subject of yardsticks. The people expect from the police a certain capability for response both to act as a deterrent to potential criminals by bringing the culprits to book and to enhance their own skills of investigation. This will enable the police to pay the required degree of attention and promptness in the conduct of investigations. Manpower commensurate with the volume of work should, therefore, be available at the police stations and each State should set up a Committee aided by G&M personnel and operational research personnel to work out suitable norms.

50.41 The response to a steady increase in crime may not always be reflected in our statistics and may not be viewed necessarily only in terms of increasing the strength of the police forces. The response can also be in terms of revised priorities or new strategies or new and improved professional skills. These are some of the considerations which have prompted us to attach a great deal of importance to the recruitment of better educated constables and to create in each rank greater homogeneity by eliminating the dual system of direct recruitment and promotion to the same rank. It is towards this objective that we have prescribed that the entry qualifications of Constables in the future in both the wings of police—the civil and the armed—should be the same. Also that there should be no recruitment to other levels below the Indian Police Service except at the level of the constable. Direct recruitment to the rank of the Sub-Inspector may, however, have to be retained for sometime only as a transitional measure.

50.42 After giving consideration to the subject of yardsticks we have observed that the subject is complex and bristles with several practical difficulties. It is at present virtually impossible to measure police workload evenly in all States. While this exercise of restructuring is going on and efforts are being made to increase the number of middle level functionaries and to bring them up to the effective standards of training, operational research must be taken up by every State Police Force to evolve new norms of yardsticks based on the new job content of the posts of various ranks. A number of State Police Commissions have given guidelines in this respect. The requirements for investigation, law and order, traffic and other police duties differ from State to State. Differences also exist on account of the degree of urbanisation, density of population etc., for examples :—

- (1) High density urban areas i.e. cities with population over 5 lakhs. In this category would also come metropolitan towns and State capitals.
- (2) Urban areas with the rural area only a few miles from the heart of the town—this is likely to cover all urban centres from 50,000 to 5 lakhs.

- (3) Thickly populated rural areas of Uttar Pradesh, Bihar, Tamilnadu, Andhra Pradesh etc.
- (4) Thinly populated rural areas in Madhya Pradesh, parts of Orissa, Rajasthan, Andhra Pradesh, etc.
- (5) Sparsely populated desert, mountainous and forest areas in Rajasthan, North East and the Himalayan belt etc.

Therefore, this is a matter in which each State will have to evolve its own yardsticks keeping in view their own needs.

Need for more investigation staff and broadening of the hierarchical pyramid to improve efficiency and promotional prospects

50.43 As a consequence of our emphasis on the registration and investigation of all crimes, it will be absolutely essential to increase the number of investigating officers in the rank of Assistant Sub-Inspector/Sub-Inspector/Inspector. This can be done by some reduction in the posts of constables by upgrading them and by sanction of posts to handle increased work. This will remove the present imbalance between the large numbers of constables engaged primarily on mechanical tasks and the small numbers of superior officers required for investigation, supervision and law and order duties. Thus the increase in middle level investigating officers will come both by upgradation and sanction of additional posts.

50.44 We have made an analysis of rank-wise strength of police forces in the country, the levels of recruitment and also the prevailing promotional prospects in different States and have found the following situation :—

- (i) The hierarchical pyramid has a large base and a narrow apex. The number shrinks drastically from level to level as we proceed upward in the hierarchy from the rank of constable. This can best be illustrated by the following table :—

	Andhra Pradesh	Maha-rashtra	Uttar Pradesh
Constable & Head Constable.	91.6%	92.7%	87.3%
Assistant Sub-Inspector and Sub-Inspector	6.3%	5.9%	11.3%]
Inspector	1.5%	1.2%	.9%
Deputy Superintendent of Police & additional Superintendent of Police . . . . .	.6%	.2%	.5%

- (ii) Between the rank of the constable and the Deputy Superintendent of Police there is provision for direct recruitment at a number

of levels mainly of Sub-Inspectors and Deputy Superintendents of Police and in some cases also of Assistant Sub-Inspectors. There is some variation from State to State in regard to the quantum of recruitment at different levels. There is also variation in the number of ranks.

- (iii) There are wide disparities in the promotion prospects of constables from State to State. In some States, a Constable gets promotion to the rank of Head Constable in 9-10 years but in other States it varies from 11 to 32 years. Similarly it is after an average service of 7.7 years that the junior-most Head Constable gets promotion to the rank of Assistant Sub-Inspector.
- (iv) The prospects of promotion of constables to higher ranks have been poor in all States. Among those who had retired during the period 1973 to 1977 in eight major States, an average of 62% had stagnated and retired as constables, while 28% had managed to get promoted and retired as Head Constables. Among the remaining 10%, 3.6% retired after rising to the rank of Assistant Sub-Inspector and a very small number after reaching further higher levels of Sub-Inspector and Inspector etc.

Objectives and perspectives of restructuring

50.45 As observed earlier, due to the existing system of direct recruitment at several levels above the constabulary, there have been very few posts available for promotion from the lower ranks. A mixture of promoted and directly recruited officials at the same level has resulted in the creation of class consciousness at the same level and operates against the homogeneous and smooth functioning of the force as a whole. The rank and class barriers in their turn interfere with the operational functioning of the force as some functions have got identified with lower ranks and officials in the higher ranks resist performing them. It is, therefore, desirable to achieve a more harmonious composition of the force in each rank so that the personnel management problems that face the police today would get minimised.

50.46 It is a fact that at present the maximum visibility of the police centres around the constabulary. We have already made recommendations to improve the image of the constabulary by recruiting better educated and qualified constables, followed by improved training to enable them to undertake more responsible jobs. We would like the work to be so organised that the Assistant Sub-Inspectors, Sub-Inspectors and Inspectors also take a hand in basic police work and are seen by the people side by side with the constables. Our objectives in restructuring the police organisation have been directed towards making the police structurally competent; operationally functional and organisationally cohesive and harmonious. In this context our study of the existing

duties and responsibilities of personnel at the various ranks has revealed that every higher rank tends to assume only more and more supervisory roles without such operational responsibility. Consequently there is an excess of supervision, considerable diffusion in duties and responsibilities, and very little leadership in the field.

50.47 Our approach is that the supervisory functions must be limited and only incidental to the operative field function of each rank. It is the operative job content which needs to be developed in each rank. After careful consideration we have come to the conclusion that it will not be desirable to introduce any new ranks in the police. We would like an exercise to be undertaken by every State which will re-design the job contents of the existing ranks of Constables, Head Constables, Assistant Sub-Inspectors, Sub-Inspectors, Inspectors and Deputy Superintendents of Police. We envisage that in the restructured police hierarchy, the levels should be as follows :—

- (a) The operating level functionaries will consist of constables and Head Constables who together will constitute the first level. The present high proportion at this level will get phased out gradually over the next few years as larger proportions are introduced at the higher levels.
- (b) The investigating level functionaries will consist of Assistant Sub-Inspectors and Sub-Inspectors. These will constitute the second level.
- (c) The junior supervisory-cum-investigation level functionaries will consist of Inspectors, with some of them in the Selection Grade. They will constitute the third level.
- (d) The senior supervisory level functionaries consisting of the Deputy Superintendent of Police and Additional Superintendent of Police. They will constitute the fourth level.

50.48 Our broad approach in recommending restructuring of the existing 6 basic ranks of Constable, Head Constable, Assistant Sub-Inspector, Sub-Inspector, Inspector, Deputy Superintendent of Police in the civil police into four levels is designed to ensure that the structure is so organised that not only does it cater to the operational requirements of the civil police for a larger number of investigating officers in levels two and three but also that the structure will make it possible for every employee at a given level normally to get promotion and a higher level after a specified period subject, of course, to fitness and suitability.

50.49 We visualise that the restructuring of the civil police into four levels providing for a more or less automatic promotion within each level, to every employee who is found to be fit, will lead to the following promotional prospects :

- (i) Promotion of constables by horizontal movement to the rank of Head Constable after

eight years of service subject to the rejection of persons with unsatisfactory records.

- (ii) Selection to the rank of Assistant Sub-Inspector from Constables and Head Constables who have completed a total period of six years of service and above. They will be required to compete in a promotional examination of a high standard. The examination would be so designed that the candidate can give evidence of his academic competence, and knowledge and understanding of police work.
- (iii) The promotion of Assistant Sub-Inspectors to the rank of Sub-Inspectors in the second level would be again by horizontal movement after fifth year of service as Assistant Sub-Inspector. We expect all Assistant Sub-Inspectors to get promoted as Sub-Inspectors subject to the rejection of those with unsatisfactory record of service and physical unfitness.
- (iv) The selection to the rank of Inspector in the third level from Sub-Inspectors in the second level would again be made from those who have completed a minimum of six years service and undergone a pre-promotion course of a high standard. The pre-promotion course will be designed to improve the knowledge of Sub-Inspectors in law and procedure of police work besides developing their investigational capacity. After this pre-promotion course the aspirants for selection to the rank of Inspectors will have to undergo a competitive examination at which suitable weightage will be given to performance at the written examination, evaluation of the Annual Confidential Reports, personal interview and physical fitness.
- (v) One-fourth of the total number of posts of Inspectors should be designated as selection-grade level posts to which every Inspector will get appointed under the criterion of seniority-cum-good record.
- (vi) Selection to the rank of Deputy Superintendent of Police will be from the rank Inspector from among those who have completed 6 years of service as Inspector. The fact however remains that selection from the rank of Deputy Superintendent of Police to the IPS would be more competitive and there is likelihood of promotional prospects at this stage being restricted owing to the percentage of posts available for this purpose being only 33½% of the IPS cadre. We, therefore, consider it desirable to recommend that one-fourth of the total number of posts of Deputy Superintendents of Police in each grade should be operated in the rank of Additional Superintendent of Police. These officers would continue to discharge the

duties and responsibilities of the post of Deputy Superintendents of Police but would have the status and grade of pay of Additional Superintendents of Police as personal to them. The appointments to the grade of Additional Superintendents of Police will also be on the basis of seniority-cum-fitness.

50.50 In arriving at the above promotional arrangement our endeavour has been to ensure that a bright constable for promotion to the rank of Assistant Sub-Inspector need not necessarily have to pass through the rank of Head Constable. Since the selection to the rank of Assistant Sub-Inspector would be by a competitive examination, it will be possible for a really bright constable to reach the ranks of Assistant Sub-Inspector directly. Similarly, a bright and able Sub-Inspector can get selected as Inspector after serving for a period of six years as Assistant Sub-Inspector/Sub-Inspector since the selection to this rank will be through a competitive examination on the criterion of merit only. In the other ranks within the same level viz., Constable to Head Constable, Assistant Sub-Inspector to Sub-Inspector, Inspector to Deputy Superintendent of Police, we would like the promotion to be on the simple criterion of seniority-cum-fitness.

50.51 A study was conducted by the Administrative Staff College of India, Hyderabad, at our instance. They have suggested that the personnel from the rank of constables to Deputy Superintendent of Police will have a smooth promotional flow within the system if the total number of persons in different categories are fixed according to the ratio of—Constable and Head Constable—45%, Assistant Sub-Inspectors and Sub-Inspectors—32%, Inspectors—16% and Deputy Superintendent of Police and Additional Superintendent of Police—7%. These ratios in the different categories are in the nature of the ideal expected to be attained in the process of restructuring and the same may be kept in view. Each State should have a computerised analysis done taking into consideration various input data, namely rank-wise strength of police personnel, age of retirement, minimum qualifying service for promotion from one level to another and other relevant variables and determine the relative proportion of posts required at various levels. We recommend that such a review should be carried out in every State once in 5 years.

Supervision of the work of the police stations Sub-Divisional Police Officers

50.52 The work of policing by its very nature entails constant interaction of the public with the police station and its staff. Therefore, it is important that proper supervision is exercised over the work of the police stations. This can best be appreciated when we consider the fact that the authority vested under law in the Station House Officer is enormous and the exercise of this authority has far reaching effects on the fundamental and other rights of the citizens. The potential for corruption and exercise of coercive influence on individuals exist to a great degree. Therefore, a very important purpose of supervision over the Station House Officer is to ensure a high quality of

work, integrity and self-discipline. This responsibility falls mainly upon the Circle Inspectors at present in certain States and upon the Sub-Divisional Police Officers in the others.

50.53 It is observed that at present both the Circle Inspector of Police and the Sub-Divisional Police Officer have been assigned similar duties. In the absence of legal and administrative orders delimiting their duties and functions, there is considerable overlapping in their work and functions. In Uttar Pradesh and Rajasthan, the institution of Circle Inspector does not exist and it is the Deputy Superintendent of Police/Assistant Superintendent of Police who functions as Circle Officer. In the preceding paras relating to the restructuring of the civil police with a view to strengthening the leadership level at the Police Stations, we have recommended that Inspectors should be posted as Station House Officers in most of the Police Stations except in the smaller urban Police Stations and in the rural Police Stations. In these Police Stations, the SHO for some time to come is likely to be of the rank of a Sub-Inspector only. In course of time when the work increases even in these Police Stations and the staff of the required seniority becomes available, these posts would also justify to be filled by an officer of the rank of Inspector.

50.54 In view of the fact that in our scheme the bulk of the SHOs will be in the rank of Inspectors and Deputy Superintendents of Police, we are of the view that the institution of the Circle Inspectors wherever it exists should be abolished and the responsibility for supervision, coordination and monitoring of the performance of Police Stations should devolve solely on Deputy Superintendents of Police or Assistant Superintendents of Police who may be designated the Sub-Divisional Police Officer. It is important to ensure that these Sub-Divisional Officers have a manageable charge and take over the load of operative work and supervision over working of Police Stations from the Superintendents of Police. In cases in which the Station House Officer is of the rank of Deputy Superintendent of Police, the supervision will have to be exercised by the Superintendent of Police himself.

50.55 The Sub-Divisional Police Officer should be the principal officer to supervise investigation of crime cases, crime control measures, the documentation work and intelligence and surveillance matters that are required to be done in the Police Stations by the Station House Officer. One of his most important duties will be to keep watch on the integrity of the Inspectors, Sub-Inspectors, Assistant Sub-Inspectors posted in his jurisdiction. He would also be expected to visit Police Stations frequently and sometimes even unannounced in order to ensure that all crimes that are reported at the Police Station are registered and that the concerned officers conduct their investigations with speed. He should be in a position to provide to them the necessary guidance in investigation of difficult cases and help them in utilising modern aids. The Sub-Divisional Police Officer will also be required to

make detailed inspection of the Police Stations. He would ensure that the Station House Officer enforces discipline on the staff of his Police Station and that he is responsive and helpful to the public. As mentioned earlier we expect the SDPO to investigate the more important cases of riot and murder and other more difficult cases. Keeping all his duties in view we feel that the Sub-Divisional Police Officer may not be able to supervise the work of more than three Police Stations or about 1200 IPC cases. The SDPO should also be provided the necessary supporting staff like typist and reader Assistant Sub-Inspector etc.

Weeding out of the corrupt, inefficient and otherwise undesirable persons from the police force

50.56 We are of the considered view that the full impact of our recommendations to restructure the civil police, strengthen the police stations, improving the quality of recruitment and training will not be felt in terms of improved quality of police service to the public if simultaneously steps are not taken to weed out the corrupt, the inefficient and otherwise undesirable persons from the police force.

We have dealt with the subject of corruption in the Police in Chapter XXII of our Third Report and there we drew attention to the following important points :

- (i) Several Police Commissions appointed in the States after Independence found considerable evidence of corruption in the police everywhere.
- (ii) The observations made by the 1902 Police Commission would apply more or less fully even today. If anything the position has worsened due to the numerous local Dadas and unprincipled leaders and men in public life, who have now become important shareholders in the fruits of corruption.
- (iii) The study made by the Indian Institute of Public Opinion in December 1978 disclosed that among the several factors responsible for sullyng the police image in India, corruption stands out as the biggest single factor. Police malpractices are becoming increasingly oppressive and extortionist in character and this is causing deep concern.
- (iv) The basic responsibility for maintaining the honesty of the force and weeding out the corrupt elements should rest squarely on supervisory levels in the force. To enable them to do so, their authority must not be diluted in any way but strengthened. The senior officers have to accept full responsibility in this matter and are expected to discharge the responsibility not only through effective functioning and vigilance but also by personal example.
- (v) It is the experience that even in the case of well known corrupt officers it is very difficult to establish a fool-proof case of corruption, as required by the courts of law. To

get over this difficulty, it may be expedient to amend Article 311(2)(c) of the Constitution as follows :—

“Where the President or the Governor, as the case may be is satisfied that in the interest of the security of the State or the maintenance of integrity in public services in the State it is not expedient to hold such an inquiry”.

We would however like to emphasise that this power should be used with extreme care and only sparingly in extreme cases.

- (vi) The Conduct Rules should be suitably amended to require any officer to submit a complete statement of his assets, movable and immovable, either owned in his name or in the name of any member of his family, either acquired from his own resources or from the resources of his family members.

50.57 This subject came up for further consideration and discussion during our later deliberations. We felt that as the Police is the most important instrument to combat corruption in society and the services as a whole, it is even more important to ensure that special measures are first taken to remove the corrupt elements from the force itself and to promote in it a high standard of rectitude and integrity. As corruption is a criminal offence, the Anti-Corruption Departments and Vigilance Sections have to be manned by police officers, who only can be investigating officers under the Cr.P.C. Therefore, the desirability of weeding out of corrupt personnel from the police force on a priority basis can never be doubted. The efforts so far made by the Government to clean up the force by framing rules and prescribing reviews by committees have not proved to be effective. The main reason is that these reviews have depended mainly upon screening of the Annual Confidential Reports. Such screening of records has however not helped because under the rules adverse remarks against integrity are very difficult to make and more difficult to substantiate. In fact we have lately observed a very definite reluctance on the part of the supervisory officers to pass adverse remarks, as more often than not they are called upon by those higher up to substantiate them. Such remarks are generally expunged under extraneous pressures and considerations. Unless, therefore, drastic and even summary steps are authorised to deal with this great evil, mere palliatives will prove quite ineffective.

50.58 We feel that in a service like the police the integrity of the officials should not only be kept at a high level but the people's confidence in their integrity should be created and continuously maintained. It may be worthwhile even to make the statement of assets of officials especially of the ranks of Inspectors and above subject to public scrutiny. This will provide an opportunity to the public to bring to the notice of the authorities any false or fraudulent statements made

by corrupt officials. At the same time it will create the much needed confidence in the organisation as this measure will encourage public participation in maintaining the integrity of the organisation as a whole. However, it would have to be ensured that the modalities are spelt out clearly and in careful detail so that honest and straightforward officials are not subjected to harassment and humiliation by unwarranted allegations from mischievous elements.

Confirmation of police personnel

50.59 We have felt greatly concerned about the delays involved in the present procedures and system of confirmation of official in different grades. There is wide variation from State to State. In some States it is taking Constables, Head Constables, ASI, SI, Inspectors and Dy. S. P. between 11—13 years service to get confirmations in their respective grades. In some States, the position is a little better. Confirmation confers a substantive right on the official concerned to hold the rank and he cannot be reverted from it without observing the disciplinary procedures. The denial of his right over prolonged periods naturally causes considerable understandable concern and anxiety to the officials concerned.

50.60 There is considerable myth and fiction attached to the process of confirmation. The process generates colossal paper work in the ritual of sanctions of posts as temporary, their subsequent conversion into permanent posts and thereafter the chase for completed confidential reports and convening of D.P.C. meetings and finally the issue of confirmation orders. While the pension and retirement benefits are no longer held up for want of confirmations the main cause of apprehension and insecurity now is that unless a person is confirmed he can be reverted and cannot be considered for promotion to the next higher grade. Both can operate as great hardships.

50.61 After careful consideration, we have come to the conclusion that this entire exercise of confirmation in every grade is futile. It only generates considerable paper work and takes up a lot of time all round. We, therefore, recommend that every official should be deemed to be permanent and confirmed in the grade of his appointment automatically on a completion of 3 years of satisfactory service in that grade. If any official is considered unfit for confirmation in a grade, steps to revert/discharge him should be taken well before the expiry of the period of three years. No separate order except the necessary notification should be necessary and the entire exercise should be dispensed with.

50.62 In our view this will give the officials a feeling of security and place responsibility on the superior officers to review each case before the expiry of the period of 3 years, if in their view the official concerned is unfit to hold the rank to which he was appointed. If the official is to be reverted or his services terminated, it is necessary that it is done within time and

after the observance of the prescribed procedures. We have considered this matter important enough to go somewhat out of the way to deal with it along with restructuring, as we feel that it will not only create a greater sense of security but will also improve personnel management in the service.

III. THE ORGANISATION AND STRUCTURE OF SENIOR AND TOP MANAGEMENT IN THE POLICE HIERARCHY AT THE RANGE AND STATE LEVEL—THE CONCEPT OF TERRITORIAL ISGP AND DIRECTOR GENERAL OF POLICE

50.63 In Chapter XXXIX of our Fifth Report, we have already recommended the vesting of all powers in the District Superintendent of Police for the regulation, control and promotion of order in the District. With this freedom of action to the Superintendents of Police, we feel that in future the DIG of the range should be required to play a more positive role in the functioning of the Districts under his control. He must operate as the coordinating authority between these districts and also between the districts under his control and the neighbouring districts of the adjacent ranges. He must carry out at least 2 inspections per year of the Districts of his range, each inspection of a duration of 5-6 days. This will mean about 60 days of inspection work. He would also be required to play an important role in the planning and modernisation of the force. He must be a sensitive judge of public opinion and would be the appellate forum both for the public and for the Staff.

50.64 The District S.P. will in future have much more freedom and authority in policing his district and the DIG of the Range besides exercising his traditional role of supervision will be required to help the S.P. in dealing with the more difficult situations by virtue of his greater experience and expertise. The span of responsibility of the range DIG in our view should be made commensurate with the demands of law and order and the crime work. We feel that the range DIG, to discharge his new functions efficiently will not be able to supervise the work of more than five district police establishments and we recommend accordingly.

50.65 There are wide variations between the number of Districts in one State and another. It would, therefore, be unreasonable to consider that the duties and responsibilities of the I.G.P. of the smaller States are at par with those of the bigger States. Our main concern in our reports has been to improve the quality of policing at the operative as well as at the supervisory levels. It would, therefore, be desirable if the span of control and supervision of an IGP is also spelt out. The present charges of the Is.G.P. in some of the major States are very unwieldy. In the U.P. for example he has 57 districts under his charge. This is obviously an unmanageable charge. He cannot even make one visit to each district during

his tenure of office. With the present day complex and difficult law and order situation, it is obvious that for an I.G. to function well he should have only a manageable charge. We are of the view that for adequate supervision larger States should have territorial Is.G. who should not have more than 15—20 districts or 4-5 Ranges under his charge. In certain cases it may be desirable to place the armed battalions of the range also under the operational charge of the Territorial I.G.

Chief of Police in States

50.66 In Para 15.43 of our Second Report we have already suggested that the Chief of Police of State should have an assured tenure of office. In para 15.46 of our Second Report we have recommended that the Chief of Police will be ex-officio Secretary of the State Security Commission. We have also recommended therein that the Chief of the State Police would be selected by the Government from a panel of names recommended by the State Security Commission. Our objective is to ensure that in the matter concerning police personnel in the organisation, exercising of disciplinary control over them, the financial management of supplies and purchase, in providing the infrastructural facilities for the growth and well being of the force, the role of the chief of police should be considerably enhanced and strengthened. We would like that the internal management of the police force in the State should fall entirely within the purview of the Chief of the Police. To relieve the Chief of the Police force in the bigger States of much routine work for better supervision we have recommended in the preceding paragraphs the post of Territorial IGP whose span of control should be about 15—20 District or 4-5 range DIGs.

50.67 Thus, relieved, the Chief of Police will have adequate time for policy directions and he can devote himself to the important, but so far neglected, task of planning and strengthening of the police organisation. With a Territorial I.G.P. holding charge of only 15—20 Districts it is obvious that in the larger States, there would be more than one Territorial Is.G.P. There would also be some functional IsGP such as IG (Intelligence), IG (Armed Police) etc. To coordinate the functioning of these multifarious Territorial and functional IsGP in the State, we recommend that a senior officer may be appointed as the Chief of the Police of the State with the designation of a Director General.

50.68 In States where the Chief of State Police is of the rank of the Director General, it will be desirable for the Director General to function in the style of participative association of the IsGP. The authority and role of the Territorial Inspectors General of Police in their respective areas should under no circumstances be diluted. It should in fact be strengthened to ensure an improved quality of policing.

50.69 We would like to emphasise that the rank and status of the Chief of Police is not to be given.

for the glory of the individual but to help him in the performance of his functions. Both the IsGP and Director General should be persons of high integrity and ability so that the officers and men have great respect for their knowledge and confidence in their ability to improve the force under their respective controls so that when they relinquish charge they leave it as a better instrument for the service of the people. While the IsGP will continue to be the heads of departments in their respective charges, the DGP, wherever appointed, will be the supreme coordinator and adviser to the Government in all police matters.

50.70 In order to ensure that our recommendations in the preceding pages should justify the enhanced role of SDPO, the District Officer, the DIG and the territorial IGP as well as Director General of Police are appreciated in the context of improving police performance, it is necessary that one of the criteria for justification of posts at the various senior levels is number of cases registered and investigated. In order to ascertain the quantum of investigational work that can be efficiently handled by one officer, a study was made at our instance in rural, urban and city police stations in six States in different parts of the country and also in police stations located in metropolitan cities of Bombay, Calcutta, Delhi and Madras. During the study, the quantum of time required for completion of investigation of different categories of crime (there were eight categories) was assessed. In all classes of PSs viz., metropolitan, city, urban and rural, investigation of miscellaneous IPC offences and offences under local and special laws and unnatural and suspicious deaths took the minimum time of 30 manhours. In case an I.G. puts 10 hours of work daily and is available for duty on 300 days (minus 52 days for one day off in a week and 12 days casual leave) in a year, then 3000 hours of work will be his total out-turn in a year. Taking 30 manhours as one unit, the comparative units of work-load of other categories of cases in metropolitan, city, urban, rural PSs are tabulated as follows :

Category of crime	Work-load expressed in units			
	*Metropolitan PS	**City PS	@Urban PS	%Rural PS
A. Murder etc.	2.5	3.0	3.5	4.5
B. Kidnapping/ abduction/grievous hurt.	1.0	1.5	1.6	1.5
C. Dacoity/Robbery	2.5	3.0	4.0	5.0
D. Burglary/Theft	1.5	1.5	1.5	1.5
E. Riots/unlawful assemblies	1.5	1.5	1.5	1.5
F. Cr. Breach of trust/cheating	2.0	2.0	2.0	2.0

*Metropolitan PS means a PS in metropolitan cities.

**City PS means a PS in cities with population over 2 lakhs.

@Urban PS means a PS in a term with population around 1 lakh.

%Rural PS means PS in a wholly rural areas.

The Study has revealed that if an officer is only investigating cases then he can investigate 50 to 60 cases in a year.

50.71 Investigation of cases, we must mention, cannot be the only criterion and the other criteria of compactness of charge, strength of the force, problems, etc. are equally relevant factors. However, on a broad basis the following criterion should be kept in view. The figures given below are very rough guidelines not applicable without taking the local and other factors into consideration :

- (i) 60 IPC cases — One I.O. (SI or ASI)
- (ii) 300 IPC cases — One Supervisory Officer of the rank of Inspector.
- (iii) 1200 IPC cases — One Supervisory Officer of the rank of Dy. S.P. He must visit personally all scenes of Special report cases.
- (iv) 3000 IPC cases — One Supervisory Officer of the rank of Supdt. of Police at this stage there will be the job of coordination also. The same gang of burglars/dacoity may be operating in a large area.
- (v) 15000 IPC cases }
20000 IPC cases } — One Supervisory Officer of the rank of DIG. He has to perform four functions. :—
 - (i) to supervise that investigations are being carried on honestly and promptly;
 - (ii) to coordinate investigations in different districts;
 - (iii) to ensure that there is no shortage of investigating Officers;
 - (iv) to ensure that specially complicated cases are entrusted to special squads.
- (vi) 60000 IPC cases }
80000 IPC cases } — One Inspector-General. In addition to all the duties of a DIG he should ensure that :—
 - (i) The I.Os are properly trained in scientific methods;
 - (ii) Forensic Science laboratories work efficiently;
 - (iii) skills of I.Os are constantly improved by new technique/refresher courses;
 - (iv) Liaison with Chief Minister and State Govt. and Heads of Department.
- (vii) 15000 IPC cases or more—One Director-General.

CHAPTER LI

STATE ARMED POLICE BATTALIONS AND DISTRICT ARMED RESERVE

51.1 The need for an Armed Reserve has always been realised. As observed by the Indian Police Commission, 1902-3, "armed reserves are necessitated by the principle that it is the function of an efficient police, not only to prevent and detect crime, but also to secure the peace and tranquillity of the country." The Commission had added that the number, organisation and equipment of the force must, therefore, be such as would enable it to deal both promptly and effectually with tumults and local disturbances without the aid of the military arm.

51.2 This realisation led to the creation of a District Armed Reserve Police in all the districts and in some States also to the organisation of an armed constabulary more or less on the infantry pattern. Among the States, which had such armed police battalions long before Independence, were Bihar, Bengal, Assam and Madras. In fact, these provinces augmented the armed constabulary during the Second World War while some others raised new battalions. The importance of such District Armed Reserve and Armed Police Battalions was appreciated even after Independence. It was felt that the frequent use of military force for putting down law and order situations was not correct. To deal with such situations, the police should have their own armed units. Thus, addressing the conference of the State Inspectors General of Police on 12-1-1950, Sardar Patel said :—

"It is even more necessary for State Governments to avoid in the day to day administration of law and order, resort to military force. It is from this point of view and also in full knowledge of the commitment of our army that I cautioned the provincial Governments in 1947 about the need for self-sufficiency of their police forces. I am glad to say that provincial Governments have generally been very quick in achieving this self-sufficiency and the occasions for calling military in aid of the civil power have been few and far between."

51.3 While the District Armed Reserves in the post-Independence period have, more or less, remained static, there has been a gradual growth in the number of armed police battalions in many States. This growth rate became faster after the Chinese aggression when there were 66 battalions, which now have risen by about another 100 battalions, as would be seen from Appendix-I.

State Armed Police Battalions

51.4 The composition of a State Armed Police Battalion generally follows the pattern of an infantry battalion. Although the rank structure and the strength of such battalions are not identical in all the States, their general structure is similar in that it is commanded by an officer of the rank of Superintendent of Police, it is divided into a number of companies which comprise of three platoons, divided in turn into 3 sections. Government of India, however, have laid down the composition of the India Reserve Battalions which are maintained by the State Governments on behalf of Government of India and placed at the disposal of the latter on demand. The composition of such battalions as also of the battalions of BSF and CRP is as follows :—

Rank	India Reserve Battalion	B.S.F.	C.R.P.F.
1	2	3	4
1. Commandant	1	1	1
2. Second-in-Command . . . . .	..	1	1
3. Deputy Commandant	1	5	2
4. Assistant Commandants (Deputy Superintendent of Police)	8	5	7
5. Inspectors	6	10	7
6. Sub-Inspectors	22	24	23
7. Head Constables	138	98	97
8. Naik . . . . .	..	62	81
9. Lance Naik . . . . .	..	91	107
10. Constables	642	576	568

51.5 From Appendix-II, it will be seen that there is no uniformity in the State Police Battalions, as far as the composition is concerned. A battalion in Bihar has 792 men as against 1116 in a battalion in Kerala. The number of gazetted officers in a battalion in Nagaland is 10 while in Gujarat it is only 4. The number of Inspectors also varies from 5 to 10 while Sub-Inspectors vary from 18 to 41. Some States have the ranks of Naiks and Lance Naiks while many others do not have such ranks. Partly these variations are due to the difference in the number of companies which a battalion has.

Officers

51.6 The scale of officering has a great significance in an armed unit particularly when it is put on sensitive law and order duties. The tackling of a situation often involves hard decisions on-the-spot, besides guiding and keeping subordinates under effective check and control. Though the unit of the armed police is generally expected to be accompanied by a local police officer or a magistrate and the unit can hope to receive directions from the latter with regard to action to be taken or force to be used, it is a frequent experience that such local assistance, for one reason or the other, is not forthcoming and the unit commander is confronted directly with a situation which he himself has to handle, and being the unit commander, naturally, he is responsible for the good conduct and performance of the men he leads. It is, therefore, necessary that the commander of even the smallest unit of an armed battalion which is put on duty is an officer with adequate experience and seniority. Without a proper leadership, men may over-react to a situation or even feel emboldened to behave improperly and brutally. Some of the armed battalions have come to adverse criticism in the recent past. One can reasonably hope that such complaints could have been fewer if many of the units, operating in small numbers under inadequate leadership had been officered better.

51.7 Normally, the smallest unit in which the armed police is deployed on a law and order duty is in a section strength, though when large scale arrangements have to be made, covering a wide area, this unit is often split into two half-sections. We feel that a unit performing a law and order duty, with arms, should not be split into less than a section strength, though it could be utilised in the strength of half-sections if working without arms. In either case, we are of the firm view that the Commander of a section should be an officer of a rank not less than that of an Assistant Sub-Inspector. It is the section which on most occasions faces a situation. The section commander very often has to assess the situation on his own, take a decision with regard to action to be taken or force to be used and has to enthuse by quality of his leadership a body of 10—12 persons to effectively intervene in the situation without exceeding the limits laid down by law and prudence. It will also be appropriate if each section has two Head Constables who could lead the half-sections whenever men are deployed in half-sections.

51.8 While the platoon can continue to be headed by a Sub-Inspector, we feel there are distinct advantages in a company being put under the charge of an Assistant Superintendent of Police/Deputy Superintendent of Police. At present, the general practice is to provide a Deputy Superintendent of Police for 2 or 3 companies. This makes it difficult for the officer to identify himself with the interests of such a vast body of men. He also cannot be available on the spot to guide, supervise and control his company when put on duty. The two or three companies, that he

commands, usually get scattered on deployment and the result is that his personal touch is lost. He is often not present on the scene at the most crucial, psychological moment. A company is the most common unit which is deployed in the districts. An Assistant Superintendent of Police/Deputy Superintendent of Police as the commander of this would find it easier to liaise with the district authorities, ensure the welfare of his men and provide on-the-spot leadership at an appropriate level. In both the CRPF and BSF, a company is commanded by a Deputy Superintendent of Police and this practice has been an unquestioned success. The cost involved in the upgradation of rank of the company commander, which will be minimal, will be, we believe, more than compensated by the benefits. The second-in-command of a company could be an Inspector. We also feel that a battalion should have a Deputy Commandant to assist the Commandant in the administration of the unit.

51.9 A number of battalions are put under the charge of an officer of the rank of a Deputy Inspector General. We are reminded of an instance in which over 20 battalions were at a time being commanded by a single Deputy Inspector General. The Deputy Inspector General naturally was not in a position to know his men closely, visit the battalion headquarters and posts frequently, and know the difficulties of men. In such a situation, grievances go unredressed and dissatisfaction is generated. We are of the view that a Deputy Inspector General should be provided for 5-6 battalions, and if there are more than 2 Deputy Inspectors General, the armed battalions should be headed by an officer of the rank of an Inspector General. We note with satisfaction that the supervisory structure has been reorganised in many States but are disappointed to find that in a couple of States the officer heading the armed wing, namely, the Special Inspector General or Additional Inspector General has not been clothed with sufficient powers. He has been vested with no financial or disciplinary powers and finds himself at a serious disadvantage. The only method by which such an officer can be made effective is to give him all the normal financial/disciplinary powers of an Inspector General, leaving only the overall supervision to the Inspector General or Director General incharge State Police.

51.10 We have emphasised above the need for a better scale of officering so that such officers are able to provide on the spot guidance to their men while handling a law and order situation. This will not be possible if the officers are not with their men and are utilised by the district authorities in any other manner. We came across many instances in which the services of the officers commanding the armed battalion contingents were requisitioned by the district administration and they were posted as Area Officers or Duty Officers—thus depriving them of the opportunity to be with their men, lead them—guide them and keep them under control. We strongly feel that the practice of separating officers from their men is based on a tragic misconception if the role of officers in these battalions.

This practice must be ended. If additional officers are needed by the district authorities, they should be made available from the neighbouring districts or other desk jobs which now are not few. Officers of a particular unit must invariably accompany their unit and should be allowed to remain with their men and such officers should have to explain if they are found absent from the scene at a crucial moment.

51.11 We have been informed that in a number of States, officers with an indifferent record of service or unsavoury reputation are often posted to the armed wing. Such men neither put their heart in work nor are able to command respect of their men. The discipline and morale of the force thus become a casualty. Treating the armed battalions as the dumping ground of sub-standard personnel is an approach which must be given up. It only ruins the battalion. We have recommended in the Sixth Report while dealing with the IPS that officers of the Central IPS cadre should be sent to States for spells of duty and *vice versa*. We hope that with the implementation of this recommendation a number of officers with the experience of commanding an armed battalion in Government of India will be available to the State Governments, who can gainfully be put in the command of a State Battalion.

Recruitment

51.12 Direct recruitment of officers at present is being made at the levels of Sub-Inspectors and Deputy Superintendents of Police. In our Fifth Report, while dealing with recruitment of constables, we have observed as follows :—

“With direct recruitment at several levels above the constabulary and with the relatively meagre number of posts of the rank of Assistant Sub-Inspector and above in the police system the promotional flow upward from the rank of Constable is severely impeded, resulting in a large majority of constables retiring as constables without even one rank promotion in their entire career. For securing the promotional structure envisaged by us, it would be necessary to limit recruitment to the police to two levels only : namely, (i) Constables and (ii) Indian Police Service. We are, however, conscious that it would not be practicable to switch overnight to a new system of recruitment limited to two levels as above and we would necessarily have to go through a phase in which recruitment to the different levels between the Constables and the Indian Police Service will have to be gradually reduced and finally eliminated after a period of time. We, therefore, recommend the adoption of a policy of recruitment confined to the levels of Constable and Indian Police Service in a phased programme with a gradual reduction/elimination of recruitment at intermediary levels”. (Para 35.5).

We have already said in the First Report :—

“Public order situations have increasingly drawn armed police battalions to be on duty on the roads, streets and lanes alongside the civilian police for interacting with the public and maintaining order. In the pre-Independence days, the armed police could afford to take a ruthless view of any situation and maintain order more by the use of force than by persuasion, argument and appeal. Armed police battalions in the present times have to be as much skilled as the civilian police in dealing with public in a manner which will not exacerbate or ruffle their temper or feelings on any issue. Armed policemen are put through several courses of intensified training both at the time of recruitment and later while in service to acquire the necessary skills for crowd control work. Association of armed policemen with civilian police in the present times is not so much for providing arms to the civil police but for providing greater number of police personnel, trained and equipped equally well to deal with civilian public on civilian terms. We are also separately examining a revised scheme for promotion which would facilitate internal movement from the armed police to the civilian police for their promotional career, particularly at the level of constabulary. We, therefore, feel that the basis for the observations of the Third Pay Commission regarding armed police constables has substantially changed now. There are no longer any ground to hold that the armed police constable should be rated lower than the civil police constable. We feel that an armed police constable as well as a civil police constable should be rated at the same level with regard to their qualifications for recruitment, professional training and subsequent assessment for further promotion.”

51.13 We are accordingly of the view that in armed police also the direct intake at the intermediary levels of Sub-Inspectors and Deputy Superintendents of Police should be phased out gradually. We have also examined the desirability of making all the recruitment at the initial stage at the level of constable in the armed police and after a recruit has served in the armed police for three years, he should be eligible to shift to civil police, depending upon his aptitude and professional competence to be tested through an examination. Every constable of the armed police, who is desirous of moving to the civil police, should be given two chances to get selected for transfer to civil police on completion of three years but before completion of five years of service. Those, who do not succeed, should remain in the armed police. This arrangement will have a number of advantages. It will keep the armed police comparatively young. It will provide

an opportunity to everybody in the civil police to be a part of the armed police at one stage. That will remove the hiatus that often develops between the armed and the civil wings. This will generate greater understanding and rapport between the two wings when they have to work shoulder to shoulder.

51.14 We have already observed in the First Report that the composition of the police force should reflect the mix of society. We have also said that the requisite qualifications for entry into armed police will be at par with the civil police. While we hope that with increasing education it should not be difficult to get boys and girls who have passed class X, from all sections of society including Scheduled Castes and Scheduled Tribes, we recommend that in case it is not possible to fill all the vacancies with High School pass candidates, candidates of the Scheduled Castes and Scheduled Tribes with even lower educational qualifications may be recruited with a stipulation that they shall pass the High School examination within a specified period failing which their appointment would not become substantive and they would be liable for discharge from service. In such cases, the department should provide the necessary facilities to enable the recruits to prosecute their studies and come upto the standard. With the fast spread of education among Scheduled Castes/Tribes such instances should be rare.

Training

51.15 As we are recommending initial entry of every recruit in the armed police for the first three years of his service, he should naturally be equipped during the preliminary training for the performance of all the armed duties including duties performed in aid of civil police. This course will have to give a heavier emphasis on the techniques of individual and collective interaction with the public and through knowledge of constitutional and legal rights of the citizens. Those who move to civil police, before they join, should be put through a reorientation course to prepare them for the new tasks. A long course will not be necessary at this stage as there is considerable overlapping in the job content for the armed and civil police. Considerable stress needs to be laid on courteous and impartial behaviour free from any kind of prejudice and bias. It would be helpful if the conference of Inspectors General reviews the training content periodically to bring about the required changes in the training content.

51.16 There is hardly any need to underscore that a pre-service exposure to training is not enough. A force cannot be kept in a proper trim unless it is put through periodical refresher training courses. There is a provision for a yearly training course for all men of the armed police battalions extending over a period of one to two months. In actual practice, however, it has not been possible to put men regularly through such a refresher course as almost the entire force is always on duty throughout the year and men are not

available for the training. Most of the States report that not even 25% of their men are in a position to receive the annual training and very often the training that is given with numerous breaks as and when men become available. A look at Appendix III will bear this out.

51.17 No doubt there has been a growing increase in the law and order situations, necessitating the deployment of more and more armed men on duties. But what we have noticed is that armed men are not being used only for law and order needs, they are being employed in 'ones' and 'twos' on routine civil police duties like night rounds, controlling crowds at cinema houses, railway tickets windows, handling rush at bus stops and commercial places, escorting undertrials from police stations, escorting the passenger trains or providing assistance to ticketless travelling checking staff. The armed battalions have been raised as a striking force which should appear on the scene at a psychological moment. Their very arrival should be able to create awe and fear in the trouble makers. Utilisation of such a highly trained force for routine police duties not only is a waste of the intensive training given to such men but it also makes the force ineffective. We strongly feel that such use of armed battalion men should be discontinued forthwith. If any shortages are noticed in the district allocation for handling such routine calls, the same should be examined and removed.

51.18 Demands on armed battalions even otherwise for law and order duties are far too numerous, as would be seen from Appendix III. From our tours and discussions with senior police and administrative officers, we get an impression that far too often more force is requisitioned than is absolutely necessary. The district Superintendent of Police tries to play safe and the superior officers also find it expedient to fall in line. Again, the force once requisitioned is detained much longer than necessary. While no guidelines can be laid down determining the quantum of force required as requirements will vary according to situation, we feel that the demand should be realistic. The superior officers should also feel free to prune the demand. After all, somebody has to take the responsibility. It is frustrating for men to be summoned for duty, and then have nothing to do. The deployment should be made for a fixed time and unless the same is extended, the force should return to Battalion headquarters. The need for annual refresher training should be fully appreciated. It is to keep men fit and confident for the job they have to do. A company should, as prescribed, be always under training and it should not be taken into account for purposes of deployment. An effort should be made to withdraw men from relatively unimportant duties and conserve force. A vigorous and faithful enforcement of law, without let or hindrance, we hope, would reduce occasions when armed support has to be provided. Later in this chapter, we will be discussing about the district armed reserve and recommending its reorganisation. The district police assisted

by the district armed reserve should, we believe, be able to handle a large number of smaller law and order situations. A prompt and early handling would prevent most situations from escalating. The need for the induction of armed battalions would, accordingly, decrease. An intelligent utilisation of home guards will also reduce pressure on the armed battalions.

Equipments

51.19 During our tours we found that some of the battalions did not have the necessary equipment. In a number of States, adequate transport has not been provided, with the result that the force has to move from one place to another by train or public buses. That delays the arrival of force at the point of need. In some other States, we found almost half the fleet off road. Older vehicles were handed over to armed battalions and new ones supplied to other wings of police. Often some vehicles of the battalions were transferred to the district police without replacement. Tentage supplied is often grossly inadequate or un-serviceable with the result that men are found lodged in verandahs or under trees at the place of duty. In most places, ammunition is not being supplied regularly with the result that firing practices have been irregular. The complement of weapons is also not complete everywhere. Shortages of revolvers and VI pistols in some States are as high as 50%. Self-sufficiency in items like helmets, leggings, shields, visors, also has to be ensured as without these aids, the men may be placed in a situation where they have to use more force than necessary. Many companies do not have a tear gas squad. Such shortages in equipments which affect the efficiency of the force, need to be investigated periodically and removed.

A Central Act

51.20 Even now the State Armed battalions have the liability to serve anywhere in India and in fact they are deputed outside their State quite often. It would help if a Central enactment prescribing uniformity in their composition, officering pattern, equipment disciplinary rules etc. is passed. The Act should also provide for adequate legal protection to the members of these battalions against any suit or criminal proceedings for any act done by them in pursuance of a warrant or order of a competent authority and against any legal proceedings under the powers conferred by any such Act or rule made thereunder. Such an Act should place the superintendence and control with the State Government but should enable the Central Government in an emergent situation to order deployment outside the State. Such a measure will make optimal use of available resources possible.

District Armed Reserve

51.21 We have already said before that a reserve is kept at all district headquarters to provide for (i) some specified duties like residential/security guards and escort to prisoners and (ii) to create a reserve to be used in an emergent law and order situation. It has been noticed almost everywhere that the

specified duties of the first category have increased in size. Many more security guards are being provided, many more undertrials are being escorted. But there is no proportionate increase in the strength of the district reserve with the result that these increased demands eat up the reserve meant to deal with an emergency. The result is that when a situation arises hardly any men are available in the reserve police lines. And the easiest way to find men is to place an indent on an armed battalion. In our view, this is not a very satisfactory arrangement. The district police and its reserve should be the first means to face a situation. If they act quickly and are able to assemble their resources promptly, we believe, many situations, which assume distressing dimensions will be controlled and the need for the state armed battalions as also for the Central forces will go down. As the requirements of the district armed reserve have not been reviewed now for quite sometime, it is time that the same is done and the reserve is augmented wherever necessary.

51.22 The district armed reserve in some States constitutes a separate cadre of the armed constabulary. Men are recruited in that cadre and spend their whole service in that cadre alone. In some State this reserve is built up by withdrawing men from civil police and keeping them in the reserve for a specified period of time. In most of the States, this reserve is kept at the district headquarters and sent out for specific duties from there. In a few others, a part of the reserve is distributed to the police stations.

51.23 A separate cadre of the district armed reserve creates problems of career management. As it is a closed cadre, upward movement is very slow. There is also no diversification of experience. Generally, educational requirement of such men is kept relatively low. The sanction of the district armed reserve in some States is *ad hoc*. To illustrate the point, given below is the allocation of district armed reserves of two districts Kanpur of U.P. and Darjeeling of West Bengal :—

Ranks	Kanpur	Darjeeling
Deputy Superintendent of Police . . . . .	..	..
Inspectors	2	1
Sub-Inspectors	9	7
Assistant Sub-Inspectors . . . . .	..	..
Head Constables	106	50
Naiks . . . . .	..	32
Lance Naiks . . . . .	..	..
Police Constables	1050	379

Kanpur has 2 Inspectors controlling a force over 1156 Constables/Head Constables while in West Bengal one Inspector looks after 461 Constables/Head Constables. At both the places, the officer-men ratio is evidently far from satisfactory. As

against this, in the States where the district armed reserve has been organised on the pattern of an armed battalion this ratio is realistic and far more rational :—

Ranks	Andhra Pradesh	Tamil Nadu (Madras)
Deputy Superintendent of Police . . . . .	..	3
Reserve Inspectors	1	9
Sub-Inspectors	7	30
Assistant Sub-Inspectors	7	26
Head Constables	64	229
Naiks . . . . .	..	40
Lance Naiks . . . . .	..	109
Police Constables	293	1556

51.24 We feel that there appears to be no need to have a separate closed cadre of the district armed reserve. The sanction of the district armed reserve

should be worked out in terms of platoons or companies and they should be provided out of an existing armed battalion for a specified period of time. On completion of this period, this force should be replaced. During their stay in the district, the force should be under the operational and the administrative control of the district Superintendent of Police. Part of this force in the district could be distributed and placed at subdivisional headquarters and police stations depending upon the requirements for the manning of the local guards, escorts and bandobust duties. The fixed guards must be of the strength of half a section. An exception may be made in their respect and they may be allowed to be armed.

51.25 The above arrangement, which we have envisaged for the district armed reserve, we hope will help further reduce prejudices which sometime appear presently between the armed and civil wings of the police. Both wings will be working side by side and that itself should rough out many points of friction and irritation. They would realise their complementary role and under proper leadership should produce satisfying results.

CHAPTER LII

DELEGATION OF FINANCIAL POWERS TO POLICE OFFICERS

52.1 The officers in the ranks of Inspector-General of Police, Deputy Inspector-General of Police and Superintendent of Police in all States have been delegated financial powers in a number of areas. These areas are spelt out in the Police Manual/Rules/Government orders etc. The adequacy or otherwise of those financial powers has to be seen from the following points of view :—

- (i) Promoting operational efficiency;
- (ii) avoiding delay in execution of measures meant for the welfare of personnel ;
- (iii) keeping up the efficiency and morale of personnel;
- (iv) making available and maintaining things which are required in day-to-day working; and
- (v) reducing paper work and the time now spent on establishment matters which will thus improve efficiency of the police.

Purchase and maintenance of motor vehicles and other equipments for police work, creation of posts in certain ranks in emergent situations fall under the first category. The power relating to construction of residential and other buildings, repairs and maintenance of police station etc. would fall under the second category. Powers pertaining to sanctioning of rewards or advance increments to police personnel fall under the third category. Purchase of stationery, furniture, equipments and professional books fall under the fourth category. Delegation of suitable powers to functionaries at appropriate levels may reduce unnecessary paper work and save time spent in avoidable correspondence.

Adequacy of financial powers

52.2 The lack of adequate delegation of financial powers may mean long-drawn correspondence with higher levels of administration and consequent delay, inefficiency and inconvenience, etc. On the other hand, powers more than necessary may also lead to wasteful expenditure, but these can be checked by proper inspection and effective management of available resources of the State. Therefore, it follows that the delegation of financial powers to appropriate levels should be adequate.

Evidence suggesting inadequate delegation

52.3 A number of Commissions have expressed the opinion that lack of delegated financial powers is one of many maladies plaguing the State Police agencies. All these bodies have strongly pleaded the case for

enhancing the financial powers. Some of their observations are given in the succeeding paragraphs.

(1) Bihar Police Commission—(1961)

The Bihar Police Commission (1961) while examining the issue, took note of the considerable amount of evidence laid before them which “indicate that due to centralisation of powers at various levels, particularly at the level of Government, there is considerable delay in the execution of urgent police projects”. They observed in this connection that :

“There is sufficient weight in the argument of the witnesses that decentralisation should be accepted as the basic policy of administration as it is getting more and more expensive and complex everyday.”

In Chapter XV of their report, the Commission made the following observations while pleading the case for enhancement of financial powers of Inspector-General, Deputy Inspector General and Superintendent of Police :

“Delegation of administrative powers have been suggested in order to enable a Superintendent of Police to depute an investigating officer to any place in the country for enquiries and investigation without having to obtain the sanction of the Deputy Inspector General. One Deputy Inspector-General of Police has suggested that the Superintendent of Police should also be authorised to grant advance from the Provident Fund, sanction allowance for the maintenance of motor-cycle, reimburse expenditure incurred on medical treatment and sanction house rent upto certain monetary limits. The authority of the Superintendent of Police to transfer officers within the district should be unfettered. There is sufficient weight in the argument of the witnesses that decentralisation should be accepted as the basic policy of the administration as it is getting more and more expensive and complex everyday. The Commission, therefore, recommend that the scheme of decentralisation of powers, as suggested above, should be implemented and the Inspector-General of Police should be in a position to get all building projects of the department executed without delay. His financial powers should be enlarged in respect of ‘netty constructions’ ‘minor works’ and projects connected with public health, engineering as also electrification.”

(2) *Uttar Pradesh Police Commission (1960-61)*

The Uttar Pradesh Police Commission strongly advocated the case for enhancing financial powers of the Inspector-General of Police. The following observations were made by this Commission in this connection :

"26. *Inspector General of Police.*—The Inspector General of Police is an officer specially selected by Government. He is the head of the entire police force for the State and is also adviser to Government on all questions of Police administration. He lays down broad policies which are to be implemented by Superintendents of Police. Some of these policies are initiated by him and some other are entrusted to him by administrative orders of Government. He has to handle the larger questions of administration and to exercise personal control, without which the police service would disintegrate. He is responsible to Government for the efficient organisation and functioning of the entire Force. We realise that the task of the Inspector General has become more onerous with the increase in volume and complexity of police work. Increase in responsibility must be accompanied by increase in power to deploy men and material according to the exigencies of the situation. We are of the opinion that more administrative and financial powers should be delegated in order to enable him to discharge his duties more promptly and effectively."

(Chapter IV)

(3) *Administrative Reforms Commission*

The Working Group of Administrative Reforms Commission on Police Administration, in their report (1967) made the following comments :—

"Another direction in which reform is necessary is that concerning the financial powers of the Inspector General of Police, as recommended by the Uttar Pradesh Police Commission, and also those of other controlling officers and District Heads of Officers. Modern administration requires greater delegation of financial powers. The Central Government has already taken a big lead generally in delegating powers to maximum extent from the Finance Ministry to administrative Ministries as also to the Heads of Departments in order to expedite the progress of work."

"The financial powers of controlling officers, Head of Offices and other subordinate authorities also need to be enhanced suitably."

(Chapter VII)

Financial powers of the Chiefs of State Police

52.4 We have looked into the existing delegation of powers to the Chief of Police and other ranks in various

States. We have noticed that there are wide variations from State to State. There is also no uniformity in respect of powers under individual items. We have further compared these powers with the delegation of powers vested in the Director General of Border Security Force & the Director General of Central Reserve Police Force. The schedule of delegation run into about 93 items and while after careful consideration our over-all perspective is formed by the delegation of powers available to the DGBSF and DGCRPF, we consider it appropriate to discuss briefly the existing and proposed delegation under the following items while recommending the schedule of the DGBSF/DGCRPF for the rest of the remaining items :

- (i) Reappropriation of budget grants;
- (ii) Creation and continuation of posts;
- (iii) Purchase and repair of motor vehicles and wireless equipment;
- (iv) Repair and construction of buildings for Police Stations, Administrative Offices and residential accommodation;
- (v) Purchase and repair of furniture, office equipments like Typewriters etc. and installation of Telephones;
- (vi) Local purchase of stationery, books, periodicals and local printing etc.;
- (vii) Powers to reward police personnel; and
- (viii) Financial powers pertaining to permanent advance.

Re-appropriation of budget grants

52.5 The Delegation of Financial Powers Rules (1978) issued by Ministry of Finance, Government of India define reappropriation as transfer of funds from one primary unit of appropriation to another such unit. There are a total of 27 such primary units of appropriation mentioned in the said Rule which are as follows :—

- (i) Salaries;
- (ii) Wages;
- (iii) Dearness Allowance;
- (iv) Travel Expenses;
- (v) Office Expenses;
- (vi) Payments for professional and special services;
- (vii) Rents, Rates and Taxes or Royalty;
- (viii) Publication;
- (ix) Advertising, Sales and Publicity Expenses;
- (x) Grants-in-aid or Contributions or Subsidies;
- (xi) Scholarships and stipends;
- (xii) Hospitality Expenses or Sumptuary allowances;

- (xiii) Secret Services Expenditure;
- (xiv) Major Works;
- (xv) Minor Works;
- (xvi) Machinery and Equipment or Tool and Plant;
- (xvii) Motor Vehicles;
- (xviii) Maintenance;
- (xix) Investments or Loans;
- (xx) Materials and Supplies;
- (xxi) Interests or Dividends;
- (xxii) Pensions or Gratuities;
- (xxiii) Depreciations;
- (xxiv) Inter-Account Transfer;
- (xxv) Write Off of Losses;
- (xxvi) Suspense; and
- (xxvii) Other Charges.

According to the Schedule IV of the said Rules, all heads of Departments under the Government of India have full powers of appropriation and reappropriation subject to certain restrictions laid down in Rule 10. The Director Intelligence Bureau, Directors General, CRPF and BSF, IG ITBP, Sector Commanders of BSF, IsG CRPF, Director CISF, Director BPR&D, Director Institute of Criminology and Forensic Science, Director of Coordination, Police Wireless are heads of Departments within the meaning of the said Rule.

52.6 It appears that no State Government has delegated full powers of reappropriation to the Chief of Police, although some States have accorded limited powers of reappropriation of budget allotment. We would like to recommend that the powers available at present to the Directors General, BSF/CRPF should be given to the Chiefs of State Police. The Chief of State Police will then have full powers of reappropriation subject only to the ceiling of the total sanctioned budget grant.

Powers relating to creation and continuance of posts

52.7 The Working Group of A.R.C. had recommended delegating powers to Inspector General of Police in the matter of creation and continuance of posts :

“Power to deploy men and even create temporary posts is necessary for the Head of the Police Department to make his operational command of the force more effective. Surprisingly enough IsG in many States are not authorised to create even a single post of constable. The Government of India’s orders issued in 1962, which have been referred to above, authorise the Heads of Departments at the Centre to create posts

on any scale of pay approved by the President. In Bihar the IGP can create temporary posts on an initial pay of Rs. 250 p.m. In Maharashtra the IGP can sanction temporary establishment for plague or famine duty. The Study Group feels that more such powers need to be given to the Inspector-General of Police.”

(Chapter VII)

The Commissioner of Police, Delhi, has been delegated powers to create permanent posts in Class III and IV services (without any time limit) and temporary posts in Class II, III and IV for a specified period. But he is unable to exercise this power due to a ban on creation of new posts, imposed in the year 1977. According to the latest instructions of the Central Government, no posts out of non-plan funds can be created by a Head of Department, without prior reference to the Government of India even though the expenditure on the creation of these posts is proposed to be met out of the savings accruing by abolition of other posts.

52.8 The Inspector General of Police, Uttar Pradesh has powers for creation and continuance of Class III and Class IV posts, but presently the power has been kept in abeyance by the Government as an economy measure. The Inspector-General in Gujarat is empowered to create ministerial posts in Class III and Class IV categories for a period upto 6 months, to the extent of 5% of the cost of the total staff of the particular rank (in which the new post is created); but he cannot create posts of executive police personnel from constable upwards. The Inspector-General of Police, Assam, has been delegated powers for creation of temporary posts on pay scale with maximum not exceeding Rs. 260 p.m. for a period not exceeding six months.

52.9 The Director-General of CRPF has been delegated full powers of creation and continuance of permanent and temporary posts in Class I (maximum of scale not exceeding Rs. 1250), Class II and Class III and Class IV categories, without any time limit. The power is subject to budget provisions having been made every year. It is also subject to any ban imposed on creation of such posts announced from time to time by the Government. In the CRPF the Deputy Inspector-General has power to create temporary posts of Class IV for a period not exceeding 2 years. The DG, BSF has full powers to create and continue Class I (maximum of pay not exceeding Rs. 1,700) and Class II posts. In the case of Class III and Class IV posts, he has powers for any specific period.

52.10 We recommend that the Chief of State Police should have full powers like the DG BSF for creation and continuance of temporary posts from the rank of Constable to Deputy Superintendent of Police upto a period of 2 years, provided expenditure is within the budget allotment. There should, however, be no delegation of any power to him in respect of posts of Superintendent of Police and above. This much delegation of powers will enable him to meet the day-to-day operational needs for additional personnel.

Powers relating to purchase/repairs of motor vehicles and wireless equipments

52.11 Mobility is essential for all police operations in modern times. The position is that full powers are presently available to Inspectors General of Police in a number of States like, Uttar Pradesh, Rajasthan, Tamil Nadu, Andhra Pradesh as also DG BSF and DG CRPF for purchase and repair of motor vehicles and wireless equipments. The Commissioner of Police, Delhi can make purchase of vehicles provided specific provision has been made in the budget and approval of the Finance Ministry obtained. Thus it is noticed that a few States, as also the BSF and CRPF have already delegated full powers to make the purchase and repair of motor vehicles to the respective Chiefs. Some other States have not. We would like this delegation of full powers to be uniformly made available to all Chiefs of State Police Forces. The Police Developmental Plan and the Police budget should make provision for adequate funds to meet the anticipated requirements. These powers should, however, be exercised subject to adherence to the usual financial procedure laid down in various rules with regard to purchase of motor vehicles and their repair.

52.12 The Chief of Police should also have full powers to condemn motor vehicles in his charge, which have outlived their utility through long usage or accidents. Once the mode of determining the life of a vehicle is laid down by the State Government, any further restriction, like approval of State Government etc. would only delay matters and affect efficiency. We, therefore, recommend that highly placed officers like the Chief of State Police should be allowed full discretion in this matter. On the same consideration they should have full powers to purchase, repair and condemn wireless stores which have outlived their utility and lie for years blocking valuable space.

Powers relating to repair and construction of buildings

52.13 We have observed that at present there are wide variations in the financial powers available to officers of various ranks in different States in respect of repairs, petty work and construction of buildings for Police Stations, Administrative Offices and for residential accommodation. This will be evident from the following examples :—

- (i) The powers of petty works and repairs vested in Inspector General of Police, Punjab are Rs. 8000, Commissioner of Police, Delhi and Inspector General of Police, Haryana are Rs. 5000, Inspector General of Police, Maharashtra are Rs. 10,000, Inspector General of Police of Uttar Pradesh, Madhya Pradesh, Tamil Nadu are Rs. 20,000.
- (ii) While Inspector General of Police Uttar Pradesh can accord administrative approval to works upto Rs. 15 lakhs, the construction cannot begin till expenditure is approved by the Government. He can sanction minor works upto Rs. 50,000. In the case of

Inspector General of Police Karnataka, the powers to accord administrative approval are restricted to Rs. 3 lakhs.

- (iii) The powers of DG CRPF are Rs. 5 lakhs for major works, Rs. 1 lakh for minor works and Rs. 5,000 in each case for special repair and sanitary fittings etc. For ordinary repairs he has full powers. The corresponding powers for DG BSF are Rs. 2 lakh, Rs. 50,000, Rs. 20,000 and full powers.

Thus it will be seen that the financial powers of Chief of State Police vary widely from one another and also from the powers available to the DG CRPF and DG BSF. Some States have delegated wide powers to their Chief and some very little. Therefore, keeping in view the model of powers of DG CRPF and DG BSF and other factors like cost of building material, land and labour, we recommend the delegation of the following financial powers :—

Item	Chief of State Police	Deputy Inspector General	Superintendent of Police
1	2	3	4
	Rs.	Rs.	Rs.
1. For major and minor construction works	5 lakh	1 lakh	50,000
2. Repair and maintenance	1 lakh	25,000	10,000

Powers to sanction telephones, purchase and repair of furniture and office equipments like typewriter etc.

52.14 The Directors General BSF and CRPF have been delegated full powers in regard to office telephones as well as residential telephones, subject to general restrictions on installation of residential telephones issued from time to time by the Ministry of Finance. The Deputy Inspector General and Commandant in both these forces have full powers in regard to installation of office telephones, only for detachments and in cases of absolute urgency and necessity. The situation in the various States, is however, quite different. It seems that while in some States, the Inspector General of Police can sanction telephones but in other cases the powers are with the State Government. We would like to recommend that powers similar to those vested in the Director General, Border Security Force and Director General, Central Reserve Police Force should be vested in the Chiefs of State Police Forces. In respect of police stations and out-posts, we feel that full powers should be vested in the Superintendent of Police which should also include the provision for residential phones for the officers-in-charge of the police stations.

52.15 The powers of the police officers of the rank of Inspector General of Police, Deputy Inspector General and Superintendent of Police with regard to purchase of furniture vary between Rs. 10,000 to full powers for the Heads of Police Forces, upto Rs. 5,000 for Deputy Inspector General and Rs. 2,000 for

Superintendent of Police. Many States have given full powers for replacement of sanctioned furnitures. One conspicuous feature, which a visitor at a police station in many States notices is the acute shortage or the pathetic condition of the furniture. The main reason for this state of affairs is that not only is there lack of funds but also there is lack of adequate financial powers with the police officers. We may, however, mention that some States like Uttar Pradesh and Rajasthan have delegated full powers to police officers and the only restriction is that the expenditure should be within the available grant. We would, therefore, recommend that full powers in respect of purchase of furniture should be delegated to the Chief of Police who should make suitable delegation to the Deputy Inspectors General and Superintendents of Police. Similarly in respect of the repairs of furniture, full powers should be given also to the Deputy Inspectors General and Superintendents of Police. We further recommend that there is need for appropriate delegation of powers to Station House Officers for this purpose.

52.16 In respect of purchase and repair of Typewriters and other office equipments etc., the present position is that in a number of States as well as in the Border Security Force and Central Reserve Police Force, full powers are vested only in the Inspector General of Police. In our view this creates considerable paper work. It would be desirable to lay down norms for the offices of Deputy Inspector General of Police and Superintendent of Police and police stations etc. Within these norms full powers should be vested in the officer concerned. In all other cases, full powers should be vested in the Inspector General of Police in all States with, of course, the limitation of the budget grant under this item.

Local purchase of stationery, books, periodicals and local printing, etc.

52.17 The general practice throughout the country seems to be that the Directorate of Printing and Stationery is entrusted with the job of supplying stationery printed forms to all departments including the police in accordance with the sanctioned quantities. One complaint brought to the notice of the Commission was about the acute shortage of stationery particularly at the police station level. As we have said in our Third Report while dealing with corruption, the shortage is so great that invariably the staff is compelled to purchase these items from their own resources. As is obvious, they cannot do so from out of their own emoluments and hence they are forced to resort to the corrupt or improper practices to collect the money required. And when they have to resort to corrupt or improper practices to enable them to perform their legitimate tasks, they may do so to augment their personal income also. At present the financial powers of various levels of supervisory officers for making local purchases of stationery vary between Rs. 150 in Haryana to Rs. 25,000 to Director General, Central Reserve Police Force. The powers of Superintendents of Police are upto Rs. 1,000 per annum.

52.18 Experience has shown that in most States the printing and stationery department is quite often unable to supply stationery and forms either in time or in adequate quantities. Therefore, it is essential to delegate adequate powers in this respect to the local officers. We have to keep in view the rising cost of stationery items, particularly that of paper etc. Keeping all these factors in view, we would like to recommend that the powers of the Chiefs of State Police to purchase locally stationery items etc. may be raised to 20% of the total budget on this account. The Chiefs of the State Police should in their turn delegate adequate powers to the Deputy Inspectors General, Superintendents of Police and also place suitable amounts at the disposal of the Station House Officers. Powers should also be available for local printing of miscellaneous materials including purchase of books and periodicals.

Powers pertaining to sanction of rewards to police personnel

52.19 The Bihar Police Commission had urged the delegation of more powers to police officers at State, Range and District levels to enable them to reward the personnel suitably in the event of commendable work done by them. In the police, the nature of work is such that rewarding the police personnel has been one of the important means for giving encouragement and help in maintaining the efficiency and morale of the personnel. At present, the powers in this regard of the Director General, Central Reserve Police Force and Director General, Border Security Force and the State Inspectors General vary from Rs. 1,000 to Rs. 2,000; of the Deputy Inspectors General from Rs. 200 to Rs. 1,000 and of the Superintendents of Police from Rs. 50 to Rs. 200. In many situations a group of officials who are to be rewarded consists of three, four, five or even a larger number of police personnel. The amount that would come to the share of each under the existing powers would, therefore, be of a very small value. In such matters, it is desirable that the reward money should be adequate and given to the concerned person expeditiously. Keeping these factors in view, we recommend that the Chiefs of Police should have full powers upto a maximum of Rs. 5,000 in each case or occasion to sanction rewards to the police personnel within the available budget grant. The powers of Deputy Inspectors General and the Superintendents of Police should not be less than Rs. 2,000 and Rs. 1,000 respectively in each case or one occasion.

Financial powers pertaining to permanent advance

52.20 An officer-in-charge of a police station in the course of various activities of the police station, has to incur expenditure on a variety of items, some of which are as follows :

- (a) Temporary advance to police personnel proceeding on duty from police station to District headquarters or other places.
- (b) Transportation of dead bodies to District headquarters for conducting post mortem.

- (c) Transportation of injured persons.
- (d) Hiring private means of communication for visiting scenes of crime, etc. when a Government vehicle is not available.
- (e) Feeding the persons in police station lock-up arrested in connection with offences etc.

Apart from the legitimate categories of expenditure mentioned above, there are other categories of expenditure which a police Station House Officer has to meet from private resources. These are :

- (f) Purchase of items of stationery in case of short supply.
- (g) Purchase of petrol for the motor-vehicles allotted to the police station, as quota of fuel allotted in many cases is unrealistically low.
- (h) Entertaining witnesses, visitors including MPs/MLAs and other important persons at police station.

For meeting expenditures on categories mentioned at (a) to (e), the officer-in-charge is provided with an amount which is known as permanent advance. Whenever an expenditure is incurred from the permanent advance, a bill is prepared and sent to the District headquarters, from where the amount is recouped. Thus the amount of permanent advance is to operate as a sort of reserve in the hands of officer-in-charge for meeting the expenditure. In a similar manner, other offices in the department, namely, that of Superintendent of Police, Deputy Inspector General and Inspector General etc. are also provided with certain amounts as permanent advance.

52.21 During our visits to various States and police stations, we observed that the amount placed at the disposal of police officers as permanent advance, particularly at the level of the police station, is pitifully small. For instance, an average-sized police station in Uttar Pradesh would have a permanent advance of Rs. 20 or Rs. 25. Even the carrying of one dead body from an outlying police station to the District Headquarters would require a much larger amount. Therefore, when an adequate amount of money is not placed at the disposal of the officer-in-charge, the expenditure is incurred by him from private resources or by taking obligations. We had occasion to refer to this in our Third Report in para 22.32. The practice, in our view, is undesirable.

52.22 We have, therefore, briefly reviewed the financial powers of police officers with regard to permanent advance. Inspector General of Police, Karnataka, Uttar Pradesh and Mizoram have full powers to sanction permanent advances to their subordinate offices upto the limit of the amount advised by the Accountant General. In Orissa, the Inspector General of Police is delegated powers to sanction permanent advance upto Rs. 1,000 to his subordinate establishments. Inspector General of Police, Rajasthan can sanction permanent advance upto Rs. 500 for any office. Thus the inadequacy of

financial powers in this respect, available to the heads of police forces in the States is quite apparent. For instance the powers of Rs. 500 or even Rs. 1,000 are totally unrealistic. If a Superintendent of Police has nearly 20 police stations under him, besides offices of Sub-Divisional Police Officers/Circle Officers, Police Lines and District Police office, it would not be possible for him to provide a permanent advance of more than Rs. 25 to each police station.

52.23 We have also observed that involving the Accountant General at the stage of sanctioning permanent advance also results in unnecessary restrictions, considerable correspondence and consequent delay. Therefore, the reasonable arrangement would be to delegate full powers in this respect to the Chiefs of the State police, who should make further delegation to the Deputy Inspectors General and Superintendents of Police. The actual amount of permanent advance of each office should be fixed realistically by taking into account the actual needs. The calculations based on average expenditure throughout the year shown in the cash book would not reflect the actual amount needed, as quite a sizeable expenditure is met from private sources, outside the books of accounts. The Superintendent of Police must be required during inspections to examine that the money has been properly utilised and accounted for and the Accountant General will carry out the periodical audit.

Reasons for increased delegation of financial powers

52.24 As already mentioned we realised the necessity of making recommendations on this subject because during our visits and tours to different States, all officers from the Station House Officer upto Superintendents of Police, Deputy Inspectors General and Inspectors General of Police impressed upon us the inadequacy of financial powers and how it was impeding the operational efficiency of the police. Among the other reasons which have prompted us to look into this matter are the following :

- (1) The current rate of inflation has itself made a mockery of the old financial powers and thus merit an upward revision even of the existing amount. This factor does not need much arguing.
- (2) There is far too much paper work generated at all levels in the offices due to the present scheme and structure of financial powers. There is delay and diffusion of responsibility without the advantage of much expertise in the higher officers to take decisions. Senior field officers have to chase and hang around Clerks and Accounts Officers to process proposals and submit them to the Inspectors General. They in their turn take decisions on a general *ad hoc* basis.
- (3) The higher officers such as the Superintendent of Police, Deputy Inspector General and Inspector General are becoming more and more desk bound and even then attention to files and papers and general administration

often remains neglected and is at the cost of operational efficiency. There is a crying need to reduce paper work at all levels to free the personnel for their legitimate tasks. This is to ensure that adequate time can be devoted to field work at the operational level and decision making is expedited.

- (4) It would be cost effective as well as lead to greater efficiency if the conventional hierarchical system of delegation of financial powers is abandoned in favour of a fuller delegation at the operational level of the police station and the sub-division which could be monitored by a more detailed inspection by the next higher level. The present scheme of inspection needs to be made more purposeful.
- (5) In the Chapter on Restructuring of Police we have indicated that in future we envisage a structure in which the rank of the Station House Officer will move from Sub-Inspector as at present to Inspector and Deputy Superintendent of Police. Therefore, the Station House Officer in future will be an officer whose merit would have been assessed at various levels and this officer would often be a person who has acquired considerable experience. We are of the view that some financial powers commensurate with their rank should be delegated to the Station House Officer to enable him to make the police station more efficient and effective.

52.25 Thus it will be seen from the above reasons that our objective in increasing the financial powers of the Chiefs of State Police and other officers are directed towards improving the efficiency of day to day work. We have laid special emphasis on the need to place adequate funds in the shape of permanent advance at the disposal of the Station House Officer because we expect him to function effectively and efficiently and what is even more important with integrity. This will be possible only if adequate funds are available at his disposal to meet the requirements of the police stations, so that as officer-in-charge he is not exposed to the compulsion of raising funds from outside sources even to meet the needs of his official duties *i.e.* the work of Government. It is our view that in the past it is such compulsions that have exposed them to corruption. If an Station House Officer is expected to indulge in corruption to raise funds for the work of Government it will not be unnatural for him to proceed further to do so for his own needs and even for more than his own needs.

Recommendation

52.26 We would like to repeat that we have broadly adopted the model of the financial powers presently exercised by the Director General, Border Security Force and Director General, Central Reserve Police Force for being vested in the Chiefs of State Police.

However, we have selected only a few items for scrutiny and examination and after giving the background of the present position, we have proceeded to give our own recommendations. We would, however, like to add that it would be necessary to increase even these powers periodically keeping in view the rate of inflation.

52.27 In order that the Chiefs of State Police are able to exercise the enhanced financial powers effectively we recommend that they should be assisted by financial adviser of an appropriate rank. At this point we would like to emphasise that a certain distinction between the powers required from State to State might be necessary since conditions differ as well as circumstances may also differ not only from State to State but even within the State in some ranges and districts.

52.28 We would, further like to impress upon the State Governments the need for placing a contingency grant of about rupees one lakh at the disposal of Chiefs of Police who may be empowered to spend a sum of Rs. 25000 at a time for immediate relief in cases of large scale rioting etc. What usually happens in such situations is that the normal supply of food and stores breaks down because of the curfew and this imposes a very great hardship upon the poorest sections of the population who are unable to get any type of food and necessary daily needs because of the curfew conditions. If the Chiefs of Police have the power to sanction immediate relief in such cases of distress it will impose an obligation upon the police to ensure that until the civil department etc. make suitable arrangements they come forward to arrange for the supply of essential items. This will enable the people to look to the police with less hostility and appreciate the compulsion under which they have to work because as matters now stand once a curfew is imposed the people are forced to suffer. It is a matter of details to work out whether this should operate as an imprest advance which could be recovered from the District Collector or the State Government in due course.

52.29 We would once again like to clarify that while we have covered only a few items, the schedule of financial powers of DGBSF and DGCRPF covers a very large number of items. Every State Government will have to make delegation of powers to the Chief of Police keeping those schedules in view and the respective needs of various States depending upon the size, population and other requirements. Hence the items mentioned by us may be treated only as illustrative and not exhaustive. In this background there is need for further delegation of powers to DIGs and Superintendents of Police. It is desirable that some items like condemnation of wireless, stores etc. that may presently not be finding a place in the schedule would need to be included.

52.30 In order that the Chief of Police in all the States are able to improve the quality of policing in their States, one of the most important reforms that is required is in respect of their financial powers. The present rigid budgetary and financial control by the Home and Finance Departments has made it very

difficult for any head of the police force to do much and he is required to spend considerable time in correspondence. We have taken note of the fact that successive State Police Commissions as well as the working group of the Administrative Reforms Commission have recommended enhanced financial powers for the Chiefs of State Police. After careful consideration of these

views, and this need was impressed upon us by all Inspectors General of Police we met during our tours, we have come to the conclusion that it is necessary that the Chiefs of State Police are vested with the same financial powers as are vested in the Chiefs of Police of Border Security Force and Central Reserve Police Force.

CHAPTER LIII

TRAFFIC REGULATION

53.1 The control of traffic, enforcement of laws and regulations to facilitate orderly movement of traffic and action to prevent and investigate road accidents are primarily a police responsibility. Section 31 of the Police Act, 1861 specifies that it is the duty of the police to keep order on public roads, streets, thoroughfares, ghats, landing places and at all other places of public resort and to regulate assemblies and processions etc. We have recognised this responsibility for the police in Chapter XIV of our Second Report, wherein we have said that one of the duties and responsibilities of the police is to facilitate orderly movement of people and vehicles. Though traffic management is primarily a police responsibility, some other agencies are also involved in it. The Transport Department is the licensing authority for vehicles and drivers and the Engineering Departments of the Central and State Governments and the Local Bodies build and maintain roads as well as traffic signals and lights etc. Despite the vital role played by these various agencies, the police is primarily accountable for proper regulation of traffic on the roads to ensure both safety and orderly movement. It is this safety aspect for which the police are held squarely responsible while the causes which lead to lack of safety are the conduct and competence of the road users, conditions of vehicles and roads and the general composition of the traffic on the roads. Despite the fact that the police could substantially contribute towards the orderly movement of traffic, they cannot do so entirely on their own. We, therefore, propose to deal with the various aspects of traffic regulation including the role of other agencies whose performance is vital for effective management of traffic by the police.

53.2 The magnitude of the problem of traffic regulation in India and the dimensions of its growth can

be visualised from the following table :—

	1961	1971	1978
Surfaced Road (in Kms)	2.63	4.21	6.23
Unsurfaced Roads (in Kms)	2.61	5.98	9.81
Motor Vehicles	6.65	18.65	32.46

(Figures in lakhs)

It can be seen that in the last two decades while there has been less than three-fold increase in surfaced roads, there has been an almost five-fold increase in the number of motor vehicles. This trend is likely to continue. The need for proper management of traffic can be appreciated from the fact that in India increasingly more and more people are becoming victims of road accidents and transport as such is a crucial sector for development of the national economy. In fact our daily lives are very much dependent on the swift and safe movement of vehicles. In the Union Territories of Delhi the number of those who die from road accidents is four times those who are murdered. If we take a State, in Punjab during the year 1979, the number of people murdered was 587 and the number of those who died in road accidents was 556. In a study made of Road Accidents by the Chief Executive of the National Traffic Planning and Automation Centre (NATPAC) it was found that in India in the years 1960—1974, the total number of road accidents increased from 55,478 to 1,15,066, there being a 7.7% increase per annum. The number of persons killed increased from 5,106 in 1960 to 13,937 in 1974, resulting in an annual average increase of 12.4%. The average annual economic loss due to only those accidents which result in death or injury was estimated to be over Rs. 670 million. In fact the fatality rate of 57.7 per 10,000 vehicles in India was said to be the highest in the world. In European countries it varied between 5 and 15 per 10,000 vehicles. The magnitude of the traffic problem in terms of loss of lives and limbs is illustrated by the following table relating to road casualties and motor vehicles registered in India during the years 1960—1974 :—

Year	Nos. of motor vehicles	Percentage increase	Number of accidents	Percentage increase	Percentage Fatalities	increases Total casualties
1960	6,04,902		55,478			
1964	9,05,964	49.8	68,168	22.9	41.15	28.6
1968	14,58,583	141.1	102,230	84.3	108.66	78.2
1972	19,26,443	218.5	1,07,692	94.1	144.87	111.3
1974	24,13,424	299.0	1,15,066	107.4	172.95	109.1

It can be seen that though fortunately the number of accidents are not keeping pace with the number of vehicles on the road, it is disturbing to note that the component of fatalities both in absolute and relative terms is on the increase. These figures do not, however, take into account a very large number of minor accidents which are seldom reported as they are either ignored or settled on the spot. In any case the police do not generally register minor accidents. If all those could be taken into account, the lack of safety on our roads would have been more obvious. Additional factors of importance are fuel conservation, speedy movement of people and goods, prevention of pollution and a feeling of order in society. Further, with the inevitable increase in road transport in the future, the problems of traffic regulation and the related problems of road engineering and licensing policy are likely to assume greater importance in our country. Even in 1959 the Masani Committee on Road Transport Reorganisation had recognised this fact by saying that, "... one of the urgent tasks faced by the country is that of so re-ordering the administration of road transport and so reshaping the policies to be followed by the Union and the State Governments that our plans of rapid advance are not frustrated by a bottleneck in this vital sector of our national life".

53.3 The regulation of traffic has two aspects, namely, regulation of traffic inside the municipal limits of a city, and regulation of traffic on the highways. For management of traffic within the city limits, all the cities in India have a separate traffic branch under the city police. The regulation of traffic on highways is left to the local police stations concerned. Some States like Punjab and Rajasthan have, however, an organised central agency for management of highway traffic. The licensing authorities also have enforcement wings to check certain infringements of the Motor Vehicles Act, 1939; but these mostly relate to evasion of revenue. The traffic problems in the cities and the highways are inter-related in the sense that licences issued for drivers are common to both the areas. Similarly there is a large inter-change of traffic habits and life styles. Improvements in the management of the traffic in one sector would be inadequate unless there is commensurate improvement in the other sector, both in terms of issue of licences and the legal aspect. However, the two sectors have certain other differences in terms of the problems of road engineering and organisational requirements. While emphasising the fact that recommendations made by us regarding the legal aspects of traffic regulation and issue of licences should be applicable equally to both the sectors, we would be dealing with these two aspects of traffic regulation separately.

Management of traffic in cities

53.4 (1) *Congestion and social habits.*—The basic source of traffic problems in a city is the fact that there is a great concentration of people and vehicles in a small area, this being the limited space by way of roads. This creates congestion and that in turn gene-

rates handicaps to the safe and smooth movement of people and vehicles on the streets; and yet urban life demands faster and faster movement. The requirements of safety and of speed do not generally coincide, leading to accidents. More than 50% of the road accidents in India occur in a few metropolitan cities. In addition, in urban areas, there are problems of encroachment on public thoroughfares by people with rural life styles in areas which are no longer rural. In almost all the medium size cities people consider the road in front as an extension of their houses or shops. This leads to intermittent and permanent encroachments on the roads as also frequent digging up for private purposes. Similarly, various agencies like the Telephone Department, the Municipality or the Public Works Department dig up the same street at different times when a little coordination could have reduced the time when the street is unusable. Often, the dug up area is not even repaired.

(2) *Town planning and local bodies.*—Further, congestion is caused in cities due to changes in land uses from residential areas to commercial areas. The town planning authority sometimes declares an area as commercial while the roads and the traffic arrangements provided for it are geared only to meet the requirements of residence and not commerce. Such conversions lead to magnification of traffic problems in that area without any remedy. Congestion is the result when the Local Bodies permit petty shopkeepers to set up shops on footpaths of busy market areas. Issue of permits for this purpose often leads to two kinds of encroachments. People with permits occupy more area than what is allotted to them by their permits and because occupation of a footpath appears a legal and valid thing to go other traders also collect and masquerade as licensed shopkeepers and vendors. Then these shopkeepers and vendors form associations, prevent removal of their encroachments and demand permanent shopping complexes. In some cities these vendors have the backing of organised groups who promote and perpetuate this kind of permanent encroachment on roads and footpaths and give the necessary vocal, physical and political support to prevent their eviction.

There are mobile vendors using handcarts who also are licensed by Local Bodies. We are of the opinion that no permits for occupation of footpaths should be issued by Local Bodies. Further mobile vending should not be allowed in shopping and other congested areas. It can be permitted in residential areas. Even when regular marketing areas are planned in cities there is seldom any provision for workshops to repair the increasing number of motor vehicles. Consequently people set up small motor workshops in normal marketing areas and all vehicles under repair by them are permanently parked on the streets. While dealing with urban policing we have pointed out that police officers should be associated with the planning and development of cities so that the police point of view is adequately attended to in the growth of our urban areas. This association would be particularly helpful in the field of traffic regulation.

(3) *Public transport and segregation of traffic.*—

The other problem is absence of a viable and predictable public transport with the result that people have to rely on individual transport and this adds to the congestion on roads. One remedy is to have either a fast surface railway as is proposed for Delhi or an underground tube railway system as is under construction in Calcutta. This would greatly help to reduce pressure on the roads and also help conserve scarce fuel resources. This railway network should be backed up by a good bus service. In an interesting study made in 1979 by the Commissioner of Police, Hyderabad, it was found that in Hyderabad city there were 600 buses for transportation within the city. The study pointed out that instead of increasing the number of buses which would only add to the congestion on roads, the same number of buses should make more trips. It was found that these buses were moving at an average speed of 8.5 km. p.h. and optimally this needed to be raised to at least 16 km. p.h. The main obstacles to achieving this objective were the mixed nature of the traffic on the road which reduced the speed of all vehicles to the speed of the slowest vehicle on the road and encroachment on roads and footpaths by vendors, pedestrians, cyclists and stray cattle. The study suggested that the remedy lies in having different lanes for different kinds of traffic, removing encroachments by vendors and cattle and confining pedestrians to pavements by having a 2½ feet hedge, barricade or wall along all pavements with openings at zebra crossings or at over-bridges and sub-ways. We are in full agreement with these suggestions. We find that the present policy is highly elitist. Roads are constantly widened for motorists when the majority of our road users are either cyclists or pedestrians. No effort is made to make their journeys safe and easy. The NATPAC study referred to earlier found that in Calcutta in 1976, 86.9% of the persons killed and 74.7% of those injured in road accidents were pedestrians. Similarly, in most of the major streets in urban areas, cycles constitute 50% of the total volume of traffic and 20% of the accident victims are cyclists. There is need therefore to regard cyclists and pedestrians as important road users and separate tracks with segregations and special lights at intersections should be provided for them. Similarly, crowded market areas should be restricted to pedestrians only during peak hours. Additionally, office hours should be staggered to reduce congestion and in certain crowded arteries, heavy goods carriers should only be allowed during night. All these measures would ensure a freer movement of traffic on the roads.

(4) *Manpower.*—Though cities have been growing very rapidly as also the number of vehicles and pedestrians on the streets, there has not been any complementary increase in the number of policemen earmarked for the management of traffic. In some places this inadequacy is sought to be made up by inadequately trained Home Guards or other persons like Traffic Wardens. We recommend an adequate increase in the strength of traffic police. This strength should be determined on the basis of points to be manned, areas for patrolling, enforcement of regulatory measures, education of road users in traffic rules,

investigation of accidents and the maintenance of proper records. This manpower should be trained properly by specialists within and outside the police organisation. In addition, it should be obligatory for senior officers in-charge of traffic regulation to be available on the ground during peak hours to supervise the regulation of traffic. We further recommend that in all large cities the traffic enforcement agency should have a research section to analyse the causes of bottlenecks and serious accidents. While the traffic police should undertake education of road users it would be more worthwhile to include a chapter on traffic sense and traffic rules in any of the textbooks of the school curriculum.

(5) *Equipment.*—The management of traffic in urban areas also requires that the traffic police be fully equipped with salvage vehicles, radar speedmeters, stop watches, walkie-talkie sets, close circuit T.V. Cameras, ambulances, photographers and alcometers etc. There is a woeful inadequacy of these equipments with the traffic police leading to inefficiency in traffic regulation and inconvenience to the general public. For instance, when a heavy vehicle like a truck or a bus is involved in an accident in a crowded street, the police do not have the means to evacuate the injured to the hospital immediately, to take photographs of the scene of the accident and to remove the damaged vehicle so that traffic could again start moving smoothly. Today, an accident means dislocation of traffic on that street for several hours apart from tardy medicare to the injured. Very often, in the absence of proper equipment such as radar speedmeters, crude methods are employed by the police to detect over-speeding. Similarly, drivers suspected of drunkenness are produced before a doctor only if they reek of alcohol and the policemen apprehending them have a keen sense of smell because the police do not have even an inexpensive gadget like an alcometer. The traffic police should be provided with adequate equipment. An ambulance section is, for example, a must. Traffic signals could also be computerised to rapidly adapt themselves to the frequently varying needs of traffic flow by control from a central point. We understand that this is already being proposed for Bombay.

(6) *Fitness of vehicles.*—A large number of vehicles involved in accidents are, on inspection, found to have had some faulty equipment like horns, wipers, rear view mirrors and brakes. There is at present no standard motor vehicle inspection code which states the minimum standards of safety required for a vehicle to be on road. Often accidents take place on account of defective buses, trucks, mini buses, taxis, private cars and autorickshaws. According to the NATPAC study, while the fatality rate of all motor vehicles in India was 57.7 for every 10,000 vehicles, in a city like Madras, buses contributed the highest fatality rate with a figure of 213 per 10,000 vehicles, the identical figures in Madras city for other vehicles being 9.9, 12 and 7.6 for cars, motor-cycles/scooters and autorickshaws respectively. From further analysis it was found that the majority of accidents were caused by the fault of drivers of heavy vehicles. As regards the defects of vehicles, the analysis has shown that defective

brakes accounted for the maximum number of accidents with a figure of 21.9%. We would therefore suggest the following measures :—

- (i) A Standard Motor Vehicle Inspection Code stating the minimum standards of safety required for a vehicle to be on road should be incorporated in the Road Safety Act suggested by us later. All motor vehicles including scooters and motor-cycles should be required to pass a fitness test periodically. This fitness test should include a stringent check to prevent pollution by vehicles. Vehicles that emit large quantities of smoke or use piercing 'cattle' horns need to be kept off the roads. In future it may become necessary to check the fitness of vehicles from the point of view of fuel consumption. Large automobiles or what are called fuel-guzzlers may have to be denied a fitness certificate or discouraged by steep taxation. Institutions could be set up for conducting such tests and they could charge a fee;
- (ii) a large number of vehicles are basically defective in their design and further aggravate an accident by causing serious injuries to their drivers and passengers. It should be made compulsory for the manufacturer to provide necessary safety fixtures like safety frames in two wheelers, seat belts and collapsible steering assembly in cars to reduce the severity of accidents. Similarly sharp corners and edges in vehicles should be removed by proper designing;
- (iii) in Delhi, there is a practice that all owners of commercial vehicles before renewal of their permits have to obtain a certificate from the police that all pending traffic violations have been accounted for. This is applicable to private cars at the time of sale or transfer. This should be done all over the country;
- (iv) the Regional Transport Authority should take due notice of an operator's previous traffic record before issuing a permit to him and where there are more than one applicant, the one with the best record for observance of laws should be selected. This would have a salutary effect on common malpractices like over-loading and other breaches of safety rules and regulations;
- (v) police should be associated with policy decisions regarding issue of permits so that there is no undue pressure on traffic control by a preponderance of vehicles like autorickshaws on the road; and
- (vi) the registration of vehicles should also include payment for third party insurance. At present there are not only malpractices in this but there also are occasions when vehicles are found without them only after they are

involved in an accident and the victims are left helpless and without compensation as the driver may not always have the capacity to pay.

(7) *Fitness of drivers.*—In Delhi it was found that 67.5% of the fatal accidents were caused by heavy motor vehicles which constituted 8.5% of all the vehicles in the city. It is common knowledge that private bus operators and even taxi owners appoint bad and reckless characters as drivers so that such persons are able to fulfil the requirements of collection of fares from passengers and ensure speed through congested areas to optimise their revenue collection. Some of these drivers, apart from having a bad police record, are also not adequately educated to have the requisite knowledge to understand and follow the traffic laws and regulations in operation. There is at present no system to ensure that a person being given a driving licence has a minimum standard of education and character to understand traffic laws and voluntarily follow them. The magnitude of the traffic control operations in a city also leads to inadequate police records and some drivers commit a large number of accidents and continue to keep a driving licence and we have been given to understand that in the absence of adequate cross references and cross checking between the transport authorities in the various States some drivers manage to procure more than one driving licence in their name or aliases so that they can continue to operate even if one of their driving licences is impounded. In Chapter XVII of our Second Report we have envisaged a National Crime Records Bureau for maintenance of crime records and statistics by a national police computer. We visualise that this Bureau could also maintain records of registration of vehicles, issue of driving licences and traffic offences committed by individual drivers. When this is achieved and computerised, we can then think of a point count system for giving bad marks to drivers on the basis of a scale depending upon the gravity of an offence. If a driver crosses the prescribed maximum bad marks, his licence should be impounded for a period regardless of where he resides and where he has committed the offences. This would also ensure that before the registration of a vehicle is renewed the owner clears all the fines pending against him. This would eliminate dangerous drivers and ensure safety. Police officers would find such a Central Record Office a great help in detecting habitual offenders and dangerous drivers.

(8) We have observed that adequate check is not exercised over issue of driving licences to drivers. The Transport Department issues these licences on the basis of a subjective test conducted by an Inspector and most of these applicants are put up by a large number of driving schools which exist in this country. We were given to understand that in Delhi there are several driving schools which have only one instructor to coach on an average 600 trainees in a period of six months and all of them pass the required driving test. It is generally felt that these schools are used by trainees who already know driving and find the schools a convenient channel to obtain a licence easily and also get

a vehicle for appearing in the stipulated test. For the instructors, it is an attractive business proposition. A way out of this is for the Government itself to establish a large number of driving schools with adequate instructional staff and to provide applicants with a vehicle on rent at the time of the driving test. Adequate care needs to be exercised at the time of issue of licences. A person should have a learner's licence for at least two months prior to the issue of a regular licence and for obtaining a HTV licence, one has to have a HMV licence for at least two years. Also Gazetted Police Officers should have the powers to suspend a driving licence if a person has committed an offence which indicates dangerous driving. These provisions already exist in Delhi and a few other cities with good results. In addition, the character and antecedents of a driver be determined and a minimum educational standard prescribed before a licence is issued. In addition to a stringent driving test, medical examination, physical and psychological tests including reaction time, depth perception, vision, hearing and mental faculty should be prescribed for issue of driving licences. There should be an objective type written test to determine the knowledge of road signs and traffic rules. Even renewal of driving licences be done after ascertaining the physical fitness of a driver after periods of 3 or 5 years. We feel that as much care should be exercised in issue of a driving licence as for an arms licence. The additional role envisaged for the police in the issue of driving licence and its subsequent utilisation would, we hope, remove the present malady where the police are held accountable for safety on the roads without any control over the issue of licences or permits.

(9) *Road Engineering*.—Good road engineering is essential for ensuring safe and rapid flow of traffic and also to prevent traffic accidents. We find that this work is planned, executed, financed and maintained by different agencies and it results in considerable delay in the repair of roads or traffic control devices and modifications in the road plans etc. The type of road pattern and traffic control devices need necessarily to be decided on the basis of scientific studies and analysis of traffic in a city. On the basis of such studies, which should include consultation with various experts, other measures like segregation of traffic, prohibition, time bound or total, for slow moving vehicles, heavy commercial vehicles and public transport buses on selected streets, regulation of traffic on one-way streets, should be adopted to ensure smooth flow of traffic. These are all closely related to the growth and development plans of an urban area. To cite one example, the creation of a multi storied building in an area increases the flow of traffic in that area but the road and parking facilities in that area may not be adequate to meet this increase. In certain areas like the front of schools or where facilities for pedestrian crossings do not exist, speed breakers have to be constructed on the roads. The multiplicity of agencies delays the construction of such facilities promptly. Even when constructed, adequate warning is not given to drivers to exercise due care and this makes them more a liability than an asset. Speed-breakers should be clearly marked with red and white

stripes and warning lights. Adequate advance notice should be available to a driver before approaching a speed-breaker or a diversion. Similarly, if a traffic signal is not functioning or there are serious damages on the road surface, it takes a long time for the civic body which is responsible for its maintenance, to attend to it and in the meantime considerable chaos is created and throughout all this the responsibility for management of traffic squarely rests on the police. In a city like Delhi the construction of roads, erection of traffic control equipment and their subsequent maintenance is the responsibility of four different agencies. With a view to take an integrated approach in the management of traffic in a city, we had asked in our questionnaire:—

“Traffic problems in urban areas are now handled by multiple authorities. For example, the planning and operation of traffic signal lights is the responsibility of one department while the day-to-day maintenance is looked after by another department. It has been suggested that every major city should have a unified traffic authority under the chairmanship of the Chief of the Police of the city with members drawn from the engineering wing of the local body and the other departments of the government besides suitable representatives of the public. This body should be suitably set up with sufficient finances and powers for handling the traffic problems in a rational and scientific manner.”

Of the respondents who answered this question an overwhelming majority of 92% supported the idea. We endorse this view and would suggest that all cities with a population of 5 lakh or more should have such a body.

(10) *Ticketing System*.—An infringement of a traffic law today means that the Police can only charge sheet the offender. The case is subsequently sent up to the courts for disposal. The number of traffic infringement cases pending in Delhi courts, to take one example, as on 31-12-1977 was 1,43,895 and as on 31-7-1978 it was 1,83,327. Now, over 6 lakh cases are pending. In many of these cases the accused have no defence to plead and would invariably be willing to pay the fines. The main defect in disposal seems to be the limitation of the courts and other agencies in following the procedure prescribed in the Code of Criminal Procedure. In addition, it is very difficult at times to serve summons on an accused because of the wrong addresses given or the cumbersome procedure involved in determining the ownership of the vehicle. It is essential to specify under the law that a driver of a vehicle should carry with him his driving licence with his photograph and also the registration papers of the vehicle. The magistrate who deals with such cases is hardly ever required to exercise his discretion in the disposal of such petty cases and generally awards a fixed penalty. However, the prosecuting agency and the courts are beset with so many problems that the cases never come up before the courts for several years and an errant driver who has been prosecuted by the police has no fear of being punished and his guilt lapses

by default. One High Court, for instance, has issued instructions that if summons cannot be served after two attempts, the case may be filed. In another State, police file a case after it remains pending for six months. Many cases are therefore filed by default. In this regard in Bombay the Government have introduced a scheme to accept cash deposits on the spot by police officers. The object of the scheme is that on detecting an infringement of the traffic laws and regulations a police officer of appropriate status charge-sheets the offender and releases him on bail by accepting a bail of a prescribed amount pre-determined for each of the offences. Later, the cases come up in the usual course and if the accused does not turn up on the day of hearing, the amount of bail deposited by him is forfeited. This apart from contributing substantially to the Government's revenue ensures that a traffic offender immediately feels the pinch of committing an offence. We recommend the straight adoption of the ticketing system which exists in many other countries. We have examined the subject in depth and feel that the introduction of this system in our country will not defeat the principle of separation of judiciary from the executive as the person accused of an offence would not be barred from taking the matter to a court of law if he is so inclined. No injustice is likely to ensue if police is entrusted with the function of realising a fixed penalty against the issue of a voucher from a person who has committed an infringement of the traffic regulations. We found wide support for the ticketing system in response to our question number 73 wherein it was suggested that the Cr.P.C. be suitably amended to incorporate the ticketing system. Of our respondents 66% supported the suggestion. We have in the subsequent paragraph recommended enactment of a Road Traffic Act and we are of the view that the Ticketing System should be incorporated in that Act itself.

(11) *Road Traffic Act.*—The regulation of traffic and its control includes all vehicles on the streets including heavy transport vehicles, cars and jeeps, motor-cycles and scooters as also slow moving vehicles like cycles, cycle-rickshaws, hand carts and animal pulled carriages. To control those vehicles we have at present only the Motor Vehicle Act, 1939 which is not comprehensive enough to include all the vehicles that move on roads and does not include pedestrians. There are certain other Acts which relate to the plying of slow moving vehicles but these are primarily intended to collect revenue from such vehicles rather than to control their movement on the road. The provisions for prevention of pollution and noise control are at present inadequate. Similarly there are no minimum standards of safety prescribed for motor vehicles, cycle-rickshaws and cycles. Countries like Australia, Austria, England, France, Federal Republic of Germany and Ireland have enacted comprehensive legislations under the title "Road Traffic Act" to enable regulation of all vehicles plying on public roads including pedestrians and other road users. The legislations in these countries are found to be enacted more or less on uniform pattern. Having regard to the inadequacies of the Motor Vehicle Act, 1939 and the problem in regu-

lation and control of road traffic in the country, we feel that a comprehensive legislation under the name "Road Traffic Act" be enacted to cover all matters of traffic regulation including road safety provisions, use of vehicles and equipment, licensing of drivers and vehicles, driving instructions, insurance and liability to third parties, punishments and penalties including the ticketing system, general rules of evidence and other miscellaneous matters.

Management of highway traffic

53.5 In India today we have 6,23,000 kms. of surfaced roads and 9,81,000 Kms. of unsurfaced roads. On these ply a variety of vehicles including trucks carrying vital goods, buses carrying passengers to remote corners of the country, passenger cars and others light vehicles carrying people and goods, tractors with trailers, animal pulled carriages, hand carts, cyclists and pedestrians. Their movement on the highways has to be regulated for the sake of smooth and safe flow of traffic. In addition, in certain parts of the country, armed gangs of dacoits are making travel on highways increasingly hazardous. There is need for adequate manpower and vehicles equipped with communication aids as highway patrols so that they could not only enforce traffic laws and regulations but also promote safety on roads. As the prevention and detection of highway hold-ups and robberies is also a police responsibility and making roads safe from criminals promotes a sense of security in the community we feel that the agency entrusted with the highway patrol and having the necessary infrastructure should also look after the requirements of combating criminals who operate on the roads.

53.6 At present several agencies are working for meeting the traffic requirements on the highways. The Transport Department issues licences permitting the flow of vehicles on the roads. The State Public Works Departments construct the roads. The Police and the Enforcement Branch of the Transport Department enforce the conditions under which vehicles can ply on the highways. The police also investigate all cases of accidents. In some States like Punjab, enforcement on the part of the police is done by a centralised team which acts as an enforcement branch for checking infringement of permit conditions and negligent driving. In other States the local police do this enforcement function. The normal rural police station is not equipped in any way, to control highway traffic. As we require the highway patrols to not only detect traffic offences and ensure smooth flow of traffic but also combat heinous offences like highway robberies, we feel that these highway patrols should be placed under the concerned District Superintendent of Police and they should operate within the limits of a district. Inter-district co-ordination should be the responsibility of the range Deputy Inspector General. At the State Headquarters level there should be a Traffic Unit for research into the State's traffic problems as also inter-range co-ordination and coordination at the State level with the other agencies like the Engineering Department and the Transport Department while the agency for

actual enforcement of traffic laws and promoting safety should be a part of the district police.

53.7 A perusal of the existing situation on the highways would show that there are several factors which lead to accidents on the highways. The foremost reason is negligent driving by professional drivers for which we have already suggested certain measures in our recommendations regarding the issue of driving licences and permits. We feel that all these provisions should be extended to the drivers plying on the highways. There is a pronounced tendency on the part of the private carriers both of passengers as well as goods to drive very fast and rashly so that they can do more business in the course of a period of time. This contributes substantially to accidents on highways. The only way to check these drivers is to have adequate enforcement staff both at fixed points and as flying squads to check these vehicles and to ensure that they do not overload dangerously and that they do not indulge in over-speeding. For this purpose adequate manpower and modern equipment are needed for the enforcement agency. We have earlier suggested a ticketing system for the traffic police in the cities. We feel that the problems of service of summons to drivers on highways is much more difficult; for the culprits are inter-State drivers as compared to local drivers in the cities. We, therefore, feel that the ticketing system should be extended to the highways also and the police should have the powers of taking fixed penalties from the drivers for infringement of traffic violations on the lines suggested by us while dealing with the ticketing system. This measure would substantially decrease the load of work on the judiciary and ensure speedy disposal of cases. As mentioned before, the Transport Department before renewing the permits of private carriers of goods and passengers should see that where there are several applicants for a particular route, the permit is issued to the person with the best record for observance of traffic laws and regulations. Similarly weigh-bridges and height barriers should be installed at strategic points to prevent trucks from overloading. These weigh-bridges could be conveniently located near standard barriers.

53.8 As regards the barriers we have noted that on most of the highways there is no truck base where trucks could be parked pending their clearance by the check-post. The trucks, therefore, are parked on the road itself causing a bottleneck for the traffic. It is essential that each barrier be equipped with a truck base so that the highways are not used for parking of trucks. We have in addition seen that other than the Local Bodies which set up octroi barriers, several others such as the Forest, Police, Transport, Excise, the Mines and Narcotics Departments also set up barriers for the purposes of conducting checks at short distances and vehicles are forced to stop at several places along a highway. All these delays constitute a gigantic national loss in terms of man hours and running time of vehicles not to speak of the snowballing corruption. We feel that centralised barriers with the checking

staff of all the concerned departments be located at strategic points as far as possible along the highways so that all the checkings could be done in one stoppage. If this is done, these centralised and comprehensive barriers could have all the cover facilities like parking bays, meal and rest facilities, service stations, fuel pumps, medical aids and weigh-bridges. They would facilitate travel and movement on highways to a great extent and would definitely prove to be cost effective. On rare occasions, certain enforcement agencies may on specific information set up surprise check posts for a very limited time and purpose. In the context of barriers, the present multiplicity of which is nightmarish, we would also like to draw attention to the observations of the Masani Committee on Road Transport Reorganisation :

“According to the Taxation Enquiry Commission, Octrois and terminal taxes were levied in 1952-53 in Bombay, Madhya Pradesh, Punjab, Uttar Pradesh, Madhya Bharat, Mysore, PEPHU, Saurashtra, Bhopal, Delhi and Himachal Pradesh, and the total income from them was Rs. 11 crores. One witness appearing before the Committee estimate that about 25,000 trucks incurring a total running cost of about 62½ crores may have been operating in the above octroi areas in that year and that, therefore, on the basis of a 10 per cent detention at octroi posts the wastage on running costs to collect Rs. 11 crore of octroi was about Rs. 6 crore, plus the cost of the collecting establishment which some people estimate absorbs 14 annas out of every Rupee charged. This is wasteful procedure. Moreover, it entails waste of foreign exchange on extra vehicles.”

“On an examination of the matter the Committee has come to the conclusion that steps need to be taken to simplify the structure of taxation. It is recommended that octroi, wheel taxes and other imposts charged by Municipalities as well as the tax on passengers and goods wherever levied should be discontinued, octrois being merged in the general sales tax or some other levy unconnected with motor transport and all other taxes being merged in the vehicle tax. In so far as sales taxes are concerned, it is further recommended that the sales tax on trucks and buses should not as at present be at luxury rates but at rates applicable to other essential goods (p. 25).”

For 1977-78, one estimate put the revenue from Octroi duty for the country as a whole at Rs 270 crore while the cost to the community in terms of various losses at about Rs. 1,700 crore. It is for consideration whether these Octroi Posts which apart from being counter-productive are also a handicap to smooth flow of traffic on the highways be continued or not. We agree with the Masani Committee and urge the mobilisation of this revenue by other means.

53.9 In addition, road conditions in certain parts of the country not only lead to traffic accidents but

also contribute substantially to acting as a handicap to the smooth flow of traffic. For this purpose, the Centre has identified a few important arteries in the country as vital roads and given them the status of National Highways. The construction of National Highways though a responsibility of the State Government is financed by the Centre. However, in some places it is seen that a National Highway may be important from the national point of view but is not so important from the State's point of view. Consequently, such National Highways get neglected and despite the volume of traffic and the national importance of the road, it does not serve the purpose for which it is meant. This state of affairs contributes substantially to obstructing smooth flow of traffic. Our highways also pass through villages. Townships grow alongside highways. Generally these townships encroach on land on either side of the berms and if timely preventive action is taken, the highways can retain the character of a highway. But wherever the highways have already been hemmed in by such townships, by-passes are the answer. Various agencies of the Government also dig up the roads for their own purposes. All these add to the obstructions on the roads. There is, therefore, a need to have an integrated approach to the management of National Highways where important roads are identified, suitably constructed and adequate enforcement staff is available to control these arteries so that accidents are avoided and smooth flow and safety ensured. We also recommend that all National Highways should carry road signs in English, Hindi and the regional

language. In certain parts of the country even National Highways have road signs in the local language only which causes difficulty and frustration.

53.10 Problems of traffic-engineering on the highways are equally important and cannot be neglected. We feel that a Road Safety Cell headed by an Engineer who is an expert in Traffic Engineering be created as part of the Traffic Unit in the office of the Chief of State Police so that this cell could work in liaison with the Public Works Department and from time to time review the traffic engineering aspects of the highways, specially where bottlenecks have occurred or the road is otherwise dangerous. The basic problem is to fit the volume of traffic to the roads and the roads to the quantum of traffic. The PWD cannot appreciate the problems of traffic requirements on the roads as fully as the police. It is, therefore, essential that wherever enforcement of traffic rules and regulations becomes a problem because of engineering impediments, their correction should be taken up by the Road Safety Cell with the Public Works Department. Police also would benefit from such a cell headed by an engineer as they do not have the technical know-how of the requirements of road engineering. Major road accidents require research and analysis to ensure that the defects in road engineering do not lead to such accidents again in the future. For this purpose, we visualise that the Road Safety Cell at the State Police Headquarters having both Engineers and Police Officers would work to ensure greater safety for road users.

CHAPTER LIV

THE MINISTERIAL STAFF AND ADMINISTRATIVE WORK IN THE POLICE DEPARTMENT

54.1 The Police Department needs the services of the ministerial clerical staff for handling work. Various police offices, namely offices of Inspector General of Police, Deputy Inspectors General of Police and Superintendents of Police have their contingent of ministerial personnel. In some States, Sub-Divisional Police Officers (ASP/Dy. SP) are also provided with clerical staff. These ministerial personnel are recruited and trained as such and their whole-time work is to handle clerical work of various police offices. There are wide variations in rank-structure, service conditions and other aspects of clerical personnel employed in the Police Departments in various States. But the most important difference is that in States like Uttar Pradesh, Orissa and Delhi etc. the ministerial staff have been given police ranks and they are enrolled under the Police Act like executive police personnel. This in fact makes them subject to the same discipline and liability to be on duty round the clock and other restrictions applicable to all other policemen. In several other States the ministerial staff of Police Department are like their counterparts in any other departments. They are not enrolled under the Police Act, and, therefore, not subject to police discipline or liability to be on duty round the clock, etc. Whether or not the police ministerial personnel should be encadred as police personnel has been a subject of debate in police circles for quite some time.

54.2 The common practice throughout India seems to be that the offices of Circle Inspectors and police stations are not provided with ministerial staff. The scriptory work in these offices is disposed of by policemen usually in the ranks of Constable, Head Constable. Even in the offices of Superintendents of Police and of Sub-Divisional Police Officers (ASP/Dy. SP) in some States, the scriptory work relating to maintenance of crime records is handled by police personnel of the rank of Sub-Inspector, Assistant Sub-Inspector or Head Constable. We are concerned in this Chapter with the non-policemen working on clerical duties of Head Clerks, Clerks, Accountants, Stenographers etc. In this connection the following have been the recommendations of some of the Police Commissions including State Police Commissions :

(i) *Police Commission (1860)*

This Commission recommended that all ministerial and accounts work in the Police should be performed by enrolled policemen and no separate categories of clerical staff should be employed for police force. It appears that the view of the Commission was largely influenced by the fact that police force then undergoing a process of recognition had to draw many practices

and systems from the Army. The recommendation of the said Commission was in the following words :—

“That no separate class of clerks, writer or ministerial officials shall be allowed in the police; and that all duties connected with writing and account be performed by enrolled men of the force.”

(Para 67 of the Report)

(ii) *The Indian Police Commission (1902-03)*

This Police Commission took note of the system then obtaining in a number of provinces, e.g., Punjab, Central Provinces, North-West Frontier Provinces etc., where the clerical staff consisted of men enrolled under the Police Act. The Commission opined that this was not a desirable practice due to the fact that this method did not secure suitable class of personnel for performing ministerial duties. The Commission also disapproved the view that enrolment of such staff under police was necessary for maintenance of discipline. The Commission was of the view that the discipline among such staff could be maintained in the same manner as is done in departments other than police. However, the Commission recommended that those personnels, who were to be deployed on maintenance of crime record should be policemen enrolled under the Police Act. Thus ‘Reader’ attached to Superintendent of Police, Assistant Superintendent of Police, and Deputy Superintendent of Police and ‘Station Writer’ of each police station were to be police personnel. It may be mentioned that this practice is still obtaining in many States even today. The recommendations of the Commission in their own words were as follows :

“The Commission are of the opinion that this system does not secure the class of men best fitted for the performance of clerical duties, while it frequently leads to an undue share of promotion being obtained by the men in the office. It has been urged that enrolment is necessary for the maintenance of discipline, but if discipline can be maintained in other offices without the assistance of special powers, it should be possible to maintain it in police offices also. The general principle which the Commission would lay down is that only those members of the police establishments who have to deal with crime should be enrolled in the force. The result will be that all the clerks of officers of and above the rank of Assistant or Deputy Superintendent will cease to be enrolled under the Act, where that practice now

prevails; and that station writers and readers of Superintendent, Assistant Superintendents and Deputy Superintendents will be enrolled in the force. The reader should be of the rank of Sub-Inspector, and it is desirable that he should not be retained in this appointment longer than twelve months. The Commission do not think that an Inspector requires a writer as he will have little scriptory work. He should, however, be given an orderly."

(Para 183)

(iii) *The Uttar Pradesh Police Reorganisation Committee (1947-48)*

This Committee recommended that the desirable strength of the clerical staff for various police offices should be assessed on the basis of total strength of policemen in the districts. The Commission observed that Constables were often deployed on purely clerical work in police offices, due to shortage of clerical hands, which according to the Commission was wastage of men trained for some other duties. The Commission, therefore, recommended that these constables should be replaced by additional clerks. Views of the Commission in this regard were as follows:—

"493. At present Constables are often employed on purely clerical work in police offices. We consider this as waste of men recruited for an entirely different purpose and we accordingly recommend that Constables should be relieved of purely clerical work and should be replaced by additional clerks."

(Chapter XXVIII)

Incidentally, due to shortage of clerical staff in almost all district police offices of Uttar Pradesh Constables are deployed even today in the correspondence and accounts sections on purely clerical duties.

(iv) *The Uttar Pradesh Police Commission (1960-61)*

That Commission, while discussing ministerial staff of police headquarters, recommended that actual requirement of each category of clerks should be assessed with the help of Inspector of Offices and the strength should be fixed accordingly. While discussing the strength of the district police offices, the Commission found that there were no norms laid-down to assess the desirable strength of clerical personnel in these offices and recommended that such norms should be laid down. The Commission also opined that strength of clerical staff should be in proportion to the strength of police personnel of the particular district.

(v) *The Punjab Police Commission (1960-61)*

The Commission thought it unnecessary to use uniformed policeman for office duties. According to them, it was a wastage of uniformed policemen who were trained for police duties. Therefore, the Commission recommended their replacement by civilian ministe-

rial staff and also recommended that these staff should not be called upon to perform any police duties. The Commission recommended that a departmental Committee should examine the case for enhancement of strength of ministerial staff. The Commission further recommended that strength and requirement of all police offices should be reviewed every 3 years for necessary adjustments. The Commission also disapproved the practice of assessing needs for office hand on the basis of number of receipts and despatches, and instead, suggested that it should be assessed on the basis of total work-load etc. The opinion of the Commission in this regard was as follows:—

"It is usual with various Cadre Committees to assess the strength of the office hands and office personnel on the number of receipts and despatches and similar kinds of work performed in these offices. In the opinion of the Commission this basis for assessing the requirements of the personnel in the different offices is not sound. For instance, in one particular matter, 20 to 30 reminders may have been issued. These do not involve any amount of work and these reminders cannot form the basis of assessment of the work-load in an office. The number of such instances can multiply. The strength of these office hands should be determined on an *ad hoc* basis on the total workload or turn out and according to the capacity of each man to do that work taking into consideration the routine nature etc. of the work."

(Chapter VII)

(vi) *The Bihar Police Commission (1961)*

This Commission examined the suggestion that clerical staff in police should be replaced by executive establishment on the lines of Army and disapproved the idea in the following words:—

"182. It has been urged by some witnesses and also Bihar Police Ministerial Officers' Association that the clerical establishment should be replaced by an executive establishment as in the Army. The Commission have considered the suggestion with care but do not think it necessary to recommend any material change in the class of persons employed on clerical duties."

(Chapter XIII)

The Commission also recommended creation of posts of superior ministerial officer designated as Manager, who would head the ministerial staff of each district police. The Commission also recommended abolition of the present post of Head Clerk in Police. They also opined that the salary scale of Manager should be equated with that of an Inspector of Police in the junior scale.

(vii) *The Madhya Pradesh Police Commission (1965-66)*

This Commission took note of the fact that a departmental committee appointed by the Inspector-General of Police considered the requirement of ministerial staff and made certain recommendations for enhancement of strength of such staff. Taking all the factors into consideration, the Commission recommended that staff in Police Headquarters, should be increased by 25 per cent. The Commission also examined the question of giving executive ranks to police ministerial staff and disapproved it holding that the ministerial work carried out in police offices is not different from other offices, also the suggested scale for ministerial staff at par with executive staff would lead to dissatisfaction in other offices of the Government. The views of the Commission in this regard were as follows :—

“11.10 It has been suggested that the ministerial staff in the police department should be given executive ranks and the advantages which are pointed out as resulting from this scheme are that the clerks in that department would become better disciplined and be available for adding to the strength of the force in times of emergency.”

“11.11 The scale proposed for the different grades show an inordinately high rise in initial pay, run of the scale and the maximum pay. As we have stated in the preceding paragraph the work which has to be done in the office of the police department by clerks is not very much different from the work which has to be done in other offices and the proposed scales will be discriminative and lead to dissatisfaction in the Secretariat and other offices of Government. We are, therefore, unable to accept this proposal.”

(Chapter XI)

(viii) *The Delhi Police Commission (1966 –68)*

This Police Commission observed that entire police ministerial staff were given police ranks and get emoluments parallel to the police personnel; only the Stenographers were excluded from it. This has led to their being a discontented lot. Therefore, the Commission recommended that Stenographers in the Police should be of the rank of Sub-Inspector and given the same emoluments. However, according to the Commission such Stenographers, Sub-Inspectors, after 5 years would revert to general line to avail opportunity for promotion along with others.

(ix) *The Assam Police Commission (1971)*

This Commission also recommended that the workload of various district police offices should be assessed by Organisation and Methods Division of the Government, as this was a technical matter which the Commission could not look into. The Commission also examined the question of making police ministerial

staff subject to the Police Act. The Commission felt that due to special circumstances e.g. obligation to work beyond the office hours in emergencies, it is necessary that there should be a separate cadre of the ministerial staff for police establishments, which should be enrolled under the Police Act. However, the Commission felt that in compensation of long hours of duty, they should be entitled to all facilities and privileges that were available to other police personnel. The recommendations of the Commission in this regard are as follows :—

“13. Ministerial staff of Police offices come in constant and close contact with Police Officers and men and their standard of discipline and dedication to duty affects and influences the enrolled personnel as well. There can be no fixed hours of work for the Police Department and actually in emergencies and even in holidays, etc. police work has to be intensified all the more and offices have to be kept functioning round the clock. It is not reasonable to expect civilian employees of the Police department to put in these extra hours of work when office employees of other Government departments do not have to do so. If the Ministerial staff of the Police Department has to share the privations and long hours of work along with the enrolled personnel of the department, it is desirable that they should also get certain facilities and privileges, such as, housing, welfare measures, etc. to which the officers and men of the police department are entitled.”

“14. We, therefore, feel that in the interest of cohesion, homogeneity and efficiency it will be advantageous to create a separate cadre of the ministerial staff in the Police Force itself, the personnel of which will be enrolled under the Police Act. This has been done with great advantage in many other States and the Army also have enrolled personnel in their ministerial staff. One additional advantage, would be that thereafter the ministerial staff can also be more safely entrusted with office matter of security importance.”

(Chapter XXI)

The Commission recommended creation of the following ranks of police ministerial personnel :—

- (i) Deputy Superintendent of Police (Ministerial)
- (ii) Inspector (Ministerial)
- (iii) Sub-Inspector (Ministerial) Selection grade
- (iv) Sub-Inspector (Ministerial) Grade I
- (v) Sub-Inspector (Ministerial) Grade II
- (vi) Assistant Sub-Inspector (Ministerial) Grade I

- (vii) Assistant Sub-Inspector (Ministerial)
Grade II

The Commission suggested the following police ranks for Stenographers :—

- (i) Inspector (Ministerial) Selection Grade
(ii) Inspector (Ministerial)
(iii) Sub-Inspector (Ministerial) Selection Grade
(iv) Assistant Sub-Inspector (Ministerial)
Grade I.

But the Commission felt that the ministerial personnel who are given police ranks should not be entitled to the same pay scales as are available to executive police, because their duties do not involve executive responsibilities and risk of life. The recommendation of the Commission in this respect reads as follows :—

- “18. It may be mentioned that the scale of pay which we have devised for the ministerial staff of the Police Department cannot be compared with the pay scales of the corresponding police ranks as the ministerial staff will not have to undertake any executive police responsibility not with their duties involve any risk of life. For instance, they will not be required to perform duties in riots and serious law and order situations, they face hostile public attitudes. In all other respects, however, they will be entitled to all the privileges and facilities available to the enrolled personnel of the Police Force.”

(Chapter XXI)

Recommendations of the Conference of Inspector-General of Police (1968) & (1972)

54.3 (1) This Conference discussed the subject of police ministerial officers' cadre being converted into executive cadre and their appointment under the Police Act. The Conference recommended that police ministerial staff should be given executive ranks and should be subject to same privileges and liabilities as were applicable to police officers. It was also agreed that clerical staff come into contact with rank and file of the force and any undesirable activities on their part (e.g. joining strike with other civil employees) would have repercussions on the members of the force. The minutes of the meeting are quoted below :—

“Item B(3) : Police Ministerial Officers' Cadres should be converted into Executive Cadres to be appointed under the Police Act.

Initiating the discussion, IGP Bihar said that experience had shown that during general strikes and agitations, the clerical staff of police offices are also affected. If the police offices were paralysed through absentism or mass casual leave by their own ministerial staff, the police would find it difficult to deal with the situation elsewhere. He, therefore,

suggested that the ministerial officers' cadres in the Police should be converted into executive cadres on the lines of the action already taken in U.P. The IsGP, M.P., U.P., Punjab, Haryana, Delhi and J&K, supported this view. It was pointed out that in States where such a conversion had taken place, the police offices had continued to function normally although there was a complete strike in other offices.

After discussion, it was agreed that it would be in the public interest if the clerical staff in all the branches of the Police Department was given executive ranks, with the same privileges and liabilities as were applicable to police officers enrolled under the Police Act. It was also pointed out that in the Armed Police Battalion the clerical staff move from place to place with the battalion in difficult and some times inhospitable and sensitive areas. In such circumstances, the clerical staff of the battalions would be able to function more efficiently and effectively if they were given uniform and were subject to the disciplinary provisions of the Police Act with all the privileges to which only the executive officers were at present entitled.

“The Conference felt that though the police is a disciplined force, yet in the conditions prevailing in the country, much higher standard of discipline is expected from the police force as a whole. The clerical cadre comes into very close contact with the rank and file of the force and any undesirable activity on the part of the clerical staff is bound to have its repercussions in the police force. The Conference, therefore, recommended that the clerical staff should be enrolled under the Police Act in appropriate executive ranks and given all the benefits of those ranks to make it attractive for them to accept the change.”

On the basis of the above decision, the State Governments were requested by Intelligence Bureau to implement this decision.

(2) In pursuance of above decision some States converted their cadre of ministerial staff into that of police personnel and made them subject to Police Act. But many others were yet to implement it. The IsGP Conference of 1972 reviewed the progress made in the implementation of recommendations of IsGP Conference of 1968. It appears that additional financial burden on the State was the main reason for not implementing the recommendation in several States. The Conference suggested that a circular from Ministry of Home Affairs may be sent to all the State Governments advising them to implement the decision expeditiously. Therefore, a Circular letter No. 1(10)/72-Police (L)-GPA-I dated 11th October, 1972 was addressed by MHA to all States as also the DG, CRP,

Director IB, Director CBI, IG CISF, in this connection. The relevant extract of the meeting of the IsGP Conference of 1972 is as follows :—

“Item B(4) : Police Ministerial Officers’ Cadres to be converted into executives cadres under the Police Act.

The Conference reviewed the progress made in implementing the recommendations of the IsG.P. Conference, 1968 about the conversion of the Ministerial Officers’ Cadres into executives cadres under the Police Act.

It was observed that about 30% of the States have implemented the recommendation, 20% are expecting decision from their respective State Governments and that the remaining 50% have not accepted the suggestion.

During the discussion, it appeared that extra financial burden on the States was the main cause for not implementing the recommendation in many States. The ministerial cadres become eligible for many of the benefits as soon as they are admitted into the executive cadre. This imposed an additional financial burden on the State Exchequer.

The discussion ended with the suggestion that a circular from the MHA commending the scheme to the State Governments may be issued once again.”

This matter is even now being pursued with the State Governments by Bureau of Police Research and Development.

Ministerial staff—present position in various States

54.4 The position in some of the States is as follows :

- (i) In Uttar Pradesh, Orissa, Delhi and Madhya Pradesh the entire cadre of ministerial staff is subject to the Police Act.
- (ii) In Jammu and Kashmir only ministerial staff of State CID have been converted into police personnel subject to the Police Act.
- (iii) In Punjab, Haryana, and Himachal Pradesh, district Police Offices are manned by ministerial staff subject to police Act, and the remaining clerical staff are civilian.
- (iv) In Mizoram, part of the ministerial cadre have been converted into uniformed policemen and remaining clerical staff are non-police personnel.
- (v) In Bihar, Ministerial Staff posted in Intelligence Branch are subject to Police Act; remaining ministerial personnel are non-policemen.

(vi) In Tripura, clerical staff were combatised in October, 1966 and again decombatised in June, 1979.

(vii) In Andamans and Nicobar Islands regular police personnel handle office work and no ministerial staff is posted there. In remaining States/UTs, clerical personnel are not subject to Police Act.

(viii) Thus important States where ministerial staff are non-police personnel, are Andhra Pradesh, Maharashtra, Karnataka, Tamil Nadu, Rajasthan, Gujarat, West Bengal, Kerala and Assam.

Uttar Pradesh

54.5 In U.P. the present position is that the ministerial staff are enrolled under the Police Act, and have police ranks. They are subject to various rules/regulations and orders made under the Police Act in respect of restrictions, liabilities, penalties, privileges and facilities. They get uniform allowance also (excepting Constable Ministerial) at the admissible rate. The minimum qualification for induction in ministerial cadre is intermediate. The minimum standard of height and chest is also prescribed. There is no provision for inducting ministerial staff in executive ranks. They are not given any training in drill, weapon, etc. They are never deployed on any police duties. All benefits and amenities admissible to other force members are also available to ministerial staff. There are 5 cadres of clerical personnel in the State, namely—

- (i) U.P. Police Headquarters Cadres.
- (ii) CID Cadre.
- (iii) Intelligence Branch Cadre.
- (iv) Cadre of District Police
- (v) Govt. Railway Police Cadre.

Personnel of one cadre are not transferable in the other.

Orissa

54.6 The position in Orissa is that the incumbents of clerical cadre are entitled to rent-free accommodation or house rent allowance at the rate of 15% or 10% of the pay depending on the population of the place. At present no uniform is supplied to them. These staff have been designated as Police Officers (Ministerial) and are issued certificates under Section 8 of the Police Act. On conferment of executive ranks they have been allowed special pay at the rate of 20% of the pay and rent-free accommodation or house rent as indicated above. The original Government order of 1974 says that since the duties assigned to the ministerial staff are different, they would have no occasion to exercise powers and functions of executive police officers; they will, however, be subjected to police discipline as far as they are applicable to their sphere of duties. The Government order also says that these staff would not be entitled to appointments

or promotions to the executive posts. They can however appear at the test for direct recruitment of S.I. etc., if they are eligible. No overtime allowance is admissible to them. All welfare measures and amenities admissible to executive police personnel are also available to the ministerial staff. There are three distinct cadres of ministerial staff, namely (i) I.G. Office (ii) Special Branch and (iii) District Police, and there is no provision for *inter se* transfer. Intermediate is minimum qualification for cadres (i) and (ii) and Matriculation for Cadre No (iii).

Delhi

54.7 The ministerial staff in Delhi Police are entitled to same uniform articles as are issued to the executive staff of the corresponding ranks. As indicated above, all clerical staff are entitled to special pay, but stenographers are not entitled to any special pay. All Ministerial staff are entitled to free accommodation or house rent at the rate of 25% of the pay. One remarkable point is that personnel of clerical cadre have the same pay scales and other allowances as are admissible to the corresponding ranks of executive police cadre. However, the personnel of ministerial cadre are not interchangeable with personnel of executive branch cadre. According to the original Government order of 1970 "they will not normally be utilised on executive police duties". But as per information made available by Delhi Police, ministerial staff are occasionally deployed on law and order duties in emergency. They are imparted elementary police training in drill/weapon etc. All welfare measures and amenities admissible to executive personnel are also available to ministerial personnel. At present the entire police clerical staff has one cadre distinct from executive personnel. However, on confirmation as Inspector, names of clerical incumbents are brought on joint seniority list of all Inspectors for purpose of further promotion to the rank of Dy. SP. The Delhi Police has recently proposed to the Delhi Administration that inter-transfer between ministerial and executive ranks may be permitted by amending relevant rules.

Punjab

54.8 In Punjab there are two distinct cadres of clerical staff in the police department. The district police offices are manned by ministerial staff subject to Police Act, who have been allotted ranks parallel to police-personnel. On the other hand headquarter offices and specialist branches have non-police ministerial staff. There is no horizontal mobility of staff from one cadre to the other. It may be mentioned that 'uniformed' clerical staff get same scales of pay and allowances as are admissible to the executive staff. In addition, they get special pay for handling clerical duties. There is no provision of clerical staff being inducted into executive side of the hierarchy. Recruitment is made in the rank of ordinary Constable, for which minimum qualification is matriculation; suitable candidates are subsequently transferred to police ministerial cadre. The ministerial staff subject to Police Act do not get any overtime allowance. But

they are entitled to one month's extra pay every year for obligation to perform duties on holidays and off hours. The uniformed clerical staff is entitled to rent-free accommodation and special casual leave also, which are available to all executive personnel. They are also entitled to all welfare measures and amenities as are admissible to other police personnel. The uniformed clerical staff are never deployed on normal police duties. Also they do not get any training in drill, weapons etc.

The position in Army and Central Police Organisations

54.9 In Army Headquarters, the majority of ministerial staff are civilian (non-combatants), although some posts are manned by combatants also. In field units, e.g., Army Battalions, all ministerial staff are combatants. They are usually known as sepoy (clerk), havildar (clerk), subedar (clerk) etc. and form a distinct cadre of their own. They are provided with uniform and are subject to all provisions of Army Act and Rules. All the welfare and amenities meant for army-personnel are also available to ministerial staff. The BSF has followed the pattern of the Army; thus all BSF headquarters offices are manned by non-combatants, while in field units (like battalions) all ministerial staff are combatised. Thus the latter category of personnel are subject to BSF Act and all liabilities as well as amenities available to BSF personnel are also available to ministerial personnel. In Central Reserve Police Force, all ministerial personnel are civilian, and they are not subject to CRPF Act and Rules. It appears that efforts were made in the past to combatise them, but unsuccessfully. In CBI ministerial staff are civilians. (In Zonal Offices of CBI, regular Sub-Inspector/Inspectors have been assigned some ministerial work pertaining to handling of case files; but these personnel do not belong to ministerial cadre). In the Intelligence Bureau all ministerial staff are civilian.

54.10 We may recall that the Indian Police Commission (1902-03) disapproved the idea of ministerial personnel being made subject to the Police Act. The Commission felt that this practice did not secure the category of personnel best suited for the job. We have also seen that the views of various State Police Commissions were varied on the point whether ministerial personnel of Police Department should be subject to Police Act. Thus the Assam and Delhi Police Commission were of the view that they should be subject to the Police Act, while Police Commissions of Bihar, Punjab and M.P. were against it. We have also noted that making the ministerial personnel of the department subject to Police Act is already under a process of implementation after the recommendations of the Conference of Inspectors General of Police (1968) as referred to in para 12. A number of States have already made them subject to the Police Act and Rules and in a number of States the subject is under active consideration of the State Government. It was impressed upon us during our visits that policemen have to be subjected to a much higher standard of discipline than is needed from the employees of other

departments under the State Government. It was felt that all wings of the police should maintain the same level of discipline and there should not be any pocket of slackened disciplinary atmosphere inside the department. On this consideration we were told that it was desirable to make all wings of the police subject to the same rule, viz., The Police Act and Rules. We find ourselves in agreement with these views.

54.11 During our visits to the States as well as on the basis of the memorandum of the Ministerial Staff Association received by us, the following are the main points which have been emphasised :

- (i) There are wide variations in the practices relating to the ministerial staff, their salary structure, their eligibility for welfare amenities and their promotion prospects from State to State.
- (ii) It has been suggested that Ministerial personnel should have their own hierarchical set-up so that they have motivation to specialise in their own field. However, they may be permitted to appear at tests for direct recruitment of Executive personnel as open market candidates, if they are otherwise eligible.
- (iii) There has been no unanimity of views amongst the officers relating to the salary structure of the Ministerial staff. Some have felt that it is only but right and proper that the salary of the Ministerial Staff should be lower than the staff in the executive police grades who are competent and therefore subject to a number of restrictions and liabilities. They also shoulder higher responsibilities and have to take personal risk unlike Ministerial Staff. Some other officers however felt that it is not cost effective to maintain narrow differentials since the Ministerial and Executive staff work in the same department it is in the larger interest of the force that petty differences are removed.
- (iv) There is unanimity on the subject of grant of welfare facilities and other amenities to the ministerial staff which are admissible to the executive staff viz. rent free accommodation, supply of essential commodities at subsidised rates, scholarship, tuition fees, medical care, police welfare fund, sports and recreation facilities, group insurance scheme etc. etc.
- (v) Our studies have revealed that the promotion prospects of the ministerial staff in the police are generally poor in all States.
- (vi) The work-load and yardsticks for strength of ministerial personnel in the various police offices continued to remain a neglected item. Almost all State Police Commissions have stressed that the strength of the Ministerial personnel should be increased since there is

a shortage in almost all offices and consequent neglect of paper work. In some States officers from executive and operative grades have been diverted to do clerical work. There is thus an imperative need for the review of the strength of police personnel keeping in view the work load.

The problem and perspectives

54.12 We have given careful consideration to the entire background of the problems and needs of the ministerial staff as well as those of the police department. We have also kept in view the recommendations of the various State Police Commissions as well as of the Conference of the IGP's of 1968 referred to in para 12 and the conference of 1972 which had recommended the conversion of the ministerial cadres into executive cadres under the Police Act. We have also taken note of the fact that while quite a number of States have already taken action, the recommendations of the Conference are at various stages of implementation in the remaining States. We would, therefore, like to endorse the recommendations of the Conference of IGP's of 1968 and 1972 and strongly recommend that the ministerial staff in the Police Departments should be brought under the Police Act. This will ensure that they are brought under the same discipline as is required from all policemen and at the same time ensure that similar facilities are extended to them and their prospects and status are also improved.

54.13 It will be seen from the data below that the ministerial staff constitutes between 2, 3 upto 5% of the total strength of Police Personnel :

Statement of Sanctioned strength

Name of State	Total No. of strength of ministerial staff in Police Deptt.	Total No. of strength of police personnel	
1	2	3	4
1. Andhra Pradesh	1,982	39,203	5%
2. Delhi	886	16,858	5%
3. Haryana	361	15,202	2%
4. Karnataka	1,396	35,279	3.957%
5. Maharashtra	2,363	84,874	2.784%
6. Orissa	945	24,190	3.906%
7. Punjab	564	26,047	2%
8. U.P.	2,554	1,09,852	2%

The above data will confirm the merits of our recommendations in the preceding para as it indicates that there is no point in keeping a small number of officials in a separate category in the police department. It is best that they are integrated for all practical purposes with the rest of the policemen in respect of their terms and conditions of service, as well as discipline etc.

That will also bring about greater harmony in the working of the Department and will result in improvement of the efficiency of police administration.

54.14 We are of the considered view that the ministerial staff should be provided with openings into the regular police force, so that they do not reach a dead end of their career prospects. There are numerous jobs in the police in which men from the ministerial staff can be more successful than people from the regular ranks. Therefore, it will be in the larger interest of the police force and not merely of the members of the ministerial staff that they are allowed to compete for executive posts.

54.15 We are also of the view that it would be desirable to have one combined cadre of all ministerial staff consisting of officials in the clerical and supervisory grades working in administrative offices but excluding peons and daftries etc. It is also necessary that there are not more than three levels of non-gazetted ministerial police personnel *i.e.* Head Constable (M), ASI(M), SI(M) and two levels of Gazetted ministerial police personnel *viz.*, Inspector (M) and Dy SP (M). However, it would be desirable if the Confidential and Crime sections are manned by the executive field officers so that they bring to bear on their work, field experience and also do not remain on these posts for unduly long periods. It is however, our view that for the rest of the clerical work the ministerial staff are quite suitable.

Use of computers in administration

54.16 It is true that computers have barely entered the field of Administration and management in India. Against the world average of 140 computers, we have 0.73 in India, 4.3 in China, 120 in USSR, 225 in U.K. and 1571 in USA. We have only 500 computers in India. It is important to appreciate that computers, far from being redundant to a developing country like India can become—

- (a) Catalysts for transformation.
- (b) A tool to reduce the degree of corruption and inefficiency in our public services *viz.*, Banks, Police Stations, LIC, Tax Collections etc.
- (c) the means to provide good documentation of criminals, a good library of studies in India of crime and policing and to maintain & update a national register of motor vehicles.
- (d) The instrument that can provide better control of traffic and better detection of crime.

These could in fact be the prelude to a rejuvenated criminal justice system which the whole country has been waiting for so eagerly. The only silver lining in this neglected and controversial area is that in spite of opposition to the idea due to ignorance and lack of appreciation of the potential of computers, a police computer has been provided by the Home Ministry to

almost every state. Now it is a question of training a large number of programmers and system analysts, give them the right pay and position and status in police administration. It is necessary above all to educate senior police officers whatever the level, about the computer and computer based information system. The crux therefore, lies in an ongoing effort to educate the police officers to enable them to appreciate and use computers in close association with programmers and systems analysts.

The BSF experience in computerisation

54.17 We find that the Border Security Force has made remarkable strides in computerisation, which may be taken note of by the State Governments. Among other things, computerisation may reduce corruption at the ministerial level in accounting matters. The notable features of the computerisation experience of BSF are as follows :

- (i) The BSF has come to see the benefits of a system which is precise and time-bound.
- (ii) It liberates people from the grip of the AG's pay slips which are responsible for half the muddle in the receipt of salaries.
- (iii) Computerisation has enabled the force to organise large schemes of savings, which in the BSF have notched 8 crores in the Recurring Deposit Scheme and Accident Insurance alone.
- (iv) Several refinements have since been introduced in the BSF. Pensions, loans and other connected matters are on the computers.
- (v) Provident Fund accounts, which invariably are in a mess, are being put on the computer.
- (vi) It has become easy to make selections for promotions and training courses or obtain statistics of the force. The answers to all these can be produced quickly by the computers.
- (vii) If a French or Japanese speaking person is required he can be found immediately out of about a few hundred men with the help of computer.
- (viii) An interesting system has been devised for computerising money orders of pensions and benevolent fund grants to the widows of those who have been killed in action. This ensures that more than 2000 widows receive their monthly pensions in time without having to go to any office and wait endlessly in queues.

Thus we would like to draw the attention of all the Chiefs of State Police forces to this experience of the BSF and recommend that they should take personal interest in making a more effective use of the computers, firstly in operational matters and thereafter in administrative matters.

54.18 Computers are basically meant for linkage, for organising vast repositories of information linked to each other and available at any moment for easy retrieval and use. While these are the great assets of the computer and we expect them to create an impact on toning up both police operations and police administration, it is essential to ensure that such expensive machines are not misused as typewriters and calculators. We feel that a well developed data processing system will revolutionise police administration. Our problems are too big and complex, our population is too large, our areas are too wide, the various inputs in any problem are too numerous and too big, to be handled by white haired UDCs with a certain amount of experience about past precedents etc. Therefore, our dependence on the right data, on the correct appreciation of any problem is very great. We should learn to discriminate between efficiency (which is always cost oriented) and effectiveness (that assures growth, dynamism and quality of life). These are the main factors which compel us to impress upon all States the importance of computers both in police operations and police administration.

Use of computers in police administration

54.19 We consider it important to emphasise that after utilising the computers in police operational work, they will still have time which can be utilised to improve the police administration at the State level in the following areas :—

- (i) The condition of records of various types kept in the office of IGP are often bad and in a state of neglect. Many of these can be brought on the computer and this will save space and enable early retrieval.
- (ii) There is laxity in budgeting and financial management which gets compounded by sudden cuts in expenditure imposed by Government. There is generally lack of priorities and important items get dropped. The computer alone can check this and modernise the system of budgeting and financial management. It can also organise proper audit and promote economy.
- (iii) The inventory control of the assets in police can be vastly improved.

(iv) The police personnel at present experience considerable harassment and delay in matters relating to their GPF, pension payments, gratuity, pay, increments and selection etc. For some time pay can continue to be drawn as at present in the Civil Police but in Armed Police units pay can be drawn on the computer like it is done in the BSF.

(v) The work of provident fund, insurance, pensions and selections for training courses and promotions in certain ranks can be brought on the computer.

54.20 The use of computers in the offices of the Chiefs of State Police will require the system of administration right upto the office of Superintendent of Police to be reorganised. However, the ministerial staff will continue to play an important role not only in the office administration of IGP but more so of DIG's and Superintendent of Police. The ministerial staff have not increased in proportion to the increase in the force. The result is that in several States Policemen are working unofficially thereby depleting the manpower required for operational work. Hence it is essential that the ministerial staff is increased in every State on the basis of the review by the O&M Department which should evolve suitable norms and yardsticks. It is equally important that policemen engaged on ministerial work are withdrawn and diverted to operational work.

54.21 A tendency has been noticed among police officers to neglect their office work and administrative responsibilities. Few SPs, DIBs and IGs take the required personal interest in the efficient functioning of their offices. There is something very wrong in the priorities of those senior police officers who do not find time to get to their offices regularly on days in which they are present in Headquarters. This increases the negative role and influence of some members of the ministerial staff. There is also a tendency to blame the ministerial staff for the errors and neglect of police officers. In our view there can be no substitute for the interest and hard work that is required to be put in by the SP/DIG/IGP in toning up of the administration of their offices. The ministerial staff are very likely to respond and cooperate in their effort. Even when computerisation is introduced in the office of IGP, so much will depend upon the interest and pains that the IGP and his officers take in making the proper use of computers and feeding to them accurate information to ensure correct answers.

CHAPTER LV

AUXILIARY TO POLICE—HOME GUARDS

55.1 Organised policing is the culmination of an evolution from various kinds of self-policing by citizens which has developed into a relatively small paid body of disciplined police officers to deal with criminality in a society. However, crime cannot be the concern of the police alone in any effective crime prevention programme. No matter how well trained, well organised and well equipped the police are, the success of the police will depend much on the help they receive from citizens in whatever manner. The citizenry constitute the main resource for effective crime prevention, detection and even rehabilitation of criminals. In short, effective policing has to depend, to a large extent, on self-policing. Self-policing is a major factor of not only crime control and prevention but is essential for the maintenance of basic order in a society.

55.2 Self-policing can be by individuals or by groups of individuals who voluntarily organise themselves or who offer voluntarily their services to an organisation constituted with a statutory backing. The Home Guards is one such organisation filling a gap between organised policing and individual self-policing in a society. Functionally, the Home Guards fall within the zone of self-policing inasmuch as it is voluntary in nature though statutory in structure. Its effectiveness depends to a large extent on the support of the community and the faith of the citizens. This is borne out by the fact that the genesis of the Home Guards organisation in India took place in Bombay in the year 1946 when the city was seriously rocked by a series of communal riots and strikes. The organisation came into existence as an invaluable auxiliary to the police in the maintenance of peace and tranquillity when it was found impossible for a small body of organised police to cope up with the alarming situation single handed. The Home Guards were organised by recruiting persons from the various cross-sections of society to enable them to bring the much needed rapport and the healing touch between agitated citizens and anxious authorities.

55.3 The Bombay experience created the realisation of the necessity for such an organisation to play a supportive role to the police not only in the maintenance of law and order but helping them in emergent and disaster situations and many State Governments set up similar organisations. In the year 1959 the Government of India asked the various State Governments to set up statutory voluntary organisations. The emergency that followed the Chinese aggression in October, 1962, threatening the very security of the country, resulted in the crystallisation of the idea to merge these voluntary organisations under a statute with the Home Guards. It was hoped

that this new voluntary organisation statutorily created will be a powerful instrument for strengthening the will of the people to stand up to hardship and danger in the country's hour of need.

Role of Home Guards

55.4 Home Guards are entrusted with the following main roles :—

- (a) To serve as an auxiliary to the police and generally help in maintaining internal security.
- (b) To help the community in any kind of emergency—civil or otherwise.
- (c) To provide essential services like motor transport, pioneer and engineer groups, fire brigades, nursing and first aid, operation of water and power supply etc. through the functional units.
- (d) To promote communal harmony and give assistance to the administration in protecting weaker sections of society.
- (e) To participate in socio-economic and welfare activities such as adult education, health and hygiene development schemes etc.

55.5 Basically the Home Guards is a voluntary organisation with a statutory backing, to attract voluntary personnel from the various walks of life and also from the various classes of people, free from political affiliations. It is cost effective inasmuch as varied talent is voluntarily available to cater to the needs of a situation. Members are given the necessary supportive training during peace time. The Compendium of Instructions, 1975 issued by the Ministry of Home Affairs has accordingly stressed that the Home Guards organisation should consist of such people as give their spare time for this organisation for the betterment of the community. It has further been emphasised that as far as possible no unemployed person should be enrolled in the Urban Home Guards.

55.6 The Compendium of Instructions, 1975 emphasises that when the Home Guards are employed as auxiliary to the police, they "should be utilised on jobs like guard duty, traffic control, patrolling and the like, in the execution of which the prestige and dignity of the organisations is enhanced, and the Home Guards earn the goodwill and sympathy of the general public. The employment of Home Guards for tasks like breaking up of strikes, prevention of illegal occupation of Government lands, the apprehension of unlicensed

vendors and the like should be avoided, as such duties lead to their estrangement from the general public". The Compendium adds that they should be able to replace the police from duties like guards, traffic control and patrolling so that additional police becomes available for other duties.

55.7 The Home Guards like the police are not an arm of the punitive administration. They are people who rise to an occasion in preserving the well-being and the structural unity of the society from fissiparous tendencies. The Guards represent in this regard the people and their will to have harmonious relations by helping abate situations that may interfere with or affect the maintenance of peace and law and order. While the police may have to enforce the law even in the face of the apathy of the general public, the Home Guards may find it difficult to do so. It has, therefore, been emphasised that tasks like breaking of strikes, prevention and removal of encroachment on government lands, apprehension of unlicensed vendors etc. should not be entrusted to them.

55.8 The Home Guards also have a role in the Civil Defence in Category I and II towns so long as it is not possible to have the required number of fully trained Civil Defence volunteers to man the civil defence services. Although half a million civil defence volunteers have been raised all over the country, still a large number of cities are left uncovered and the Home Guards provide the nucleus for Civil Defence responsibilities also.

Strength of Home Guards

55.9 The strength of the Home Guards for the whole of the country has been fixed at 5,15,908 although as an economy measure a 15% cut has now been made. Even with the cut it is a sizeable figure when it is compared with the strength of the State Police forces which comprise of 5,72,800 civil policemen and 1,63,860 armed policemen. The Home Guards would thus appear to be roughly 60% of the total police strength in the various States. The Home Guards have both rural and urban wings (and in some border States a border wing) and the stipulation is that there should be a company of 110 men for each Community Development Block in the rural area and one company for every 25,000 of the urban population. So that the involvement of the public is widespread and voluntary in character, it has been stressed that the recruitment should be broad-based and as far as possible unemployed persons should not be taken in Home Guards to avoid the organisation taking a mercenary character. People from all walks of life are to be persuaded to join the Home Guards. Further, to keep the organisation operationally effective, it has been laid down that at the time of recruitment, one should be physically fit, should be literate and be within the age group of 18—50. Home Guards are also expected to be replaced by fresh ones every 3 years. Provision has also been made for women Home Guards to assist the women police in the duties relating to law and order and to render welfare services.

55.10 While the liability of the Home Guards is to serve within their own State, in an emergency, those, who volunteer, can be drafted for special duties outside the State. But a Home Guard working outside his State ceases to enjoy the privilege and legal protection to which he is entitled within his State, emanating from the State enactment.

55.11 In order to enable the Home Guards to provide essential services, a provision has been made for the raising of functional units to provide essential services such as motor transport, pioneer and engineering groups, fire brigades, operation of water and power supply installations, nursing and first-aid etc., when required.

55.12 Generally, there is a nucleus of paid staff for command and control at the city, district and divisional levels besides the Home Guards Headquarters.

Position on the ground

55.13 The Home Guards organisation in each State is governed by their own enactments and this has introduced a wide variety of patterns in the organisation obtaining in different States. Even the voluntary nature of the Home Guards has been diluted. In some States, the condition as against recruiting people not employed in Home Guards has not been adhered to while on many occasions Home Guards had to perform confrontational roles like any other policeman and even use force.

55.14 The Home Guards in Jammu and Kashmir were started in 1965 and were organised on tehsil basis. They covered almost all the villages and, to start with, consisted of 72 companies. Later on, intensive training of these Home Guards was started when many of the volunteers left the organisation. Some were absorbed in the regular police force. Ultimately, the 14 companies that were left, were organised in 1978 into two regular battalions, one each stationed at Srinagar and Jammu. Thus, the Home Guards in Jammu & Kashmir today have lost their voluntary character. They have become regular government employees and they stand organised in the form of regular battalions almost on the pattern of an armed police battalion in any other State but for the difference that they have also been trained in Civil Defence and techniques of helping the community in national calamities and other emergencies.

55.15 In the erstwhile C.P. and Barar (M.P.) the Home Guards came into being in 1947 when the Razakars attacked the southern part of the State. When the States were merged, the organisation was gradually extended to other areas also. The Home Guards have both the rural and the urban wings and although they are supposed to cover all the villages, in actual practice volunteers come from villages nearabout roads so that they can be collected for duty quickly. Most of such volunteers are unemployed. In 1957, when there was great pressure on the armed police, the security guards, the treasury guards and the princely armed guards at Bhopal were replaced by

the Home Guards. Ever since then, 7 platoons of Home Guards are performing the armed guard duties at Bhopal on a regular basis.

55.16 Like Madhya Pradesh, the Home Guards in Bihar are also basically voluntary in character and have both urban and rural wings. They have been organised on the prescribed scale but, they are performing armed duties in aid of police rather on a large scale, and almost every thana in Bihar is having an armed contingent of Home Guards on a regular basis. The organisation of Home Guards in Uttar Pradesh is on the same pattern. This gives a staggering figure of 1,12,207 Home Guards in the State.

55.17 In Gujarat the Home Guards cover villages and towns with a population of 5,000 and above only. They are drawn mostly from amongst government employees and persons working in private and public undertakings. Even the officers cadre at the district as well the State level is provided by volunteers from the public. The District Commandants are carefully chosen from the better educated section of the society. Many of them are doctors, lawyers and are otherwise gainfully employed in industries. The Commandant General is himself an eminent publicman. Similar is the position in Himachal Pradesh. Home Guards in the Southern States have an urban accent. In Andhra Pradesh, Tamil Nadu and Karnataa, the Home Guards are mostly urban except for a small number of rural Home Guards in Tamil Nadu. Kerala has not raised Home Guards as yet though the proposal to do so is under active consideration.

Functional units

55.18 We have earlier stated that the Home Guards are expected to provide essential services by organising structural functional units. This is necessary for maintenance of essential services as and when required in an emergency. Unfortunately in many States functional units could not be organised. They have experienced difficulty in training Home Guards into technical specialities as the organisation does not have the necessary infra-structure for providing such specialist training. The Departments concerned are reluctant to train the Home Guards or make available their facilities for training. Punjab, Haryana, Gujarat and Himachal Pradesh are, however, some of the States which have made headway in raising functional units of electricians, masons, telephone operators, carpenters, motor mechanics, drivers, fire fighting personnel, nurses etc. They have largely relied upon ex-servicemen, men in private sector, government servants working in the concerned departments and I.T.I. trained boys who are looking for a job. Though there have not been many occasions when such functional units were pressed into service in the event of a strike by departmental employees, the units have rendered yeoman service in other emergencies and it is hoped that even in the event of strike these units will be able to provide enough volunteers to keep the machinery moving. There appears, therefore, an urgent need to raise such functional units in all the States. The creation of such functional units also

generates the necessary confidence and reassurance in the public at large who, we are confident, will give the necessary support in time of emergency to such units.

Recruitment

55.19 To start with, the idea of Home Guards evoked considerable public enthusiasm and the organisation attracted volunteers from all sections of society including the elitist like doctors, engineers, educationists and lawyers. But interest started waning later on. Two factors are mainly responsible for this :—

- (i) The Home Guards do not have a programme or plan to keep the continued interest of such elitist class in the organisation.
- (ii) Frequent calls and continuous deployment in some States has created disillusionment in these classes as their profession gets affected by such frequent calls.

55.20 Continuous and excessive call-outs of Home Guards particularly in Uttar Pradesh, Bihar, Madhya Pradesh, West Bengal and Andhra Pradesh have resulted in induction of a sizeable number of unemployed persons in the organisation as Home Guards gainfully employed elsewhere cannot be withdrawn from their jobs for any long duration.

55.21 This, we are afraid, may dilute the voluntary character of this organisation and the basic purpose of self-policing which this organisation caters to in the States concerned.

Call-outs

55.22 With the worsening of law and order situation and greater reliance of police officers on sheer numbers in some States the call-outs of Home Guards have increased considerably lately. Commandant General, Home Guards, Gujarat pointed out that while 20 years back a Home Guard was called for duty for not more than 15 days in a year, the demand now has increased to 200—225 days. The position in Uttar Pradesh, Bihar, Madhya Pradesh, West Bengal and Andhra Pradesh is even worse as will be seen from Appendix IV. The average call-out in Uttar Pradesh for the last 5 years is given below :—

Year	Men called on an average per day
1	2
1975-76	4699
1976-77	8875
1977-78	10762
1978-79	10685
1979-80	9667
1980-81	13445
(Last 9 months)	

Their utilisation in Madhya Pradesh similarly is :—

Year	Men called on an average per day
1	2
1976-77	6,500
1977-78	7,500
1978-79	8,500
1979-80	9,500
1980-81	10,100

(Last 9 months)

Bihar is employing even more Home Guards on duties every day of the year :—

Year	Men called on an average per day
1	2
1978	11,580
1979	12,731
1980	15,753

Average daily utilisation in Andhra Pradesh in the year 1977 was 3,873 against an available total strength of 7,988 and in West Bengal 10,111 against an available total strength of 32,799.

55.23 Such excessive deployment of Home Guards on police duties leads to :—

- (1) recruitment of unemployed persons as stated above;
- (2) destruction of voluntary character of Home Guards;
- (3) erosion of the spirit of public service which is the main strain of the organisation;
- (4) tendency on the part of the unemployed Home Guards to identify themselves with the police in the long run;
- (5) creating in them a feeling of comparative deprivation and frustration which will ultimately result in demands of higher wages, discontent, lack of discipline and failure of the organisation.

Such demands have already surfaced in Uttar Pradesh and Madhya Pradesh.

55.24 While there is excessive deployment of Home Guards in some States, the police forces of some other States are using Home Guards much too infrequently. In the absence of occasional call-outs the Home Guards in such States get a feeling that they have been forgotten after their brief exposure to a training course. It appears necessary that while deployment in some States should be reduced and brought to a reasonable size, in others, the police should try to utilise Home Guards on many more occasions. Where its deployment presently is very high it may be examined if the

strength of the Home Guards should be increased. In any case, the 15% cut on the total sanctioned strength of Home Guards needs to be restored to permit more and more persons, with a spirit of public service, to join the Home Guards. We would also like the Home Guards to be changed every three years. That will encourage large section of public to offer themselves for voluntary service of society in times of need and understand the importance of self-policing. Even now, about 10%—15% of the Home Guards leave the organisation for one reason or the other. A sustained and persuasive effort to enlist fresh men should make it possible to achieve the targeted turn over. We, in a separate Chapter, are recommending rationalisation of the police allocation at the police stations. We hope that with the implementation of our recommendation, the need for Home Guards will be reduced to a reasonable size. We are, however, conscious of the fact that this will take some time. But problems will not wait. With larger number of crimes reported to police, there would be need for more investigating officers who immediately will have to be provided by promoting men out of the existing staff. Training new officers in techniques of investigation takes time. We have also emphasised elsewhere the need for greater police presence and beat patrolling to instil a sense of security and to deal with the problems that crop up frequently now. Till such time that trained policemen become available for such duties, the Home Guards will have to share a relatively greater burden. We hope that, if police needs so require, the Home Guards, during this period, will be available for at least three days in a month to assist the police. If this regular use of Home Guards for patrolling proves more cost effective and commands greater public acceptability, this could as well be made a regular feature as this will promote the idea of self-policing.

Duties being performed by the Home Guards

55.25 Most of the officers commanding Home Guards summarise the duties performed by Home Guards as all the duties which are being performed by the police except investigation of cases. A study conducted by the Bureau of Police Research and Development put the main duties and functions performed by Home Guards into the following nine categories :—

- (1) To render assistance in the maintenance of law and order.
- (2) Security duties, including patrolling and guarding of railway stations & tracks, bridges, airfields, protected and prohibited places and areas, vital installations, refugee camps, etc.
- (3) Regulation of crowds at fairs, festivals and other large gatherings.
- (4) Maintenance and provision of essential supplies and services, particularly when smooth flow of such supplies or service is disrupted due to strikes.

- (5) Control and regulation of traffic on the roads.
- (6) Protection of polling booths and other assistance to ensure peaceful polling during Elections.
- (7) Providing relief and assistance during floods, fires, cyclones, etc.
- (8) Performance of Civil Defence-duties during emergencies.
- (9) Anti-smuggling duties.

Some other ancillary jobs also performed by the Home Guards were listed as :—

- (1) Verification of ration cards.
- (2) Preservation of wild life.
- (3) Construction of roads and huts.
- (4) Census of homeless people.
- (5) Checking to find out excessive use of electricity in shops, restaurants and other public places.
- (6) Regulating queues at bus stands, booking windows at railway stations and at other places.
- (7) Policing of examination halls.
- (8) Assisting the medical authorities or some charitable institutions in organising medical camps.
- (9) Guiding of delegates attending some conferences.

It should be the effort of the Police Department, we feel, to welcome the assistance of Home Guards but the utilisation should be restrictive and should not destroy the voluntary character of the organisation. At the same time, there should be no reservations in calling Home Guards where they can be useful. They represent the will of people to protect others and could be made to play a significant role in protecting the weaker sections of the society. Being men of the locality but having an official support they can do a lot to bring about communal amity and harmony.

Command structure

55.26 The leadership of Home Guards comes from diverse sources. In some States, police officers not only head the organisation but they also command the district units. In some, the chief, as mentioned before, is a publicman while the district commandants are departmental officers, who have risen from the organisation itself or might be ex-army officers. In Gujarat, the entire leadership is provided by publicmen. While all these arrangements have something or the other to command them, we feel, that at the

district level a nucleus of officers should be regular departmental officers who can be exposed to various training courses and they in turn can pass on the expertise to their subordinate officers and ultimately to Home Guards. To give an example, Punjab has got a number of its Company Commanders trained in flood fighting techniques. These officers in turn are now training others and it is hoped that in course of time, a sizeable force would be available to meet a flood situation. It would be desirable if such officers are regular Home Guards employees so that the effort spent in getting them trained is not wasted in the event of their leaving the organisation after three years or so.

55.27 Mention also needs to be made about the officers who are deputed to command Home Guards from the police department. Generally these officers are those who have been found inconvenient somewhere else and they are sent out to Home Guards. Such officers for no fault of theirs, suffer from the handicap of being considered as rejects and this detracts from their ability to command effectively. It is neither fair to the officers nor to the Home Guards organisation and must be avoided. Such indiscreet postings dampen public enthusiasm and many excellent men who would have volunteered otherwise to join Home Guards desist from doing so.

Training

55.28 The officers should realise that they have a great responsibility to impart the best possible training to the Home Guards. Training staff, living accommodation and apparatus is available in many of the States. But deficiencies must be removed wherever they exist.

Uniform

55.29 A most common shortcoming is that uniforms are not often available for all the Home Guards. Uniform gives dignity and creates a sense of belonging. It should be possible to provide two sets of uniforms so that soiled uniform could be changed and a smart turn-out always maintained. Till such time that this is done, everybody must have at least one set.

Daily Allowance

55.30 The allowance given at the time of training in most of the States is pitifully low. It needs to be increased keeping in view the cost of living and the training needs. While deployed on duty, the Home Guards are given a daily allowance which at present in most of the States is about Rs. 8. This hardly is enough to sustain a man. What hurts the Home Guards more is that a constable working alongside gets Rs. 15 as daily allowance (which is of course in addition to his pay) when he has to remain content with Rs. 8. This generates an avoidable feeling of exploitation. The daily allowance, we strongly feel, must be realistic and not unreasonably discriminatory.

55.31 While the Government servants, when called out on duty as Home Guards, are generally treated as on special casual leave, some of the State Governments have enacted that even the private employer of whom the Home Guard is a regular employee, notwithstanding any law or agreement between him and such Home Guard, shall treat the period of his duty as Home Guards subject to such conditions and restrictions as may be prescribed, to be the period spent in employment with him (the employer). Such State Governments have fixed generally a maximum period in a year for which such an employee can be put on Home Guard duties. Instances, however, came to our notice where the private employer did not treat this period as on duty and did not pay the salary for such a period. This results in financial loss to the Home Guard. We would like similar enactments to be passed by other States which should see that the legal provisions are followed and strictly enforced.

Loss of life and limb

55.32 Many Home Guards have met death in the performance of their official duties or received grievous injuries. For example, in Uttar Pradesh 88 Home Guards have lost their lives in the last 16 years. Some of them were given gallantry awards but the financial compensation available to the family of the deceased or injured was far from satisfactory. We have already made recommendations in this connection with regard to police constabulary. We would recommend that similarly liberal provision should be made applicable to Home Guards also who lose their life or are injured while working with the police.

Inter-State deployment

55.33 During our enquiries we were happy to learn that the Home Guards by and large have done an excellent job as an auxiliary to the police. They have played a vital part on numerous occasions in the security of the country, in handling communal riots, other breaches of the public peace and strikes by public servants, including policemen. They even defended our international borders, along with the Border Security Force, at the time of hostilities with our neighbours. We realise that assisting the police is not their only job. They perform many more functions. But our concern in the present study is from a limited angle, namely the aid which they give to police. They are beyond doubt a big reservoir of manpower, trained and disciplined, ready to come to the aid of the police in peace and trouble. Their

jurisdiction, however, extends to their respective States only. We see no reason why their services should not be made available to other States, like the armed police battalions, in times of need. If there is shortage of officers to command, the contingents going on such deputations could be provided officers from any available source like the police, NCC or ex-army officers. But such contingents when so deployed outside their own State will have to be given the powers and extended legal protection which normally are given to the Home Guards of the borrowing State. A Central legislation can take care of this. For the police, there is already Police Act 1888 (Act 3 of 1888) which empowers a member of the Police force of any State to discharge the functions of a police officer in any part of any other State and while so discharging such functions he is deemed to be a member of the police force of that part and vested with the powers, functions and privileges of a police officer belonging to that police force.

55.34 In this context, we are reminded of the NCC, which trains lakhs of young boys and Girls. This pool of manpower could also be harnessed to large scale law and order situations. Idealism of youth should not be allowed to go waste and particularly in times of war or serious emergency the N.C.C. should move closer to the Home Guards and assist in all duties.

55.35 As we said before, effective policing depends to a large extent on self-policing. The Home Guards embodies in itself the essentials of self-policing. It is complementary to the police and is an auxiliary to the same. During peace time, it absorbs many of the peripheral functions of the police organisation. The strength of the organisation effectiveness of the purpose of self-policing lies in the fact that unlike the professional police the Home Guards draw their human material from the very people whom they serve. They should remain part of the people as a rule and should be drawn when necessity arises or a situation calls for their deployment. This has the advantage of continuing the people's faith, their confidence and reassurance in the organisation which is very essential for its effectiveness. We, therefore, strongly recommend that the Home Guards organisation should remain voluntary but their deployment and utilisation should be so planned that training, interest and effectiveness are not lost, their utility in self-policing is maintained continuously, and above all the interest of various cross-sections of the people is kept at the optimum level.

CHAPTER LVI

PERFORMANCE APPRAISAL OF POLICE PERSONNEL

Introduction

56.1 The functional efficiency of an organisation depends upon the optimal efficiency of group performance, at various levels. But group performance itself depends to a large extent on the performance of components like the Constable, the Sub-Inspector, Circle Inspector, Sub-Divisional Police Officer etc. To some extent the performance of individuals can be aggregated to obtain an index of group performance but the parameters and norms applicable to individual performance need not necessarily be the same as are applicable to groups. However, there is a vital link between individual performance and group efficiency. In this context performance appraisal of individuals gain a scientific significance for the total functional efficiency of the organisation.

56.2 Performance appraisal forms the basis for making managerial decisions in an organisation. This pre-supposes a differential treatment to be accorded to the various employees in training, pay, placements, promotions, discipline and other matters. The differential treatment is designed to strengthen the organisation by tailoring the performance potential to the attainment of organisational goals. If the performance appraisal system is unreliable and cannot gain the confidence of the members of the organisation, the resulting differential treatment will fail to produce the overall organisational objectives. Performance appraisal is the evaluation of a man in the job. It is a continuous process that takes place every day. However, systematic or formalised appraisal of personnel in an organisation takes place at intermittent intervals in their career. It has to cover a time spectrum and provide data about past, present and the expected performance so that decisions can be taken at appropriate levels. A critical question with respect to systems of appraisal is "how are they going to be used"? Appraisals can be punitive and reductive or they can be developmental and constructive in terms of personnel and organisational efficiency.

56.3 A considerable amount of research has been done into the system of assessment and evaluation of performance. These researches have proved that performance appraisal, if objective and based on well recognised and uniform norms, serves the organisation better than when it is reduced to an annual ritual. Conceptually the use of annual confidential reports for disciplining the employees is giving way to treating them as a source of information for administrative purposes and for organisational development through improving the performance of the employees. The shift in this basic philosophy questions certain faulty

fundamental assumptions that performance appraisals should be confidential as a rule and annual.

56.4 We observe that performance appraisals in the Government and especially in the police remain insulated from the shift in the basic philosophy. Various Commissions in the past have recommended the necessity for effecting a change in the system. The Second Pay Commission (1957--59) has pointed out that the then existing system suffered from the following defects :—

- It reflected personal prejudices and predilection of the reporting officers ;
- the assessment report was not generally objective and not based on careful observations ;
- it was vague, cryptic or non-committal ;
- reporting officers differed widely in their standard of judgments ;
- the reports did not correspond to the relative abilities and performance of government servants ;
- adverse remarks were not always communicated promptly enough ;
- representations against such remarks were not properly considered.

The Administrative Reforms Commission endorsed the findings of Second Pay Commission and dealt with the direction in which the reform should take place. The Committee on Police Training, 1973 has summed up their observations regarding the performance appraisal system in the police as :—

"The existing systems of assessment and promotions are subjective and in some cases vitiated by extraneous influences, thus leaving room for merit going unrecognised. A considerable amount of research has been done in recent times into systems of assessment and evaluation of performance. It appears to us desirable that advantage should be taken of such research to introduce objective systems of assessment and promotions at the various levels of the police force."

56.5 Since appraisal is universal in all organisations including the police, the choice is not whether to appraise or not but the degree of planning required for introducing the appraisal system and the set of basic assumptions to be followed in the same. At the same time it should be cost effective and easily manageable.

Criteria for an effective performance appraisal system

56.6 We set below certain essentials which go to make performance appraisal systems effective :

- (1) **RELIABILITY**—It should be reliable, valid and should avoid differences in the rating tendencies.
- (2) **RELEVANCY**—The trait should be relevant and related to the job.
- (3) **OBSERVABILITY**—The trait should be such that the rater can actually observe the trait in action.
- (4) **UNIVERSALITY**—The trait should apply universally and form an essential characteristic of the performance of the job.
- (5) **DISTINGUISHABILITY**—Each trait assessed should be distinguishable from the other and at the same time ensure that the rater exercises his judgment and does not rely on the system or others' advice.
- (6) **EMPLOYEES AWARENESS**—The employee should know the criteria against which his performance is appraised. This is essential to build his confidence in the system as knowledge and understanding ensures fair treatment.
- (7) **COST EFFECTIVENESS**—The system should be cost effective and easy to adopt for the requirement of a large mass of men.
- (8) **UTILITY**—The system should provide sufficient managerial information for placements, promotions, training and other administrative decisions. Its overall utility should be linked with the organisation's goals and ultimate accountability.

Any system of performance appraisal to be reliable and valid should avoid substantial differences in the rater's tendencies. This can be reduced by training of the rater and designing the format in such a fashion that the differences can be reduced to the minimum.

Deficiencies of the existing system

56.7 A study carried out at our instance reveals that the existing performance appraisal systems in the police do not satisfy many of the requirements detailed above. We have found that in some of the major States, confidential reports are written in the service book itself. This applies to all ranks from the Constable to Inspector. A blank form/space without indicating the traits or job specifications is prescribed and the reporting officer writes a descriptive type of note. Parameters are not available for comparison of peers. In most of the States no separate format has been designed for evaluating the performance of the police personnel. The same format as applicable to other

Government departments has been adopted without any adaptation. In some States there is no difference between the gazetted and non-gazetted levels. The format which is used for Secretarial type of jobs has been adopted in certain States for the police personnel. Even the difference in ranks have not been taken into account within the police department. During a visit to the Rajasthan Police Academy it was brought to our notice that the officials posted in training institutions are assessed under criteria that are pertinent to operational policing. Only some States have recently attempted to introduce a change in the pattern of reporting by introducing the 'critical incidents' methods to supplement and support the annual confidential reports. In Maharashtra, Gujarat, Madhya Pradesh and Kerala a record of incidents throughout the reporting period is maintained through ephemeral rolls.

56.8 While the above are certain inherent defects in the existing system, we find the rating tendencies of the reporting officers also leave much to be desired. The reports are totally subjective. There is an increasing tendency on the part of reporting officers to write lukewarm reports. Such reports tend to erode the confidence of the employee in the system and cause considerable harm to the organisation and to the official reported upon. The sincere, honest and the committed suffer because assessments fail to reflect their actual performance whereas the undesirable and adventurous benefit from such a system. The annual confidential reports generally fail to indicate identification of training needs, developmental shortfalls and placement potentials.

Necessity for a shift in the objective of the existing system

56.9 There is an urgent necessity for evolving a system of performance appraisal on a more scientific and objective basis. This calls for a shift in the emphasis from promotion and discipline to correction, encouragement and personnel development. This shift in the objective depends upon maximum objectivity, continuous assessment and a higher degree of employer-employee interaction and counselling. While the periodicity of the performance appraisal reporting will have to remain annual due to administrative expediency, it should at the same time ensure that the assessment of the reporting officer does not reflect the impressions and opinions formed by him during the month or two immediately preceding the report. We observe an officer who has done continuous good work throughout the reporting period faces the risk of getting a bad report if he is unfortunate to get into trouble during the period immediately preceding the report. This equally applies to bad conduct and work during the earlier period being forgotten in the case of an official who manages to get into the good books of the reporting officer at the time of appraisal. An interlinked vital issue to be resolved in this context is how far the appraisal system should be confidential and how much of it should be open. We have emphasised that the purpose of performance appraisals should be correctional and developmental and not disciplinary

and promotion oriented. In our Chapter on 'Organisation and Structure of Police' we have accordingly reduced the weightage for performance appraisals in promotions. We are at the same time convinced that the employee should be made aware of the quality of his performance, his shortfalls and failures, if any, so that he can correct himself. This should also apply to an employee who is doing well. This awareness will create in him the necessary reassurance and encouragement. He should know the criteria against which his performance is appraised. This is vital to maintain his confidence in the system. But in areas which are not directly concerned with correction and improvement, the system should continue to remain confidential.

Continuous appraisal

56.10 We, therefore, recommend that the performance appraisal system in the police should be broadly classified into the following two areas (1) a continuous appraisal which is correctional and developmental in its impact and (2) the annual Performance Appraisal Report which is for organisational purposes in the matter of training, placements and promotions. Continuous appraisal pre-supposes continuous feedback. Feedback has motivational importance to the employee and at the same time provides managerial information to the organisation. While at a job the employee has a right to know how he is being rated and what he should do to improve his performance. A proper communication based on a rational feedback will enable the employee to understand his job and aim at better performance by building on his strengths and good points and at the same time help him to remove his deficiencies.

56.11 We are convinced that it will not be difficult to introduce a system of continuous assessment in the police as the nature of police work do require even today continuous maintenance of records of the duties performed at various levels especially in the operational areas like the maintenance of beat book, case diary, personal diary, the general diary crime register, court register, etc.

56.12 The continuous assessment method recommended by us should be oriented primarily to the objective of improving the employees performance and to this all other objectives should be clearly subordinated. This method of appraisal should apply to all ranks from the Constable. To facilitate continuous assessment and correction, we recommend the adoption of the critical incidents method. Officers of the level of Sub-Inspector and above should be required under this method to maintain a running record throughout the review period for each of his subordinates in the level next below indicating specific instances of good and bad work from week to week or month to month, and a periodical rating of overall performance. We note with concern that the present system of performance evaluation in the police is not job-oriented for any rank. This is largely due to the fact that the primary objective of the system is evaluation for promotion purposes, if not for discipline. When these objectives are not immediately foreseen,

the system of annual confidential report remains an annual ritual. The system leans heavily on personality traits than on performance. Even the personality traits are not being rated on the basis of any scientific norms. The proximity between the officer reported upon and the reporting officer should be maintained at all levels to avoid distorted preceptions. Feedback is limited to communication of adverse remarks of removable defects which benefits neither the officer nor the organisation. These appraisals should be within the police force and sufficiently proximate to the level appraised so that the appraisals arise from personal knowledge.

Counselling & appraisal interview

56.13 Periodical counselling is a concomitant corollary to continuous appraisal, as correction and reassurance are the main objectives of continuous appraisal. The reporting officers and other supervisory levels should take every available opportunity to counsel the subordinates. A monthly or a quarterly counselling session for Constables, Sub-Inspectors & Inspectors should be made compulsory. The police leadership should ensure that the counselling sessions are carried out systematically. The objective of the appraisal interview should be aimed at encouragement of person's behaviour or correcting behaviour based on assessed information. It should not be converted into a disciplinary drill. The employee who is doing well needs such appraisal interviews as much as the employee who needs correction. The former gets the necessary reassurance that he is doing well with helpful suggestions from his seniors. It also enables joint planning by the organisation at various levels as to how to make the employee even more successful. Another advantage of such counselling interviews is that it will satisfy the needs for security, belonging, esteem and self-actualisation of persons who show real merit. This can form the basis for selection and development of leadership potential. The utility of the system cannot be over emphasised as it does not need much of systematisation as human interaction is involved. At the same time it is most cost effective while preserving the leader men nexus intact.

The critical incidents method for providing data base for counselling

56.14 We have recommended the adoption of the Critical Incidents Method for all ranks. This will provide sufficient data to the reporting/controlling officers for counselling the subordinates. We further recommend that the superior inspecting officers should also record their assessments during their periodical inspections in the Critical Incidents Record. They should also check and correct the shortcomings of the subordinates and counsel them suitably during inspections. The impact of such counselling should also be recorded by the immediate superior.

Annual performance appraisal report

56.15 We are satisfied that the introduction of continuous appraisal mentioned above is sufficient for personnel development and orientation to the organisational goals. We, therefore, are of the opinion

that the annual performance appraisal report can continue to remain confidential as it is today. At the same time we are convinced that the annual performance appraisal report should not be totally confidential as to affect the interests of the employee reported upon. We, therefore, recommend that the format of the annual performance appraisal be divided into three parts, the first part dealing with the assessment of performance of the employee and the second part should deal with the integrity of the employee, his grading, his fitness for promotion or otherwise and the third part should contain the Reviewing Officer's remarks. Whenever any adverse remark appears in the first part of the report, then the employee should be communicated the whole of the first part. This does not bar the Reviewing Officer from informing the employee the gist of the contents of the third part but this should be left entirely to the discretion of the Reviewing Officer who should take into account the totality of the circumstances and the necessity for making the employee aware of the contents of the report as a whole so that he can defend himself effectively.

Recommendations for reducing subjectivity in reporting

56.16 We have pointed out earlier that one of the banes of the existing system in the high degree of subjectivity in reporting by the rater. The introduction of the continuous performance appraisal recommended by us will reduce to a considerable degree the subjectivity in reporting. The first part of the annual performance appraisal report has to necessarily reflect the continuous appraisal that has taken place during the period under review.

The graphic rating method

56.17 At present the reporting system in the police is based generally on the essay type. Neither the traits nor the parameters for assessment of personality are defined and it is left entirely to the raters to write the assessment as he feels. This makes any rational comparison of peers impossible. The value of the assessment is also difficult to be measured normatively. We, therefore, recommend the adoption of the combination of the graphic rating method and the forced distribution method. Under the graphic rating method the traits and performance heads are spelt out clearly in the format. This reduces the degree of subjectivity in the rater's tendencies. When this is combined with the Rank Order method under forced distribution, the subjectivity of the rater's tendencies is reduced still further while a positive element of objectivity emerges discernably. Under the Rank Order method of forced distribution the rating is done on agreed scales. This enables a rational comparison of peers under normative standards. We, however, recommend a simple scale of not more than 4 ratings should be applied to a combination of not more than 10 to 12 performance heads and 8 personality traits. The forced distribution ratings could be standardised as Outstanding, Very Good, Average and Below Average.

56.18 The graphic rating method should in general cover the essential items of job rated. It had, therefore, to vary not only from post to post but from rank to rank. The rating should be done in such a fashion that traits have a direct relevance to the efficient performance of the particular level of job. It should also contain such personality traits like public relations, dealing with the minorities, discipline, his awareness of the morale and welfare of the personnel under his control. These should go in for overall effectiveness of the incumbent in the post. The performance heads should not only be relevant but appropriate to each level. However, for levels above the Superintendent of Police the performance heads should emphasise (i) Administration; (ii) Planning and Coordination; and (iii) Leadership. The personality traits should cover physical fitness, sense of responsibility, initiative, tact, willingness to learn and integrity, attitude towards public and how the officer has been helpful and the type of relations he had maintained with the citizens and his attitude towards the weaker sections of the community. We recommend that the formats for the various levels above the Constabulary in the police organisation should be designed as far as possible on the above lines having regard to the specific nature of duties for each job. Responsibility should be fixed on the senior officers to ensure good behaviour and attitude of helpfulness towards the public on the part of the subordinates.

Reporting levels

56.19 We have observed that proximity between the person reported upon and the reporting officer is generally absent in the police organisation resulting in distorted preceptions. The basic responsibility for the appraisal, therefore, should rest with the immediate superiors as a general rule in view of their advantageous position to assess and monitor performance. The reporting, reviewing and countersigning officers for the various ranks in the police are suggested below :—

Rank	Reporting officer	Reviewing officer	Counter-signing officer
1	2	3	4
Constable/Head Constable	(ASI/SI) SHO	SDPO	
ASI/SI	SDPO/ASP	SP	
Inspector	SDPO	SP	DIG
Dy. SP/ASP	SP	DIG	IG
SP	DIG	IGP concerned	Chief of Police
DIG	IGP concerned	Chief of Police	Home Minister

Appraisal formats to be redesigned based on job evaluation

56.20 Performance appraisal is measuring the worth of the man in the job whereas job evaluation signifies the worth of the job itself. So any system of

performance appraisal to be effective has to precede a detailed job evaluation. This also makes it essential that the formats should have the necessary degree of clarity and objectivity otherwise the employee will often influence the outcome of the evaluation by emphasis on certain aspects of the job. By such an emphasis the employee will be in a position to reduce or expand the job content. Assessment and comparison of peers in such a situation will be rendered difficult, if job evaluation is not carried out with necessary clarity and definition. It will become the job as it is performed and not the job as it is. We, therefore, recommend that the performance appraisal formats should be scientifically redesigned based on a detailed job evaluation. The format should reflect the essential requirements of performance, personality and managerial indicators which are essential for making the job successful.

Officers above the rank of constables reported upon to submit a note on work done during the reporting period

56.21 For ranks above the Constabulary including the Indian Police Service we recommend that the individual reported upon should write a short note of the work done during the reporting period not exceeding 300 words. Specific instructions should be given that this note should contain the facts of the work done and the results achieved. The reporting officer should comment upon the work done and base his assessments on the performance for the period under report. Any irrelevant remarks not connected with work should be taken adverse notice of against the person reported upon. If no note on the work done is given, the reporting officer can initiate the report based on his knowledge and the Critical Incidents Record.

The performance appraisal of the constabulary

56.22 In our First Report we have listed the duties of the Constabulary numbering 24. These consist of 7 duties which are of a mechanical nature, 9 duties having a combination of mechanical duties with exercise of discretion and judgement and 8 duties which involve a high degree of initiative, exercise of discretion and judgement and also interaction with the public with due regard to the need for extreme courtesy, politeness and proper attitude towards them. An A, B, C analysis done on the above list of duties has shown 49% of the duties call for exercise of higher degree of initiative, discretion, judgement etc. and 37% fall in duties involving combination of mechanical with application of mind and exercise of judgement. Together they constitute about 86% of the duties. Apart from the above we have envisaged certain promotion prospects for the Constable. In the light of the same we have raised the standards for recruitment, training and other areas of development. The future constable is expected to take over the responsibilities of a potential investigator and allied supervisory roles in a period of 6 to 7 years.

56.23 In the context of our recommendations above, it becomes essential to introduce a uniform

performance appraisal system for the Constabulary. At present the reporting is done and remarks recorded regarding the work, conduct, integrity etc. in the service book itself. But before introducing an elaborate system we have to take into account the cost involved, and the additional manpower required for maintaining such a system. An elaborate system at present will not be successful because of the weakness in the administrative base. The basic defects are so fundamental. Unless these are removed, building an imposing super-structure on it would be impossible. The records are kept in dishevelled manner and most of them are almost crumbling into pieces. Entries in them are not made in time. Appeals made are not even dealt with if they are made against adverse remarks. However, interpolations in records can be made with the connivance of the staff. Pages can be made to disappear. To introduce a performance appraisal of a sophisticated nature will be an attempt in futility unless this malaise in keeping of records can be cured. We, therefore, recommend unlike other ranks the performance appraisal system for the constabulary should be simple and easily manageable for the present. For this purpose the reports can continue to be recorded in the book form to be known as the Performance Appraisal Register but it should not form part of the service book as it is today in most of the States. We also do not recommend, for the present the 300 words "note on work done" prescribed for other ranks, for the constabulary. The Critical Incidents Record is sufficient to provide the necessary material for reporting on the Constabulary by the Reviewing officers. However, every effort should be made to bring the performance appraisal system for the constabulary on the same footing as that of the higher levels in the police under a phased programme. The deplorable method of maintaining records in the police should be simultaneously improved, so that performance appraisal for the police organisation as a whole is brought on a rational and uniform basis.

56.24 For the levels above the Constabulary the performance appraisal format should incorporate the essentials of the duties and responsibilities of the particular post into four distinguishable areas of personality traits, professional competence, managerial competence and general assessment as already mentioned. The assessment column should have a short descriptive assessment of the official by the Reporting Officer which should include his attitudes and responsiveness to the public, his approach to the problem of minorities and weaker sections, burking of crime etc. It should also contain the Reporting Officer's assessment as to the potential of the official for utilisation in any other area which he may deem fit.

Dealing with adverse remarks

56.25 It is generally seen that the adverse remarks are not communicated in time or dealt with promptly. Appeals against adverse remarks are not disposed of within a prescribed time. We, therefore, recommend that the Reporting Officer should communicate the adverse remarks within 15 days of writing the report and certify so in the performance appraisal format. We have earlier indicated that while adverse remarks

are communicated, the official reported upon should be intimated the whole of the reporting on his performance contained in Part I of the Performance Appraisal. The official reported upon will have a right to make a submission to the Reviewing Officer who may take into account the circumstances of the case and if he so deems fit, interview the employee and expunge the remarks, if called for. In case he decides that the remarks should not be expunged, he should record the reasons for the same. Then the official shall have a right to file a revision petition to the competent authority whose decision shall be final. As earlier indicated the Reviewing Officer can exercise his discretion to communicate the contents of the third part of the annual performance appraisal report to enable the employee to make an effective defence in the appeal. If the adverse remarks are frivolous, the reporting authority should be cautioned. If the representation is frivolous, the officer representing should be equally warned. At the same time adverse remarks which show prejudice and *mala fide* on the face of the report should be corrected by the higher competent authority without any reference to the employee concerned. Action should be taken against the officers making irresponsible reports to infuse the necessary confidence in the system.

Integrity

56.26 There is a difference of opinion as to whether the annual performance appraisal report should contain the integrity column. It is argued that lack of integrity calls for disciplinary action and weeding out. Its inclusion in the performance appraisal does not actually serve any purpose. The Reporting Officers even when they have a suspicion about the integrity of an employee reported upon hesitate to state the same in the annual confidential report. Any doubt about the integrity of an employee is not followed up because of the Reporting Officer's hesitancy in putting it on record. At the same time integrity is an essential part of the performance of an official as it is directly linked with the organisational strength and weaknesses. In an organisation like the police the overall integrity has a positive impact on the public confidence in the organisation.

56.27 In para 22.12 of our Third Report we have recommended that members of the police force as and when ordered by the competent authority should be required to furnish a full and complete statement of movable and immovable property held or acquired by him or on his behalf by any member of his family. We have further recommended that this power should be freely used by the Chief of Police whenever an official's integrity is suspected. This should enable

the Chief of Police to take such necessary follow-up action when the annual performance appraisal report reflects doubtful integrity on the part of any official. We have recommended in another Chapter that the statement of assets of officials especially of the ranks above Inspectors can be made subject to public scrutiny to ensure people's confidence in their integrity. This will provide the organisation a new channel of feedback regarding the integrity of the officials reported upon. At the same time we recommend that the annual property statements submitted by the officials should be scrutinised carefully by the superior officers in cases where the performance appraisal reports or information received otherwise reveal doubtful integrity. It should be open for the superior officers to conduct a full investigation in such cases and if the doubtful integrity is established, necessary action should be taken.

The Performance Appraisal Cell

56.28 It is essential that a Cell at the district and the State level be made responsible for follow-up action both on the continuous appraisal as well as the annual performance appraisal. It shall ensure timely follow-up action wherever appeals have been filed against adverse remarks, update the format periodically with the increase in the responsibilities of the various ranks at various levels and also for organising such training and counselling.

The future

56.29 Increased sophistication in the system of performance appraisal over a period of years will automatically increase the amount of data in respect of very large number of individuals and operational groups. It may, therefore, become essential that every State Police Force may have to develop at some stage in future "computerised performance information system" where such data will be accumulated and analysed. Such an information system will produce integrated personnel performance reports and group performance reviews for different desired periods of time and aid more objective decisions on training needs, placements, promotions in respect of individuals or in respect of group operational strategies. Thus for instance special training courses could be mounted for individuals scoring low ratings in the handling of crime; or special publicity campaigns could be mounted for units that register poor scores in Public Relations. Access to the Computerised Performance Information System, especially that part relating to Personal Performance, should be restricted only to levels of officers not lower than the officers who reviewed personal performance reports.

CHAPTER LVII

DISCIPLINARY CONTROL

57.1 Role of the police is of great importance in a democracy. It has two important functions : first, to uphold the dignity of the individual by safeguarding his constitutional and legal rights, and second, to safeguard the fabric of society and the security and integrity of the nation. Excessive zeal or misconduct in performing these functions will be termed as police excesses and any reluctance, hesitation or dilatoriness in functioning effectively will be termed as police failure, leading to a greater sense of insecurity. This paradox can be solved only if the functioning of the police is effectively controlled through good leadership, counselling and discipline. Moreover, the main resource of the police organisation is manpower. For the optimum utilisation of this resource, discipline is one of the important if not the most important requirement. The policemen must perform their lawful tasks by implicit obedience to the directions of the commanding ranks. Obviously the commanding ranks themselves have to maintain a very high sense of discipline. A weak, indisciplined and demoralised leadership liable to succumb to extraneous influences cannot be expected to enforce discipline in the subordinate ranks. The police can best serve the people and the country only if all ranks maintain an equally high standard of discipline.

State of discipline

57.2 We have noted that on account of several factors, there has been a steady erosion of discipline in the organisation during the post-Independence era. The country has witnessed instances of serious acts of indiscipline by sections of police force in a number of States during this period. It appears that the pace of decline speeded up during the last few years. Wide cracks in the discipline and morale of the police personnel are amply visible and it appears that it may be difficult to prevent complete breakdown, if suitable remedial measures are not undertaken expeditiously. The situation as observed by us is dismal from any standard. Our conclusion finds support in the views of witnesses who appeared before us during our enquiry and those of the respondents to the Questionnaire issued by us.

Analysis of causes of decline

57.3 Of all the factors responsible for the decline, the one connected with intervention and interference by the political executive and other extraneous sources appears to be the most important. We have examined this aspect in detail in the chapter XV of our Second Report. These interferences have led to the elimina-

tion of the principle of meritocracy and have given rise to a sub-culture of pulls and pressures, sycophancy, nepotism, corruption and inefficiency in all public-services including the police. In this vitiated atmosphere the category of officers who are straightforward, disciplined, honest and efficient have become disheartened. Consequently this small minority also is losing confidence and its number is dwindling fast on account of the dilemma before its members, i.e., should they stick fast to their principles even at the cost of their career. We have referred in our Second Report to cases of unwarranted suspensions against police-personnel which naturally has led to the erosion of trust in the departmental hierarchy. In this connection, mention may also be made of those cases where police personnel are encouraged to resort to illegal means in crime prevention and detection and who may subsequently be punished when detected. Since the higher rungs of hierarchy have tended to be concerned principally with their own career prospects, the welfare and morale of the policemen in general have been neglected. This has alienated the policemen from the supervisory ranks. Police personnel have tended to believe that their interests have not been looked after properly and they can secure their dues only through extra-departmental sources of power. This has resulted in a growing alignment of the police personnel with outside centres of power. Also, they are tending to adopt more and more agitational methods through policemen's associations or otherwise. The policemen in general appear to have lost contact with various sections of the society, as the latter have tended to develop an antagonistic attitude towards the policemen, so much so that a policeman feels ashamed or insecure to admit that he is a policeman. Stigma and infamy have been heaped on the police personnel by the public, the media and the department. The feelings of caste, community, political groupism etc. have tended to erode the neutral character of the police functionaries who have often tended to align themselves on the basis of these feelings. Finally, the general climate of indiscipline prevailing in the country has also had its effect on the discipline and morale of the police personnel.

57.4 We visualise that the consequences of these developments may be alarming and we have no doubt in our mind that if this decline is not checked effectively at this stage, the situation may go beyond control. Due to slackening of the disciplinary control, police personnel now-a-days tend to be either ineffective or irrational. In our opinion, a stage may be reached soon where the rank and file may become uncontrollable and defy the supervisory ranks. All these

ominous symptoms indicate serious threat to good order and discipline in the department.

Remedial measures

57.5 The most important step in this regard would be to impress upon all levels the true implications of the word discipline. Discipline is directly connected with the overall problem of man-management and good leadership. For maintenance of good discipline it is of the utmost importance that the reward and welfare aspects of the police personnel are paid adequate attention. This is because a contented policeman is much more amenable to discipline. We consider it of considerable importance that the existing gulf between the supervisory ranks and the police-personnel is bridged without delay. It has to be ensured that unwarranted suspensions due to political and other pressures are avoided at all costs. But at the same time we would emphasise that there would be some policemen who would in any case break the departmental norms. Sometimes such instances may be pretty serious in nature and some personnel may be seen even to be habituated to indulge in them. In such circumstances the departmental authorities should have the necessary ability to apply strict sanctions against such personnel, if steps towards correcting them fail. Maintenance of discipline should be the exclusive concern of the departmental officers free from any intervention or interference from any other authority. We feel that left to themselves and made accountable for the same, the departmental officers can maintain the discipline in a better way.

57.6 In an organisation where discipline is maintained with vigour, it is also important that the grievance-redressal machinery be effective. Keeping in view this important principle, we have recommended in our First Report, setting up of a grievance redressal machinery for police personnel on the pattern of staff council. However, as mentioned earlier in this Chapter, the police-associations of a number of States have strayed on the wrong track due to a variety of reasons, which is likely to pose a serious threat to disciplinary control in the organisation. While we reiterate the need for existence of such a machinery in the department, we would also emphasise the point that such associations if not kept under proper control can become a serious undermining factor for departmental discipline. Therefore, we would impress the need to take effective measures to control such activities of the associations as may be prejudicial to good order and discipline in the force.

Disciplinary procedure

57.7 The disciplinary provisions in the Police derive their authority from the Police Act (1861) or the corresponding Acts of some States which have their own Acts. Section 29 of the Police Act (1861) provides for prosecution of police officers before a magistrate for certain offences relating to their duties. This section reads as follows :—

“29. *Penalties for neglect of duty etc.*—Every police-officer who shall be guilty of any

violation of duty or wilful breach or neglect of any rule or regulation or lawful order made by a competent authority or who shall withdraw from the duties of his office without permission, or without having given previous notice for the period of two months, or who, being absent on leave, shall fail without reasonable cause to report himself for duty on the expiration of such leave, or who shall engage without authority to any employment other than his police duty, or who shall be guilty of cowardice or who shall offer any unwarrantable personal violence to any person in his custody shall be liable on conviction before a Magistrate, to penalty not exceeding 3 months' pay or to imprisonment, with or without hard labour, for a period not exceeding three months or to both.”

Departmental penalties are imposed on the police-personnel by virtue of Section 7 of the Police Act (1861) (as amended upto-date) which reads as follows :—

“7. *Appointment, dismissal, etc. of inferior officers.*—Subject to the provisions of Article 311 of the Constitution and to such rules as the State Government from time to time make under this Act, the Inspector General, Assistant Inspector General and District Superintendent of Police may at any time dismiss, suspend or reduce any police officer of the subordinate ranks whom they shall think remiss or negligent in the discharge of his duty or unfit for the same ;

or may award any one or more of the following punishments to any police officers of the subordinate ranks who shall discharge his duty in a careless manner or who by any act of his own shall render himself unfit for the discharge thereof, namely—

- (a) fine to any amount not exceeding one month's pay ;
- (b) confinement to quarters for a term not exceeding 15 days with or without punishment—drill, extra guard, fatigue or other duty ;
- (c) deprivation of good conduct pay ; and
- (d) removal from any office of distinction or special emolument.”

Majority of the States have framed rules under the Police Act governing disciplinary actions against the police personnel. In a few States, however, disciplinary action against police personnel is governed by local rules applicable to all civil employees under the State Government including the police. By virtue of these rules, a group of penalties ('minor punishments') have been created which may be imposed on a delinquent police official after taking into consideration his written representation against the proposed penalty. These punishments are censure, reprimand, withholding

of increments, etc. Dismissal, removal and reduction in rank are in the category of 'major punishments' imposed after drawing up regular disciplinary proceedings against the delinquent. The remaining penalties mentioned in the Police Act, namely, confinement to quarters, punishment drill, fatigue duty etc. are petty punishments awarded to the members of constabulary through a summary procedure in what is called the Orderly Room. The delinquent is marched before the Superintendent of Police to whom he has to explain his conduct with regard to the particular indisciplined act; final order is passed then and there by the Superintendent of Police, after consideration of the explanation offered by the delinquent. Two penalties which find place in Section 7 of the Police Act, 1861 namely, 'deprivation of good conduct pay' and 'removal from any office of distinction or special emoluments' appears to have largely fallen into disuse.

Offences and penalties

57.8 So far as the offences relating to the duties of policemen are concerned, we generally endorse the scheme of section 29 of the Police Act, 1861 except that we would add a few more offences in this category which would take care of various types of delinquency. Also we would enhance the punishments to one year's imprisonment and a fine which may extend to Rs. 500 or both. The offences may be triable in the Courts of Judicial Magistrates. The expanded section should contain the following offences :—

- (i) violation of any duty ;
- (ii) wilful breach or neglect of any provisions of law or of any rule or regulation or lawful order which he is bound to observe or obey ;
- (iii) withdrawing from duty of his office without permission ;
- (iv) being absent on leave, failing without reasonable cause to report himself for duty on the expiration of such leave ;
- (v) engaging himself without authority to any employment other than his police duties ;
- (vi) being guilty of cowardice ;
- (vii) being in a state of intoxication while on duty ;
- (viii) malingering or feigning or voluntarily causing hurt to himself with the intention to render himself unfit for service ;
- (ix) disobeying lawful command of superior officers ;
- (x) being grossly insubordinate to his superior officers or using criminal force against superior officers ;
- (xi) taking part in a procession, gherao, demonstration, shouting slogans, forcing under duress or threats any supervisory authority to concede anything or striking work ;

- (xii) offering unwarrantable personal violence to any person in custody ;
- (xiii) entering or searching without lawful authority or reasonable cause any building or place etc ;
- (xiv) seizing vexatiously and unnecessarily the property of any person ;
- (xv) detaining, searching or arresting any person vexatiously and unnecessarily ;
- (xvi) holding out any threat or promise not warranted by law ; and
- (xvii) being guilty of any other offence for which no punishment is expressly provided in the Police Act or any other law in force.

57.9 We notice that punishments of dismissal, removal and reduction in rank, call for drawing up of regular disciplinary proceedings on account of the fact these are the very penalties that require compliance of Article 311 of the Indian Constitution. In some States some other punishments have also been placed under this category. We would keep only three penalties, namely, dismissal, removal and reduction in rank in the category of 'major punishments' which would necessitate drawing up of regular disciplinary proceedings.

57.10 Having examined the provisions obtaining in various States, we find that there is considerable variation in the categories of offences usually known as 'minor penalties' which may be awarded through a procedure shorter than regular disciplinary proceedings. We would place the following penalties under this category :—

- (i) Censure.
- (ii) withholding of increment ; and
- (iii) withholding of promotion.

It may be provided that the above penalties may also be imposed on a delinquent police official after drawing up of a regular disciplinary proceeding where circumstances do not warrant award of one of major punishments. As indicated above, the penalties 'deprivation of good conduct pay' and 'removal from any office of distinction or special emoluments' which find place in the Police Act (1861) have largely fallen into disuse ; and also these are vague. Some other penalties like censure, reprimand, withholding of increment are awarded through this procedure. Although these latter penalties are not mentioned in the Police Act (1861), they are provided in the concerned rules and are useful for penalising various minor categories of delinquencies.

57.11 We recommend the following penalties to be kept under the category of petty punishments to be

awarded to the members of the constabulary in the Orderly Room :—

- (i) reprimand ;
- (ii) confinement to quarter-guard for a period not exceeding 15 days ;
- (iii) punishment drill, extra guard duty, fatigue duty or other punitive duty, not exceeding 15 days with or without confinement ; and
- (iv) fine not exceeding one month's pay.

Disciplinary authorities

57.12 On examining the extent of disciplinary powers available to various levels of supervisory ranks we have noticed one shortcoming, that is, inadequate delegation of powers to police officers below the level of Superintendent of Police. We would like the Sub-Divisional Police Officer to be accorded independent powers to inflict penalties to the police personnel, barring the power to award major punishments to them. In a similar manner, we would favour delegation of some powers to Police Inspectors. We note that in some States, Inspectors have already been accorded some powers to punish members of the constabulary. On careful consideration we recommend the following powers to various levels of disciplinary authorities :—

Disciplinary authorities	Extent of punitive powers
(i) Deputy Inspector General of Police	All punishments to police personnel of and below the rank of Inspector.
(ii) Superintendent of Police	All punishments to police personnel of and below the rank of Sub-Inspector. Minor punishments to inspectors. Power to suspend all police-officers of and below the rank of Inspector.
(iii) ASP/Dy. SP	All punishments except major punishments to police personnel of and below the rank of Sub-Inspector.
(iv) Inspector of Police	Punishment drill, extraguard, fatigue or other punitive duties to constabulary for a period not exceeding 3 days.

Regular disciplinary proceedings against a Police Inspector should be conducted by a police officer of the rank of Superintendent of Police/Additional Superintendent of Police. In cases where a major punishment is warranted, the enquiry officer will forward the file to the Deputy Inspector General for passing final orders. Similarly, although the ASP/Dy. SP would not have any independent powers to impose any of the major punishments, they would be authorised to conduct disciplinary proceedings against police officials of and below the rank of Sub-Inspector. In those cases, where award of one of a major punishment is indicated, he will forward the findings to the Superintendent of Police. In a similar manner Police Inspectors would be authorised to conduct disciplinary proceedings against the constabulary.

57.13 Article 311 of the Indian Constitution provides the circumstances when a major punishment may be awarded to a civil-servant without a regular disciplinary proceeding. One of such grounds relates to 'interest of the security of the State'. We would emphasise that this provision should be made use of with great care and caution and in no case it should be resorted to in a routine manner.

Appellate and revisionary authorities

57.14 In this matter we favour the principle of only one appeal against any of the major punishments imposed on the delinquent police personnel to the authority next higher to the concerned disciplinary authority. We would also provide one revision to the authority next higher to the appellate authority in these cases. We would, however, recommend only one appeal and no revision against minor punishments. These provisions in our opinion would provide adequate opportunity to police-personnel to make representation against a penalty imposed on him. We endorse the existing provision in many States of no appeal against any of the petty punishments awarded to constabulary in Orderly Room.

57.15 Article 323A of the Constitution provides for setting up of administrative tribunals to adjudicate and try any matter relating to conditions of service of civil servants employed under the Central/State Government. The article provides for enacting by Parliament a law which will exclude the jurisdiction of all Courts except that of the Supreme Court in regard to these matters. Such administrative tribunals have already been set up in two States. We would recommend setting up of such tribunals in all States and to bring the Police also within their purview. This step in our view would prevent cases pertaining to service-conditions being taken to courts where these cases get much delayed. In our opinion administrative tribunals would provide a more effective forum as compared to ordinary courts for redressal of genuine grievances of aggrieved police-personnel against departmental action.

Suspension

57.16 Suspension in an intermediary step resorted to by disciplinary authorities in cases where the likely punishment may be a severe one and continued functioning of the official under inquiry may adversely affect the inquiry or the work in which the official is functioning. We have briefly referred earlier in this Chapter to the damage caused to the morale of police personnel due to unwarranted suspensions. We had had statistical informations collected from States in this regard. Their analysis reveals that of all the police personnel of and below the rank of Inspector who remained under suspension in 13 States on 31-12-1977, nearly 23% were of over 2 years. In 3 States where the positions were worst so far as all-India position was concerned, the percentage of such cases was 47%, 31% and 25% respectively. The figures just-quoted amply show the position regarding prolonged suspensions of police personnel.

57.17 We have referred to the cases of unwarranted suspensions resorted to against police-personnel in our Second Report (Chapter XV) and have made certain observations regarding protection against whimsical and mala fide suspensions. There appears to be tendency to order suspension in a routine manner without considering the gravity of the offending act, holding that suspension is no punishment. In this connection we would lay emphasis on the principle already obtaining that a suspension should not normally be ordered without getting the complaint looked into through a preliminary enquiry. Suspension should not be resorted to unless facts and circumstances of the case as revealed through the preliminary enquiry indicate dismissal or removal as the likely punishment. Also suspension should not be ordered for extraneous considerations, for instance, to diffuse a political situation.

57.18 The need to provide for adequate safeguards with regard to suspensions cannot be over-emphasised. In this connection we find that the Vigilance Manual of the Central Government lays down certain norms to be observed with regard to suspensions of civil servants generally. We would recommend that some of the provisions of the said Manual mentioned below may be borne in mind by disciplinary authorities while ordering suspensions :—

When a Government servant may be suspended :

1. A Government servant may be placed under suspension when a disciplinary proceeding against him is contemplated or is pending or where, in the opinion of the competent authority, he has engaged himself in activities prejudicial to the interest of the security of the State or when a case against him in respect of any criminal offence is under investigation, enquiry or trial.
2. Suspension may cause a lasting damage to Government servant's reputation even if he is exonerated or is ultimately found guilty of only a minor misconduct. The discretion vested in the competent authority in this regard should therefore, be exercised with care and caution after taking all factors into account.
3. It may be considered whether the purpose would not be served if the officer is transferred from his post. If he would like to have leave that might be due to him and if the competent authority thinks that such a step would not be inappropriate, there should be no objection to leave being granted instead of suspending him.
4. Public interest should be the guiding factor in deciding whether or not a Government servant, including a Government servant on leave, should be placed under suspension or whether such action should be taken even while the matter is under investigation and before a *prima facie* case has been established. Certain circumstances under which it

may be considered appropriate to do so are indicated before for the guidance of disciplinary authorities :—

- (i) where the continuance in office of the Government servant will prejudice investigation, trial or any inquiry (e.g. apprehended tampering with witnesses or documents) ;
- (ii) where the continuance in office of the Government servant is likely to seriously subvert discipline in the office in which he is working ;
- (iii) where the continuance in office of the Government servant will be against the wider public interest, e.g., if there is a public scandal and it is considered necessary to place the Government servant under suspension to demonstrate the policy of the Government to deal strictly with officers involved in such scandals, particularly corruption ;
- (iv) where a preliminary inquiry into allegation made has revealed a *prima facie* case justifying criminal or departmental proceedings which are likely to lead to his conviction and/or dismissal, removal or compulsory retirement from service ; and
- (v) where the public servant is suspected to have engaged himself in activities prejudicial to the interest of the security of the State.

We would also recommend the principle that the charge must be furnished to the delinquent within a period of 45 days from the date of suspension after which the incumbent would be automatically reinstated if no such charge is made available to him. We notice that a similar provision is available for the All-India Services officers.

Delays in disposal and other allied matters pertaining to disciplinary proceedings

57.19 While it is undesirable that policemen be subjected to unwarranted departmental action, we consider it equally condemnable that serious cases of misdemeanour on the part of policemen do not receive departmental sanctions. We have noted that in actual practice the situation is far from satisfactory and disciplinary proceedings have become ineffective. There are several factors responsible for this, one major cause being delayed disposal of such proceedings. In this and the succeeding paragraphs we will deal with this aspect of the subject. With regard to disposal of disciplinary proceedings in various States, we obtained statistical information and had it analysed. We find that on 31-12-1977 the following were the percentages of cases pending for different durations:

in 21 States and Union Territories for which information was made available to us :

Duration	Percentage of total pending disciplinary proceedings as on 31-12-1977
1	2
Less than 6 months	59.1%
6—12 months	23.8%
1—2 year	12.5%
2—4 years	3.9%
Over 4 years	0.7%

It would be seen that roughly 41% of the cases were pending for more than 6 months. The 3 worst States in this regard had nearly 57%, 56% and 53% of cases pending for more than 6 months. We also noticed that in some States number of cases lingering beyond 4 years was also sizeable. We identified the 3 worst-affected States in this respect and had case-studies conducted there in order to know the causes for delays in the disposal of such proceedings, which were found to be as follows :

(i) *Causes relating to disciplinary authorities/inquiry officer*

We find that by far the most common cause for delays in the disposal of the disciplinary proceeding is preoccupation of the Superintendents of Police and the Sub-Divisional Police Officers themselves. In the day to day life of the district, these officers are always over-burdened with multifarious high-pressure work, where disciplinary proceedings find only a low priority in the scheme of things. There is no provision in the majority of the States to appoint full-time Inquiry Officers. Sometimes due to inadequate knowledge of existing rules and court rulings, Inquiry Officers have either to suspend the proceedings or to take wrong steps to be corrected subsequently or to seek the guidance from senior levels. In certain cases proceedings are also delayed due to lethargy or negligence on the part of the inquiry officers/disciplinary authorities.

(ii) *Causes relating to non-availability of ministerial assistance etc.*

In most districts the volume of disciplinary cases is quite sizeable. Besides the files of disciplinary cases, no less important is the maintenance of the guard-files containing various departmental instructions, court rulings etc. which continue to pour in regularly. Copies of documents have to be prepared and made available to the delinquent. These tasks require ministerial and mechanical assistance to the disciplinary authorities. While in some States reasonable arrangements have been made in this respect, where a clerk along with a type-machine is available exclusively for disciplinary cases in each district, in other States they

are far from satisfactory. Secondly, in view of the fact that departmental instructions get issued continuously and court rulings on various aspects of disciplinary proceedings are received frequently, it is very essential that such material is collected at a central place, possibly the Headquarters of the Chief of Police, compiled in the form of a booklet and issued to every unit of police periodically (possibly every two years). In the absence of any such arrangement, the inquiry-officers feel handicapped, as this factor affects the speed of enquiry.

(iii) *Causes relating to inadequate delegation of powers :*

- (a) While in several States Police Inspectors are authorised to conduct disciplinary proceedings, in others they are not, which results in the Deputy Superintendent of Police/Assistant Superintendent of Police being over-burdened with such proceedings. This obviously results in delayed disposal.
- (b) In the majority of States, Assistant Superintendent of Police and Deputy Superintendent of Police do not have any independent power to inflict even minor penalties and the involvement of the Superintendent of Police is obligatory in all cases. This is one reason for delayed disposal of disciplinary cases.
- (c) In several States, delegation of authority is inadequate or incomplete. In one State for instance, the District Superintendent of Police has himself to frame charges, serve them on the delinquent officer and then entrust the inquiry to some other officer (e.g., a Dy. S.P.). This procedure causes unnecessary delay. In another State, the S.P. entrusts the proceeding to an Inquiry Officer (e.g., a Dy. S.P.) and the latter is himself authorised to issue the charges, etc.
- (d) In one State the power to appoint the inquiry officer in respect of the delinquent who is an S.I. is vested with the D.I.G., whilst the power to appoint the 'friend' of the delinquent is vested with the District Superintendent. These powers can conveniently be delegated to the Superintendent of Police and the Deputy Superintendent of Police respectively, or both can be given to the District Superintendent.

(iv) *Causes relating to faulty rules and departmental instructions :*

In one State, departmental proceedings against police personnel under suspension have always to be conducted by the District Superintendent. Since this officer remains preoccupied with important and multifarious work, proceedings get delayed. This is only one example of numerous rules which create bottlenecks in the way of expeditious disposal of disciplinary proceedings.

(v) *Causes relatable to the delinquent himself*

We find that in sizeable number of cases delinquents are themselves instrumental in deliberately prolonging the proceedings, which often results in the witnesses being won over and the inquiry getting otherwise diluted due to the passage of time. All types of dilatory tactics like going traceless, overstaying leave, asking for unreasonably long time for submitting reply, asking for repeated adjournments on one excuse or the other, asking for unreasonably large number of documents or those documents which cannot be procured easily, or merely absenting on the fixed date are adopted. In sizeable number of cases delinquents take the matter to the courts of law on flimsy grounds, frequently with the intention of delaying action.

(vi) *Causes relatable to the witnesses*

Official witnesses, particularly the police officials, do not attend proceedings on account of their pre-occupation with other duties, whilst some of them avoid appearance for other considerations. Private witnesses are generally reluctant to appear for the proceedings, as this causes inconvenience to them. We find that in several States there are no fool-proof legal provisions enabling the inquiry officer to secure the presence of such witnesses. Also, the arrangements for the payment of travelling and other expenses to the witnesses are most unsatisfactory and time consuming. In most States the scale of payment is very inadequate.

(vii) *Delays caused due to absence of detailed procedure*

One major cause for delay in the disposal of disciplinary cases is that the departmental rules and procedures laid-down for the purpose are in majority of the cases not exhaustive enough to cater for various types of contingencies arising during the proceedings. In fact, in certain cases we find that the procedural details are very cursory which were framed decades back and have not been modified in the light of departmental experience and pronouncements of various courts. In our opinion, the prescribed procedures should be fully exhaustive and should be updated from time to time incorporating the orders of various authorities on the subject as also the court rulings. The rules should specifically provide for the steps to be taken up by the inquiry officer in circumstances which commonly arise during the departmental proceedings like the delinquent going traceless, delinquent asking for unreasonably long time for submitting reply etc. or the delinquent asking for a document which cannot be procured easily. In such cases the procedure should clearly provide a clue to the Inquiry Officer as to the next step to be taken by him. In the absence of such rules on many occasions the Inquiry Officers get confused as to the further steps to be taken. When such provisions are incorporated in the rules themselves, the concerned courts, where the proceeding may be taken, may also take notice of the same. We understand that in several other Government departments exhaustive rules have been framed which are very useful to the departmental authorities.

Some procedural improvements

57.20 Before we make our recommendations with regard to expeditious disposal of disciplinary proceedings, we would briefly indicate some other steps to be incorporated in the rules which, in our view, would obviate some of the difficulties being faced during the departmental proceedings. These are—

- (i) A legal practitioner should not be permitted to appear at these proceedings but the inquiry officer may have the discretion to allow a 'friend' to the delinquent to appear in limited number of cases, where the delinquent officer himself cannot put up his defence properly. The 'friend' should be a serving police officer of or below the rank of SI for the time being posted in the same district where the proceedings are pending. A police official should not be permitted to be a 'friend' in more than one case at a time.
- (ii) Appointment of a 'presenting officer' appears unnecessary during disciplinary proceedings.
- (iii) Difficulties are experienced in serving charges and other documents relating to disciplinary proceedings when a delinquent officer remains traceless or he deliberately evades service. In this connection procedure laid down in Cr. P.C. 1974 (Sections 62, 64, 65 and 69) for service of summons to witnesses may be adopted by the Inquiry Officers. According to these provisions, if persons summoned cannot be found, summons may be served by affixing them on some conspicuous part of the house in which the person summoned ordinarily resides, or by sending them through registered post. In the latter case the document should be deemed to have been served on the person concerned when the same is received by any member of delinquent's family, or the same is returned with the endorsement of the postal authorities of its service.
- (iv) To overcome the difficulty of securing the presence of private witnesses, the inquiry officer should have legal powers similar to those available to civil courts. In one State such summons are to be issued through some other official, e.g., through a Magistrate. This latter procedure is not recommended by us as we feel that the inquiry officer should have direct and independent powers in this respect.
- (v) Satisfactory arrangements should be made for payment of travel and other expenses to private witnesses who appear before the inquiry officer.
- (vi) The rule should specify the maximum period that the inquiry officer may allow to the delinquent at each stage of inquiry, e.g., replying to the charge, submitting list of defence witnesses etc.

Remedial measures for delayed disposal of disciplinary proceedings

57.21 We have seen that one big bottleneck responsible for delays in disciplinary proceedings is preoccupation of the disciplinary authorities/inquiry officers in their manifold duties. To overcome this difficulty we find that in one State full-time Dy. SPs have been posted with the Range DiG, who could take up cases of disciplinary proceedings on the orders of the DiG. Request for such taking up proceeding of the district is made by Superintendent of Police concerned. As a matter of principle we would emphasise that ordinarily the concerned controlling officer should also exercise full disciplinary control over the personnel under his charge. Involvement of an outside functionary is undesirable as it leads to erosion of his disciplinary control. In view of the heavy pendency of disciplinary proceedings in many districts, we would recommend posting of whole-time police officers in such districts for taking up cases of disciplinary proceedings. Such officer should, however, invariably be posted under the control of the District SP.

57.22 In order to provide solution to the problem of long pendencies, some States have prescribed time-limits for completing various stages of disciplinary proceedings. In case such time limit has to be exceeded, specific approval has to be sought from higher authorities. In our opinion, such provisions would help to some extent towards timely disposal of disciplinary cases.

57.23 One major step in this regard would be to frame exhaustive rules and procedures, governing the disciplinary proceedings on the lines indicated by us in paragraph 57.19(vii) above. This step would allow the inquiry officer to proceed expeditiously with an enquiry.

57.24 We notice that several States have authorised Police Inspectors to conduct disciplinary proceedings while some others have not. As already indicated above, Police Inspectors should be authorised to conduct disciplinary proceedings in all States because this step would reduce the burden on SDPO and SP to a great extent. Also we commend the practice obtaining in some States of providing ministerial and mechanical assistance to the disciplinary authorities exclusively for disciplinary cases, without which such officers are handicapped in those States where there is no such arrangement. We would also recommend issuing of handbooks on departmental proceedings, containing all instructions/rulings available on the subject on the lines indicated by us in paragraph 57.19(ii) above. In this connection, training of police officers in various aspects of disciplinary proceedings before they are permitted to handle these cases is considered very important. Finally, the role of adequate supervision and control by supervisory ranks cannot be over-emphasised, as despite all rules and manuals some officers would always tend to neglect this aspect of their duty.

Disciplinary and penal provisions of armed police battalions

57.25 At this stage it would be expedient to make a brief mention regarding disciplinary procedure obtaining in the Armed Police Battalions which are part and parcel of State Police. Generally speaking separate and exclusive enactments exist for these Battalions, which provide for much more stringent penal and disciplinary actions as compared to those under the Police Act. Generally, the procedures are similar to those obtaining in the CRPF with some important differences. For instance in the Armed Police Battalions of one State, there are a category of offences known as 'more heinous offences' (e.g., offences pertaining to mutiny, using criminal force against superior officers, deserting the service etc.) which are punishable with life imprisonment or with imprisonment for a term upto 14 years and also fine. Besides, there are another category of offences called 'less heinous offences' (e.g., being grossly insolent to superior officers, sleeping while on sentry duty, quitting his post etc.) which are punishable with 7 years' imprisonment and or fine. The offences are triable in the ordinary Session's court. In contrast, in the CRPF these offences may be judicially tried by the departmental officers also. So far as disciplinary proceedings in the Armed Police Battalions are concerned, these are governed by the Police Act and ultimately by Article 311 of the Constitution. Finally, there are a category of penalties which are awarded to the constabulary of these Battalions through the orderly-room procedure (for instance, imprisonment in the quarter guard for 28 days, punishment drill, fine not exceeding 7 days' pay etc.). These 'orderly-room' penalties are more stringent than those prescribed in the civil police. Since Armed Police Battalions have to perform duties similar to those of the CRPF, we would recommend for them the pattern obtaining in the CRPF with regard to various disciplinary and penal provisions. However, we would like to provide that the criminal offences relating to the duties of the personnel of the Armed Police Battalions should be triable by the ordinary courts. So far as the regular disciplinary proceeding against the personnel of such Battalions are concerned we do not visualise any difference from those prescribed for the civil police. Therefore, our recommendations regarding the disciplinary proceedings in the preceding paragraphs would generally hold good for the Armed Police Battalions also. Similarly the minor punishments to be awarded to the personnel of the Armed Police Battalions may be the same as recommended by us for civil police personnel.

Concluding remarks

57.26 In the end we would emphasise that 'discipline' in the police must be understood in its proper perspective. The concept has wider connotation than generally understood. The objective will not be achieved merely by mechanical enforcement of disciplinary rules and procedures. It must be appreciated that discipline is just one of the several components of good management. The other components such as leadership, grievance redressal, genuine identification with the welfare of the forces, amelioration of their

working conditions etc. are also very important for maintenance of good discipline. The supervisory ranks also have to show a stricter observance of the norms, which they expect from their subordinates. However, prompt and effective disciplinary action must be taken whenever there is violation of the departmental norms.

But before taking recourse to disciplinary action it may be desirable to correct the delinquent police officers by counselling and guidance. There should be no sense of misplaced sympathy or departmental prestige when police misconduct leads to oppression of innocent members of the public.

CHAPTER LVIII

ROLE OF THE CENTRE IN PLANNING, EVALUATION AND CO-ORDINATION

58.1 Article 246 of the Constitution places Police (including railway and village police) in the State List. However, certain entries in the Union List of the Seventh Schedule impose on the Central Government the responsibility to deploy armed forces or any other force in aid to Civil power, to maintain the Intelligence Bureau and the Central Bureau of Investigation, to recruit and manage the Indian Police Service, to set up Central Institutions for professional training of police officers, to promote police research and to render scientific assistance in the investigation and detection of crime. The quasi-federal character of our Constitution implies a coordinating role for the Centre in inter-state police problems. In the Concurrent List of the Seventh Schedule there are provisions for the Centre enacting criminal laws and establishing criminal procedure. In addition to these provisions, Article 355 of the Constitution spells out that "It shall be the duty of the Union to protect every State against external aggression and internal disturbance and to ensure that the government of every State is carried on in accordance with the provisions of this Constitution". Though this stipulation has been placed in Part XVIII of the Constitution dealing with Emergency Provisions, in actual practice it is seen that even in normal times when the States face law and order problems that are beyond their capacity, the Centre steps in by providing para-military forces and all other help which the States require. The Centre also plays a counselling role where the law and order problems in a particular state have the potential of assuming national proportions. In cases where the States are reluctant to control law and order problems firmly, because of local interests and pressures, the Centre would have to take on direct responsibility if the States continue to show reluctance in dealing with such situations. Apart from these constitutional obligations, the Central Government has at its disposal greater financial resources than the State Governments and has to provide financial assistance to the States to enable them to meet their requirements in various spheres, including the police. The Centre is at present providing substantial grants and loans to the State Governments to modernise their police forces and provide some basic facilities to police personnel. Consequently, the Centre performs the following duties in the sphere of police :—

- (1) Recruiting and managing the Indian Police Service;
- (2) Operating the Intelligence Bureau, the Central Bureau of Investigation and other Central Police Organisations;

- (3) Maintaining armed police units and para-military forces in the Centre which, among other things, assist the civil power;
- (4) Maintaining a Directorate of Coordination, Police Wireless to provide the State Police Organisations an independent channel of communication;
- (5) Maintaining a Directorate of Coordination, Police Computers to ensure the modernisation of State Police Organisations with the application of computer technology;
- (6) Providing institutions and organisations for research, training and rendering of scientific aids to investigation;
- (7) Enacting laws to ensure a uniform criminal justice system in the country;
- (8) Co-ordinating the activities of the various State Police Organisations;
- (9) Rendering advice and assistance to the States to maintain internal peace; and
- (10) Providing financial assistance to the State Police Organisations and monitoring its utilisation.

Historical perspective

58.2 It would be worthwhile at the outset to make a brief historical review of the growth of the various Central Police Organisations to show how in the present day the various tasks being performed by the Central Government have developed on these organisations. At the time of Independence, other than a few battalions of the Crown Representative's Police and a small Delhi Special Police Establishment for the purposes of vigilance in the Centre, the Intelligence Bureau (IB) was the only Central Police Organisation. Apart from performing its basic charter of duties relating to collection and dissemination of intelligence and counter-espionage, it also acted as the adviser to the Central Government on all police matters and as the controlling department for Central Police Institutions or agencies created for the purpose of assisting the State Police Organisations. In this capacity it was looking after the Central Forensic Science Laboratories, the Government Examiners of Questioned Documents, the Central Finger Print Bureau and also conducting the conferences of the IsGP, DIsG CID and the various police duty and sports meets, in addition to looking after both internal and external intelligence operations.

58.3 The Special Police Establishment was formed in 1941 under the War Ministry and then given a legal identity by the Delhi Special Police Establishment Act, 1946 and placed under the Home Ministry. Initially it was placed under the Director, Intelligence Bureau. In 1948 it acquired an independent identity with its own Inspector General of Police. On 1-4-63 the Delhi Special Police Establishment was enlarged to form the Central Bureau of Investigation (CBI) with the Delhi Special Police Establishment forming one of its divisions, the others being Legal and Police Division, Economic Offences Division, Research and Technical Division, Crime Records and Statistics Division. In 1969 a Central Forensic Science Laboratory was set up in Delhi and placed under the C.B.I. and in 1973 the Central Finger Print Bureau was transferred from the I.B. to the C.B.I. The Central Bureau of Investigation takes up cases against Central Government servants or other public servants involved in offences of corruption or misuse of power. It also investigates cases involving breach of economic laws. The following are also included in the charter of duties and functions of the C.B.I. :—

- (1) Investigation of or assistance to State Police in the investigation of offences having international ramifications;
- (2) The collection of intelligence, maintenance of statistics and dissemination of information relating to crimes involving antiques, narcotics, etc.;
- (3) Participating as the National Central Bureau in the activities of the International Criminal Police Organisation (Interpol);
- (4) The study of specialised crimes of particular interest to the Government of India or crimes having all-India or inter-State ramifications or of particular importance from the social point of view; and
- (5) As the premier vigilance agency in the country, to convene conferences of State Anti-Corruption Chiefs.

58.4 In 1970 the Research and Statistics divisions of the C.B.I. were separated and enlarged to form the Bureau of Police Research and Development (BPR & D) with the following two functions :—

- (1) Research, statistics and publication of police documents and journals; and
- (2) Development of police manpower and equipment.

In 1973, training of police personnel was added to the charter of responsibilities of the BPR & D. Following the creation of the BPR & D, the charge of the Central Forensic Science Laboratories, the Government Examiners of Questioned Documents, the publication of criminal statistics, police documents and journals and the management of the Forensic Science personnel was transferred from the I.B. to the BPR & D. In 1973, within the framework of the

BPR & D, an Institute of Criminology and Forensic Science (ICFS) was created with the following functions :—

- (1) Conducting integrated courses for senior Police, Judicial and Correctional Service Officers;
- (2) Conducting courses for police officers in research methodology;
- (3) Training police officers to handle juvenile delinquency;
- (4) Conducting courses on Documentation Ballistics and Police Photography; and
- (5) Acting as an institute of higher learning in the fields of Criminology and Forensic Science.

In 1976 the I.C.F.S. was separated from the BPR&D and made an independent institution.

58.5 The growth of an independent telecommunication facility for the police led to the establishment of a Directorate of Co-ordination, Police Wireless (DCPW). Similarly, the recognition of the utility of computers for the police and its spread to the State Police Forces led to the creation of the Directorate of Coordination, Police Computers (DCPC). Both the Directorates are under the Ministry of Home Affairs for coordinating the development of these facilities in the States and also managing these facilities at the Centre. A Central Police Training College later re-designated as the Sardar Vallabhbhai Patel National Police Academy (SVP NPA) was created to train officers of the Indian Police Service and other police officers both from the States and the Centre. As the premier police training institution it now organises many courses and undertakes various studies of police interest. This Academy also works under the Ministry of Home Affairs.

Present position

58.6 From the above review it can be seen that for the functions it is performing the Centre has created several agencies. Research and Development is attended to by the Bureau of Police Research and Development and the Institute of Criminology and Forensic Science. The Centre has set up the Sardar Vallabhbhai Patel National Police Academy for training of Indian Police Service and other senior police officers, three Central Detective Training Schools under the BPR & D for training of subordinate police officers from the States and the ICFS for conducting several short term courses for police officers and forensic experts. Other Central Police Organisations like the Intelligence Bureau, the Central Bureau of Investigation, the Border Security Force (BSF) and the Central Reserve Police Force (CRPF) also conduct training courses for the general career development of officers from the State Police

Organisations apart from conducting internal courses for the own staff. The C.B.I. through its Central Finger Print Bureau trains finger print experts. The BPR & D trains document experts through its three Government Examiners of Questioned Documents. The Directorates of Coordination, Police Wireless and Police Computers train police and technical personnel in their respective fields. Coordination between the Centre and the States, as also between the States, is looked after either directly by the Ministry of Home Affairs or through one of its agencies like the I.B., the C.B.I., the BPR & D, DCPW and the DCPC. Agencies in the Centre, particularly the BPR&D, publish several periodicals of professional interest to police officers and forensic scientists. The Centre has several para-military and armed police organisations to give aid to civil power in emergent situations. Sometimes, armed police units from one State are deployed in another through the Centre. Where necessary, the I.B. and the C.B.I. share intelligence available with them with their counterparts in the States. The Indian Police Service is recruited through the Union Public Service Commission and appointed and managed directly by the Ministry of Home Affairs. Almost all the States have well equipped Forensic Science Laboratories and when they have additional requirements or need specialised opinion, four Central Forensic Science Laboratories and several other institutions in the fields of Forensic Science and Forensic Medicine provide them. The Centre provides financial assistance to the States for the modernisation of their police forces and welfare of its police personnel. In the decade 1969—79 the Centre disbursed Rupees Fifty Crores as grants-cum-loans. For the funds that the Central Government has been providing through the Ministry of Home Affairs to the various States some monitoring is done through *ad hoc* committees. These committees are often hastily formed and sometimes do not even go to the field to assess the actual utilisation of the funds provided. Through the provision of these grants and loans the Centre is in a position to ensure healthy development of the State Police Organisation. What is lacking, however, is a central agency which could advise the Ministry of Home Affairs on the quantum of financial assistance that should be made available to each State and then monitor the utilisation of this assistance. While ideally, efficiency in utilisation of any funds should be rewarded central aid cannot wholly be related to such performance as the objective to bring all State Police Forces to a reasonable level of modernisation and efficiency is pre-eminent. Central grants, therefore, should be based on both the need for it by a State as well as its capacity and inclination to utilise it properly. Another problem at present is the absence of an agency which can perform the role of the National Crime Records Bureau keeping up-to-date data on crimes and criminals and providing and up-dating this information on the basis of constant communication with the States. At present a part of these duties is performed by the CBI and another by the BPR & D. We have already, to fulfil this void, recommended the creation of a National Crime Records Bureau in Chapter XVII of our Second Report. We consider the creation and maintenance of this Bureau an important responsibility of the Centre.

Need to streamline

58.7 We feel that there is need to streamline the existing system by re-allocating a few units from the I.B. and the CBI to the Bureau of Police Research and Development and strengthening it to perform the duties of research and development, to render scientific aids, to coordinate police training and matters of a general nature calling for advice or information. So far as other organisations, which are of a technical or academic in nature are concerned, they should be allowed to develop to their full potential. The Institute of Criminology and Forensic Science should be allowed to develop as an institute of higher learning in the fields of criminology and forensic science. The Directorate of Coordination, Police Wireless be developed as a specialised agency for the purpose of meeting the special requirements of police communication. The Directorate of Coordination, Police Computers should grow into a National Crime Records Bureau for the purposes explained by us in our Second Report by adding certain units of the CBI and the BPR & D to it. To advise the Central Government and the State Governments on all matters relating to the Police Organisation and the reform of police as a whole, advise the Centre on the quantum of grants and loans to be given to State Police Force for their modernisation and development, and advise the State Security Commissions on matters relating to budgetary allotments to the police should be created a Central Police Committee. The Indian Police Service has been dealt with by us in Chapters XLIV and XLV of our Sixth Report and on the basic charter of duties of the IB, CBI, BSF and CRPF we have no comments to offer in the context of this chapter.

The Bureau of Police Research and Development (BPR & D)

58.8 We are of the view that the BPR & D should perform the following functions :

(1) *Coordination.*—At present various central organisations are conducting conferences and meetings to coordinate the activities of the various State Police Forces. Notable amongst these are the IsGP Conference and the DIsG CID Conference convened by the IB and the DIsG Anti-Corruption Conference convened by the CBI. While we realise that the IB does need to convene a conference of the IsGP and the DIsG CID to coordinate its activities with the State Police Forces in the matter of intelligence, it is also felt that matters relating to crime remain inadequately attended to in these conferences. This is particularly true of the DIsG CID Conference. Now-a-days, there are separate DIsG for Crime and Intelligence in most of the States. Similarly with the proliferation of a large number of Central Police Organisations, the IB does not have enough of a role in matters relating to crime. These conferences, however, are essential as they represent the police point of view on matters of vital importance particularly those relating to prevention and detection of crime, police working and police morale. These forums should also act as a feedback for policies and programmes undertaken by the Central Government with regard to the police. There is need for an organisation which can not only organise

conferences relating to crime but also pursue the implementation of their recommendations with both the Government of India and the State Governments. Through research and study on ground this organisation should also provide the background data for decision making by these conferences. We, therefore, feel that though the IB should continue to hold the IsGP Conference and the DIsG (Intelligence) Conference and the CBI the DIsG Anti-Corruption Conference, the BPR&D should also in continuation convene the IsGP Conference and the DIsG Crime Conference so that these conferences can discuss aspects of policing other than those relating to intelligence and anti-corruption work. With our recommendations to strengthen the BPR&D, we feel that the BPR&D could act as a secretariat for these conferences by providing through study and research a framework for discussions in these conferences and then follow up the implementation of the recommendations made. The BPR&D convenes the All India Police Science Congress, the All India Forensic Science Conference, and the meetings of the Heads of Police Training Institutions. The BPR&D also manages several Standing Committees in specialised fields like Forensic Medicine etc. The IB now conducts the Police Sports and Duty Meets which should also be transferred to the BPR&D as these do not relate to the IB's functions. We would later be suggesting measures to strengthen the BPR&D. When the BPR&D is developed on those lines, it would be more effective in undertaking all these responsibilities.

(2) *Research and Development.*—In a fast changing world, no organisation can survive without an in-built system for constant research and development which identifies the problems the organisation faces or is likely to face, works out a cost effective solution and implements it through a development wing. Such a system should also have facilities to be aware of the developments made in similar organisations elsewhere in the world or the progress made by other organisations in the country whose output could be adapted for ones own use. Is a poor country like India and in a service oriented organisation like the police, an agency for Research and Development to bring about cost effectiveness and improve the performance of the police needs no emphasis. In this regard, research could be of two kinds, namely, research of an academic nature, which would add to the total knowledge of the organisation and operational research aimed at meeting a particular operational requirement. The former has necessarily to be confined to an institution of higher learning while the latter could be better attended to by field officers with a research bent on mind. We already have an Institute of Criminology and Forensic Science to conduct research of an academic nature in the fields of Criminology, Victimology and Forensic Science apart from conducting multi-disciplinary training courses for Police, Judicial and Correctional Services Officers and Forensic Scientists. Operational research is undertaken primarily by the BPR&D at the Centre and by research cells in the State Police Organisations. The SVP NPA also conducts several studies every year. Some of the other Central Police Organisations also have small research cells to meet their operational requirements. We have, however, seen that there is

a lot of avoidable duplication in the research projects undertaken by the various Central and State agencies which by itself may be a good thing but where the need is the optimum utilisation of scarce resources, it would be more cost effective if a coordinating authority could ensure that the research projects undertaken by the various State and Central units are integrated in such a manner that they go towards supplementing each other rather than acting as mere duplications. A lot of wastage of resources has been taking place in the research work because the research which has already been done, is not taken into account. The research work on various topics of police interest done anywhere in the world should be properly catalogued and indexed in a well appointed library in the BPR&D and wherever any police organisation takes on any research work, it should first consult the BPR&D. There is no point in doing research on subjects which have already been covered. New research on a subject should start where the old one left it. We feel that the BPR&D is in a position to do this if a Directorate of Police Research is created within its Research and Development division. In matters of operational research, we envisage a dynamic role for the BPR&D. The need for operational research to improve police performance cannot be over emphasised. In 1976-77, the total expenditure on police by all the States, Union Territories and the Central Police Organisations was Rs. 83,246 lakh while expenditure on Police Research and Development was Rs. 183.5 lakhs. This meant that only 0.22% of the entire police budget was earmarked for research. The expenditure in U.K. in this regard was 8%. This illustrates the low priority given to research in India while our need for research to ensure optimum utilisation of scarce resources for better police performance needs no reiteration. One reason for starvation of funds to police R&D is that police expenditure itself is in the non-plan sector. There is need for bringing police research, development and training in the plan-sector to improve police performance. We also feel that at least 0.5% of the police budget should be earmarked for Research and Development. To carry out meaningful research it is imperative that the research wing of the BPR&D is strengthened by selection of suitable police officers with special incentives and by induction of talent and expertise from different disciplines having relevance to the police. Again, the tendency for ad-hocism in the selection of research projects should be given up and research be undertaken on the basis of pre-determined goals and objectives which should be clearly spelt out. Within this framework there would be enough scope for fixing priorities for meeting immediate operational requirements. The BPR&D should also be given sufficient funds to farm out research projects to competent institutions where required. We also observe that even in the States adequate attention is not paid to research and most of the officers posted to these cells regard it as unrewarding if not a punishment. To give impetus to research at the State level, the Centre should finance Police Research Centres through the BPR&D to enable it to coordinate the various research projects undertaken by the State units. It is but natural that the work done by the research wing is immediately implemented by a development wing. As research

and development are an integral part of modern organisation, it would only be appropriate if the same body is charged with the dual responsibility of research and development of the police in India. The Research and Development wings should together form an integrated division of the BPR&D. The development wing should pay greater attention to weaponry, particularly ammunition of a less lethal kind for mob control, fleet management and police vehicles for various uses like mobile FSLs, flying squads, personnel carriers and patrol cars etc., training aids, investigation kit boxes and traffic control equipment. It should also identify sources for their manufacture. Their development should be given wide publicity. The development wing should also produce films for public display under the aegis of the Films Division and publish journals and periodicals of professional police interest.

(3) *Scientific Aids.*—Almost all the major State Police Organisations in the country have their own Forensic Science Laboratories (FSLs). There are three Central Forensic Science Laboratories at Chandigarh, Calcutta and Hyderabad working under the BPR&D and one more Central Forensic Science Laboratory at Delhi working directly under the CBI. In addition, there are three Government Examiners of Questioned Documents (GEQDs) at Simla, Calcutta and Hyderabad working under the BPR&D. The BPR&D in addition advises the Home Ministry on the disbursement of modernisation grants relating to Forensic Science Laboratories and also organises the biennial conferences of FSL chiefs apart from publishing journals on forensic science. At present, it can be seen that at the Centre, the Home Ministry, the CBI and the BPR&D all have a role to play in the development of Forensic Science Laboratories. In Chapter XXIV of our Third Report we have recommended the integration of these Central Forensic Science Laboratories and other facilities under the control of the BPR&D and the creation of a Central Forensic Science Service. It is, therefore, appropriate that all functions relating to forensic science be placed under the BPR&D under a Chief Forensic Scientist who could also be the Director of Coordination, Forensic Science, as proposed by the Sampat Committee on the Modernisation of Law Enforcement to which we have referred in Chapter XXIV. However, in matters relating to provision of Central grants to State FSLs and their monitoring, the Chief Forensic Scientist should act as the expert adviser to the agency to be proposed by us later.

(4) *Training.*—At the Central level, training is being attended to by the BPR&D through its Directorate of Training headed by an Inspector General. This Directorate looks after the three Central Detective Training Schools at Calcutta, Chandigarh and Hyderabad and also advises the Government on Police training and selection of officers. The SVP NPA Hyderabad directly functions under the Home Ministry and so does the Institute of Criminology and Forensic Science at Delhi. Both of them have courses for field police officers. As stated earlier the I.B., C.B.I., and other Central Police Organisations also conduct training courses for police officers and these contribute

substantially to their career development. Apart from these, even the armed units of the Central Police Organisations have their own training institutions like the Internal Security Academy at Mt. Abu being run by the Central Reserve Police Force which runs useful courses for police and other officers. The Border Security Force, apart from their Academy at Tekanpur run an equally valuable Central School of Weapons and Tactics at Indore. Leaving aside the training courses run by these various Central training institutions to meet their own operational requirements and the need to train their own personnel, we still find a large number of courses run by these institutions and organisations which are of general interest to police officers from all parts of the country. Consequently, a perusal of the present position would show that several agencies are managing a large number of training institutions all over the country with nominal control from the Home Ministry. All of them are conducting several useful training programmes. Training is regarded as a part of the police modernisation scheme and the Central Government is making grants available for the development of police training institutions under its modernisation scheme. Police officers also attend training programmes in non-police organisations as part of their career development. Training is now assuming greater importance with the recognition of the fact that better training of the police would ensure better policing in the country. In view of this new emphasis and to eliminate a large number of agencies attending to police training, it is only logical that a police coordinating authority should attend directly to training of police officers. It is, therefore, proposed that the activities of all the Central Police Training Institutions in matters of courses of general interest to the police be coordinated by the BPR&D without in any manner impinging on their authority. This could be done by the training division of the BPR&D approving the various kinds of training courses to be undertaken or imparted by the various agencies, approving their syllabi and identifying the category of officers who could benefit from them and selecting personnel for the same in consultation with the concerned agencies. This could be done without encroaching on the administrative independence of these institutions except in an advisory capacity when required to do so by the Government. The Training Directorate could also ensure that there is no avoidable duplication of training curriculum of various Central Police Training Institutions and also that officers from all parts of the country benefit from the training courses available in police and non-police organisations both within and outside the country.

(5) *Rendering Advice.*—There is no agency in the Centre which could acquaint the Central Government and the Law Commission of the police point of view in the enactment of Criminal laws. The police are beset with practical difficulties in law enforcement. Very often they get into the picture only after the law is placed on the statute book and they have merely to start enforcing it. When practical difficulties crop up later, they have to move for suitable amendments to the law and these take several years. Apart from this, at the State level the IGP is the Police Adviser

to the State Government but in the Centre there is no such clearly recognised adviser. Therefore, in any police matter where the Central Government requires professional police advice it is at a loss to decide which authority to consult. We feel that this responsibility be also given to the BPR&D. For this purpose, a Central Information Unit or Data Bank be created in the BPR&D. This should specialise in problems of police organisation and in legal matters. Apart from giving advice to the Central Government this would give information and advice to the State Police Organisations who often are, when they seek to introduce any change in their organisation or attempt an improvement in a particular wing of it, handicapped by lack of information on the changes contemplated by them because a relevant point which often arises is whether any other State Police Organisation has introduced those changes. State Police Chiefs feel that a central agency should be in a position to provide them with information on the profile of the Police Organisations of various States. The BPR&D is even now expected to provide this data but is not in a position to do so because of lack of staff and information. The Central Information Unit or Data Bank could either be a part of the Research and Development division or made into an independent division depending upon the volume of work it would handle. We feel that if the BPR&D is reorganised on the above lines and staffed adequately with officers of appropriate status and experience, it would play an important role in the proper development of the police forces in the country.

The Institute of Criminology and Forensic Science (ICFS)

58.9 We feel that the ICFS is the only institution in the country which can take up research projects of an academic nature of general interest to the police department and other wings of the Criminal Justice System. It has, however, not been developed to its full potential. Early in 1969 the University Grants Commission constituted a sub-committee to report on the teaching of Criminology and Forensic Science in the Indian Universities. The sub-committee recommended that :—

- (1) The Indian Universities be encouraged to introduce under-graduate courses in Criminology and Forensic Science;
- (2) A Central Institute of Criminology and Forensic Science be established at Delhi to be followed by a similar institute in the south for conferring Masters' and Doctoral Degrees in these branches by being affiliated to one of the Universities in Delhi, preferably the Jawahar Lal Nehru University; and
- (3) Necessary job potential for people qualified in Criminology and Forensic Science be created.

On the basis of these suggestions, in 1969 the Government thought in terms of creating an Institute

of Criminology and Forensic Science with the following functions :—

- (1) Research in problems of crime and criminals;
- (2) Running regular post-graduate courses leading to Master's degree in Criminology and Forensic Science; and
- (3) Organising short-term diploma courses for persons with field experience.

However, on further consideration, doubts were raised whether these post-graduates would have any employment potential in this country and after much discussion when in 1973 the ICFS finally came into being, the objectives of having an autonomous status for granting Masters' degrees never came to materialise. It was felt that the institute to be created should only cater to the requirements of in-service officers by organising short-term training courses. With hind-sight the apprehension of lack of potential for Criminologists and Forensic Scientists in the country appears to be misplaced. Today, with an increasing emphasis on modern methods of investigation, it is being realised that we require a large body of Forensic Scientists all over the country. There is no likelihood of there being any greater unemployment in this discipline as compared to others. Also, the potential for employment of Forensic Scientists and Criminologists in the various law enforcement and correctional services in gaining importance. In 1973, the Committee on Police Training after reviewing the working of the ICFS felt that it had the potential to expand its curriculum. At present, the ICFS is running training courses for officers from the judiciary, correctional services and the police and is doing research in the areas of correctional services, criminology, victimology and forensic science. In addition, it is an advanced institute where research scholars work for obtaining Ph.D. from various Indian Universities.

58.10 We have identified the potential of the ICFS to take up academic research, train persons from all branches of the Criminal Justice System by multi-disciplinary courses and granting degrees by developing into an autonomous institution. We recommend that this potential be fully developed and all academic research projects in the fields of Criminology, Victimology and Forensic Science be taken up by it. In our Third Report in Chapter XXIV we have already recommended that forensic scientists of the Central Forensic Science Service should man the Forensic Science Wing of the ICFS. This would ensure interchange of the forensic scientists between the CFSLs and the ICFS and keep the scientists in the ICFS abreast with the requirements in the field. We also feel that the CFSLs and FSLs be primarily developed to attend to the requirements in the field while the Forensic Science Laboratory in the ICFS be developed with the latest equipment and other facilities to undertake original research and attend to highly intricate cases beyond the capacity of the CFSLs and State FSLs. Central location of sophisticated equipment having limited application would ensure their optimal use.

This recommendation we feel would go a long way in ensuring that the Indian Police have access to the latest technology in Forensic Science without this being inordinately expensive.

Directorate of Coordination Police Wireless (DCPW)

58.11 Coordination of the Inter-State Police Wireless grid, management of the Central Police Wireless facilities as also monitoring the modernisation of the police wireless in the country is being done by the Directorate of Coordination, Police Wireless. The Directorate of Coordination, Police Wireless by itself does vital work in coordinating the Inter-State Police Wireless grid and assists the Ministry of Home Affairs in its modernisation plans for police wireless and its development in the States. It is, however, seen that there is sometimes a lop-sided growth of the police communication net work in comparison to the overall police infrastructural growth as for instance in Tamil Nadu where multi-channel facilities exist between the State Headquarters and the Districts but the State Police do not have the resources for their optimum utilisation as computer and other facilities have not been compatibly developed. There is need therefore to coordinate the growth of Police Wireless in the overall growth of the police without transgressing upon the technical independence of the Directorate of Coordination, Police Wireless. For this purpose we feel that the Directorate of Coordination, Police Wireless should be allowed to continue as at present for the purposes of managing the Central Police Wireless facilities and the Inter-State Police Wireless grid but in matters of allocation of Central grants to the State Police Wireless units and their monitoring, it should act as an expert body for advice to the new agency proposed by us later. We also anticipate that Police Wireless is likely to develop as a highly specialised subject and would emphasise that necessary talent be developed within the State and Central Police Wireless Organisations so that technical officers of requisite expertise and experience are available to man the DCPW at all levels.

The National Crime Records Bureau

58.12 There is in the Centre a Directorate of Coordination Police Computers headed by a DIG which attends to the following tasks :—

- (1) Operational control of the National Police Computer ;
- (2) Training of personnel from various State and Central police forces ;
- (3) Co-ordinating and monitoring the computerisation programmes of the State and Central Police Forces ; and
- (4) Identifying areas of application of the computer in police working.

Computers are going to play an increasingly important role in police operations in the foreseeable future and would have to be integrated as part of the overall growth of the police as has been emphasised in Chapter XXIV of our Third Report. We however

feel that limiting the DCPC to its present role would not help in the overall growth and development of the operational efficiency of the police. In Chapter XVII of our Second Report we have given detailed guidelines for setting up a National Crime Records Bureau with a national hook-up of computers through dedicated telecommunication links and the State police computers having input and output facilities at the State, District and Police Station levels. In Chapter XXIV of our Third Report while dealing with Modernisation of the Police we have recommended the spread of Police Computers and provision of multi-channel wireless facilities for the police to ensure this objective. We anticipate that at a future date this spread of computers and telecommunication a/c's would not only ensure storage and instant retrieval of data relating to crime and criminals and finger prints but could also be utilised for storage of information regarding registration of all motor vehicles and drivers, crime statistics, personnel information system for objective career planning of police officers and a Name/Person Index system for instant character verification where required. The availability of output and input channels at district levels initially and down at Police Station levels later on would greatly enhance police efficiency. For this purpose in Chapter XVII of our Second Report we have recommended the integration of the DCPC with a Central Crime Records Office, the Central Finger Print Bureau and the Interpol Division of the CBI. It should also collect, collate and disseminate all Crime Statistics now partly looked after by the BPR&D. We feel that the DCPC should be developed towards that end so that we have in the near future a National Crime Records Bureau as envisaged by us earlier.

58.13 There is at present a Crime Records Office in the Central Bureau of Investigation which primarily collects data about criminals who are of interest to the Central Bureau of Investigation. It cannot be considered a Central Crime Records Office for the purposes of our National Crime Records Bureau. The Central Bureau of Investigation in its capacity as the National Central Bureau in the activities of the Interpol also collects, collates and disseminates data relating to international criminals. We have already recommended its transfer to the National Crime Records Bureau. The Central Bureau of Investigation also has a Central Finger Print Bureau which records finger prints of habitual criminals from all the States and also trains Finger Print Experts. We have already recommended that this should also be transferred to the National Crime Records Bureau. Similarly, the Statistical Division of the BPR&D should be transferred to the National Crime Records Bureau. We would here suggest that an immediate beginning be made by integrating the Interpol Division and the Central Finger Print Bureau of the Central Bureau of Investigation and the Statistical Division of the BPR&D with the DCPC and forming a National Crime Records Bureau. The Centre should start a Central Crime Records Office and urge the States to take similar steps and collect records on the lines suggested by us in our Second Report. Once the Police Wireless and Computer network develops, the infrastructure would be readily available to help in making the National Crime Records Bureau truly effective.

The Central Police Committee

58.14 The above measures, we feel, would adequately look after the requirements of Research and Development, Training, Scientific Aids and most of the coordination problems including the National Crime Records Bureau. We have in para 7 referred to a Central Police Committee to look after the functions of consultancy and monitoring because an expert agency is required by the Central Government and the State Security Commissions to advise them on :

- (1) Matters relating to police organisation and police reforms of a general nature ;
- (2) Matters relating to central grants and loans to the State Police Forces for their modernisation and development ; and
- (3) Matters relating to Budgetary allotments to State Police Forces.

The Central Police Committee will continuously monitor the use and impact of every type of assistance provided by the Centre to the States. For biennial assessment of the extent and quality of modernisation effected in the States and to project the future requirements of the latter, we have already, in para 24.6 of our Third Report, recommended the formation of a Central Team. The reports of this team will be made to the Central Police Committee. But as the Central Police Committee would be required to keep tab on all aids given by the Centre, it would, if it so feels necessary, order a review at any stage if it finds that the biennial review by the Central Team would delay assessment. The second aspect of monitoring by the Central Police Committee would be evaluation of performance of the States' Police. The Committee would make an overall assessment or evaluation of the state of policing in the country and provide the necessary expertise to help the State Security Commissions to evaluate the performance of the police under them, if so required by them. We visualise that the State Security Commissions would have before them the report of the Chief of the State Police. They would also have before them the report of a general evaluation made by the Central Police Committee. They may however still require the services of another independent agency working at their behest to make a detailed performance appraisal or evaluation of their police organisation. They could either appoint this directly or take advantage of the expertise available with the Central Police Committee. The norms of this evaluation have been explained and spelt out by us in the Chapter relating to Accountability of Police Performance in this report.

(2) *Constitution of the Committee.*—Having identified the functions of the Committee and having shown that there is need to make this an adequately high standing committee independent of the Government we feel that the constitution of the Committee should be on the same lines as recommended by us with regard to the State Security Commissions. The Secretary of the Committee should be a senior police

officer of appropriate status. The secretariat of the Committee should consist of four wings :

- (1) Consultancy : A police organisation cell and a conference cell.
- (2) Monitoring : A Central team as envisaged in para 24.6 of our Third Report will biennially monitor the utilisation of grants earmarked for modernisation and welfare of the State Police Forces. It should in its task be able to associate such experts as may be required. If, however, the Committee finds the biennial review by the Central Team may delay assessment, it could order review at any stage if feels necessary.
- (3) Evaluation : Teams of senior officers which could, when asked, go to various States to evaluate the performance of the State Police Forces and submit their assessments to the State Security Commissions. They would also give their comments on the scope for budgetary allotments to the State Police Forces to keep them on par with the national standards. This wing would also make a general assessment of policing in the country.

(4) All-India Police Institute

(3) *All India Police Institute.*—We also came across a proposal for the creation of an All-India Police Institute at Delhi on the lines of similar professional institutes existing for Engineers, Chartered Accountants and other professionals. It would act as an effective forum for exchange of ideas and views of police officers from various States apart from providing accommodation to visiting police officers and promoting esprit de corps among them. The proposal had only minimal financial implications and though it was accepted in principle by the Ministry of Home Affairs in 1974 it has been lying dormant on account of the Ministry of Works and Housing's failure to provide suitable accommodation. We feel that the idea is basically sound and should be implemented and that the Institute when established should be kept under the proposed Central Police Committee.

58.15 The role envisaged for the Centre in matters relating to the police as spelt out by us in this Chapter requires streamlining and reallocating of a few units in the existing set up and the creation of a Central Police Committee. The financial implications, therefore, are very limited. However, we feel, that the implementation of the recommendations would greatly improve the performance of the police and, taking advantage of developments all over the world, orient it towards scientific investigation ; and assist greatly in putting training and other vital matters on a proper course to help the police perform for the greater satisfaction of the people. The creation of these facilities at the Centre, we hope, would also keep the Union Government better informed about the requirements of the police all over the country and the development of various law and order problems having national ramifications, enabling it to fulfil its obligations towards maintaining internal order by timely advice and aid to the States.

CHAPTER LIX

POLICING IN THE NORTH-EAST

59.1 The North-East has been in a state of turmoil for some years now. Some of the recent incidents of violence, in Tripura, where the number of persons killed was one of the highest in any riot in recent years, Manipur, Meghalaya, Assam, Mizoram and on Assam Nagaland border, show how inflammable the situation is. They are posing a serious threat to the security and stability not only of this region but of the entire country. The police set-up, which has been expanded in most of these states only recently, and that too in an *ad-hoc* manner, has miserably failed to cope up with the situation. The problems of policing in the North-East are far too complex and varied. They require a highly professional, well-organised, and trained police force, which is at the same time aware and responsive to the needs of the tribals, to deal with them. An *ad-hoc* approach in dealing with this highly complicated and explosive situation will not do. The whole country is already paying very high price for this situation and if not effectively dealt with may have to pay a much higher price, even endangering the stability and security of the country.

59.2 The region comprises of 5 States and 2 Union Territories, popularly known as the 7 sisters : Assam, Meghalaya, Nagaland, Manipur, Tripura, Mizoram and Arunachal Pradesh. It has a population of over 20 million and covers an area of about 2.55 lakh square kilometers—almost 8% of the total area of the country. Mostly hilly, it is one of the most picturesque parts of the country. Railways have hardly penetrated the region, and even though many new roads have been constructed, the communications are still very sparse and difficult. The remote areas in the interior are still completely isolated; one sometimes wonders whether the march of history has passed them by.

59.3 The region is situated on the very sensitive borders of our country. The long international borders stretch along China, Tibet, Bhutan, Burma and Bangladesh. It is connected with the rest of the country by a narrow strip of land—17 miles broad—near the 'Doars' in West Bengal. The traumatic experience of the 1962 war with China has left its imprint on the minds of the people. There is a climate of insecurity. The realisation dawned on them for the first time, how tenuous these geographical links were with the rest of the country.

Historical perspective

59.4 From the beginning of the British rule the North-East was treated as a non-regulated area. Any

legal enactments made for the rest of the country could not automatically be enforced in these areas, except when they were specifically adopted for them. The administrative system as it developed in this region was quite different from that in the rest of the country. Most of the administration was left by the British to the tribal chiefs. A number of armed outposts were later set up, not with the intention of administering the tribals, but only to keep a watch over them. There was no regular policing. The British had a great deal of difficulty in dealing with the tribals residing in the hilly area of the North-East and they deliberately kept certain areas as "excluded areas" from the rest of the country with two fold objectives :

- (i) to keep the area as a buffer region between India and the neighbouring countries ; and
- (ii) to protect them from exploitation by the plains-men.

The influence of the missionaries in the late 19th and the early 20th century has given the traditional tribal culture a veneer of western culture. The tribals, particularly the educated sections, have increasingly taken to the western dress, music and dancing. Moreover, the script of the tribal language is mostly English and a large section of the tribal population is Christian.

59.5 The Lushai Hills, now known as Mizoram, Naga Hills, Khasi, Jaintia and Garo Hills were partially administered, while NEFA, now known as Arunachal Pradesh was totally "excluded". NEFA was administered through a political officer on the basis of a single line administration. It was only in 1950 that the whole region was integrated into the State of Assam. After 1950 the tribal districts of Assam were entitled to a differential administration in accordance with the provisions of the Article 244(2) read with the Sixth Schedule of the Indian Constitution. Autonomous district councils were set up to administer the tribal areas. Nagaland State was constituted in 1962. The States of Manipur, Tripura, Meghalaya and the Union Territories of Mizoram and Arunachal Pradesh were constituted under the North-Eastern Areas Act in 1972. It was hoped that by giving a political identity to the different people in this region it would be easier to tackle the area's problems. However, even the grant of statehood and the carving out of the Union Territories have not led to easing of tensions in the region. On the other hand, new tensions in the shape of inter-State border disputes, friction between the tribals and the non-tribals, intra tribal rivalries, linguistic clashes etc. have emerged and have been creating serious problems of law and order.

59.6 Because of the prolonged isolation of this area from the rest of the country a feeling of separation has grown. Living in isolation they have got used to living freely with minimal or no government control. They tend to resent any kind of discipline from any authority. Local grievances and aspirations have further encouraged separatist tendencies. As neglected people the fear of being exploited by the migrants from the plains and absorbed into the neighbouring States haunts them. This fear has led to eruption of violence quite frequently. There are extremist elements among the tribals in these areas, who will not be satisfied with anything short of complete separation from India. These extremist elements, it is suspected, are receiving support from some foreign countries, who are interested for their own reasons in destabilising this strategic region. There are reports that the Mizo National Front has its headquarters in the Chittagong Hill Tracts of Bangladesh and has been receiving arms and ammunition and training facilities from various countries, particularly China. Some of the Naga rebel leaders are living in England; while quite a few are marking time in the neighbouring areas of north Burma for an opportunity to resume terrorist activities. Meiteis in Manipur are known to have developed pro-China links. Meiteis are Vaishnavs and have strong cultural links with Hinduism, but are now openly hostile to India, even to Hinduism. The younger elements are claiming that they are culturally and ethnically closer to China and not to India. The possibility of a link-up between the extremist elements in the North-East can no longer be ruled out. Investigation of some of the incidents by Mizo hostiles in Tripura and the bordering areas of Mizoram have pointed to such a link.

59.7 The fact that the tribals have suddenly emerged from an era of isolation and extreme economic backwardness of the region are two of the major causes of this hostility. The Central Government has been spending huge funds to force the pace of development in this region, but the benefits of the economic activity have unfortunately gone only to a small section of the people. The contractors, the bureaucrats and the politicians have cornered most of the development benefits. The problems of the tribals in the interior areas have not been solved and they continue to suffer, even though the per capita public expenditure in this region is the highest in India. The backlog of neglect of centuries has to be wiped out and this huge task cannot be accomplished in a short time. The spread of education has not been an unmixed blessing. There is a danger that the increase in the educated unemployed will outstrip the economic growth. The educated unemployed are easy prey to the propaganda of the extremist elements. The corruption and inefficiency of the administrative machinery has further created a sense of abhorrence of the outsiders in the minds of the people. The hated foreigner is known as Vai in Mizoram, Mayang in Manipur, Teppremyie in Nagaland and Dakhar in Meghalaya. There is no doubt that the solution to the problem of backwardness of the area lies in its development and not in isolation, but the hatred of the "foreigner" has become an emotional obsession with the people and any influx, even

S/5 HA/82-11

of engineers, administrators etc., who are so very necessary for the development work is looked upon with suspicion. The economic backwardness of the region, poor communications and remoteness of the area are responsible for this isolation which has become emotional as well as physical. Unfortunately, pursuit of unimaginative policies, instead of integrating them with the rest of the country have only succeeded in further alienating them. There is complete separation between the tribals and the non-tribals living in these areas. In their anxiety to integrate these areas with the rest of the country, the policy makers did not quite appreciate the historical background and the tribal social structure, before deciding to introduce the central law and system of administration in this region. The demand of separation has taken the shape of insurgency in Nagaland and Mizoram. The situation in Manipur is also causing anxiety. It is very sensitive region from the international point of view. The Super Powers and major powers like China have a direct interest in this region. It is easy to exploit the anti-Indian sentiments in this region. India is vulnerable here and can be hit at a very low cost.

59.8 The fear of infiltration of foreigners has become a very major problem. Because of the tremendous pressure of population in Bangladesh a large number of people have been migrating to the neighbouring tribal areas for the last few years. The situation in Tripura, where the local tribal population have become a minority in their own land has created fears, which are not altogether baseless, in the minds of the tribals that unless something radical is done they will also be overwhelmed by the migrants. The pressure of population from the plain areas to the hills in this region itself has added another dimension to the problem.

59.9 The tribals have become aware of their rights and are not prepared to be mute spectators of the exploitation of their resources and their own exploitation by others. Literacy among some tribes, particularly in Mizoram is very high. As mentioned earlier the tremendous increase in the educated unemployed makes these areas a fertile ground for hostile propaganda. The local economy is still very backward and cannot bear the administrative superstructure, which is almost entirely financed by the funds provided by the Central Government. Widespread corruption in the administrative machinery, a problem we have dealt with separately later in the chapter, has eroded the credibility of the Administration. There is little or no industry and agriculture is still by and large based on the practice of "jooming", a system of shifting cultivation. Economic development of this region both in the fields of industry and agriculture will have to take place in a big way.

59.10 They are a proud people and conscious of their own sense of identity. The tribal culture has its own social value system and nothing should be done to upset it. They do not suffer from a sense of personal insecurity because the tribe takes the responsibility for maintaining all its members. It may sound strange but even after many years a tribal, when he comes back to his own village, can walk into any house and expect to be given shelter and food,

even if the householders are total strangers to him. They are not servile and the tribal society does not suffer from elitism. The driver of a Chief Minister can still sit in the drawing room on the same sofa with the Chief Minister and have tea with him. They are not greedy and acquisitive and have a very healthy attitude towards life. The figures of the tribal population are given below :—

State/UT	Total population (in lakhs)	Scheduled Tribe population (in lakhs)	Percentage of tribal population to total population of the State
1. Assam	146.25	16.07	10.98
2. Manipur	10.73	3.34	31.13
3. Meghalaya	10.12	8.14	80.43
4. Nagaland	5.16	4.58	88.76
5. Tripura	15.56	4.51	28.98
6. Arunachal Pradesh	4.68	3.69	78.85
7. Mizoram	3.32	3.13	94.28

Source : INDIA, 1980

The tribals used to consider themselves as free people during the British rule, but short-sighted policies allowed an unfortunate impression to grow, no doubt aided and abetted by mischievous propaganda, that they have been subjugated after the departure of the British. The policy makers in Delhi rightly decided that the solution of the border problem lay in bringing the area into the mainstream of the country's life by properly administering it, and extending to it the benefits of development economy, but unfortunately they did not quite appreciate the historical perspective and the tribal social structure and temper their efforts to these vital factors. The tribal was not used to too much government and it was a mistake to force our administrative system on them. The situation was further aggravated by the fact that the senior and middle level bureaucrats and the police officers who were sent to these areas were total misfits. These being remote and inaccessible areas there was a natural reluctance on the part of good officers to be posted to them with the result that the bulk of the officers sent to these areas were rejects and misfits. They were a sullen, disgruntled and over bearing lot. These were the people who were primarily responsible for the image of the "ugly Indian". We have later in the Chapter separately discussed the problem of personnel and given some suggestions.

59.11 In Meghalaya, Nagaland, Arunachal Pradesh the tribal village is for all practical purposes an autonomous unit and the authority of the village council has been recognised and maintained. The council performs the duties of the police. In the urbanised con- has been recognised and maintained. The council per- roads, contacts with the outside were have weakened

the position of the village administration. Inter-tribal rivalries, spread of education, and political pressures have to some extent eroded the credibility of the village councils, but they still wield considerable influence. The tribal system is still the most suitable system in this area of policing and for satisfying the tribals social needs. No effort should be made to interfere with this system on the plea that the modern system of policing as in the rest of the country is necessary. In the interior tribal areas the customary tribal institutions should be allowed and encouraged to continue to administer the area. Police interference should be minimal and should depend on the gravity of the offence. In the urbanised areas, which are connected by roads or railway a more formal police structure will require to be established, so that it can deal with the problems of crime and criminals more effectively. While laying broad principles for policing in this region, it would be convenient to divide the area into four divisions :—

- (i) border areas.
- (ii) border areas,
- (iii) urbanised centres which are connected by roads or railway,
- (iv) interior tribal areas, where the communications are very difficult and life is still very insulated.

59.12 Police presence should be concentrated in the border areas and other important areas from the law and order point of view. The present strength of the police in the North-East is given at Appendix 'V'. In Assam and the plains area of Tripura the modern pattern of policing as prevailing in the rest of the country can be extended. In the urbanised areas like Aizawl and Kohima and other areas which have been linked with railway or roads should have the infrastructure of modern policing to cope with the increasing number of crimes and criminals, but it should take seriously into account the tribal laws, customs and institutions. Thus, policing in these areas will have to be a judicial mixture of the tribal system and the modern system. The interior tribal areas should be left to be policed entirely by the traditional tribal institutions. As regards policing of the border areas we have discussed the subject separately later in the Chapter. The underlying principle for policing in the North-East should be minimal policing; no interference in the tribal laws, customs and institutions; policing on the basis of the gravity of offence and the sensitivity of the areas i.e. border areas and areas having mixed population of different tribes and non-tribals.

59.13 The tribal criminal justice system of pre-litigation settlement is more responsive to social needs and no attempt should be made to change it under the garb of introducing the modern police system. Our criminal justice system in the rest of the country is becoming more and more ritualistic and the poor are finding it increasingly difficult to get any justice from it. The victim has hardly got any place in the scheme

of things. Why should such an outdated criminal justice system be extended to the tribal areas, where their own system is much more effective, sophisticated, cheap and speedy? Under Article 13(3)(a) of the Constitution the definition of 'law' includes customs or usage having the force of law. The Regional Councils and the District Councils constituted under para 2 of the Sixth Schedule have been vested with powers to make laws under the provisions of the Sixth Schedule. Various rules have been framed for the administration of criminal justice. The provisions of the Cr. P. C. have not been automatically extended to these areas. The State Governments have been empowered to extend any of the provisions of the Cr. P.C. to such areas or parts thereof as may be notified by the State Governments. There is no separation between the executive and the judiciary and it is our considered opinion that this arrangement should continue, till socio-economic changes justify any modification. There is need for effectively and speedily dealing with the extremist elements

59.14 The tribal councils should continue to deal with the types of criminal offences they are dealing with at present. Whilst efforts should be made to remove some of the anomalies in the functioning of the tribal councils in our opinion it is not necessary to codify the traditional laws. In Nagaland such efforts have only created confusion. We appreciate that the tribal criminal justice system will come under pressure with the increased tempo of the economic and political activities. Moreover, political interference in the impartial functioning of the tribal councils is already affecting their credibility. No doubt certain modifications of the system will have to be introduced with the passage of time, but it needs to be emphasised that these tribal councils are discharging a very valuable and important function and any reform made in the law and the police administration should try to strengthen this machinery and not weaken it. In Chapter XVI of our Second Report we have recommended a system of Gram Nyayalayas. In the urbanised areas penetrated by railway and roads a similar system can be introduced. This model could also be followed in those areas where the traditional tribal and village councils are finding it difficult to deal effectively with the increasing number of disputes between the tribals and non-tribals. The objective is to provide cheap justice to the people with simple procedures on the principles of natural justice without any exploitation by the lawyers.

59.15 The problem of crime in the tribal areas is still not very serious. These areas are so far relatively free from crime, though with the increased contacts with the outside world the number of crimes and criminals is bound to go up. In dealing with crime & criminals in this area the main problem of the police is that it is spread thinly over a very large area. The police officers have to travel for days on foot before they can even reach a scene of crime. Even serious cases like murder are hardly investigated. Because of the distance involved the reporting of the cases is delayed and the subsequent response of the police is also poor. This problem. However, can be exaggerated. Even

though there is no sustained investigation crime does not pose such a serious problem. In the tribal areas it is not very difficult to identify the accused even without the help of the police. Moreover, once an accused is caught it does not require much pressure or persuasion to make him confess to his crime. They are much more truthful and hence readily confess their guilt. The absence of lawyers of course, is one of the most important factors for this state of affairs. In places like Imphal and Kohima the number of lawyers has considerably increased and the situation is undergoing a change, but still in most of the tribal areas ordinary crime, is at present not posing a very serious problem. In the interior places where it may not be necessary to open new police stations, it would suffice if a police party visits these areas periodically. The police in the headquarters should maintain close touch with the village councils. Because of very difficult communications the information system is not very efficient and the feed-back is relatively poor. This is incidentally one more reason in our opinion, for being very careful before introducing any changes in these areas.

Police stations

59.16 We cannot fix any criteria for the establishment of a new police station. The factors such as population, area, crime will have to be taken into consideration but the approach will have to be flexible. In areas where mixed population gives rise to disputes between tribals and non-tribals and between different tribes, new police stations/police posts should be opened to inculcate a sense of security. The condition of the buildings of the police stations in this region is uniformly very poor and this needs to be attended to urgently. Proper buildings are also necessary from the security point of view, because of the activities of hostile elements. There should be proper security arrangements for the protection of the police stations. The system of maintenance of records in the police stations should be simplified, taking into consideration the capacity of an average tribal police officer. Only the essential records with simple procedures should be maintained. Similarly, the investigation procedures should be simplified. There is no point in extending the already out of date Assam Police Manual to these areas. A new Police Manual taking into consideration the special requirements of the region should be drafted expeditiously so that the force can start functioning on the right lines.

Insurgency

59.17 Insurgency is the most serious problem in Mizoram, Nagaland, bordering areas of Tripura, and Manipur. In recent years the problem has also spread to the plains of Manipur. In Manipur the activities of extremists among the Meiteis have introduced a new dimension of urban terrorism to the problem. The security forces, including the army and the paramilitary forces, are present in large numbers to deal with the activities of the insurgents. The problem in the long run, however, has to be tackled by the police. The main difficulty in dealing with the activities of the

insurgents is their identification. The methods sometimes followed which may be effective temporarily have led to avoidable bitterness. The practice of surrounding villages lining up all the male members, then searching the village has caused a lot of harassment to innocent people. While it is true that no insurgency activity can flourish without the support of the people, it must also be appreciated that any action which further alienates the local population will only help the insurgents. Ultimately the problem will have to be tackled by isolating the extremist elements and winning over the local population. The lessons learnt both in Mizoram and Nagaland tell us that effective police action can be very successful. The capacity of the police to absorb casualties inflicted by the insurgents is relatively low but it can play important complementary role to the army and para-military forces in tackling the situation. The army should, however, as far as possible, not be used for day-to-day policing. Such a role is not the function of the armed forces and by using them for such purposes we can only succeed in beating these forces, our ultimate force in the eyes of the people. This is not fair to our gallant armed forces. The present situation in Manipur, particularly in the valley where the army has almost taken over fully the subordinate role of the police in dealings with the activities of the Meitei extremists, is largely due to the failure of the police itself. This is due in no small measure because of its own weaknesses, particularly because of the wrong personnel policies, and political and bureaucratic interference in its day-to-day functioning. The police must be organised on proper lines and it must be allowed to play its legitimate role. In addition we recommend the following measures to deal more effectively with the problem of insurgency :—

- (i) The police should concentrate more on the border areas and those areas which are known for providing shelter to the extremists. There is no point in spreading the police too thin over a large area. Best use should be made of the available resources.
- (ii) The police should be given modern arms and ammunition, instead of the antiquated .303 rifles. The insurgents are armed with modern automatic weapons.
- (iii) Identity cards should be issued to all male members of the population over 16 years of age. The identity cards should carry an attested photograph of the person concerned. These should be renewed at regular intervals.
- (iv) There should be strict control on the sale and stock of explosive material. The places where explosives are stocked should be provided with adequate security.
- (v) There should be very stringent control on the possession of arms and ammunition. There are large number of unlicensed arms in the area and every effort should be made to capture them.

(vi) One important aspect which is not given the importance it deserves, is public relations. This is a big mistake. The insurgents depend for their survival on the support they receive from the local population. The extremist elements through false propaganda try to create a feeling of hostility against the security forces. The police and the security forces operating in the area should have a separate public relations department. It should be the responsibility of this department to counter any propaganda bringing the police and the security forces into disrepute by readily and truthfully giving to the media the correct facts of incidents and situations. Positive steps should be taken to win over the confidence of the people.

(vii) Murder of any government official or looting of any public property should be severely and promptly dealt with. Misplaced sympathy or any delay in taking firm action can do a lot of damage in lowering the morale of the public, police and the security forces.

Intelligence set up

59.18 The success or failure of operations against the insurgents will depend largely on how successfully the extremist elements can be identified. This in turn will depend on how promptly and correctly the intelligence agencies are able to collect information about them. At present this responsibility is being shared by many intelligence agencies. The Intelligence Bureau, the army intelligence, the Border Security Force, the R & AW, the SSB, in addition to the local intelligence set up have all been operating in this region. It has been brought to our notice that due to lack of coordination, at times these agencies have been functioning at cross purpose, instead of working towards a common objective *i.e.* identification and capture of the hostile elements. Rivalries among junior functionaries of these agencies, have been hampering the operations against the insurgents. There are reports that at times even the sources of one agency are exposed and threatened by the other. We were informed that in one insurgency torn Union Territory the source of one of the agencies escorted by their intelligence officers was forcibly kidnapped along with the officers by the officers of another agency. This situation is exploited by the hostile elements. There have also been cases where clever sources have taken more than one agency for a ride. It is absolutely essential that the work of all these agencies as its members should be constituted by the level of the Lt. Governor in the Union Territories and at the level of Governor in the States. A coordination Committee with the representatives of all the agencies as its members should be constituted by the Governor/Lt. Governor. This Committee should meet as frequently as possible and at least once a month to take stock of the current situation, compare notes, and plan new strategy. All information should be conveyed directly to the Lt. Governor or the Governor for appropriate action or instructions instead of routing it through their own headquarters as is the practice at

present. Any delay in passing an information renders it sometimes absolutely useless, because by the time the information filters down to the operational level, the extremists have already managed to slip away or move away from that area.

Personnel policy

59.19 Wrong choice of personnel posted to these areas is one single most important cause of the administrative and police failures. Some of the senior and middle level officers have conducted themselves in a manner which has brought the whole administration into disgrace. The posts in the North-East are considered as punishment posts and officers with bad record, who have to be got rid of are usually sent there. These officers from the day they join their place of posting in the North-East are disgruntled and take little or no interest in their work. Some of them have taken to heavy drinking and other bad habits unbecoming of an officer. How can such officers be expected to instil confidence in the minds of the people? Quite a few of them have no knowledge either of their area or the people. The fact that more discretion has to be allowed to the officers at the operational level in these areas and because of the importance of the police problems it is imperative that only the best officers of the highest calibre are posted to this region. To attract the best available talent it is no use appealing to their patriotism alone. The posts will have to be made much more attractive so that suitable and talented officers with vision and enthusiasm volunteer for them. The present additional allowances and other facilities provided to them are most inadequate. These will have to be improved. Posting in these areas should be a plus point in an officer's career. In some recent cases the government has not cared to look after the officers on return from a successful tenure in the North-East. Some of them on return found themselves without any job for months and had to cool their heels till they could be adjusted into some insignificant post. This has proved as a great deterrent to officers posted to these areas and has also denigrated the prestige of the posts in the North-East. Consequently it has become a problem to find suitable willing officers for these posts. Those posted to those areas make all types of excuses and pull every possible string to get out of these postings. Some of the posts remain unfilled for months and years because one after the other the officers posted to them manage to get their posting orders cancelled. A more imaginative personnel policy is the basis of a sound administrative system. Even in countries like the Soviet Union officers posted to Siberia and other difficult regions are paid much higher allowances and perks as compared to similar posts in the Moscow-Leningrad-Kiev. region, which is the most developed area in USSR. We strongly recommend that the following steps should be taken to make these posts attractive :—

- (i) Generous additional allowances should be sanctioned for all posts in the North-East. This should be at least 50% of the basic pay available to the officer in his own cadre.

- (ii) One free passage for the officers and their families should be given once a year for travelling to their home State and back.
- (iii) If in spite of general allowances/perks senior officers in the same grade show unwillingness to go, comparatively junior officers can be sent on rank promotion. To avoid any malpractices the refusal of senior officers must be in writing.
- (iv) A scale of suitable allowances should be fixed for hostel subsidy up to a maximum of 2 children.

59.20 We further recommend that similarly the tribal officers from this region should be encouraged for postings outside the region. The present rules are such that tribal officers when posted outside the tribal area suffer loss in their emoluments and other facilities. They not only have to pay income tax when posted outside the tribal area, which they do not have to pay when posted in the tribal areas, but also lose some allowances which they are entitled to when posted in the tribal areas. This is an anomaly and a disincentive which should be removed. The tribal officers should, when posted outside the tribal areas, continue to enjoy the same emoluments and facilities as they are entitled to when posted to the tribal region.

Recruitment

59.21 In recent years there has been a big increase in the strength of the police, but the recruitment at various levels of the police force has been done in a very haphazard manner. This has not helped in improving the efficiency of the police. There are complaints of nepotism and corruption. Because of the small population the evil of nepotism is much more widespread in these areas. Rules should be framed for recruitment at all levels, and there should be no departure from the norms laid down in the rules. To make it a homogenous force, as far as possible persons from all tribes and sections in the area should be recruited. We have separately dealt with the subject of armed police later in the Chapter.

59.22 Because of the rapid expansion little or no thought has been given to the promotional policy. While in some cases the promotions have been very rapid, in other cases after the first few years there is complete blockade, with the result that considerable frustration has been caused. Executive and political interference in the internal administration of the police department, which is on a much larger scale in these areas than in the rest of the country, has further affected its morale and efficiency. In Manipur the interference in the police administration has gone to such an extent that the Inspector General cannot promote even an Assistant Sub-Inspector without the consent of the State Government. The State Government is interfering in a big way in the postings and transfers of the officers at the lower and middle ranks. It is, therefore, not surprising that the morale of the police in Manipur is one of the lowest in the whole of the country. The job of policing recently had to be handed over to the army and this has its

own chain of undesirable consequences as discussed earlier. Things have come to such a pass that even in Imphal the army had to be called in to deal with the law and order situation.

59.23 Lack of supervision at various levels is another cause for inefficiency and indiscipline in the police force of this region. Poor means of communications no doubt make touring of the interior areas somewhat difficult but it should be possible for officers to do much more touring than they have been doing with the available means of communication. At present helicopters are being used exclusively for the VIPs and by the army. There should be closer cooperation between the police administration and the army and the air force, so that full use is made of the available helicopters which frequently go empty. The police should be allowed to share this facility without adversely affecting the needs of the army. The present instructions restricting the use of the empty seats only to the army officers should be revised to include the police officers as well.

Training

59.24 Another important cause of the police failures is poor training of its personnel. The training facilities are most inadequate. In most of the States and the Union Territories after the initial training, which is mostly done outside the region, hardly any other training is given. Recently, the North-East Council has started a police training school at Barapani near Shillong. In our view it would be desirable to increase the training facilities at Barapani and it should be possible for this centre to cater to the needs of all the Union Territories and the States in this region except Assam, which can have its own training institution. In addition, all the States and the Union Territories should have their own training institutions to run pre-promotional and refresher courses. Anti-insurgency measures should form an important part of the training syllabus.

Armed Police

59.25 In addition to the local armed police, the army, and the para-military forces are deployed in large numbers in these areas. The para-military forces, though under the operational control of the local police Chiefs are not under their disciplinary control, with the result that they have no commitment to the task and are not result oriented. On the other hand the local police tries to pass the buck on to the para-military force and they, specially the Central Reserve Police Force, have become very unpopular in this region. Unless these forces can be motivated to show initiative and drive in dealing with the hostile elements it would not be possible to deal with the insurgents and other complicated problems of law and order. The Border Security Force, the Central Reserve Police Force and the Assam Rifles have tremendous potential. There was a time when the Assam Rifles were the backbone of the law and order machinery in this area. This momentum due to lack of coordination and commitment has been lost over the years. Most of the para-military battalions, it is

complained, only prepare for the visits of their own senior officers, who live hundreds and sometimes thousands of miles away and come to visit their battalions once a year and that too during fair weather. They have absolutely no interest in the performance and the results achieved by these battalions. Most of the para-military force outposts have literally become static outposts; they are not running patrols or collecting intelligence to capture the insurgent, arms and ammunition. The local police chief, in our opinion, must have operational and disciplinary control over these forces. There should be close coordination between them, the local police, the army and the intelligence agencies.

59.26 To ensure that local pressures do not adversely affect the efficiency, morale and discipline of these forces, we recommend that Article 371A(1)(b) which enables the Governor of Nagaland to have special responsibility for the maintenance of law and order, should be extended to any other state when the problem of insurgency raises its head. It should be possible for the Governor or the Lt. Governor to use his personal judgement in discharging this responsibility. He should no doubt, consult the Council of Ministers before making his decision, but the Council of Ministers should not be able to question his judgement.

59.27 At present quite a few battalions of para-military forces have been deployed in this region more or less on a permanent basis for the last many years. For obvious reasons this is not a very satisfactory arrangement. This task will have to be taken over in due course as the situation improves by the regional armed police. We recommend that instead of recruiting the armed battalions for each State or Union Territory a North-Eastern Rifles or Armed Police should be constituted for the entire region on the Central Reserve Police Force pattern. Recruitment to these armed battalions should be done from all the 7 States and Union Territories. This should be a composite force for the entire region. They should be rotated under the orders of the Governor of the North-East, or the Ministry of Home Affairs if it is later decided to have more than one Governor in the North-East, every three years. These battalions when posted in a State should be completely under the operational and disciplinary control of the local Inspector General. The present battalions of the Assam Rifles and the State armed police will have to be reorganised to convert them into the North-Eastern Rifles or the Armed Police, whichever nomenclature is preferred.

Border areas and infiltration

59.28 Policing the long stretch of borders along the international boundary is a major problem in this region. There are reports that some of the neighbouring countries, not very friendly to us, are supporting the extremists. The explosion of population in Bangladesh is spilling over into the neighbouring States of Assam, Tripura, Meghalaya and Mizoram. In Tripura the tribals have become a minority in their own land. This fear is haunting the

Assamese and people of other States in the region. Mischievous elements, with direct or indirect support of some foreign powers are exploiting this fear to create conditions of destabilisation by fanning separatist demands.

59.29 At present the borders are being policed by the Border Security Force, the army and the Assam Rifles. In the interest of more effective policing and better coordination, we recommend that the entire border should be policed by the Border Security Force. The army will, of course, have to continue its supportive role. The distance between the existing border outposts is far too long and needs to be reduced to improve their effectiveness. Many more border outposts will have to be set up within reasonable distance of each other depending on the terrain and other factors, such as road links etc. The difficult terrain makes it very difficult to check the movement of the insurgents. The border police has to play an important role in fighting insurgency. All the forces deployed at the border, should be trained in the anti-insurgency measures. Policing in the North-East cannot be done in water tight compartments. We would emphasise once again the need for very close coordination between all the agencies operating in the area. In the task of dealing with the infiltrators coordination between the Border Security Force, the police and the civil administration assumes special importance. The problem of infiltration has to be dealt with firmly and with all the resources at our command. The problem of Chakma infiltrators from Chittagong Hill Tracts in Bangladesh into Mizoram needs to be dealt with immediately before it gets out of hand. This problem is further complicated by the fact that Chakmas are fighting their own battle as "Shanti Bahini" against the Bangladesh Government.

59.30 Smuggling is another problem which has already assumed serious proportions in Manipur. There are complaints of connivance by the police and at the political level. A vested interest has developed among the police, the politician and the extremist elements. In some border areas the insurgents are reported to be organising smuggling to finance their underground activities. The border police has an important role to play in tackling this evil which is adversely affecting the morale and functioning of the police and the civil administration. But it will not be possible to tackle this problem without close cooperation between all concerned, including the border police.

Anti-corruption

59.31 One of the main reasons for the widespread corruption is that the administrative infra-structure is too weak to control effectively the huge expenditure being incurred on the developmental activities and in running the security operations. In the absence of social sanction against corrupt methods, which are helping the hostile elements, there is no other alternative except to strengthen the anti-corruption machinery. There is need for reorganising and strengthening both the state anti-corruption branches and the zonal office

of the Central Bureau of Investigation. The anti-corruption branch should not be used for dumping the unwanted, corrupt and the inefficient police officers. Only experienced investigating officers with unimpeachable reputation of integrity should be posted to the anti-corruption branch. Special judges to try these cases expeditiously should be appointed within the State, instead of sending them for trial outside the State, as is the practice in some of the States. The audit machinery should also be strengthened. Accountant General's office is located at Gauhati. This arrangement has not been functioning very effectively. Without proper supervision their teams of officials which go on tours to these States and Union Territories from Gauhati are very perfunctory in their work and there is hardly any follow up of the defects found during the audit. In the absence of the audit reports investigation of the anti-corruption cases are sometimes held up for years.

Jails

59.32 The conditions of the jails in the North-East are uniformly deplorable. They are mostly housed in makeshift temporary buildings without proper security arrangements. There have been a number of attempts, quite a few of them successful, at jail breaking. All the hard work that goes into the arrest of an extremist comes to naught, when the insurgent manages to escape. Moreover, the existing jails are so crowded that all types of prisoners are put together in these temporary structures. The dangerous criminals are getting mixed with the ordinary criminals. The security arrangement need to be tightened. Some of the jails are being used to propagate the extremist philosophy and have become sources of recruitment for the insurgents. Proper jail buildings should be constructed without any further delay.

59.33 The problem of policing in the North-East is very complex. The police which is still a young force in this region should be organised on the right lines. It need not blindly imitate the police set up as it exists in the rest of the country. The social, cultural, economic and political structure in which the police has to function is so very different in this region. While tackling the many sensitive law and order problems, the administration should not interfere unduly with the traditional tribal customs, laws and institutions. The tribal sense of identity should not be threatened under the garb of introducing a modern system of policing. On the other hand efforts should be made to strengthen some of the tribal institutions like "Gaon Burras" and village councils, so that they can play a more useful role even in the future. At the same time such an infra-structure should be built in the police which would be able to cope with the problems of crime and criminals in this area as they increase more and more with the increased tempo of the economic and political activities. A comprehensive new Police Manual taking into consideration the special features of these areas should be drafted for the North-East. There is no point in extending an already out of date Police system here.

CHAPTER LX

SUMMARY OF OBSERVATIONS AND RECOMMENDATIONS

Organisation and structure of police

60.1 In restructuring the existing police system, a very high priority should be given to the strengthening of the basic unit of all police work and policing the Police Stations. As Police Station is the most important unit of the police administration, the public expectations from the police can only be fulfilled if the public are satisfied with the integrity, professionalism, fortitude, impartiality, promptness in the services rendered by the jurisdictional Police Stations. The fulfilment of the organisational roles of the police departments will have its acid test at the level of Police Station and so any reform to strengthen policing either for rural or urban area should start at the organisational, location and working of the Police Station.

(Para 50.2)

60.2 In order to earn the acceptance of the people, prevention and detection of crime and handling public order situation, which are onerous duties, should be performed efficiently by the Police Station staff. Efficient performance of duties cannot be achieved merely by addition or creation of specialised units in the organisation as the basic problems will have to be tackled at the level of Police Station. The Police Stations have to be strengthened and made effective and the integrity, professional competence and impartiality of its members have to be improved. It is only then that the public expectations of a high quality of professional work and conduct from police will be fulfilled. Effective civil policing would be in a better position to interact with the public and reduce the need for any large scale expansion of armed police.

(Para 50.8)

60.3 Strengthening of the police ranks at the level of ASIs, SIs, Inspectors, Dy SP will contribute to more efficient public service only if these ranks are freed from political interference and high standard of integrity is ensured. Professional knowledge etc. needs to be improved by training, periodic refresher courses and job supervision as have been recommended in the Fifth Report.

(Para 50.9)

60.4 Police Stations in rural areas are too few and far between and have a very vast and unwieldy jurisdiction. With vast jurisdiction, beats and patrols also become unmanageable and consequently police presence and policing become diffused and diluted. In order to achieve the dual objective of crime

prevention and detection and establish community relations, the maximum number of men from the civil police force should be brought as close as possible to the community. If policemen are brought closer to the community they would be able to respond to public needs and expectations and serve the community better. They will be able to provide greater measure of security of life and property to the rural areas which are developing and growing in importance and activity. Better policing will be possible only if the jurisdiction of the large rural Police Stations are delimited and made more compact and manageable.

(Paras 50.10 and 50.11)

60.5 Police Station to be effective should be a whole and compact unit, adequate to respond to all needs and assume full responsibility for all the basic police tasks for investigation of crime, maintenance of law and order, traffic control in the areas. The jurisdiction should neither be so large as to defeat the very purpose for which it is created nor so small as to lead to considerable expenditure of resources on more house-keeping functions. The area of 150 sq. kms. for a rural Police Station may be adequate for the efficient function of a Police Station. Reduction in the size of large rural Police Station is likely to involve expenditure. But this appears necessary as a means for providing a greater measure of security to life and property in rural areas. In urban areas, besides other factors, population density of the community should be one of the main considerations in determining the establishment of Police Station. If the population in any given area exceeds 60,000, it is necessary to bifurcate and carve a new Police Station by delineating the jurisdiction of neighbouring Police Stations. From the crime point of view if a Police Station registers more than 700 crimes annually, another Police Station may be created by rationally adjusting the boundaries of the Police Stations in the neighbourhood.

(Paras 50.12 and 50.13)

60.6 Urban areas should have exclusive Police Stations and it is not desirable for a Police Station to cater to both urban and rural areas.

(Para 50.14)

60.7 In order to meet the needs of policing there should be a review every 10 years of the jurisdiction of Police Stations. Whenever new Police Stations are sanctioned or the jurisdiction altered and notification under section 2(S) Cr. P.C. constituting the Police Station should be issued promptly.

(Para 50.15)

60.8 Police Stations may be broadly divided into three categories depending upon the number of crimes to be investigated, the area in which law and order have to be maintained and the population which they have to serve. The first category will be a few of the biggest Police Stations in cities investigating over 900 cognizable IPC offences with a Dy. SP/ASP as SHO; the second category will be Police Stations in cities and towns and even in rural areas investigating over 300 IPC offences per year where the SHO should be an Inspector and the third category will consist of smaller Police Stations headed by SI. The main criterion for the formation of the Police Station should be the number of IPC offences investigated, population, area, law and order problems, traffic and other problems, etc.

(Para 50.16)

60.9 More compact Police Stations can accomplish better results and ensure closer working relationship and direct control of the SHO. There will be no need also for creation and proliferation of Police Outposts. However, in areas where the terrain is difficult because of mountains, thick forests or where communications are poor due to rain or snow, Police Outposts may have to be established as feeder points between the community and the Police Station. The establishment of Police Outposts should be with a view to achieve desired level of policing in any particular areas for reasons of proximity to border or frequent occurrences of disorder or crime or inaccessible topographical features and not to serve or fulfil the desires of influential persons. A Police Outpost should be enabled to register first information report as and when information or complaints about offences are lodged with them direct.

(Para 50.17)

60.10 The deployment of police personnel in law and order duties at the expense of investigational work in Police Station arises primarily from inadequacies of manpower resources at the Police Station. There is not always a separate allocation of staff on law and order duties and this makes heavy demands on police manpower resources. It is necessary to assess manpower requirements for law and order duties separately in the light of our experiences in the 1970s and allot staff. Once adequate manpower resources are available at the Police Stations, the need for utilisation of investigation staff for law and order duties may not arise so frequently as is presently taking place.

(Para 50.21)

60.11 Placing the two branches, namely, crime investigation and law and order in water-tight compartments has obvious disadvantages. With totally separate lines of command and control for law and order and crime investigation wings, the contact between these two wings tends to be practically eliminated resulting in their isolation from each other. SHO of the Police Station should have an overall control and responsibility for all the police tasks within the Police Station limits and this should be no

S/5 HA/82—12

circumstances be diluted by making the crime investigation wing of the Police Station answerable to hierarchies other than the SHQ. The division of duties and functions at the Police Station level should not be carried too far as to make the Police Station appear as a house divided into separate water-tight compartments. The main object of stressing the functional aspect is to ensure that adequate time and attention is given to investigational work which are tending to be neglected due to frequent diversion of staff for law and order duties.

(Para 50.22)

60.12 The need for patrolling in all beats is not the same. Some beat require patrolling during certain hours of the day, while certain beats require longer hours and some round-the-clock.

(Para 50.24)

In order to establish good relations with the public, render help to public who are in distress, promptly obtain all information of interest, undertake surveillance work over suspects and known criminals, all rural and urban areas, should be divided into convenient beats and specific number of policemen should be put incharge of each beat. The advantages gained by having an effective beat patrolling system would be invaluable.

(Para 50.25)

The policeman incharge of beat work have to be of higher quality, and intelligence than those who do this work at present. They should be aware of the social milieu in which they work.

(Para 50.26)

Prevention of crime and surveillance work are important aspects of police work and call for considerable planning at the Police Station level. At present this function is neglected and crime prevention programmes are resorted to in a casual and erratic manner without any reference to crime potential and frequency in the region.

(Para 50.27)

60.13 The general pattern in most of the States is for as SI of Police to be the SHO of the Police Station regardless of the importance and the quantum of staff manning the Police Station. As the Police Station has to function as a static base for preventive and investigative functions and also as a point of contact between the community, the SHO has to be an officer who can inspire his officers and men and at same time create the right kind of atmosphere under which they can work for the achievements of the organisational goals. A better and higher degree of leadership is required at the Police Station commensurate with the status and importance of the Police Station, the staff posted and the number of crime registered.

(Para 50.28)

60.14 In the restructured hierarchy, all Police Stations with a crime figure of 300 IPC offences and above and important Police Stations requiring sizeable manpower should be placed under Inspectors. In

Police Stations with a crime record of over 900, no officer below the rank of Dy. SP/ASP should be the SHO. Officers with proven ability and integrity should be posted as SHO.

(Para 50.29)

60.15 The officer posted as Officer-in-charge of the Police Station should be designated as Station House Officer to distinguish him from other subordinate officers, who also can become officer-in-charge in the absence of permanent incumbent from the Police Station. The officer next in seniority to the SHO who may be an Inspector or Sub-Inspector, as the case may be, should be designated and posted as second officer of the Police Station. Both the SHO and the second officer will share responsibilities, allocate duties, monitor manpower requirements and utilisation functions which are at present the most neglected duties in the Police Station.

(Para 50.30)

60.16 In order to ensure that the function of the Police Station is not depleted below the level of operational efficiency, adequate reserve for weekly day off, leave, training and emergent duties should be made available.

(Para 50.31)

60.17 The buildings housing the Police Stations are in a state of neglect lacking in the essential minimum needs and amenities for staff as well as the public. The existing dilapidated Police Station buildings should be reconstructed or remodelled along functional lines as per guidelines given in the booklet published by National Building Organisation (1967). The object should be to ensure that Police Stations have good accommodation and are properly equipped for its functions and are decent enough to receive the citizens of a free and progressive country. The staff on duty should be provided with rest rooms and suitable catering facilities should also be made available. A separate reception-cum-waiting room for visitors is also necessary. The lock-ups instead of the present dungeons with awful sanitary conditions should be such in which citizens can be kept without going through extreme hardship and discomfort. Adequate residential accommodation for the staff should be made available near the Police Station building. The Police Station building and its surrounding has to be made neat and clean to suit both the security needs and the aesthetic sense.

(Paras 50.32 to 50.34)

60.18 The civil police has to be so restructured that it is able to provide both adequate volume and quality of services to the people. The first basic need is improvement in the qualitative performance without embarking on an undue increase in strength and the same can be brought about within even the existing strength by larger numbers at middle levels of ASI/SI/Inspector offset by smaller numbers at the lower levels of constabulary. There may, however, be Police Stations where additional staff may be needed.

(Para 50.35)

60.19 There is urgent need for increasing the numbers of investigating officers. The principle of limitation has been introduced for the first time in the Indian Criminal Law and has been enumerated in Chapter XXXVI of Cr. P.C. 1973. This also underlines the need for speedier investigation. Quickness and efficiency with which individual crimes are investigated by the police with apprehension of offenders and return of lost properties to the victims of crime will determine the police image. The only way to win the trust of the people and refurbish the image of the police is for the Police Station to render expeditious aid to the people who have suffered harm or damage or are in danger.

(Para 50.36)

60.20 With correct registration of crime and coming to the aid of the people in trouble, the people will start looking up to the police and the Police Station as a friend in need. Once such a rapport is established, necessary cooperation and support from the people will be forthcoming. The increased registration of cases and their investigation would necessitate considerable increase in the number of investigating officers and middle level officers. Increased numbers at the middle level and an officer orientation of the organisation would enable the police and the Police Station to meet the situation brought about by changing socio-economic scene and shifting values in society in a more competent, effective and above all courteous and honest manner.

(Para 50.37)

60.21 The proportionate increase in the ranks of ASIs, SIs and Inspectors will achieve three important objectives—providing substantially large number of investigating officers for handling individual crimes and detect them to the satisfaction of individual victims of crime; providing motivational incentive in the shape of improved promotional opportunities and avenues within the police system; providing greater number of personnel at the middle level without much additional financial burden.

(Para 50.39)

60.22 The people expect from the police a certain capability for response both to act as a deterrent to potential criminals by bringing the culprits to book and to enhance their own skills of investigation. Police will be required to pay the required degree of attention and promptness in the conduct of investigations. Manpower commensurate with the volume of work should, therefore, be available at the Police Stations and each State should set up a Committee aided by Organisation and Method personnel and operational Research personnel to work out suitable norms.

(Para 50.40)

60.23 Operational research must be taken up by every State Police Force to evolve new norms of yardstick based on the new job content of the posts of various ranks. The requirements for investigation, law and order, traffic and other police duties differ from State to State. Each State will have to evolve its own yardsticks keeping in view their own needs.

(Para 50.42)

60.24 In this context our study of the existing duties and responsibilities of personnel at the various ranks has revealed that every higher rank tends to assume only more and more supervisory roles without much operational responsibility. Supervisory functions must be limited and only incidental to the operative field function of each rank. It is the operative job content which needs to be developed in each rank. Every State should undertake an exercise to re-design the job contents of the existing ranks of Constables, Head Constables, Assistant Sub-Inspectors, Sub-Inspectors, Inspectors and Deputy Superintendents of Police. The restructured police hierarchy will have four levels.

(Paras 50.46 and 47)

60.25 Our broad approach in recommending restructuring of the existing 6 basic ranks of Constable, Head Constable, Assistant Sub-Inspector, Sub-Inspector, Inspector, Deputy Superintendent of Police in the Civil Police into 4 levels is designed to ensure that the structure is so organised that not only does it cater to the operational requirements of the civil police for a larger number of investigating officers in levels two and three but also that the structure will make it possible for every employee at a given level normally to get promotion and a higher level after a specified period subject, of course to fitness and suitability.

(Para 50.48)

The restructuring of the civil police into 4 levels, providing for a more or less automatic promotion within each level, to every employee who is found to be fit, will lead to the following promotional prospects :

- (i) Promotion of constables by horizontal movement to the rank of Head Constable after 8 years of service subject to the rejection of persons with unsatisfactory records.
- (ii) Selection to the rank of Assistant Sub-Inspector from Constables and Head Constables who have completed a total period of 6 years of service and above. They will be required to compete in a promotional examination of a high standard. The examination would be so designed that the candidate can give evidence of his academic competence, and knowledge and understanding of police work.
- (iii) The promotion of Assistant Sub-Inspectors to the rank of Sub-Inspectors in the second level would be again by horizontal movement after 5th year of service as Assistant Sub-Inspector. We expect all Assistant Sub-Inspectors to get promoted as Sub-Inspectors subject to the rejection of those with unsatisfactory record of service and physical unfitness.
- (iv) The selection to the rank of Inspector in the third level from Sub-Inspectors in the second level would again be made from those who have completed a minimum of 6 years service and undergone a pre-promotion course of a

high standard. The pre-promotion course will be designed to improve the knowledge of Sub-Inspectors in law and procedure of police work besides developing their investigational capacity. After this pre-promotion course the aspirants for selection to the rank of Inspectors will have to undergo a competitive examination at which suitable weightage will be given to performance at the written examination, evaluation of the ACRs, personnel interview and physical fitness.

- (v) One fourth of the total number of posts of Inspectors should be designated as selection-grade level posts to which every Inspector will get appointed under the criterion of seniority-cum-good record.
- (vi) Selection to the rank of Deputy Superintendent of Police will be from the rank of Inspector from among those who have completed 6 years of service as Inspector. One fourth of the total number of posts of Deputy Superintendents of Police in each grade should be operated in the rank of Additional Superintendent of Police. The appointments to the grade of Additional Superintendents of Police will also be on the basis of seniority-cum-fitness.

(Para 50.49)

60.26 A bright constable for promotion to the rank of Assistant Sub-Inspector need not necessarily have to pass through the rank of Head Constable. Since the selection to the rank of Assistant Sub-Inspector would be by a competitive examination, it will be possible for a really bright constable to reach the ranks of Assistant Sub-Inspector directly. Similarly a bright and able Sub-Inspector can get selected as Inspector after serving for a period of 6 years as an Assistant Sub-Inspector/Sub-Inspector since the selection to this rank will be through a competitive examination on the criterion of merit only. In the other ranks within the same level viz., Constable to Head Constable, Assistant Sub-Inspector to Sub-Inspector, Inspector to Deputy Superintendent of Police we would like the promotion to be on the simple criterion of seniority-cum-fitness.

(Para 50.50)

60.27 A study was conducted by the Administrative Staff College of India, Hyderabad, at our instance. They have suggested that the personnel from the rank of constables to Deputy Superintendent of Police will have a smooth promotional flow within the system if the total number of persons in different categories are fixed according to the ratio of—constable and Head Constable—45%, Assistant Sub-Inspectors and Sub-Inspectors—32% Inspectors—16% and Deputy Superintendent of Police and Additional Superintendents of Police—7%. These ratios in the different categories are in the nature of the ideal expected to be attained in the process of restructuring and the same

may be kept in view or each State may have a computerised analysis done taking into consideration various input data, namely rankwise strength of police personnel, age of retirement, minimum qualifying service for promotion from one level to another and other relevant variables and determine the relative proportion of posts required at various levels.

(Para 50.51)

60.28 The institution of Circle Inspector of Police wherever it exists should be abolished and supervision, coordination and monitoring the performance of Police Station should develop on Deputy Superintendent of Police or ASP as Sub-Divisional Police Officer. He should be the principal supervising officer of investigation of cases, crime control measures, surveillance system and documentation work etc. in Police Station. He should visit Police Station in order to ensure that all crimes reported at Police Station are registered and all officers conduct their investigation with speed. He should provide the necessary guidance in investigation of difficult cases and will also be required to make a detailed inspection of Police Stations. Keeping in view his duties, Sub-Divisional Police Officer may not be able to supervise the work of more than 3 Police Stations or 1200 IPC cases. Supporting staff like typist and reader Sub-Inspector should be provided.

(Para 50.54—50.55)

60.29 In a service like police the integrity of the personnel should not only be kept at a high level but the people's confidence in their integrity should be created and continuously maintained. The statements of the assets of the officials especially of the rank of Inspectors and above may be made available for public scrutiny so as to provide an opportunity to the public to bring to the notice of authorities any false or fraudulent statement made by corrupt officials. The modalities of this exercise have to be spelt out clearly and in careful detail so that honest and straight forward officials are not subjected to harassment and humiliation by unwarranted allegations from mischievous elements

(Paras 50.56 to 50.58)

60.30 The entire exercise of confirmation of police personnel in every grade only generates considerable paper work and takes up a lot of time all-round. Every official should be deemed to be permanent and confirmed in the grade of his appointment automatically on the completion of 3 years of satisfactory service in that grade. If any official is considered unfit for confirmation in that grade, steps to revert or discharge him should be taken well before the expiry of the period of 3 years. This will give the officials a feeling of security and place responsibility on the superior officers to review each case before the expiry of the period of 3 years, if in their view the official concerned is unfit to hold the rank to which he was appointed.

(Paras 50.61 and 50.62)

60.31 In view of the vesting of all powers in the District Superintendent of Police for the regulation, control and promotion of order in the district, as recommended in Chapter XXXIX of our 5th Report, the Deputy Inspector General is required to play a more positive role in the functioning of districts under their control. He has to operate as the coordinating authority between the districts and also required to play an important role in the planning and modernising of the force. He must be sensitive judge of public opinion and would be an appellate forum both for the public and for the staff. In order to enable Range Deputy Inspector General to discharge his new functions efficiently he will not be able to supervise the work of more than 5 districts establishments.

(Paras 50.63 and 50.64)

60.32 The present charge of the Inspectors General of Police in some of the major States is very unwieldy. With the present day complex and difficult law and order situation, it is obvious that for an Inspector General to function well he should have only a manageable charge. For adequate supervision, larger States should have Territorial Inspectors General who should not have more than 15 to 20 districts or 4 to 5 ranges under his charge. The armed battalion, of the range, should also be placed under the operational charge of the Territorial Inspector General.

(Para 50.65)

60.33 In matters concerning police personnel in the organisation, exercising of disciplinary control over them, the financial management of supplies and purchase, and providing the infrastructural facilities for the growth and well-being of the force, the role of the Chief of the Police should be considerably enhanced and strengthened. The internal management of the police force in the States should fall entirely within the purview of the Chief of the Police. To relieve the Chief of State Police in bigger States of much routine work for better supervision, Territorial Inspectors General of Police for districts and Functional Inspectors General of Police for specialised branches like intelligence, armed police should be in position so that the Chief of Police can devote himself to the important, but so far neglected, tasks of planning and strengthening the police organisation. To coordinate the functioning of these multifarious Territorial and functional Inspectors General of Police in the States, the Chief of Police of the State may be designated as Director General. The Director General will have for purposes of command and control the benefit of enhanced participative association from his senior colleagues to the maximum extent on a functional and territorial basis. The Inspector General of Police and the Directors General should be persons of high integrity and ability so that the officers and men have great respect for their knowledge and confidence in their ability to improve the force in their respective controls.

(Paras 50.66 to 50.69)

60.34 One of the criteria for jurisdiction of posts at various senior levels should be the number of cases registered and investigated. A study conducted at our instance has revealed that if an Investigating Officer puts 10 hours of work daily and is available for duty on 300 days in a year, then 3000 hours of work will be his out-turn in a year and he will be able to investigate different units of work-load of different categories of cases in metropolitan city, urban and rural Police Stations. The study revealed that the officer can investigate 50 to 60 cases in a year. On a broad basis, investigation of cases cannot be the only criterion and the other criteria of compactness of charge, strength of the force, problems etc. are equally relevant and should be kept in view.

(Paras 50.71 and 50.72)

State armed police battalions and district armed reserve

60.35 The scale of officering has a great significance in an armed unit particularly when it is put on sensitive law and order duties. It is necessary that the commander of even the smallest unit of an armed battalion, which is put on duty, is an officer with adequate experience and seniority. Without proper leadership, men may over-react to a situation or even feel emboldened to behave improperly and brutally.

(Para 51.6)

60.36 We feel that a unit performing a law and order duty, with arms, should not be split into less than a section strength, though it could be utilised in the strength of half-sections if working without arms. In either case, the Commander of a section should be an officer of a rank not less than that of an Assistant Sub-Inspector. It will also be appropriate if each section has two head constables who could lead the half-sections whenever men are deployed in half-sections.

(Para 51.7)

60.37 While the platoon can continue to be headed by a sub-inspector, there are distinct advantages in a company being put under the charge of an ASP/Dy. SP. A company is the most common unit which is deployed in the districts. An ASP/Dy. SP as the commander of this would find it easier to liaise with the district authorities, ensure the welfare of his men and provide on-the-spot leadership at an appropriate level. The second-in-command of a company could be an Inspector. A battalion should also have a Deputy Commandant to assist the Commandant in the administration of the unit.

(Para 51.8)

60.38 A DIG should be provided for 5-6 battalions, and if there are more than two DIGs, the armed battalions should be headed by an officer of the rank of an IG. Such an officer should be made effective by giving him all the normal financial/disciplinary powers of an Inspector General, leaving only the overall supervision to the IG or DG incharge State Police.

(Para 51.9)

60.39 Services of the officers commanding the armed battalion contingents were often requisitioned by the district administration and they were posted as Area Officer or Duty Officers—thus depriving them of the opportunity to be with their men, lead them—guide them and keep them under control. This practice should stop. Officers of a particular unit must invariably accompany their unit and be allowed to remain with their men. Such officers should have to explain if they are found absent from the scene at a crucial moment.

(Para 51.10)

60.40 In a number of States, officers with an indifferent record of service or unsavoury reputation are often posted to the armed wing. Treating the armed battalions as the dumping ground of sub-standard personnel is an approach which must be given up.

(Para 51.11)

60.41 In armed police also the direct intake at the intermediary levels of Sub-Inspectors and Dy. S.P. should be phased out gradually. All the recruitment at the initial stage at the level of constable be made in the armed police and after a recruit has served in the armed police for three years, he should be eligible to shift to civil police, depending upon his aptitude and professional competence, to be tested through an examination. Every constable of the armed police, who is desirous of moving to the civil police, should be given two chances to get selected for transfer to civil police on completion of three years but before completion of five years of service. Those who do not succeed should remain in the armed police. It will keep the armed police comparatively young. It will provide an opportunity to everybody in the civil police to be a part of the armed police at one stage. That will remove the hiatus that often develops between the armed and the civil wings.

(Para 51.13)

60.42 In case it is not possible to fill all the vacancies of constables with High School pass candidates, candidates of the Scheduled Castes and Scheduled Tribes with even lower educational qualifications may be recruited with a stipulation that they shall pass the High School examination within a specified period, failing which their appointment will not become substantive and they will be liable for discharge from service. In such cases, the department should provide the necessary facilities to enable the recruits to prosecute their studies and come upto the standard.

(Para 51.14)

60.43 As the initial entry of every recruit will be in the armed police for the first three years of his service, he should be equipped during the preliminary training for the performance of all the armed duties including duties performed in aid of civil police. This course will have to give a heavier emphasis on the techniques of individual and collective interaction with the public and thorough knowledge of constitutional and legal rights of the citizens. Those, who move to civil police, before they join, should be put

through a re-orientation course to prepare them for the new tasks. A long course will not be necessary at this stage as there is considerable overlapping in the job content for the armed and civil police. Considerable stress needs to be laid on courteous and impartial behaviour free from any kind of prejudice and bias. It would be helpful if the conference of IsG reviews the training content periodically to bring about the required changes in the training content.

(Para 51.15)

60.44 Utilisation of such a highly trained force for routine police duties not only is a waste of the intensive training given to such men but it also makes the force ineffective. Such use of armed battalion men should be discontinued forthwith. If any shortages are noticed in the district allocation for handling such routine calls, the same should be examined and removed.

(Para 51.17)

60.45 Far too often more force is requisitioned than is absolutely necessary. The District Superintendent of Police tries to play safe and the superior officers also find it expedient to fall in line. Again the force once requisitioned is detained much longer than necessary. While no guidelines can be laid down determining the quantum of force required, as requirements will vary according to situation, it must be ensured that the demand is realistic. The superior officers should also feel free to prune the demand. The deployment should be made for a fixed time and unless the same is extended the force should return to Battalion headquarters.

(Para 51.18)

60.46 The need for annual refresher training should be fully appreciated. It is to keep men fit and confident for the job they have to do. A company should, as prescribed, be always under training and it should not be taken into account for purposes of deployment. An effort should be made to withdraw men from relatively unimportant duties and conserve force.

(Para 51.18)

60.47 A vigorous and faithful enforcement of law, without let or hindrance would reduce occasions when armed support has to be provided.

(Para 51.18)

60.48 An intelligent utilisation of home guards will also reduce pressure on the armed battalions.

(Para 51.18)

60.49 Shortages in equipments which affect the efficiency of the force need to be investigated periodically and removed.

(Para 51.19)

60.50 It would help if a Central enactment prescribing uniformity in the composition, officering pattern, equipment, disciplinary rules, etc. of the State Armed Battalions is passed. The Act should also provide for adequate legal protection to the members of these battalions against any suit or criminal proceedings for any act done by them in pursuance of a warrant or order of a competent authority and against any legal proceedings under the powers conferred by any such Act or rule made thereunder. Such an Act should place the superintendence and control with the State Government but should also enable the Central Government in an emergent situation to order deployment outside the State. Such a measure will make optimal use of available resources possible.

(Para 51.20)

60.51 The district police and its reserve should be the first means to face a situation. If they act quickly and are able to assemble their resources promptly, many situations which assume distressing dimensions will be controlled and the need for the State armed battalions as also for the Central forces will go down. As the requirements of the district armed reserve have not been reviewed now for quite some time, it is time that the same is done and the reserve is augmented wherever necessary.

(Para 51.21)

60.52 There appears to be no need to have a separate closed cadre of the district armed reserve. The sanction of the district armed reserved should be worked out in terms of platoons or companies and they should be provided out of an existing armed battalion for a specified period of time. On completion of this period, this force should be replaced. During their stay in the district, the force should be under the operational and the administrative control of the district S.P. Part of this force in the district could be distributed and placed at sub-divisional headquarters and police stations depending upon the requirements for the manning of the local guards, escorts and bandobust duties, etc. The fixed guards must be of the strength of half a section but they may be allowed to be armed.

(Para 51.24)

Delegation of financial powers to police officers

60.53 Full powers of reappropriation as at present available to the DGs BSE/CRPF within the total sanctioned budget grant should be made available to the Chiefs of State Police.

(Para 52.6)

60.54 Chiefs of State Police should have full powers for creation and continuance of temporary posts from the rank of constable to Dy. SP upto a period of two years, provided expenditure is within the budget allotment.

(Para 52.10)

60.55 All Chiefs of State Police should be delegated with full powers to make purchase and repair of motor vehicles. These powers should be exercised subject to the laid down financial procedure

(Para 52.11)

60.56 Chiefs of State Police should have powers to condemn motor vehicles and full powers to purchase, repair and condemn wireless equipment in their charge.
(Para 52.12)

60.57 The Chiefs of State Police should be delegated with following powers relating to repair and construction of buildings :—

Item	Chief of State Police	DIG	SP
	Rs.	Rs.	Rs.
1. For major and minor construction works	5 lakhs	1 lakh	50,000
2. Repair and maintenance	1 lakh	25,000	10,000

(Para 52.13)

60.58 As regards sanction of telephones (both office and residential), the Chief of the State Police should have the same powers as vested in DG BSF and DG CRPF. In respects of PSs and outposts, Superintendent of Police should be delegated with powers to sanction telephones, both for the office and the residence of SHO.

(Para 52.14)

60.59 Full powers in respect of purchase of furniture should be delegated to the Chief of State Police, who should make suitable delegations.

(Para 52.15)

60.60 Full powers in respect of purchase and repair of typewriters and other office equipment should be vested in the Chief of State Police. Norms should be laid down for the offices of DIG, SP and SHO and within these norms, they should be given full powers.

(Para 52.16)

60.61 The powers of the Chiefs of State Police to purchase locally stationery items should be raised to 20% of the total budget. The Chiefs of the State Police should in their turn delegate powers to the DIGs, SPs and also place suitable amount at the disposal of the SHOs. These powers should also be available for the local printing of miscellaneous materials including purchase of books and periodicals.

(Para 52.18)

60.62 The Chiefs of State Police should have full powers upto a maximum of Rs. 5,000 for grant of rewards in each case or occasion. The powers of DIG and SP similarly should be raised to Rs. 2,000 and Rs. 1,000 respectively in each case or one occasion.

(Para 52.19)

60.63 Full powers should be delegated to the Chiefs of State Police without involving the Accountant General for sanctioning permanent advance. He

should further delegate the power to the DIsG and SPs. The amount of permanent advance of each office including the PS should be fixed realistically by taking into account the actual needs.

(Para 52.23)

60.64 In order to enable the Chiefs of State Police to exercise enhanced financial powers effectively they should be assisted by a Financial Adviser of an appropriate rank.

(Para 52.27)

60.65 A contingency grant of about Rs. 1 lakh should be placed at the disposal of Chiefs of Police who may be empowered to spend a sum of Rs. 20,000 at a time for immediate relief in cases of large scale rioting etc.

(Para 52.28)

60.66 The Chiefs of State Police should be given powers similar to the DG BSF and DG CRPF in respect of other items in the schedule of financial powers of DG BSF and DG CRPF.

(Para 52.29)

Traffic regulation

60.67 The control of traffic, enforcement of laws and regulations to facilitate orderly movement of traffic and action to prevent and investigate road accidents are primarily a police responsibility.

(Para 53.1)

60.68 The regulation of traffic has two aspects, namely, regulation of traffic inside the municipal limits of a city, and regulation of traffic on the highways.

(Para 53.3)

60.69 The basic source of traffic problems in a city is the fact that there is a great concentration of people and vehicles in a small area, this being the limited space by way of roads and urban life demands faster and faster movement. The requirements of safety and of speed do not generally coincide, leading to accidents.

(Para 53.4.1)

60.70 No permits for occupation of footpaths should be issued by Local Bodies. Further, mobile vending should not be allowed in shopping and other congested areas. It can be permitted in residential areas.

(Para 53.4.2)

60.71 The remedy to the problems of traffic in cities lies in having different lanes for different kinds of traffic, removing encroachments by vendors and cattle and confining pedestrians to pavements by having a 2½ feet hedge, barricade or wall along all pavements with openings at zebra crossings or at over-bridges and sub-ways. There is need to regard cyclists and pedestrians an important road users and separate

through a re-orientation course to prepare them for the new tasks. A long course will not be necessary at this stage as there is considerable overlapping in the job content for the armed and civil police. Considerable stress needs to be laid on courteous and impartial behaviour free from any kind of prejudice and bias. It would be helpful if the conference of IsG reviews the training content periodically to bring about the required changes in the training content.

(Para 51.15)

60.44 Utilisation of such a highly trained force for routine police duties not only is a waste of the intensive training given to such men but it also makes the force ineffective. Such use of armed battalion men should be discontinued forthwith. If any shortages are noticed in the district allocation for handling such routine calls, the same should be examined and removed.

(Para 51.17)

60.45 Far too often more force is requisitioned than is absolutely necessary. The District Superintendent of Police tries to play safe and the superior officers also find it expedient to fall in line. Again the force once requisitioned is detained much longer than necessary. While no guidelines can be laid down determining the quantum of force required, as requirements will vary according to situation, it must be ensured that the demand is realistic. The superior officers should also feel free to prune the demand. The deployment should be made for a fixed time and unless the same is extended the force should return to Battalion headquarters.

(Para 51.18)

60.46 The need for annual refresher training should be fully appreciated. It is to keep men fit and confident for the job they have to do. A company should, as prescribed, be always under training and it should not be taken into account for purposes of deployment. An effort should be made to withdraw men from relatively unimportant duties and conserve force.

(Para 51.18)

60.47 A vigorous and faithful enforcement of law, without let or hindrance would reduce occasions when armed support has to be provided.

(Para 51.18)

60.48 An intelligent utilisation of home guards will also reduce pressure on the armed battalions.

(Para 51.18)

60.49 Shortages in equipments which affect the efficiency of the force need to be investigated periodically and removed.

(Para 51.19)

60.50 It would help if a Central enactment prescribing uniformity in the composition, officering pattern, equipment, disciplinary rules, etc. of the State Armed Battalions is passed. The Act should also provide for adequate legal protection to the members of these battalions against any suit or criminal proceedings for any act done by them in pursuance of a warrant or order of a competent authority and against any legal proceedings under the powers conferred by any such Act or rule made thereunder. Such an Act should place the superintendence and control with the State Government but should also enable the Central Government in an emergent situation to order deployment outside the State. Such a measure will make optimal use of available resources possible.

(Para 51.20)

60.51 The district police and its reserve should be the first means to face a situation. If they act quickly and are able to assemble their resources promptly, many situations which assume distressing dimensions will be controlled and the need for the State armed battalions as also for the Central forces will go down. As the requirements of the district armed reserve have not been reviewed now for quite some time, it is time that the same is done and the reserve is augmented wherever necessary.

(Para 51.21)

60.52 There appears to be no need to have a separate closed cadre of the district armed reserve. The sanction of the district armed reserve should be worked out in terms of platoons or companies and they should be provided out of an existing armed battalion for a specified period of time. On completion of this period, this force should be replaced. During their stay in the district, the force should be under the operational and the administrative control of the district S.P. Part of this force in the district could be distributed and placed at sub-divisional headquarters and police stations depending upon the requirements for the manning of the local guards, escorts and bandobust duties, etc. The fixed guards must be of the strength of half a section but they may be allowed to be armed.

(Para 51.24)

Delegation of financial powers to police officers

60.53 Full powers of reappropriation as at present available to the DGs BSF/CRPF within the total sanctioned budget grant should be made available to the Chiefs of State Police

(Para 52.6)

60.54 Chiefs of State Police should have full powers for creation and continuance of temporary posts from the rank of constable to Dy. SP upto a period of two years, provided expenditure is within the budget allotment.

(Para 52.10)

60.55 All Chiefs of State Police should be delegated with full powers to make purchase and repair of motor vehicles. These powers should be exercised subject to the laid down financial procedure

(Para 52.11)

60.56 Chiefs of State Police should have powers to condemn motor vehicles and full powers to purchase, repair and condemn wireless equipment in their charge.
(Para 52.12)

60.57 The Chiefs of State Police should be delegated with following powers relating to repair and construction of buildings :—

Item	Chief of State Police	DIG	SP
	Rs.	Rs.	Rs.
1. For major and minor construction works	5 lakhs	1 lakh	50,000
2. Repair and maintenance	1 lakh	25,000	10,000

(Para 52.13)

60.58 As regards sanction of telephones (both office and residential), the Chief of the State Police should have the same powers as vested in DG BSF and DG CRPF. In respects of PSs and outposts, Superintendent of Police should be delegated with powers to sanction telephones, both for the office and the residence of SHO.

(Para 52.14)

60.59 Full powers in respect of purchase of furniture should be delegated to the Chief of State Police, who should make suitable delegations.

(Para 52.15)

60.60 Full powers in respect of purchase and repair of typewriters and other office equipment should be vested in the Chief of State Police. Norms should be laid down for the offices of DIG, SP and SHO and within these norms, they should be given full powers.

(Para 52.16)

60.61 The powers of the Chiefs of State Police to purchase locally stationery items should be raised to 20% of the total budget. The Chiefs of the State Police should in their turn delegate powers to the DIGs, SPs and also place suitable amount at the disposal of the SHOs. These powers should also be available for the local printing of miscellaneous materials including purchase of books and periodicals.

(Para 52.18)

60.62 The Chiefs of State Police should have full powers upto a maximum of Rs. 5,000 for grant of rewards in each case or occasion. The powers of DIG and SP similarly should be raised to Rs. 2,000 and Rs. 1,000 respectively in each case or one occasion.

(Para 52.19)

60.63 Full powers should be delegated to the Chiefs of State Police without involving the Accountant General for sanctioning permanent advance. He

should further delegate the power to the DisG and SPs. The amount of permanent advance of each office including the PS should be fixed realistically by taking into account the actual needs.

(Para 52.23)

60.64 In order to enable the Chiefs of State Police to exercise enhanced financial powers effectively they should be assisted by a Financial Adviser of an appropriate rank.

(Para 52.27)

60.65 A contingency grant of about Rs. 1 lakh should be placed at the disposal of Chiefs of Police who may be empowered to spend a sum of Rs. 20,000 at a time for immediate relief in cases of large scale rioting etc.

(Para 52.28)

60.66 The Chiefs of State Police should be given powers similar to the DG BSF and DG CRPF in respect of other items in the schedule of financial powers of DG BSF and DG CRPF.

(Para 52.29)

Traffic regulation

60.67 The control of traffic, enforcement of laws and regulations to facilitate orderly movement of traffic and action to prevent and investigate road accidents are primarily a police responsibility.

(Para 53.1)

60.68 The regulation of traffic has two aspects, namely, regulation of traffic inside the municipal limits of a city, and regulation of traffic on the highways.

(Para 53.3)

60.69 The basic source of traffic problems in a city is the fact that there is a great concentration of people and vehicles in a small area, this being the limited space by way of roads and urban life demands faster and faster movement. The requirements of safety and of speed do not generally coincide, leading to accidents.

(Para 53.4.1)

60.70 No permits for occupation of footpaths should be issued by Local Bodies. Further, mobile vending should not be allowed in shopping and other congested areas. It can be permitted in residential areas.

(Para 53.4.2)

60.71 The remedy to the problems of traffic in cities lies in having different lanes for different kinds of traffic, removing encroachments by vendors and cattle and confining pedestrians to pavements by having a 2½ feet hedge, barricade or wall along all pavements with openings at zebra crossings or at over-bridges and sub-ways. There is need to regard cyclists and pedestrians an important road users and separate

tracks with segregations and special lights at intersections should be provided for them. Similarly, crowded market areas should be restricted to pedestrians only during peak hours. Additionally office hours should be staggered to reduce congestion and in certain crowded arteries, heavy goods carriers should only be allowed during night.

(Para 53.4.3)

60.72 Though cities have been growing very rapidly as also the number of vehicles and pedestrians on the streets, there has not been any complementary increase in the number of policemen earmarked for the management of traffic. An adequate increase in the strength of traffic police is recommended. This strength should be determined on the basis of points to be manned, areas for patrolling, enforcement of regulatory measures, education of road users in traffic rules, investigation of accidents and the maintenance of proper records. This manpower should be traced properly by specialists within and outside the police organisation. In addition, it should be obligatory for senior officers-in-charge of traffic regulation to be available on the ground during peak hours to supervise the regulation of traffic. Further, in all large cities the traffic enforcement agency should have a research section to analyse the causes of bottlenecks and serious accidents. While the traffic police should undertake education of road users it would be more worthwhile to include a chapter on traffic sense and traffic rules in any of the text-books of the school curriculum.

(Para 53.4.4)

60.73 The management of traffic in urban areas also required that the traffic police be fully equipped with salvage vehicles, radar speedmeters, stop watches, walkie talkie sets, close circuit T.V. cameras, ambulances, photographers etc. Traffic signals could also be computerised to rapidly adopt themselves to the frequently varying needs of traffic flow by control from a central point.

(Para 53.4.5)

60.74 There is at present no standard motor vehicle inspection code which states the minimum standards of safety required for a vehicle to be on road. It is, therefore, recommended that a Standard Motor Vehicle Inspection Code stating the minimum standards of safety required for a vehicle to be on road should be incorporated in the Road Safety Act. All motor vehicles including scooters and motor-cycles should be required to pass a fitness test periodically. This fitness test should include a stringent check to prevent pollution by vehicles. In future it may become necessary to check the fitness of vehicles from the point of view of fuel consumption. Large automobiles or what are called fuel-guzzlers may have to be denied a fitness certificate or discouraged by steep taxation. Institutions could be set up for conducting such tests and they could charge a fee.

(Para 53.4.6)

60.75 It should be made compulsory for the manufacturer to provide necessary safety fixtures like safety frames in two wheelers, seat belts and collapsible steering assembly in cars to reduce the severity of accidents. Similarly sharp corners and edges in vehicles should be removed by proper designing.

(Para 53.4.6)

60.76 All owners of commercial vehicles before removal of their permits should obtain a certificate from the police that all pending traffic violations have been accounted for. This should be applicable to private care at the time of sale or transfer.

(Para 53.4.6)

60.77 The Regional Transport Authority should take due notice of an operator's previous traffic record before issuing a permit to him and where there are more than one applicant, the one with the best record for observance of laws should be selected.

(Para 53.4.6)

60.78 Police should be associated with policy decisions regarding issue of permits so that there is no undue pressure on traffic control by a preponderance of vehicles like autorickshaws on the road.

(Para 53.4.6)

60.79 The registration of vehicles should include payment for third party insurance.

(Para 53.4.6)

60.80 Due to inadequate police records some drivers commit a large number of accidents and continue to keep a driving licence. Some drivers manage to procure more than one driving licence in their name or aliases. The National Crime Records Bureau should also maintain records of registration of vehicles, issue of driving licences and traffic offences committed by individual drivers. When this is achieved and computerised a point count system for giving bad marks to drivers on the basis of a scale depending upon the gravity of an offences could be developed. If a driver crosses the prescribed maximum bad marks, his licence should be impounded for a period regardless of where he resides and where he has committed the offences. This would also ensure that before the registration of a vehicle is renewed the owner clears all the fines pending against him. This would eliminate dangerous drivers and ensure safety.

(Para 53.4.7)

60.81 Government should establish a large number of driving schools with adequate instructional staff and to provide applicants with a vehicle on rent at the time of the driving test. A person should have a learner's licence for at least two months prior to the issue of a regular licence and for obtaining a HTV licence, one has to have a HTV licence for at least two years. Also, Gazetted Police Officers should have the powers to suspend a driving licence if a person has committed an offence which indicates dangerous

driving. The character and antecedents of a driver be determined and a minimum educational standard prescribed before a licence is issued. In addition to a stringent driving test, medical examination, physical and psychological tests including reaction time, depth perception, vision, hearing and mental faculty should be prescribed for issue of driving licences. There should be an objective type written test to determine the knowledge of road signs and traffic rules. Even renewal of driving licences be done after ascertaining the physical fitness of a driver after periods of 3 or 5 years.

(Para 53.4.8)

60.82 Good road engineering is essential for ensuring safe and rapid flow of traffic and also to prevent traffic accidents. The type of road pattern and traffic control devices need necessarily to be decided on the basis of scientific studies and analyses of traffic in a city. On the basis of such studies, which should include consultation with various experts, other measures like segregation of traffic, prohibition, time bound or total, for slow-moving vehicles, heavy commercial vehicles and public transport buses on selected streets, regulation of traffic on one-way streets, should be adopted to ensure smooth flow of traffic. Speed-breakers should be clearly marked with red and white stripes and warning lights. Adequate advance notice should be available to a driver before approaching a speed-breaker or a driver before view to take an integrated approach in the management of traffic in a city it is recommended that every major city should have unified traffic authority under the Chairmanship of the Chief of the Police of the city with members drawn from the engineering wing of the local body and the other departments of the Government besides suitable representatives of the public. This body should be suitably set up with sufficient finances and powers for handling the traffic problems in a rational and scientific manner.

(Para 53.4.9)

60.83 It is essential to specify under the law that a driver of a vehicle should carry with him his driving licence with his photograph and also the registration papers of the vehicle.

(Para 53.4.10)

60.84 The adoption of the ticketing system which exists in many other countries is recommended. It should be incorporated in the proposed Road Traffic Act.

(Para 53.4.10)

60.85 The regulation of traffic and its control includes all vehicles on the streets including heavy transport vehicles, cars and jeeps, motor-cycles and scooters as also slow moving vehicles like cycles, cyclerickshaws, hand-carts and animal-pulled carriages. It is felt that a comprehensive legislation under the name "Road Traffic Act" be enacted to cover all matters of traffic regulation including road safety provisions, use of vehicles and equipment, licencing

S/5 HA/82-13

of drivers and vehicles, driving instructions, insurance and liability to third parties, punishments and penalties including the ticketing system, general rules of evidence and other miscellaneous matters.

(Para 53.4.11)

60.86 There is need for adequate manpower and vehicles equipped with communication aids as highway patrols so that they could not only enforce traffic laws and regulations but also promote safety on roads. As the prevention and detention of highway hold-ups and robberies is also a police responsibility and making roads safe from criminals promotes a sense of security in the community, it is felt that the agency entrusted with the highway patrol and having the necessary infrastructure should also look after the requirements of combating criminals who operate on the roads. These highway patrols should be placed under the concerned District Superintendents of Police and they should operate within the limits of a district. Inter-district co-ordination should be the responsibility of the range DIG. At the State Headquarters level there should be a Traffic Unit for Research into the State's traffic problems as also inter-range co-ordination and co-ordination at the State level with the other agencies like the Engineering Department and the Transport Department while the agency for actual enforcement of traffic laws and promoting safety should be a part of the district police.

(Para 53.6)

60.87 The Transport Department before renewing the permits of private carriers of goods and passengers should see that where there are several applicants for a particular route, the permit is issued to the person with the best record for observance of traffic laws and regulations. Weigh-bridges and height barriers should be installed at strategic points to prevent trucks from overloading. It is essential that each barrier be equipped with a truck base so that the highways are not used for parking of trucks. It is seen that other than the local bodies which set up Octroi barriers, several others such as the Forest, Police, Transport, Excise, the Nines and Narcotics Departments also set up barriers for the purposes of conducting checks with the result that vehicles are forced to stop at several places along a highway. It is felt that centralised barriers with the checking staff of all the concerned departments be located at strategic points, as far as possible along the highways, so that all the checkings could be done in one stoppage. If this is done, these centralised and comprehensive barriers could have all the cover facilities like parking bays, meal and rest facilities, service stations, fuel pumps, medical aid and weigh-bridges.

(Paras 53.7 and 53.8)

60.88 There is a need to have an integrated approach to the management of National Highways where important roads are identified, suitably constructed and adequate enforcement staff is available to control these arteries so that accidents are avoided and smooth flow and safety ensured. It is also recommended that all National Highways should carry road signs in English, Hindi and the regional language.

(Para 53.9)

60.89 A Road Safety Cell headed by an Engineer who is an expert in Traffic Engineering be created as part of the Traffic Unit in the office of the Chief of State Police so that this cell could work in liaison with the Public Works Department and from time to time review the traffic engineering aspects of the highways, specially where bottlenecks have occurred or the road is otherwise dangerous. Major road accidents require research and analysis to ensure that the defects in road engineering do not lead to such accidents again in the future. For this purpose, it is visualised that the Traffic Unit of the State Police Headquarters having both Engineers and Police Officers would work to ensure greater safety for road users.

(Para 53.10)

The ministerial staff and administrative work in the police department

60.90 The ministerial staff, who constitute a small percentage of the total strength of police personnel, should be integrated for all practical purposes with the rest of the policemen in respect of terms and conditions of service, discipline etc. They should be brought under Police Act.

(Paras 54.12 and 54.13)

60.91 In order to enhance the career prospects of the ministerial staff, they should be provided with openings into regular police force.

(Para 54.14)

60.92 There should be one combined cadre of all ministerial staff consisting of officials in the clerical and supervisory grades working in various administrative offices. Three levels of non-gazetted ministerial police personnel should be there, namely, Head Constable (M), Assistant Sub-Inspector (M), Sub-Inspector (N) and two levels of gazetted ministerial police personnel i.e. Inspector (M) and Dy. Superintendent of Police (M).

(Para 54.15)

60.93 The Chiefs of State Police Force should take personal interest in making a more effective use of computers, firstly in operational matters and, thereafter, in administrative matters.

(Para 54.17)

60.94 Computers could be of immense help in modernising the system of budgeting and financial management, inventory control of the assets in the police, in maintenance of General Provident Fund accounts, pensions, drawal of pay and in selections for training courses and promotions.

(Para 54.19)

Auxiliary to police—Home Guards

60.95 Effective policing has to depend, to a large extent, on self-policing. Self-policing can be by individuals or by groups of individuals who voluntarily organise themselves or who offer voluntarily their

services to an organisation constituted with a statutory backing. The Home Guards is one such organisation filling a gap between organised policing and individual self-policing in a society. *

(Paras 55.1 and 55.2)

60.96 There appears an urgent need to raise functional units of Home Guards in all the States. The creation of such functional units generates the necessary confidence and reassurance in the public at large.

(Para 55.18)

60.97 Continuous and excessive call-outs of Home Guards in some States have resulted in induction of a sizeable number of unemployed persons in the organisation. Such excessive deployment of Home Guards on police duties leads to :—

- (1) recruitment of unemployed persons, as stated above;
- (2) destruction of voluntary character of Home Guards;
- (3) erosion of the spirit of public service which is the main strain of the organisation;
- (4) tendency on the part of the unemployed Home Guards to identify themselves with the police in the long run; and
- (5) creating in them a feeling of comparative deprivation and frustration which will ultimately result in demands of higher wages, discontent, lack of discipline and failure of the organisation.

(Paras 55.20 and 55.23)

60.98 The police forces of some States are using Home Guards much too infrequently. In the absence of occasional call-outs, the Home Guards in such States get a feeling that they have been forgotten after their brief exposure to a training course. It appears necessary that while deployment in some States should be reduced and brought to a reasonable size, in others, the police should try to utilise Home Guards on many more occasions.

(Para 55.24)

60.99 Where deployment of Home Guards presently is very high, it may be examined if the strength of the Home Guards should be increased. In any case, the 15% cut on the total sanctioned strength of Home Guards needs to be restored to permit more and more persons, with a spirit of public service, to join the Home Guards.

(Para 55.24)

60.100 Home Guards should be changed every three years. That will encourage large sections of public to offer themselves for voluntary service of society in times of need and understand the importance of self-policing.

(Para 55.24)

60.101 If this regular use of Home Guards for patrolling proves more cost effective and commands greater public acceptability, this could as well be made a regular feature as this will promote the idea of self-policing.

(Para 55.24)

60.102 The Home Guards could be made to play a significant role in protecting the weaker sections of the society. Being men of the locality but having an official support they can do a lot to bring about communal amity and harmony.

(Para 55.25)

60.103 At the district level, a nucleus of officers should be regular departmental officers who can be exposed to various training courses and they in turn can pass on the expertise to their subordinate officers and ultimately to Home Guards.

(Para 55.26)

60.104 Often the police officers who are posted to the Home Guards organisation are those who have been found inconvenient somewhere else. Such officers for no fault of theirs suffer from the handicap of being considered as rejects and this detracts from their ability to command effectively. It is neither fair to the officers nor to the Home Guards organisation and it must be avoided. Such indiscreet postings dampen public enthusiasm and many excellent men, who would have volunteered otherwise to join Home Guards, desist from doing so.

(Para 55.27)

60.105 Deficiencies in training staff, living accommodation and apparatus must be removed wherever they exist.

(Para 55.28)

60.106 It should be possible to provide two sets of uniforms to Home Guards so that soiled uniform could be changed and a smart turn-out maintained always. Till such time that this is done, everybody must have at least one set.

(Para 55.29)

60.107 The daily allowance paid to Home Guards must be realistic and not unreasonably discriminatory.

(Para 55.30)

60.108 While the Government servants, when called out on duty as Home Guards, are generally treated as on special casual leave, some of the State Governments have enacted that even the private employer of whom the Home Guard is a regular employee, shall treat the period of his absence on duty as Home Guard to be the period spent in employment with him (the employer). Instances are there where the private employer did not treat this period as on duty and did not pay the salary for such a period. Similar enactments should be passed by other States which should see that the legal provisions are followed and strictly enforced.

(Para 55.31)

60.109 In the event of death or injury to Home Guard in the performance of his duties, liberal financial assistance should be provided to the family/Home Guards.

(Para 55.32)

60.110 The services of Home Guards should not be made available to other States in times of need. If there is shortage of officers to command, the contingents going on such deputations, could be provided officers from any available source like the police, NCC or ex-Army officers. Such contingents, when so deployed outside their own State, should be given the powers and extended the legal protection which normally are given to the Home Guards of the borrowing State. A Central legislation can take care of this.

(Para 55.33)

60.111 NCC trains lakhs of young boys and girls. This pool of manpower could also be harnessed to large scale law and order situations. Idealism of youth should not be allowed to go waste and particularly in times of war or serious emergency the N.C.C. should move closer to the Home Guards and assist in all duties.

(Para 55.34)

60.112 The Home Guards organisation should remain voluntary but their deployment and utilisation should be so planned that training, interest and effectiveness are not lost, their utility in self-policing is maintained continuously, and above all the interest of various cross-sections of the people is kept at the optimum level.

(Para 55.35)

Performance appraisal of police personnel

60.113 Performance appraisal forms the basis for making managerial decisions in an organisation. It can be punitive and reductive or it can be developmental and constructive in terms of personnel and organisational efficiency. The use of annual confidential reports for disciplining the employees should give way to treat them as a source of information for administrative purposes and for organisational development through improving the performance of the employee.

(Paras 56.2 & 56.3)

60.114 The periodicity of the performance appraisal reporting has to be annual due to administrative expediency, but it should ensure that the assessment of the reporting officer does not reflect the impressions and opinions formed by him during the month or two immediately preceding the report.

(Para 56.9)

60.115 The employee should be made aware of the quality of his performance, his shortfalls and failures, if any, so that he can correct himself. He should know the criteria against which his performance is appraised. But in areas which are not directly concerned with correction and improvement, the system should continue to remain confidential.

(Para 56.9)

60.116 The performance appraisal system should be classified into the following two categories (i) a Continuous Appraisal which is correctional and developmental in its impact, and (ii) the Annual Performance Appraisal, report which is for organisational purposes in the matter of training, placements and promotions. This categorisation of appraisal should apply to all ranks from the Constable upwards.

(Para 56.10)

60.117 The critical incidents method be adopted for continuous assessment and correction. Officers of the level of Sub-Inspector and above should be required to maintain a running record throughout the review period for each of his subordinates in the level next below indicating specific instances of good and bad work from week to week or month to month, and a periodical rating of overall performance.

(Para 56.12)

60.118 The proximity between the officer reported upon and reporting officer should be maintained at all levels. These appraisals should be within the police force and sufficiently approximate to the level appraised so that the appraisals arise from personal knowledge.

(Para 56.12)

60.119 A monthly or a quarterly counselling session for Constables, Sub-Inspectors and Inspectors should be made compulsory. The police leadership should ensure that the counselling sessions are carried out systematically.

(Para 56.13)

60.120 The objective of the appraisal interview should be aimed at encouragement of person's behaviour or correcting behaviour based on assessed information. It should not be converted into a disciplinary drill. The employee who is doing well needs such appraisal interviews as much as the employee who needs correction.

(Para 56.13)

60.121 The superior inspecting officers should record their assessments during their periodical inspections in the Critical Incidents Record. They should also check and correct the shortcomings of subordinates and counsel them suitably during inspections. The impact of such counselling should also be rendered by the immediate superior.

(Para 56.14)

60.122 The annual performance appraisal report can continue to remain confidential. The format of the performance appraisal be divided into three parts, the first part dealing with assessment of performance of the employee and the second part should deal with the integrity of the employee, his grading, his fitness for promotion or otherwise and third part should contain the Reviewing Officer's remarks. Whenever any adverse remarks appear in the first part of the report, then the employee should be communicated the whole of the first part. This does not bar the Reviewing

Officer from informing the employee the gist of the contents of the third part but this should be left entirely to the discretion of the Reviewing Officer who should take into account the totality of the circumstances and the necessity for making the employee aware of the contents of the report as a whole so that he can defend himself.

(Para 56.15)

60.123 The combination of the graphic rating method and the forced distribution method be adopted. A simple scale of not more than 4 ratings should be applied to a combination of not more than 10 to 12 performance heads and 8 personality traits. The forced distribution ratings could be standardised as Outstanding, Very Good, Average & Below Average.

(Para 56.17)

60.124 The formats for the various levels above the Constabulary in the police organisation should be designed as far as possible having regard to the specific nature of duties for each job and based on a detailed job evaluation. It should reflect the essential requirements of performance, personality and managerial indicators.

(Paras 56.18 & 56.20)

60.125 Responsibility should be fixed on the senior officers to ensure good behaviour and attitude of helpfulness towards the public on the part of the subordinates.

(Para 56.18)

60.126 The reporting, reviewing and countersigning officers for the various ranks in the police are suggested below :—

Rank	Reporting officer	Reviewing officer	Countersigning officer
1	2	3	4
Constable/Head Constable	(ASI/SI) SHO	SDPO	..
ASI/SI	SDPO/ASP	SP	..
Inspector	SDPO	SP	DIG
Dy. SP/ASP	SP	DIG	IG
SP	DIG	IGP concerned	Chief of Police
DIG	IGP concerned	Chief of Police	Home Minister

(Para 56.19)

60.127 For ranks above the Constabulary, including the IPS, the individual reported upon should write a short note of the work done during the reporting period not exceeding 300 words.

(Para 56.21)

60.128 The performance appraisal for the Constabulary be kept in book form to be known as the Performance Appraisal Register but it should not form part of the Service Book as it is today in most States. Every effort should be made to bring the performance appraisal system for the Constabulary on the same footing as that of higher levels in the police in a phased programme.

(Para 56.23)

60.129 The Reporting Officer should communicate the adverse remarks within 15 days of writing the report and certify so in the performance appraisal format. The official reported upon will have a right to make a submission to the Reviewing Officer who may take into account the circumstances of the case and if he so deems fit, interview the employee and expunge the remarks if called for. In case, he decides that the remarks should not be expunged, he should record reason for the same. The official shall have a right to file a revision petition to the Competent Authority whose decision shall be final. If the adverse remarks are frivolous, the reporting authority should be cautioned. If the representation is frivolous, the officer representing should equally be warned. Adverse remarks which show prejudice and *malafide* on the face of the report should be corrected by higher competent authority without any reference to the employee concerned. Action should be taken against the officers making irresponsible reports to infuse the necessary confidence in the system.

(Para 56.25)

60.130 The annual performance appraisal report should contain the integrity column.

(Para 56.26)

60.131 The annual property statements submitted by the officials should be scrutinised carefully by the superior officers in cases where the performance appraisal reports or information received otherwise reveal doubtful integrity. It should be open for the superior officers to conduct a full investigation in such cases.

(Para 56.27)

60.132 A Cell at the district and the State level be made responsible for follow-up action both on the continuous appraisal as well as the annual performance appraisal.

(Para 56.28)

60.133 Every State Police force may have to develop at some stage in future "Computerised Performance System."

(Para 56.29)

Disciplinary control

60.134 In view of the vital functions assigned to the police in the democratic system of this country, it is of great importance that high standard of discipline is maintained by all ranks of police-organisation.

(Para 57.1)

60.135 Discipline is not merely mechanical enforcement of disciplinary rules and procedure; it is one of the components of good man-management, other components being leadership, grievance-redressal and amelioration of the working conditions of the police and setting up of higher personal example etc. Supervisory ranks should always make efforts to guide and counsel the police personnel so that they put in their best. However, prompt and effective disciplinary action should be taken when departmental norms are broken severely or some of the personnel tend to be habitual in their misdemeanour.

(Paras 57.5 and 57.26)

60.136 In an organisation like police there should be fool-proof grievance redressal machinery for the police personnel on the pattern of staff-council as already recommended in the First Report. But such associations, if not kept under proper control, can become a serious undermining factor for the organisational disciplines.

(Para 57.6)

60.137 The new Police Act should contain the following offences relating to the duties of police personnel to be triable in the Courts of Judicial Magistrates and punishable with imprisonment for one year and fine upto Rs. 500 or both :—

- (i) Violation of any duty;
- (ii) wilful breach or neglect of any provisions of law or any rule or regulation or lawful order which he is bound to observe or obey;
- (iii) withdrawing from duty of his office without permission;
- (iv) being absent on leave, failing without reasonable cause to report himself for duty on the expiration of such leave;
- (v) engaging himself without authority, to any employment other than the police duties;
- (vi) being guilty of cowardice;
- (vii) being in a state of intoxication while on duty;
- (viii) malingering or feigning or voluntarily causing hurt to himself with the intention to render himself unfit for the service;
- (ix) disobeying lawful command of superior officers;
- (x) being grossly insubordinate to his superior officer or using criminal force to superior officer;
- (xi) taking part in procession, gherao, demonstration, shouting slogans or forcing under duress or threats any supervisory authority to concede anything or striking work;
- (xii) offering unwarrantable personal violence to any person in custody;

- (xiii) entering or searching, without lawful authority or reasonable cause any building or place etc.;
- (xiv) seizing vexatiously and unnecessarily the property of any person;
- (xv) detaining, searching or arresting any person vexatiously and unnecessarily;
- (xvi) holding out any threat or promise not warranted by laws; and
- (xvii) being guilty of any other offence for which no punishment is expressly provided in the Police Act or any other law in force.

(Para 57.8)

60.138 The departmental punishments (i) dismissal (ii) removal and (iii) reduction in rank should be kept in the category of 'major punishments' which may be awarded to the police personnel after drawing up of regular disciplinary proceedings.

(Para 57.9)

60.139 (i) Censure (ii) withholding of increment and (iii) withholding of promotion should be kept in the category of 'minor punishments' to be awarded to the police personnel through a shorter procedure. According to this procedure the delinquent official should be confronted in writing with the facts of the case and penalty proposed against him. He may be asked to furnish his representation against the same within a specified period; final order may be passed after taking the representation into consideration.

(Para 57.10)

60.140 The following penalties should be kept in the category of petty punishments which may be awarded to the members of constabulary in the orderly room :—

- (i) reprimand;
- (ii) confinement to quarter-guard for a period not exceeding 15 days;
- (iii) punishment drill, extra guard duty, fatigue or other punitive duty, not exceeding 15 days with or without confinement; and
- (iv) fine not exceeding one month's pay in a month.

(Para 57.11)

60.141 The following punitive powers should be accorded to various levels of disciplinary authorities :—

<i>Disciplinary authorities</i>	<i>Extent of punitive powers</i>
(i) Deputy Inspector General of Police	All punishments to police personnel of and below the rank of Inspector.
(ii) Superintendent of Police	All punishments to police officers of and below the rank of Sub-Inspector. Minor punishments to Inspectors. Power to suspend all police officers of and below the rank of Inspector.
(iii) Asstt. Superintendent of Police/Deputy Superintendent of Police	All punishments except major punishments to police personnel of and below the rank of Sub-Inspector.
(iv) Inspector of Police	Punishment drill, extra guard, fatigue or other punitive duties to constabulary for a period not exceeding three days.

Regular disciplinary procedure against the Police Inspector should be drawn by a police officer in the rank of Superintendent of Police/Additional Superintendent of Police. In cases where one of major punishments is warranted, the inquiry officer should forward the file to the Deputy Inspector General for passing final orders. Similarly, Assistant Superintendent of Police/Deputy Superintendent of Police should be authorised to conduct the disciplinary proceedings against the police officials of and below the rank of Sub-Inspector. In those cases where award of one of major punishments is indicated he will forward the findings to the Superintendent of Police. In a similar manner Police Inspectors should be authorised to conduct disciplinary proceedings against the constabulary.

(Para 57.12)

60.142 Awarding of major punishments without drawing regular disciplinary proceeding on the grounds of security of the state as per provisions of Article 311(2)(c) of the Constitution should be made use of with great care and caution and it should not be resorted to in a routine manner.

(Para 57.13)

60.143 Against any of the major punishments awarded to a police official, there should be provision for only one appeal to the authority just above the punishing authority, followed by one revision if necessary to authority just above the appellate authority. There should be one appeal but no revision against the minor punishments. The existing practice of no appeal against any of the petty punishments awarded to the constabulary in orderly room should continue.

(Para 57.14)

60.144 Administrative tribunal should be set up under Article 223(a) of the Constitution to adjudicate and try matters relating to conditions of service of civil servants employed under the State Governments including the Police. This step would be in exclusion of the jurisdiction of all Courts except the Supreme Court in these matters.

(Para 57.15)

60.145 Suspension should not normally be ordered without getting the complaint looked into through a preliminary inquiry. Further, suspension should not be resorted to unless facts and circumstances of the case indicate that the likely punishment will be a major one. Suspension should not be ordered for extraneous considerations. Guidelines given in the Central Vigilance Manual regarding suspension should be borne in mind by the disciplinary authority while ordering suspensions.

(Paras 57.17 and 57.18)

60.146 The charge must be furnished to the delinquent police officials within a period of 45 days from the date of suspension failing which the incumbent would be entitled to automatic reinstatement

(Para 57.18)

60.147 The following changes in the departmental procedure be made :—

- (i) A legal practitioner should not be permitted to appear at the departmental proceedings. However, the inquiry officer may have the discretion to allow a 'friend' of the delinquent to appear where the delinquent officer is not capable of putting up his defence properly. The 'friend' should be a serving police officer of and below the rank of Sub-Inspector, for the time being posted in the same district where the proceedings are being held. The same police official should not be permitted to be a 'friend' in more than one case at a time.
- (ii) Appointment of a 'presenting officer' appears unnecessary.
- (iii) In order to overcome the difficulties in serving charges and other documents relating to disciplinary proceedings on the delinquent officer, who avoids their service, procedure similar to that prescribed in sections 62, 64, 65 and 69 Cr.P.C. for service of summons to witnesses may be adopted by the inquiry officer.
- (iv) The inquiry officer should have the legal powers similar to those available to civil courts to secure the presence of private witnesses.
- (v) Travel and other expenses should be paid to private witnesses who appear before the inquiry officer.
- (vi) Rule should specify the maximum period that the inquiry officer may allow to the delinquent at each stage of inquiry e.g. replying to the charges, submitting list of defence witnesses, etc.

(Para 57.20)

60.148 Whole time police officers under the control of the District Superintendent of Police should be posted exclusively to conduct disciplinary proceedings in those districts where pendency of such cases is high.

(Para 57.21)

60.149 Time limits should be prescribed for completing various stages of disciplinary proceedings. In case such time limits have to be exceeded, specific approval should be sought from the next higher authority.

(Para 57.22)

60.150 Exhaustive rules of procedure should be framed governing the disciplinary proceedings for the guidance of the inquiry officers.

[Paras 57.19 (vii) and 57.23]

60.151 Police Inspectors should be authorised to conduct disciplinary proceedings in these States where they are not so authorised.

(Para 57.24)

60.152 Ministerial and mechanical assistance should be provided to the disciplinary authorities for disciplinary cases.

(Para 57.24)

60.153 Various court-rulings and departmental instructions issued on the subject from time to time should be collected at a central place, possibly at the headquarters of Inspector-General of Police, compiled in the form of a booklet and issued to every unit of police periodically, possibly, every 2 years.

(Para 57.24)

60.154 Police officers should be trained in various aspects of disciplinary proceedings before they are allowed to handle these cases.

(Para 57.24)

60.155 Adequate supervision and control by supervisory ranks is a must so that this aspect of duty is not neglected by police officers.

(Para 57.24)

60.156 For the Armed Police Battalions the pattern obtaining in CRPF with regard to disciplinary and penal provisions is recommended except that the criminal offences relatable to the duties of the personnel should be triable by the ordinary courts. With regard to disciplinary proceedings and award of minor punishments, procedure referred to in this Chapter should hold good for the Armed Police Battalions also.

(Para 57.25)

Role of the Centre in planning, evaluation and co-ordination

60.157 There is need to streamline the existing system by re-allocating a few units from the I.B. and the C.B.I. to the Bureau of Police Research and

Development. While the I.B. and the C.B.I. may continue to convene various conferences that they organise at present, the BPR&D should also convene the IsGP conference and the DisG Crime conference to discuss aspects of policing other than those relating to intelligence and anti-corruption work. The BPR&D should conduct the police sports and duty meets as also all the other conferences and meetings which it now conducts.

[Paras 58.7 and 58.8(1)]

60.158 In matters of operational research we envisage a dynamic role for the BPR&D. For this purpose, research projects should be taken up on the basis of pro-determined goals and objectives which should be clearly spelt out. Centre should fund the research units of the States through the BPR&D. There is need for bringing Police Research, Development and Training in the plan sector and instead of the present 0.22% at least 0.5% of the police budget should be earmarked for research and development.

[Para 58.8(2)]

The research wing should also have a development wing forming an integrated division of the BPR&D. The Development wing should pay attention to weaponry, fleet management and police vehicles, investigation kit boxes and traffic control equipment. The development wing should produce films for public display and publish journals and periodicals.

[Para 58.8(2)]

60.159 For the proper provision of scientific aids to the police and their coordinated growth, functions related to forensic science be placed under the BPR&D under a Chief Forensic Scientist who should also be the Director of Coordination, Forensic Science.

[Para 58.8(3)]

60.160 For the training of police personnel, the Directorate of Training under the BPR&D should be strengthened to coordinate the training programmes of the various Central Police Organisations without in any manner impinging on their administrative independence. This Directorate should identify courses which are suitable for police officers both within and outside the country in police and non-police organisations and select the trainees so that officers from all parts of the country could benefit from the various courses.

[Para 58.8(4)]

60.161 The BPR&D should be developed to render advice to the Central Government on matters relating to the police point of view in legal and organisational spheres as also providing such information as may be required by the Central and State Police Organisations on the profiles of the police organisations existing in the various States. For this purpose a Central Information Unit be developed in the BPR&D.

[Para 58.8(5)]

60.162 The Institute of Criminology and Forensic Science be developed into an autonomous institution to take up basic research, train persons from all branches of the Criminal Justice System through multi-disciplinary courses and award degrees by affiliation to one of the Universities in Delhi. The Forensic Science Laboratory in the ICFS be developed with the latest equipment and other facilities to undertake original research and to attend to highly intricate cases beyond the capacity of CFSs and State FSLs.

(Para 58.10)

60.163 The Directorate of Coordination, Police Wireless be developed with a view to meeting the future communication requirements of the police. Police Communication is likely to develop into a highly specialised field and for that purpose necessary expertise be developed within the State and Central Police Wireless Organisations so that technical officers of requisite experience are available to man the DCPW at all levels.

(Para 58.11)

60.164 A National Crime Records Bureau be formed by integrating the Interpol Division and the Central Finger Print Bureau of the C.B.I. and the Statistical Division of the BPR&D with the Directorate of Coordination, Police Computers. The Centre should also start a Central Crime Records Office and urge the States to take similar steps and collect records on the lines suggested by us in our Second Report.

(Para 58.13)

60.165 A Central Police Committee to look after the functions of consultancy and monitoring be created, because an expert agency is required by the Central Government and the State Security Commissions to advise them on matters relating to :

- (i) Police Organisation and police reforms of a general nature;
- (ii) central grants and loans to the State Police Forces for their modernisation and development; and
- (iii) budgetary allotments to State Police Forces.

This Committee could also make a general evaluation of the state of policing in the country and provide expertise to the State Security Commissions for their own evaluation if they so require.

[Para 58.14(1)]

60.166 The Central Police Committee should be of an adequately high standing and independent of the Government and be constituted on the same lines as the State Security Commissions recommended by us. It should have a secretariat for the purposes of its functioning.

[Para 58.14(2)]

60.167 An all India Police Institute on the lines of similar professional institutions existing for Engineers, Chartered Accountants and other professionals be created. This institute, when established, should be kept under the proposed Central Police Committee.

[Para 58.14(3)]

Policing in the North-East

60.168 The tribal culture has its own social value system and nothing should be done to upset it. The policy makers in Delhi rightly decided that the solution of the border problem lay in bringing the area into the mainstream of the country's life by properly administering it, and extending to it the benefits of development, but unfortunately they did not quite appreciate the historical perspective and the tribal social structure and temper their efforts to these vital factors. The tribal was not used to too much government and it was a mistake to force our administrative system on them.

(Para 59.10)

60.169 The tribal system is still the most suitable system in this area for policing and for satisfying the tribals' social needs. No effort should be made to interfere with this system on the plea that the modern system of policing as in the rest of the country is necessary. In the interior tribal areas the customary tribal institutions should be allowed and encouraged to continue to administer the area. In the urbanised areas, which are connected by roads or railway a mere formal police structure will require to be established.

(Para 59.11)

60.170 In Assam and the plains area of Tripura the modern pattern of policing as prevailing in the rest of the country can be extended. Urbanised areas like Aizawl and Kohima and other areas which have been linked with railway or roads should have the infrastructure of modern policing to cope with the increasing number of crimes and criminals, but it should take seriously into account the tribal laws, customs and institutions. The interior tribal areas should be left to be policed entirely by the traditional tribal institutions. The underlying principle for policing in the North-East should be minimal policing; no interference in the tribal laws, customs and institutions; policing on the basis of the gravity of offence and the sensitivity of the area.

(Para 59.12)

60.171 There is no separation between the executive and the judiciary and it is our considered opinion that this arrangement should continue, till socio-economic changes justify any modification.

(Para 59.13)

60.172 The tribal councils should continue to deal with the types of criminal offences they are dealing with at present. These tribal councils are discharging a very valuable and important function and any reform made in the law and the police administration should try to strengthen this machinery and not weaken it. The objective is to provide cheap justice to the people with simple procedures on the principles of natural justice without any exploitation by the lawyers.

(Para 59.14)

60.173 In the interior places where it may not be necessary to open new police stations, it would suffice if a police party visits these areas periodically. The police in the headquarter should maintain close touch with the village councils.

(Para 59.15)

60.174 No criteria can be fixed for the establishment of a new police station. The factors such as population, area, and crime will have to be taken into consideration but the approach will have to be flexible. In areas where mixed population gives rise to disputes between tribals and non-tribals and between different tribes, new police stations/police posts should be opened to inculcate a sense of security. The condition of the buildings of the police stations in this region is uniformly very poor and this needs to be attended to urgently. Proper buildings are also necessary from the security point of view, because of the activities of hostile elements. The system of maintenance of records in the police stations should be simplified, taking into consideration the capacity of an average tribal police officer. A new Police Manual taking into consideration the special requirements of the region should be drafted expeditiously so that the force can start functioning on the right lines.

(Para 59.16)

60.175 The main difficulty in dealing with the activities of the insurgents is their identification. While it is true that no insurgency activity can flourish without the support of the people, it must also be appreciated that any action which further alienates the local population will only help the insurgents. Ultimately the problem will have to be tackled by isolating the extremist elements and winning over the local population. The police must be organised on proper lines and it must be allowed to play its legitimate role. In addition, following measures are recommended to deal more effectively with the problem of insurgency :—

- (i) The police should concentrate more on the border areas and those areas which are known for providing shelter to the extremists.
- (ii) The police should be given modern arms and ammunition.
- (iii) Identity cards should be issued to all male members of the population over 16 years of age.
- (iv) There should be strict control on the sale and stock of explosive material.
- (v) There should be very stringent control on the possession of arms and ammunition.

(vi) The police and the security forces operating in the area should have a separate public relations department.

(vii) Murder of any government official or looting of any public property should be severely and promptly dealt with.

(Para 59.17)

60.176 At present the responsibility of Intelligence set up is being shared by many intelligence agencies. It is absolutely essential that the work of all these agencies should be coordinated at some level, say at the level of the Lt. Governor in the Union Territories and at the level of Governor in the States. A Co-ordination Committee with the representatives of all the agencies as its members should be constituted by the Governor/Lt. Governor. All information should be conveyed directly to the Lt. Governor or the Governor for appropriate action or instructions instead of routing it through their own headquarters as is the practice at present.

(Para 59.18)

60.177 It is imperative that only the best officers of the highest calibre are posted to this region. The posts will have to be made much more attractive so that suitable and talented officers with vision and enthusiasm volunteer for them. In some recent cases the government has not cared to look after the officers on return from a successful tenure in the North-East. It is strongly recommended that the following steps should be taken to make these posts attractive :—

- (i) Generous additional allowances should be sanctioned for all posts in the North-East. This should be at least 50% of the Basic Pay available to the officer in his own cadre.
- (ii) One free passage for the officers and their families should be given once a year for travelling to their home state and back.
- (iii) If in spite of general allowances/perks senior officers in the same grade show unwillingness to go comparatively junior officers can be sent on rank promotion.
- (iv) A scale of suitable allowances should be fixed for hostel subsidy up to a maximum of 2 children.

(Para 59.19)

60.178 It is further recommended that similarly the tribal officers from this region should be encouraged for postings outside the region. The tribal officers should, when posted outside the tribal areas, continue to enjoy the same emoluments and facilities as they are entitled to when posted to the tribal region.

(Para 59.20)

60.179 Rules should be framed for recruitment at all levels, and there should be no departure from the norms laid down in the rules. To make it a homogeneous force, as far as possible persons from all tribes and sections in the area should be recruited.

(Para 59.21)

It should be possible for officers to do much more touring than they have been doing with the available means of communication. There should be closer cooperation between the police administration and the army and the air force, so that full use is made of the available helicopters which frequently go empty.

(Para 59.23)

60.180 It would be desirable to increase the training facilities at Barapani and it should be possible for this centre to cater to the needs of all the Union Territories and the States in this region except Assam, which can have its own training institution. Anti-insurgency measures should form an important part of the training syllabus.

(Para 59.24)

60.181 The para-military forces, though under the operational control of the local Police Chiefs are not under their disciplinary control, with the result that they have no commitment to the task and are not result oriented. The local police chief must have operational and disciplinary control over these forces. There should be close coordination between them, the local police, the army and the intelligence agencies.

(Para 59.25)

60.182 To ensure that local pressures do not adversely affect the efficiency, morale and discipline of these forces, it is recommended that Article 371-A(1)(b) which enables the Governor of Nagaland to have special responsibility for the maintenance of law and order, should be extended to any other state when the problem of insurgency raises its head.

(Para 59.26)

60.183 It is recommended that instead of recruiting the armed battalions for each State or Union Territory a North-Eastern Rifles or Armed Police should be constituted for the entire region on the CRPF pattern. Recruitment to these armed battalions should be done from all the 7 States and Union Territories. This should be a composite force for the entire region. They should be rotated under the orders of the Governor of the North-East. These battalions when posted in a State should be completely under the operational and disciplinary control of the local Inspector General.

(Para 59.27)

60.184 It is recommended that the entire border should be policed by the B.S.F. The army will, of course, have to continue its supportive role. The dis-

tance between the existing border outposts is far too long and needs to be reduced to improve their effectiveness. All the forces deployed at the border, should be trained in the anti-insurgency measures. The problem of Chakma infiltrators from Chittagong Hill Tracts in Bangladesh into Mizoram needs to be dealt with immediately before it gets out of hand.

(Para 59.29)

60.185 Smuggling is another problem which has already assumed serious proportions in Manipur. There are complaints of connivance by the police and at the political levels. The border police has an important role to play in tackling this evil.

(Para 59.30)

60.186 In the absence of social sanction against corrupt methods, which are helping the hostile elements, there is no other alternative except to strengthen the anti-corruption machinery. There is need for reorganising and strengthening both the state anti-corruption branches and the zonal office of the Central Bureau of Investigation. Only experienced investigating officers with unimpeachable reputation of integrity should be posted to the Anti-Corruption Branch. Special judges to try these cases expeditiously should be appointed within the State, instead of sending them for trial outside the State, as is the practice in some of the States. The audit machinery should also be strengthened.

(Para 59.31)

60.187 The security arrangement of jails need to be tightened. Proper jail buildings should be constructed without any further delay.

(Para 59.32)

Sd/-
(DHARMA VIRA)

Sd/-
(N. KRISHNASWAMY REDDY)

Sd/-
(K. F. RUSTAMJI)

Sd/-
(N. S. SAKSENA)

Sd/-
(M. S. GORE)

NEW DELHI
12TH MAY, 1981.

APPENDICES

APPENDIX I

(Para 51.3, Chapter LI)

Statement showing the position of Armed Police Battalions in 1963 and 1981

S. No.	Name of the State/ Union Territories	Number of Armed Police Battalions		1	2	3	4
		1963	1981				
1	2	3	4				
1.	Andhra Pradesh	3	8½	11.	Maharashtra	3	9
2.	Assam	7	9	12.	Manipur . . . . .	..	3
3.	Bihar	6	16	13.	Nagaland . . . . .	..	5
4.	Gujarat	3	8	14.	Orissa	2	6
5.	Haryana . . . . .	..	5	15.	Punjab	7	5
6.	Himachal Pradesh . . . . .	..	1½	16.	Rajasthan	6	8
7.	Jammu & Kashmir	1	3	17.	Tamil Nadu	3	5
8.	Karnataka	1	3	18.	Uttar Pradesh	10	25
9.	Kerala	2	4	19.	West Bengal	4	11
10.	Madhya Pardesh	8	21	20.	Delhi . . . . .	..	5
				21.	Mizoram . . . . .	..	1
				22.	Pondicherry . . . . .	..	2
					TOTAL :	66	164

APPENDIX IV

(Para 55.22 Chapter LV)

Strength and Utilisation of Home Guards

S. No.	State Union Territory	Sanctioned strength as on 1-1-1980	Present Strength		Total	Average daily call out in the year 1977
			Rural	Urban		
1	2	3	4	5	6	7
1.	Andhra Pradesh	7,988	NIL	7,988	7,988	3,873
2.	Assam	18,552	14,954	3,598	18,552	503
3.	Bihar	NA	NA	NA	NA	11,579
4.	Gujarat	NA	NA	NA	NA	..
5.	Haryana	12,750	8,100	4,171	12,271	46
6.	Himachal Pradesh	7,650	1,514	5,622	7,136	376
7.	Jammu & Kashmir	1,552		(1508)	1,508	Home Guards are on perpetual duties.
8.	Karnataka	17,000	NIL	16,742	16,742	310
9.	Madhya Pradesh	17,002	2,043	14,787	16,830	7,250
10.	Maharashtra	51,000	16,402	30,122	46,524	481
11.	Manipur	3,086	2,712	374	3,086	275
12.	Meghalaya	NA	NA	NA	NA	446
13.	Orissa	14,875	7,220	7,506	14,726	164
14.	Punjab	31,450	13,505	10,301	23,806	108
15.	Rajasthan	153½ Coys	1,575	13,632	15,207	59
16.	Sikkim	660	NIL	180	180	110
17.	Tamil Nadu	10,560	1,092	9,468	10,560	4
18.	Tripura	3,825	1,713	427	2,140	580
19.	Uttar Pradesh	1,12,207	74,183	31,236	1,05,419	15,818
20.	West Bengal	39,100	22,587	10,212	32,799	10,111
21.	Andaman and Nicobar Islands	595	461	81	542	5
22.	Chandigarh	1,029	NIL	1,029	1,029	61
23.	Delhi	9,350	NIL	9,299	9,299	233
24.	Goa, Daman & Diu	NA	NA	NA	NA	2
25.	Mizoram	646		(420)	420	408
26.	Pondicherry	422	105	317	422	45

N.A. = Not available.

APPENDIX V

(Para 59.12, Chapter LIX)

Sanctioned Strength of Police in India as on 1-1-1978

Name of State/UT : ASSAM

Classification	DG	IGP	Spl. IGP	Addl. IG	DIG	SP	Addl. SP	ASP	DSP	Inspector	SI	ASI	HC	NK	L/NK	Cons-table	Other ranks	Total
1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19
District Police	4	14	11	..	41	131	1387	1391	339	..	..	7864	154	11336
District Armed Reserve	15	15	84	..	376	172	171	4665	..	5498
Govt. Railway Police	1	..	..	4	5	36	59	37	4	4	553	3	706
Plain Clothes Police	..	1	1	2	5	13	4	..	64	185	452	356	167	..	..	1150	273	2673
State Armed Police Battalions	1	10	9	..	61	83	244	39	999	370	621	7444	249	10130
TOTAL	..	1	1	2	10	38	24	..	185	419	2203	1845	1918	546	796	21676	679	30343

Name of State/UT : MANIPUR

District Police	..	1	..	..	..	8	1	5	25	18	83	145	63	..	..	1001	253	1603
District Armed Reserve	..	..	..	..	..	..	..	..	1	3	23	7	104	46	..	721	..	905
Govt. Railway Police	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..
Plain Clothes Police	..	..	..	..	1	1	1	..	4	10	40	51	31	..	..	134	3	276
State Armed Police Battalions	..	..	..	..	1	6	3	..	25	31	91	..	194	272	261	2522	..	3406
TOTAL	..	1	..	..	2	15	5	5	55	62	237	203	392	318	261	4378	256	6190

Name of State/UT : MEGHALAYA

District Police	..	..	..	..	..	6	2	..	11	26	169	223	95	..	..	1292	..	1824
District Armed Reserve	..	..	..	..	..	..	..	..	..	2	21	..	100	32	37	1136	..	1328
Govt. Railway Police	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..
Plain Clothes Police	..	1	..	..	2	3	..	..	7	28	61	68	18	..	..	135	..	323
State Armed Police Battalions	..	..	..	..	..	1	1	..	8	12	35	23	128	45	83	759	..	1095
TOTAL	..	1	..	..	2	10	3	..	26	68	286	314	341	77	120	3322	..	4570

1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19
Name of State/UT : NAGALAND																		
District Police	3	..	..	7	18	52	174	45	..	..	796	..	1095
District Armed Reserve	1	12	..	122	58	..	1505	10	1708
Govt. Railway Police
Plain Clothes Police	..	1	..	..	2	1	..	..	2	5	29	50	14	..	..	253	..	357
State Armed Police Battalions	5	5	..	40	40	115	..	690	270	270	3491	375	5401
TOTAL	..	1	..	..	2	9	5	..	49	64	208	224	971	328	270	6045	385	8561
Name of State/UT : TRIPURA																		
District Police	..	1	..	..	1	8	1	..	12	30	147	182	103	..	..	1559	..	2044
District Armed Reserve	4	10	40	12	115	68	..	871	..	1120
Govt. Railway Police
Plain Clothes Police	1	1	..	5	10	54	69	1	214	..	..	..	355
State Armed Police Battalions	2	1	..	16	13	39	..	207	63	71	1308	..	1720
TOTAL :	..	1	..	..	1	11	3	..	37	63	280	263	426	345	71	3738	..	5239
Name of State/UT : ARUNACHAL PRADESH																		
District Police	..	1	..	..	..	2	..	..	9	6	31	19	20	..	..	330	21	439
District Armed Reserve	1	12	..	68	..	..	350	6	437
Govt. Railway Police
Plain Clothes Police	1	..	..	1	6	32	..	28	..	..	126	42	236
State Armed Police Battalions
TOTAL :	..	1	..	..	..	3	..	..	10	13	75	19	116	..	..	806	69	1112
Name of State/UT : MIZORAM																		
District Police	3	..	..	9	18	86	110	11	..	..	686	29	752
District Armed Reserve
Govt. Railway Police
Plain Clothes Police	..	1	..	..	2	4	..	..	8	22	39	32	30	..	..	89	17	244
State Armed Police Battalions	1	..	..	1	6	18	..	91	21	54	486	15	693
TOTAL :	..	1	..	..	2	8	..	..	18	46	143	142	132	21	54	1261	61	1689

Ministry of Home Affairs
Government of India

183493

CONTENTS

<i>Chapter</i>		<i>Page</i>
LXI	Accountability of Police Performance	1
LXII	Looking Ahead	13
LXIII	Police Act	27
LXIV	Epilogue	29
LXV	Summary of Observations and Recommendations	35
	Appendices	41-116

CHAPTER LXI

ACCOUNTABILITY OF POLICE PERFORMANCE

61.1

Our experience in the preceding three decades after independence has shown that a Constitutional system of Government based on democratic principles cannot function without the support of an effective, efficient and accountable administration. Constitutionally, the political executive i.e., the Minister has been made accountable for the performance of the bureaucratic executives under him. We feel that such undiluted ministerial responsibility is not in the interest of either administrative efficiency or the people sought to be served by the administration in the present conditions. Responsibility of the political executive or the Cabinet in the Assembly is too broad to afford relief to the people who have no access to the channels of power. It is, therefore, essential that the accountability of the bureaucratic executive at the various levels be defined and a degree of immediate proximity to the people introduced. The concept of anonymity of the bureaucratic executive cannot wish away the necessity for fixing his accountability for the performance of his duties. While the above is true for the entire administrative machinery, it has an extra significance for the police organisation, which is entrusted with the task of preservation of the basic order in society which is essential for the stability of a Constitutional Government. Unlike the other executive wings of the Government, the police has maximum visibility. Visibility by itself waters down anonymity. The accountability of the police has to be viewed in this light.

61.2

Accountability means answerability for the proper performance of the assigned task. It means more than mere responsibility to discharge the duties involved in a job and includes that the discharge of duties shall be to the satisfaction of the party for whose benefit the duties are being discharged. Therefore, accountability pre-supposes two parties, one under obligation to render account for the proper performance of the task assigned and the other having a right to ask for and receive such an account. While the party who renders account has perforce to be unitary, the party which has the right to ask for and receive the account may be multiple. It may be within the organisation or outside.

61.3

It is, therefore, essential that the departmental functionaries should know clearly the source of authority to which they have to account for their performance. A clear understanding of the concept would indicate to them their various roles and functions, the level of expectations and the limits and constraints within which they have to function. A similar understanding is essential on the part of the source of authority to which the police is accountable. Lack of understanding by either side will result in misplaced goals and objectives and consequent displacement of accountability.

61.4

This leads us naturally to the next issue as to whom the police is accountable. In a democratic society, each department of the Government including the police is ultimately accountable for its performance to the people. However, direct accountability to the people in a society like ours may prove difficult. It has, therefore, been constitutionally laid that the public service is accountable to the elected representatives of the people at the forums of Parliament and State Legislatures through the Minister/Ministers concerned. We have already stated that in the modern world ministerial responsibility of this kind waters down the administrative efficiency and fails to provide the necessary satisfaction to the people. It has become urgent and essential to devise new mechanisms of accountability to ensure a certain amount of direct responsibility to the people at the various levels of administration.

61.5

While the ultimate accountability is to the people, the police have a proximate accountability to the law of the land, which in essence is the expression of its will. As the prime law enforcing agency, the activities of the police not only centre around the enforcement of various laws, but their free functioning is also governed by the processes of laws. The action of the police is, therefore, confined to the laws of the land while

enforcing the same. Every stage of their activity is given, governed and judged by provisions of law. In this area of accountability to the law of the land the police activities come under very close scrutiny of the judiciary. In other words, the accountability to the law is ensured by judicial review at several stages.

61.6 Apart from the above two sources of authority to which the police is accountable, they have a direct accountability to the organisation. This accountability is ensured under the various regulations and departmental procedures apart from the inspections and periodical review of administration.

61.7 We have spelt out in the preceding paragraphs the three-fold accountability of the police i.e. to the people, to the law and to the organisation. We would emphasise that the concept is in fact inter-related and ultimately points to one and the same principle. The laws are the collective will of the people expressed through various legislative bodies and put into a formal shape. The department functionaries are bound to act according to the laws as enacted. Finally, it is the people who have created and authorised the supervisory hierarchy of the department to control and direct the functionaries at police station and other levels so that the latter discharge their statutory duties in accordance with the procedures established by law.

Accountability to the people

61.8 As stated earlier, at present the concept of total anonymity of the bureaucratic executive and undiluted ministerial responsibility to the people has resulted in distortions affecting police efficiency and citizen-satisfaction. Unfortunately, therefore, the concept of ministerial responsibility has given the wrong impression to the political executive that they are authorised to guide and intervene in all functions of the police in all areas regardless of such guidance or intervention being in accordance with or in contravention of the law of the land. We have brought into clear focus in our earlier reports the harm this has done to the people. We wish to emphasise that it is ultimately the people whose agents the police functionaries are and to whom they are ultimately accountable. Realisation of this concept in our opinion, is of vital importance. We, however, find that the process of the police accountability to the people has suffered considerable distortion in the recent past. Various pressure and elite groups have come to develop in society having infinite expectations from all Government departments including the police and seeking favours to the exclusion of legality and fair play. These are members of State and Central Legislatures, the local bodies, important functionaries of political parties, particularly the ruling ones, representatives of the local, yellow press, other important persons of the locality and Government servants holding important positions, who have tended to divert the police accountability from the people to themselves. Police functionaries, therefore, also have tended to shift their priorities on to these pressure groups. This has had obvious effect on the attitude of the common people themselves, who feel that the public services including the police service are meant only to serve the elitist groups and in case they wish to avail of any public service, they have to purchase it through illegal gratification or secure it through exercise of pressures from power-wielding sections of the society.

61.9 Another distortion noticed by us is preferential attention of the police to the urban areas at the cost of the rural areas. Since the urban population is more vocal and more demanding, the public services have tended to neglect the rural population. We understand, in several States, departmental instructions provide compulsory stay of district level officers in the rural areas for at least 90 days every year. We notice that these instructions are seldom complied with. Police functionaries of and above the level of Dy. Supdt. of Police/SDPO, therefore, do not come into contact with the rural population as frequently as they should. The rural areas are neglected except for completing the rituals of supervision and inspection. Therefore, the police officials appear to be out of touch with the problems and difficulties facing the vast majority of the people, residing in the villages. In this context, we would strongly recommend strict compliance of the existing instructions and would emphasise that officers of the level of SDPO and SP must reside in the rural areas for at least 90 days in a year. Such stays would help them to come in close contact with the common people, know

their problems in full and seek their cooperation in various police activities. It will also provide opportunity to police officers to meet representative sections of society and discuss various problems facing the people at large.

61.10 The assessment of the police performance has two facets — the first facet consists of the examination of records during inspections, which constitutes the visible part of accountability as prescribed. More important is the invisible part which can be gathered only by interaction with the people by the inspecting officers. This interaction will enable them to assess the actual qualitative performance of policing, its impact in that area on citizens and the feeling of security. It is, therefore, essential that officers should not make such inspections a routine drill but introduce such fraternisation as is deemed fit so that the interaction with the public will enable them to elicit the maximum possible information about the views of the people in regard to the functioning of the officials in the area.

61.11 At present the Annual Administration Reports of the State Police are compiled on the basis of statistics and information collected from the various levels in the organisation. This report attempts to present a picture of the standard of policing within the State during a specific period, usually a calendar year, but generally it bases its conclusions on the basis of the statistics, emanating from the police stations. The report is submitted to the State Government who review it and along with its conclusions present it to the Assembly for discussion. In actual practice, in most States there is a considerable time lag between the date of submission of the report before the Houses and the period to which it relates.

61.12 We have recommended in our Second Report that the evaluation of performance of the State Police would be one of the tasks assigned to the State Security Commission. The aforesaid Annual Administration Report of the State Police will naturally be an important document to aid the State Security Commission in the evaluation of the performance of State Police. But we feel that this document is not enough for an objective assessment. It is based on the statistics, which, as we have more than once observed in our previous reports, are unreliable on account of the fact that there is considerable burking of crime. Further, the Annual Administration Reports generally project only a quantitative assessment. It is not possible to have an accurate idea of the qualitative satisfaction of people from such reports. We, therefore, recommend that the State Security Commission be also provided an independent Cell to evaluate police performance, both in quantitative and qualitative terms. This Cell should not be a part of the police and may include experts from other disciplines according to requirements. In addition to the two reports mentioned above, the State Security Commission would also be receiving an assessment report, though not so detailed, regarding the state of policing from the Central Police Committee recommended by us in our Seventh Report. In our view, these three reports, each emanating from different channels, should provide a reliable base to enable the State Security Commission to assess the police performance objectively and with an amount of certainty, enough to inspire public satisfaction. The State Security Commission will thus be adequately equipped to prepare its own assessment of the performance of the State police, to be placed before the State Legislature.

61.13 The preparation of the final report, to be put up before the Legislature by the State Security Commission itself will lend the report greater acceptability. The Commission will consist of not merely the Home Minister but Members of known integrity and impartiality drawn from various cross-sections of society who would have no temptation not to call a spade a spade. At the same time, the system suggested by us will bring to the notice of the Home Minister a more reliable and more detailed picture of the State policing and will thus enable him to take the necessary corrective steps thereby helping him to discharge his responsibilities as a Home Minister in a much better manner.

61.14 We would have liked the accountability of the police to the people to be made more direct and visible by vesting the power in the people to ensure accountability directly to the people themselves. But in a representative democracy like ours we are

aware that ensuring such a direct accountability, though desirable, is beset with various difficulties. We are, however, convinced that it is not impossible to introduce a near-direct accountability of the police to the people whom they serve. This does exist in a way even today. The Superintendent of Police of a district and the Range DIG get regular feed-back from the people and the press. This enables them to assess the performance of the officers at the Station House and other operational levels.

- 61.15 What we desire is to create the awareness of direct accountability to the people at the various levels in the police hierarchy. In other words, this awareness of accountability to people should not only permeate the system but the officers individually as well as in groups should be sensitized to the idea of the importance of accountability to the people. We have stressed this aspect in our Chapter on 'Training of Police Personnel' also.
- 61.16 Inspections are instrumentalities in introduction of direct accountability to people. Officers, therefore, have to take inspections seriously and make them more meaningful by conscious and constant interaction with the people. They should not hesitate to meet the people and the press, nay, they should seek out people during their inspections to get the necessary feed-back to assess the functioning of operational level policing. This should be both at the district and at the Station House level. During the inspections, the Inspecting officers should call meetings of the cross-sections of the people and discuss their problems with them. At the district level they should hold meetings not only with the cross-sections of the people but with the representatives of the people at the Municipal, Zila Parishad levels and with the MLAs and MPS of the constituency.
- 61.17 During inspections the inspecting officers should devote special care to scrutinise and review the overall pattern of complaints that are received. If a complaint of a particular kind is repeated or frequent complaints are noticed from a particular area, the Inspecting Officer should investigate into the causes. Selective inspection should be carried out so that the complaints as well as the reasons therefor could be ascertained in detail.
- 61.18 We would like to lay emphasis on the point that officers at the level of Superintendent of Police and above should be required to watch the reputation of Station House Officers. Responsibility in this regard must be squarely fixed on them and any failure on their part in this regard should be viewed seriously. However, there may be circumstances where the supervisory ranks may either fail to assess the reputation of the SHO or fail to take appropriate action even after a case of bad reputation has come to their notice. In such circumstances, the people have a right to petition to the State Security Commission. In such cases the State Security Commission should cause appropriate enquiries to be made to gauge the reputation of the SHO concerned and take such action thereafter as may be required.
- 61.19 We have in our earlier Chapters expressed the hope that the future police station will not merely be a point of crime control and prevention but will develop into a service centre. At present, people hesitate to go near police stations but with the introduction of training we have recommended for the police personnel, and the quality of recruitment we have envisaged and the constant sensitising of the police personnel to the problems of the people by the superior officers, it should be possible to convert the police stations into 'service centres' for people with problems.
- 61.20 When the Range DIG or the Supdt. of Police of the district feels that a particular station house or operational level policing is not giving the necessary satisfaction to the people, he should go into the causes in depth and try to remove the same. If the attitude of a particular Station House Officer or his methods of functioning are not in the interests of the people of the locality, the higher officers should not hesitate to shift the officer from that particular area and to take such corrective or disciplinary action against him to mend his attitude and behaviour.

Accountability to Law

- 61.21 The principal criminal laws in the country are the Indian Penal Code and the Criminal Procedure Code. There are also some special/local laws making certain acts

penal offences. The Police Act which is one of the special laws spells out powers, functions and duties of the police.

61.22

The Police Organisation is subject to the superintendence of the State Government. We have analysed the nature of this superintendence in our Second Report in paragraphs 15.36 to 15.42. We have explicitly mentioned therein that "the investigative tasks of the police are beyond any kind of intervention by the executive or non-executive." Therefore, so far as the police-activities pertaining to investigation of offences are concerned, they have professional independence whereby they are to be entirely governed by the provisions of law. No authority except the supervisory ranks of the police themselves are authorised to issue an executive order to the police official to investigate or not to investigate a criminal offence, arrest or not to arrest an alleged offender or decide a case under investigation in a particular way. Any executive instructions issued in this regard would be contrary to the law. With regard to preventive tasks and service oriented functions, we have said that "in the performance of preventive tasks and service-oriented functions, police should be subject to overall guidance from the Government which should lay down broad policies for adoption in different situations from time to time. There should, however, be no instructions in regard to actual operations in the field. The discretion of the police officer to deal with the situation within the four corners of the overall guidance and broad policies should be unfettered."

61.23

The police accountability, therefore, is to the law as established by the people in all areas of law enforcement. In the area of investigation they are exclusively governed by the laws, both substantive and procedural. They are not subject to the directions of any authority not recognised by the law. In other areas of law enforcement, the police accountability continues to be to the law as enacted. In the latter areas, however, their functions are subject to such broad policies as may be laid-down under the law by the recognised authorities. Even here the broad policies can be laid-down only under the law and not beyond or against it.

61.24

Although the laws are ultimately the wishes of the people themselves, neither the people nor the elected representatives have any authority to intervene or interfere in the activities of the police in the discharge of the duties under the laws once enacted, though the people through elected representatives may amend the law if they deem so necessary.

61.25

The above-mentioned factors are essential for ensuring police accountability to law; but we observe that there has been a continuous erosion by undue interference in the exercise of the discretionary authority and statutory duties of the police. Extraneous interference is damaging the police accountability to law. In this context Professor David H. Bayley expressing his views on the subject has observed:—

"In India today a dual system of criminal justice has grown up — the one of law, the other of politics. With respect atleast to the police, decisions made by the police officials about the application of law are frequently subject to partisan review or direction by elected representatives. This autonomy of police officials in specific and routine applications of law has been severely curtailed. This is not only true of law and order situations. People accused of crimes have grown into the habit of appealing to political figures for remission from the sanctions of law. Police Officers throughout India have grown accustomed to calculating the likely political effect of any enforcement action they contemplate. Fearing for their careers and especially their postings, they have become anxious and cynical But everywhere officers expect to be held personally accountable by politicians even more than by superior officers for enforcement actions taken in the course of duty."

He has further observed —

"Altogether, then, the rule of law in modern India, the frame upon which justice hangs, has been undermined by the rule of politics. Supervision in the name of democracy has eroded the foundations upon which impartiality depends in a criminal justice system."

The findings of Prof. Bayley support our own observations of the situation in the country.

- 61.26 While police functionaries have been accorded wide powers under the law, many of them affecting the freedom and liberty of an individual, provision has also been made for strict scrutiny by the courts over the manner in which the police exercises these powers. Almost all preventive and investigative activities of the police are subject to scrutiny by law and adverse observations by courts on police conduct call for a mandatory enquiry attended with follow-up action. At the same time any member of public who feels that the police in a particular situation has acted contrary to the law, can move the courts for redress. In order to secure fuller accountability of the police to the laws, we have already recommended in our First Report, mandatory judicial inquiry into certain categories of police "misbehaviour" through a District Inquiry Authority. We have in the same report also recommended creation of a Complaint Cell under the District Superintendent of Police and Special Cells under the Range Deputy Inspector General of Police and Inspector General of Police to handle complaints against the police personnel.
- 61.27 On occasions, however, it is seen that false and frivolous complaints are made against police officers before criminal courts, to embarrass and demoralise them so that they desist from taking stern action against an offending party. Sometimes such complaints are got filed through third parties by influential persons who have a grouse against the police but do not themselves want to come out in the open. They only make funds available and exercise their influence to create and produce evidence. Law takes notice of such vexatious prosecutions and has provided protection to police officers, as also to other Government servants, for acts done or purported to be done in the discharge of their official duties.
- 61.28 Section 132 of Cr.P.C. 1973 gives protection to members of the armed forces of the Union, executive magistrates and police officers against prosecution for acts done under section 129, section 130 and section 131 Cr.P.C. which relate to dispersal of unlawful assembly by use of force etc. According to sub-section 1 of section 132, no prosecution can be launched against a police official except with the sanction of the State Government. Section 132(2) provides that police officials acting under good faith in connection with dispersal of unlawful assembly would be deemed to have thereby committed no offence.
- 61.29 Section 197 of the Cr.P.C. provides protection to judges, magistrates and all public servants not removable from their office except by or with the sanction of the Government. Thus no court is authorised to take cognizance of an offence against a public servant, if the alleged offending act has been committed while acting or purporting to act in the discharge of duties, except with the previous sanction of the State Government. Sub-section 3 of section 197 empowers the State Government to make any class or category of members of the force charged with the maintenance of order immune from prosecution except with the previous sanction of the State Government.
- 61.30 The difference between the provisions of the above two sections are firstly that while section 132 Cr.P.C. gives protection to police officers of all ranks, section 197 Cr.P.C. generally covers only the officers who are not removable from their office save by or with the sanction of the appropriate Government. Secondly, section 132 Cr.P.C. covers only acts purported to be done under section 129, 130 and 131 Cr.P.C., while the other section provides for omnibus protection for all acts done or purported to be done in the discharge of official duty.
- 61.31 The above provisions in actual practice seem to have made neither the public nor the police officer happy. The public feel that the restriction placed by the law are dilatory and undue. Obtaining permission for prosecution from the competent authority takes considerable time and the consequent delay provides an opportunity to the accused police officer to suborn witnesses and even pressurise the complainant. The common man feels that he should have an unfettered right to seek redress for an injustice done to him by a public servant, from a court of law. The police officers, on the other hand,

feel that the law as it has been interpreted and applied hardly provides them any protection worth the name. The police officers, whom we met, repeatedly drew our attention to many occasions when they got no legal protection, even though the acts in question were done in the discharge of their duties.

61.32

We have given anxious consideration to the two opposite views stated above. While we feel that on the one hand the police officers are exposed to frivolous prosecutions and there is need for help from the Government so that they do not feel helpless or abandoned, we also at the same time see merit in the plea that the public should be free to seek the verdict of a court of law if he has a grievance against a Government servant.

61.33

Section 197 Cr.P.C. suo moto makes a distinction between officers not removable save by or with the sanction of the appropriate Government and other ranks of police officers. Though in some States (like Delhi) the protection has been extended to other ranks charged with the maintenance of public order under the provisions of sub-section (3) of this section, we see no justification for making a distinction between the various ranks of police officers and would like the recommendations which we will be making in this chapter later on to be made applicable to all ranks equally.

61.34

Police has vast powers which may affect even the liberty of an individual. Stigma attaches to any person, action against whom is taken by the police. Similar powers are not enjoyed by officers of other departments and hence we feel that the police should also have a greater measure of accountability. The public complainant should, in our opinion, be free to press his complaint against a police officer for a judicial pronouncement without there being a need to obtain permission from any body. At the same time we feel the necessity for certain measures for the protection of police officers against vexatious and frivolous prosecutions. While we advocate that the public complainant should have the liberty to go ahead with his case in a court of law, we would recommend that the police officer should be defended at the cost of the Govt. According to the existing rules and instructions in some States the permission of the Government has to be obtained for such a defence. We do not consider this to be necessary. We feel that officers of and above the rank of Superintendent of Police should be empowered to order defence of their subordinates. The Government orders should be necessary only in cases when a complaint is filed against an officer of the rank of Inspector General of Police or Director General of Police and also in case the complaint against the police officer is of rape or murder. Such defence at Government cost should extend upto the appellate stage. We have examined the propriety of the suggestion that in case the officer is convicted by a court of law, the expenses incurred by the Government in such cases should be recovered from him. In the case of conviction of a Government servant, he will automatically be subjected to some other departmental penalty which may extend up to his dismissal. We think that such a departmental penalty should be enough and the recovery of expenses would not be necessary.

61.35

We have considered another suggestion which was made to us, namely, making it obligatory for the public complainant to deposit a certain amount of money along with his complaint in the court of law which amount should be subject to forfeiture in the event of the complaint being found false. We think that such a provision will prevent the weaker sections of the society from going to courts for the redressal of their grievances. As an alternative, we feel that in case the court comes to a finding that the complaint is unfounded, it should by law be empowered to take the explanation of the complainant and if it finds the explanation unsatisfactory, it should have power to inflict suitable punishment on the complainant. The Law Reforms Commission appointed by the Australian Government in its Report on 'Complaints against police' has recommended that "where the complaint filed against a police officer concerning action taken by him is false or misleading in a material particular, it should be treated as an offence punishable with fine upto \$500 or/and imprisonment upto six months". We are in general agreement with this approach and would suggest the introduction of a suitable legal provision in this regard. We would also add that it might be impressed upon courts by the High Courts concerned that such complaint cases against police officers

should be disposed of on a priority basis. Delay not only causes frustration to the complainant but also brings the police force as such into disrepute. Further, we would suggest that the High Courts might draw the attention of the lower courts to the provisions of section 202 Cr.P.C. and advise them generally to ask for a report from the District Superintendent of Police on the complaints filed before them. It should be the responsibility of the District Superintendent of Police to either make an inquiry himself or have it made by a sufficiently senior officer and submit a factual report to the court before the court decides to proceed further with the case. Objectivity of such a report must be ensured at all costs and there should be no attempt to white-wash or cover up the lapses. A fair and impartial report will enhance the confidence that the court may repose in police.

- 61.36 We would like to add a word of caution in this regard. Sometimes the main purpose of filing a complaint in a court of law is to secure the transfer of the officer concerned and once the transfer has been ordered, the complainant loses interest in the case. We feel that on mere filing of a complaint transfers should not be made unless there is a prima facie case and justification for the same.

Organisational accountability

- 61.37 In the system of accountability internal to the organisation also we have noticed equally serious drawbacks which have led to distortions and which would require suitable corrective measures. In a hierarchical system like the police, accountability is determined at various levels with reference to the next higher level. For instance, the SHO is accountable for his individual performance as well as collective performance of the Police Station to the Superintendent of Police. So far as the performance appraisal of individual functionaries are concerned, we have dealt with that in a separate Chapter in our Seventh Report. In this Chapter we are confining ourselves to evaluation of collective performance. This is because in our opinion individual performance appraisal requires a more detailed and exclusive discussion and the evaluation of group performance may be more appropriately dealt with in the context of police-accountability. Evaluation of group performance is conducted by various levels of supervisory police officers by the exercise of periodic inspections. For instance the District Superintendent of Police inspects police-stations under his charge periodically. Similar inspections are carried out in respect of the District Police by the D.I.G. and the Chief of the State Police. We note that the yard-sticks adopted for evaluation of group-performance are generally similar in most States with regard to the major areas of police activities. For instance, the most commonly used parameter relates to assessment of police efficiency by comparison of crime-statistics of the period under review with those of the previous years. If the number of offences registered during the period under review is more than those in the preceding years, a facile conclusion is drawn that the police of the area has failed to control crime. Firstly, statistics of reported cases of crime do not reflect the true position regarding police efficiency, as the police by themselves do not exercise control over all crimo-genic factors. Secondly, adoption of this parameter leads to large-scale non-registration of offences at the police station level. Since free-registration of all cases reported at Police Station would mean swelling of crime figures, under-registration at the Police Station level has become a prevailing practice. We would like to add, even at the risk of repetition, that suppression of crime-statistics is not a malady afflicting the Police Station level only; it has taken into its sweep the supervisory authorities at all levels also. Since the crime situation is discussed every year on the floor of the State Legislatures primarily on the basis of crime statistics, State Governments in the majority of the cases are also interested in presenting a rosy picture of crime incidence. Therefore, the State Governments and the senior police-officers frequently connive at under-reporting of cases.

- 61.38 Another commonly used parameter is the so-called 'preventive measures' taken by the police during the period of review. Incidence of reported offences under Local and Special Laws is generally considered to be an index of the extent to which 'preventive measures' were taken by the police. The higher the number of reported cases under Local/Special Acts (e.g. Police Act, Arms Act, Excise Act, Gambling Act, Suppression of Immoral Traffic Act etc.), the more creditable it is considered to be for the

police. The logic behind this practice appears to be that the acts punishable under Local and Special Laws are the breeding-grounds for more serious offences and the arrest and prosecution of offenders at this stage acts as a deterrent against major offences. The obvious flaw in this assumption cannot escape notice. But more than that, adoption of this determinant of evaluating police performance leads to large-scale and unwarranted arrests, and initiation by police of false cases against innocent persons.

61.39

Another yard-stick adopted in some States pertains to police-encounters with the gangs of dacoits and robbers. Total number of encounters during the period of review, total number of criminals apprehended and killed in police-encounters, fire-arms etc. recovered from the outlaws are the parameters by which the police efficiency is assessed. This yardstick also often leads to police staging fake encounters and at times killing of criminals after they are caught by the police. Fire-arms are often planted in the hands of dacoits and to acquire them, unscrupulous police officials connive at the illicit manufacture of such fire-arms.

61.40

The above are the most frequently used yardsticks on which the police efficiency is assessed. A few other yardsticks common to all States are —

- (i) Recovery of stolen property during the period of review, as compared to previous years;
- (ii) Successes in investigation of offences determined by the percentage of charge-sheeted cases to those registered by the Police during the period of review;
- (iii) Successes in criminal cases in the courts of law determined by percentage of cases successfully convicted to those decided, etc.

In adopting these determinants, a lack of correlation between the determining factors and yardsticks which are supposed to measure police efficiency is apparent. But more than that, these parameters encourage the police to adopt questionable means of recording and controlling crime and even resorting to illegal acts. One modern yardstick adopted in some big cities is the 'response-time' which is the time-lag between the receipt of a call by the police and the arrival of the police at the place of the caller. But we note that the average response-time of the police-car in big cities does not provide a realistic picture, as the police records appear to be manipulated frequently to show a quicker response-time.

61.41

Due to a faulty system of monitoring police performance at various levels, we have come across a number of odd situations. For instance, in one major State the sense of security in the community has been lacking during the last decade or so, but crime statistics create an impression that it is a very peaceful area. In another major State there is a similar situation, but the crime figures of today in that State are much below those recorded 10 years back. In this State several thousands of dacoits have been shot dead during the police encounters during last 5-6 years, but the dacoity menace remains unchecked.

61.42

Great harm has been caused to the image of the police department due to laying down of faulty determinants for evaluating police performance, which has led to a misplaced sense of accountability and questionable methods of crime control adopted by police. In our opinion, the parameters of performance evaluation act as reference points for determining police-performance which ultimately help delineate the coordinates of police accountability. Therefore, we have addressed ourselves to the possible yardsticks which may be the desirable indicators of police performance. While determining these yardsticks we have two considerations in our view :—

- (a) that these should help the authorities to have an objective evaluation of police performance;
- (b) these yardsticks should not encourage the police to resort to extra-legal methods.

We recommend the following determinants to be adopted by the State Police organisations :—

- (1) *Prevention of Crime* :
 - (i) Sense of security prevailing in the community.
 - (ii) People's willing cooperation and participation secured by the Police in preventing crime.
- (2) *Investigation of Crime* :
 - (i) Correct registration of crime.
 - (ii) Prompt visit to the scene of occurrence.
 - (iii) Speedy investigation.
 - (iv) Honesty and impartiality in investigation.
- (3) *Law and Order* :
 - (i) Extent to which law and order is maintained, taking into account the forces which promote lawlessness.
 - (ii) The manner in which law and order is maintained. Two factors have to be judged — (a) People's cooperation; (b) Use of force.
- (4) *Traffic Management* :
 - (i) Smooth flow of traffic in urban areas and control of fatal and serious accidents by prosecution of persistent offenders.
- (5) *Service* :
 - (i) General spirit of service, especially to weaker sections, physically handicapped, women and children.
 - (ii) Quality of service rendered in a distress situation like cyclone-havoc, flood-damage, famine etc.
 - (iii) Specific instances of service-oriented functions performed by the Police which drew special appreciation and gratitude from the public.
- (6) *Reputation of integrity and courtesy* :
 - (i) General reputation.
 - (ii) Police collusion with criminals organising illicit distillation, gambling, economic crimes, prostitution etc.
 - (iii) Reputation for courteous behaviour.
 - (iv) Prompt and satisfactory enquiry into complaints against policemen.

However, the problem likely to be faced in this connection by the police authorities will be fixation of specific determinants to evaluate the performance of the police relevant to each of the above-mentioned heads. These determinants would have to be evolved in due course after some experimentation and experience.

61.43

With regard to the departmental accountability, we would like to lay down as a guiding principle that a functionary in the department at a particular level should be held accountable only with respect to functions and duties assigned to him; conversely the accountability should not extend to duties over which he has no direct control. Such duties and functions are assigned to police-officers at various level from time to time by virtue of various laws and departmental rules. Great damage has been done, in our view, by not taking note of this important principle, and holding functionaries at each level (e.g. SP, DIG and IG) responsible for everything happening throughout his jurisdiction. To elaborate our point, the IG is responsible for generally maintaining law and order throughout the State, generally maintaining integrity and morale of the force, personnel management including training of personnel etc. But he cannot be held responsible for each isolated incident in a particular district unless it is proved that the particular incident occurred because of some acts of omission or commission on the part of the Chief of Police, or such incidents have been widespread and the latter has failed to react adequately. In a similar manner, it would be wrong to hold the SP or the SHO accountable for each isolated incident in their respective jurisdictions.

- 61.44 Finally, with regard to the departmental accountability we strongly disapprove of the practice of fixing unreasonable or impossible targets which cannot be achieved except through irregular or illegal means. Examples of these are the categories of orders to 'reduce' crime within a fortnight, or clear the area of outlaws, particularly dacoits and robbers, within a short time or to create a sense of security in the community within a similar period or to work out a sensational offence within an unreasonably short time. More often than not, these are the very orders which induce policemen at the Police Station level to resort to such unlawful means as indiscriminate arrests, adoption of third-degree methods, staging fake encounters etc. Often targets of the kind indicated above are promised by the Government in the State Assembly after a hue and cry has been raised regarding law and order/crime situation in a particular area or in the State. Such instructions filter down to the Police Stations through the various levels of police hierarchy. In our opinion such instructions and directions which are instrumental in creating a distorted sense of accountability among the police functionaries should be controlled effectively and avoided.
- 61.45 The necessity for accountability of the police organisation is not far to seek. As mentioned earlier, it is too much to expect the political executive alone to account for the acts of the Government departments under their control and the individuals in those departments. The very remoteness of the political executive from the grass-root functioning of the Governmental agencies makes it imperative that the accountability has not only to be defined but prescribed precisely for various levels of the Government organisation. Again the concept of ministerial responsibility to the people through the Parliament and Assemblies presupposes anonymity of the Governmental agencies. In progressive democracies, the concept of anonymity has given way to direct accountability of the various constituents of the Government to the people.
- 61.46 We want to emphasise that accountability can be ensured only by active supervision. Accountability also depends upon the awareness of the people of their rights and their willingness to exercise the same in a responsible manner by activating the mechanisms worked out by us. At the same time that awareness should also include clear understanding of the limitations and constraints within which the police has to function. Police on their part should also clearly understand that the ultimate accountability is to the people and to the people alone. Their accountability to law and to their organisation are only complementary to the ultimate objective of accountability to the people. If the people are not prepared to assert their rights through the various agencies prescribed by us apart from the Courts, if the State Security Commissions are not established, if the media remains biased and not constructive and inspections continue to be a farce, nothing much can be expected from the mechanism of accountability.
-

CHAPTER LXII

LOOKING AHEAD

62.1

This is not an omnibus peep into the future ; the approach is confined to the police organisation and its role performance about 2000 A.D. Only factors affecting the role performance of police have been discussed. The objective has been to discover what the police organisation has to do *now*, and *from now on*, to adequately discharge its responsibility in about 2000 A.D. The object is strategic planning and not futurology. It is necessary to attempt this even though history shows that sometimes revolutionary changes in a country as a result of science, economics make all calculations go awry.

The present state of policing

62.2

In our earlier reports we have already commented on the present state of policing. The two key elements in the state of policing are police performance and police behaviour. In the Preamble to the First Report we had stated that "Functioning under the constraints and handicaps on an outmoded system, police performance has undoubtedly fallen short of public expectation". It might, however, be mentioned that the assessment of police performance is a tricky matter. Statistics of crime and percentages of conviction do not reveal much, and statistical appraisal of police work has been condemned from 1903 to the present day. The reasons are the nebulous concept of normal crime and the fluid character of order.

62.3

Taking crime control and maintenance of order separately it would be found that (1) no society has ever been totally free of crime and (2) there exists a concept of 'normal crime' as a standard against which police performance in this sphere is usually assessed. If we take a town with a population of two lakhs with the usual mix of students, labour, a small floating segment and a fair sprinkling of various communities how much crime is normal for it cannot be stated by anyone. How many rapes, murders, thefts, robberies, per annum are 'normal' cannot be determined by any formula. In practice crime statistics of various years are used for comparison but this comparison seldom takes into account the accretion, during the period, in the criminogenic factors and the absence of free registration of offences. While statistics of crimes are used for various purposes, they do not, unless there is a marked increase in a particular type of crime during a period in which an experiment in free registration is not being made, reveal the ground position of police control over crime. If in a town the figures of rape for the last three years were 8, 7, 9 and in the current year up to October only 4 rapes have taken place it may to the people mean nothing who might legitimately be horrified by a couple of brutal rapes which form part of the total figure of 4 rapes. Consider the following situations. Five rapes take place in different parts of a district, two in a khalihan, one in the town and another two inside homes. In the other situation a girl returning from school is kidnapped by a couple of goondas, taken away, raped and freed. Although it is a single case of rape it will and should hit the people much harder ; a conclusion of lawlessness is justified. A couple of grisly offences, though they are for the police and the administration a question of crime and crime control, may create the feeling that law and order has deteriorated. But even if we relate the state of order to an agitation, a procession, a demonstration, a gherao, a riot, all these can be counted but how many should be considered normal for a district ? Processions and bandhs are a part of our democratic way of life and will continue but if in spite of them people feel that they can go about their normal routine that is all that matters. Thus in both the areas, i.e., crime and disorder, public perception is the decisive factor.

62.4

Public perception of police performance and behaviour has been mentioned by us in Chapter XLI of the Fifth Report. The conclusions stated were :—

- (1) "Police-public relations at present are in a very unsatisfactory state. While there are several reasons for it, police partiality, corruption, brutality and

failure to register cognizable offences are the most important factors which contribute to this sad state of affairs”.

- (2) “Police do in fact harass even those people who try to help them”.
- (3) “There is a certain degree of ambivalence in people’s views about police efficiency ; by and large they do not think the police are inefficient. A change in the style of police functioning is what they desire foremost”.
- (4) “Those who have interacted with the police have a slightly better opinion of it than those whose opinions are based on what they have heard”.
- (5) “The Indian Police Commission of 1902-03 had, after discussing police corruption ‘practices of extortion and oppression’, their ‘unnecessary severity’, harassment of people, concluded (para 26): “What wonder is it that the people are said to dread the police, and to do all they can to avoid any connection with a police investigation”. These observations can very well apply to the conditions obtaining even today. People now may not dread the police but they certainly dread getting involved with it any capacity”.

The present state of the police organisation

62.5

During our tours and discussions with people in various walks of life a feeling was often expressed that based on the Police Act of 1861 the present police organisation is not suited for the present times because an authoritarian police working under an imperialist regime cannot function well in an independent democratic country. In addition to this basic change is the phenomenal rise in population not paralleled by an equal rise in our gross national product, leading to problems of scarcity in a developing society. It is felt that the police cannot handle all these problems in the traditional manner of repression. The police sub-culture should take into account the fundamental rights of the people, the supremacy of laws and not of executive fiat, and our constitutional goal towards a developed and egalitarian society. Before independence a single constable could handle four goondas, now he gets beaten up, stabbed or, even killed. While this factor is taking its toll on the police organisation as yet there are no signs of any preparation for it. In practice the laws are so many, not to speak of social legislation in particular, that police do pick and choose. The real problem is not the effective enforcement of one law or the other but to create a total atmosphere of law enforcement in which criminals, who make a cool calculation, should feel that the odds are weighed against them.”

62.6

The traditional attitudes and values stubbornly survive while the environment has changed totally. The army philosophy, particularly that which had obtained in the nineteenth century, of work and discipline through an autocratic plus paternalistic management survives as an anachronism and an hindrance to any effort to adapt to the changed role and environment. Now with greater education and mass consciousness there should be an effort to promote motivation by participation and shared goals.

62.7

The methods of recruitment and training are far from the realities of the ground situation. As soon as a police officer reaches the police station he has first of all to unlearn what he had been taught in the training institutions. To some extent the legal handicaps and to some extent double talk have produced this situation. The law itself does not trust its instrument. As yet it is not clear to any policeman how he can investigate a case of dacoity, in a strictly legal manner, and yet secure conviction from a court of law. The same is true of a number of other offences. A witness is harried by the police, bullied by the lawyers and harassed by the courts, yet the police are expected to produce fresh independent witnesses every time.

62.8

The organisation is shaken by mounting criticism of its operational brutality and cancerous corruption. No thinking and planning are in evidence because the senior administrative ranks are perpetually insecure and are exhausted by the continual effort to survive, in an atmosphere where their assessment by the executive — administrative and political — is not always based on merit. Clearly the police organisation as it stands today is unfit to discharge its duties. How much more so would it be by the turn of this century is a horrifying thought.

Trends in crime and disorder

62.9

The trends in crime and disorder today can be projected into the future as a continuing process. The crime picture before independence was typical of a large agricultural country where the predominant forms of crime were dacoity, murder for traditional causes such as land and woman, with a certain amount of burglary in the urban areas. The crime picture has remained more or less the same after Independence, though the number of offences has increased steadily even as population and overcrowding have increased, and has reached a serious stage in some areas, and organised crime such as smuggling, gambling, corporate crimes and frauds have appeared. While there is undoubtedly a feeling of insecurity in some parts of the country, especially in the rural areas, the situation in the urban areas continues to be more or less the same. Communal flare-ups showed a marked decline in the first few years after independence but there has since been a substantial increase and, along with it, there are signs that the use of fire arms and explosives will increase. We should expect that violence, which is basically rooted in a soft state and deprivation for vast numbers, may increase. Difficulties regarding food, drinking water, fuel and energy may create conditions conducive to disorder. The quickening pace of industrialisation will lead to massive urbanisation. Uprooted populations without the restraints of rural life may find a life of crime attractive and will drift into gambling, alcoholism and organised disturbances to secure their demands.

62.10

The unreliability of crime statistics in India is well-known. This trend got accentuated after independence because of the anxiety of the State Governments to prove to the legislature that crime was under control. Every State Police Commission — in Punjab, in Delhi and in Uttar Pradesh in 1971 — which went into this question unanimously concluded that crime statistics reflect large-scale concealment. Whenever a genuine effort was made to register all crime — in Uttar Pradesh in 1961-62, and 1970-71, in Delhi, in 1970 and in Haryana in 1977-78, the figures showed such fantastic jumps as were impossible with any normal increase in one year. In spite of the basic unreliability of the crime statistics the figures of recorded crime show certain unmistakable trends. The visible trends in crime are: (1) crime is increasing faster than either population or police strength; (2) the involvement of young people in crime is increasing; (3) the involvement of women in crime is increasing; and (4) the tendency of criminals to be armed and to resort to violence as well as crimes of violence is increasing.

Increase in crime

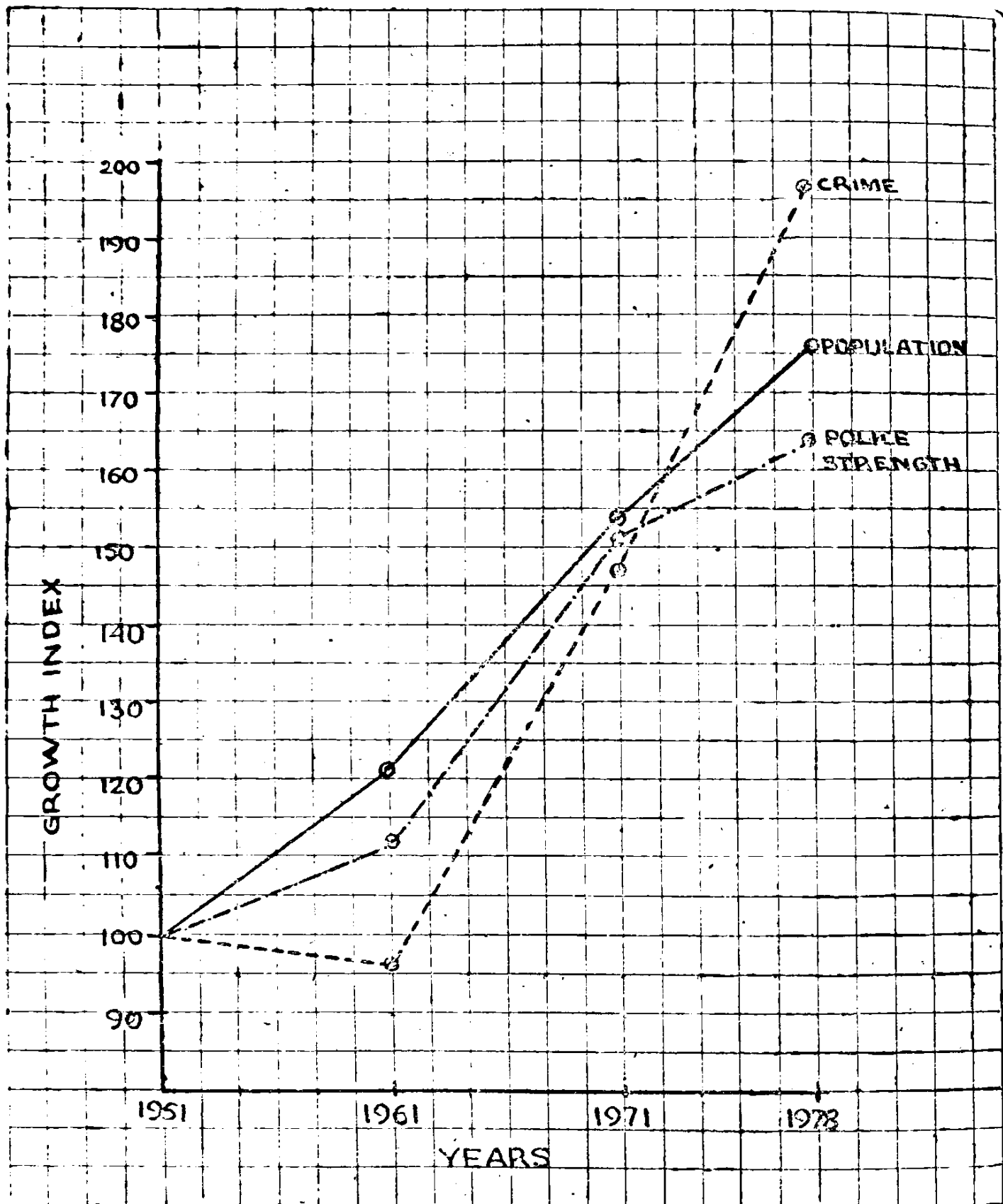
62.11

After showing a marginal fall in the decade 1951-61, recorded crime has been steadily rising in the country in the last two decades. Total cognizable crime in the years 1951, 1961, and 1971 was 6,49,728; 6,25,651 and 9,52,581 respectively. In 1978 total recorded cognizable crime was 12,73,564. It would be seen that during the decade 1951-61 recorded crime decreased at the rate of 0.37% per year or 3.7% through the decade. During the decade 1961-71 crime increased at the rate of 5.2% per year or 52.2% through the decade. During the decade 1951-61 the population of the country rose at the rate of 2.2% per annum or 21.63% in the decade. The increases for the decade 1961-71 were 2.5% per year and 24.82% for the decade. The total strength of the police in the country was 4,67,740 in 1951, 5,26,149 in 1961 and 7,06,895 in 1971. On 1-1-78 the police strength was 7,67,396. The growth of police strength was 12.4% during the decade 1951-1961 and 34.4% during the decade 1961-1971. The comparative situation is shown below in the following table:—

Year	Population in crores	Growth index 1951=100	Crime in thousands	Growth index 1951=100	Police strength in thousands	Growth index 1951=100
1951	36.11	100	650	100	468	100
1961	43.92	122	622	96	526	112
1971	54.82	153	953	147	707	151
1978	63.21	175	1274	196	767	164

Diagrammatically it could be shown as below :—

Graph showing trends in population, crime and Police Strength—1951—1978.



From the above analysis it can be seen that while crime, after a fall during 1951-61, has been rising rapidly in the last two decades, and the population also has been showing a steady rising growth rate, police strength after showing a proportionate growth

up to 1971 has failed to keep pace with the growth of crime and population during the period 1971-78. If this trend continues the growth of crime and population would far outstrip the growth of police strength in the coming couple of decades.

Increasing involvement of the young in crime

62.12

A marked feature is the increasing involvement in crime of the young people. A total number of 44,008 I.P.C. crimes were committed by young offenders (those up to 21 years of age) during 1977, recording an increase of 18.9% over 1976. They were responsible for 3.5% of the total IPC crimes reported in 1977 as against 3.4% from 1973 to 1976. The volume of juvenile crime per lakh of population was 7.0 for 1977 as against 6.00 in 1976. It is thus clear that the involvement of juveniles by way of numbers is increasing. It increased from 2.6% in 1967 to 3.5% in 1977. On the other hand due to improved health standards and longevity the proportion of young people in the 70's has gone up in the total population and therefore one cannot be very definite that proportionally criminality among the young is increasing. The fact of sheer increase in the number of offending juveniles is however relevant. The figures of crimes committed by juveniles take into consideration all those who are up to the age of 21. If we take the age group of 15-19, easily available from census figures, and the year 1972 for which figures of juvenile crime are available we find that in that year the total number of IPC crimes committed by juveniles was 31,199 and their population in the age group of 15-19, 54 million, and the figures for 1976 were juvenile population 63 million and IPC crimes committed by them 37,000. The increase works out to 57 IPC crimes by juveniles per lakh of their population in 1972 and 59 crimes per lakh of their population in 1976. In any case such a large number of young people going through the mill of the criminal justice system and getting back to society is a cause for concern on account of the present state of the criminal justice system and its impact on those who are put through it.

Increasing involvement of women in crime

62.13

On account of various socio-economic reasons about which the police can do nothing the involvement of women in crime has been increasing. The table below shows the increase, particularly in number, of the involvement of girls in juvenile delinquency :—

Involvement in Juvenile Delinquency

Year	Boys	Girls	Percentage of Girls	Total
1967	66719	5390	7.5%	72109
1968	68557	4801	6.5%	73458
1969	74092	4776	6.1%	78868
1970	94617	4228	4.3%	98845
1971	97987	5432	5.3%	103419
1972	120953	7228	5.6%	128181
1973	122192	5550	4.3%	127742
1974	132125	8514	6.1%	140639
1975	132587	9312	6.6%	141899
1976	124569	9404	7.0%	133968
1977	138532	10390	7.0%	148922

Taking the total number of persons arrested under I.P.C. crimes during the period 1971-77 we found that in 1971, 975251 were arrested out of whom 16303 (1.7%) were females but in 1977 the total arrests were 153515 out of whom 28600 (2%) were females. If we take the numbers only the increase of 12,297 amounts to an increase of 75.4% from 1971 to 1977. The involvement of female offenders was largely in kidnapping, abduction, thefts and murders.

62.14 Involvement of women as victims of crime is also, on the increase. While no data on this is available we examined the figures of the crime of rape and found the following progression :—

1971	2487
1972	2605
1973	2919
1974	2962
1975	3376
1976	3893
1977	4058

The female population in 1971 was 264 million and provisional figures for 1981 are 331 million which means a growth of 25.4% which is less than their increasing involvement in crime either as victims or as offenders.

62.15 Women largely because they have come out of their homes to study and to work, are now more exposed to dangers in society and exploitation by the unscrupulous and they also now and then become victims of misconduct by policemen. All these require a definite response from the criminal justice system, including the police. The traditional police organisation is not structured to deal with women be they victims or perpetrators of crime.

Violent crime

62.16 While crime as a whole is increasing, crimes of violence are increasing faster.

Incidence of crimes of violence per one lakh of population and percentage variation during 1978 over 1968

Year	Total cognizable crime	Murder	Dacoity	Robbery	Riots
1	2	3	4	5	6
1968	862016 (168.7)	13841 (2.7)	6357 (1.2)	10194 (2.0)	45811 (9.0)
1973	1077181 (187.0)	17072 (3.0)	10627 (1.8)	18857 (3.3)	73338 (12.7)
1974	1192277 (202.7)	18649 (3.2)	13697 (2.3)	22286 (3.8)	80547 (13.7)
1975	1160520 (193.02)	17563 (2.9)	12506 (2.1)	21656 (3.6)	67241 (11.2)
1976	1093897 (178.4)	16673 (2.7)	10910 (1.8)	17974 (2.9)	63675 (10.4)
1977*	1230954 (202.5)	17962 (3.0)	12339 (2.0)	22328 (3.7)	76666 (12.6)
1978*	1273564 (205.4)	18638 (3.0)	11497 (1.9)	21698 (3.5)	77709 (12.5)
Percentage	+47.4	+34.7	+36.9	+112.8	+69.6

NOTE : Figures in brackets show crime per lakh of population.

*(Figures are provisional and exclude Assam).

It might be mentioned that during 1968-78 the increase in cognizable offences was 47.7%. The increase in population during the same period was 24.9% but robberies increased by 112% and rioting by 69%. As is common knowledge the increase in dacoity has been very large but it is quite likely that many dacoities were converted into robberies to minimise crime.

62.17 Another disturbing feature is the input of violence in crimes which traditionally were committed without violence. As example is pick-pocketing. A field study in

Bombay revealed that whereas a few years ago pick-pockets depended on sleight of hand now they depend on their readiness to whip out a knife and stab the protesting victim. Similarly burglars are now usually well armed and invariably assault the residents if they wake up and try to obstruct the commission of crime. Even in the early 70's the goondas, while they did fight among themselves and terrorise the people in their areas behaved submissively when confronted by a policeman. This is no longer so. A lone policeman dare not tackle a goonda for fear of being assaulted and cases of policemen who become victims of injuries, fatal or otherwise, during the performance of their duties are increasing. The following table gives the number of policemen killed and injured while on duty, in the previous years :—

Policemen killed/injured on duty

Year	Number of Policemen	
	Killed	Injured
1956	72	2272
1957	67	1192
1958	56	1739
Av. 1956-58	65	1734
1966	95	3623
1967	137	4394
1968	100	4039
Av. 1966-68	107	4018
1976	138	1143
1977	204	2219
1978	461	4440

Maintenance of order

62.18 In the last year or so, the number of incidents in which firing had to be resorted to by the police has increased considerably. The use of fire-arms and explosives has also posed a serious problem to the police. In the face of declining authority, there is a growing feeling in some communities that the police do not protect them and, therefore, they must organise for their own defence. At the same time the police are demoralised in some States, leadership is poor, and the resources available for dealing with unrest of a serious type are insufficient.

62.19 A large scale disturbance requires a combined effort on the part of the political and administrative wings, and may also in extreme cases require military assistance. Secondly, there is need to regularly review intelligence. It has been our regret that we could not go into the whole subject in detail. It is vital, however, that regular targets should be set and frequent reviews made of the intelligence capability. Further, a review also needs to be made from time to time of the state of discipline and preparedness of the police forces to deal with serious disturbances. What we need are alert officers, quick movement, reliable communications, a free hand to the men on the spot. In actual fact all disturbances turn out to be a test of administrative morale. If there is a strong political will and proper administrative direction, it should be possible to deal with any type of disturbances.

62.20 So far law and order problems have been an urban phenomenon. The last couple of years have shown that the awakening in the rural areas is leading to bitter and brutal caste and class conflicts. Thus we have seen the sad and cruel recurrence of raids by members of one caste on members of another caste resulting in numerous deaths. It is evident in the atmosphere of today that feudal practices of the past if attempted to be continued will only result in greater and greater violence and brutality. The second change in the rural areas has been an organised demand for more money for their produce. So far we have seen urban workers organising themselves into unions and striking work to demand better wages, better working conditions, better living conditions for themselves. Now we see the agricultural community doing the same. When this ferment is viewed against the background that about 80% people live

in the rural areas it is evident that the most serious threats to law and order will, in future, arise in the rural areas. In fact with all the vast social changes and transformations that are taking place, and with large scale unemployment and all the other difficulties that are likely to be accentuated owing to shortage of energy combined with pollution, we should expect a series of upheavals, particularly in the rural areas. The more serious of these are likely to occur in eastern India. The real test of democracy in India will be whether these upheavals can be dealt with correctly, and the required changes introduced by democratic methods. There is no doubt that the ballot box can save us from serious disorder, provided we do not shirk the election process, or allow it to get so vitiated that the will of the people is thwarted.

- 62.21 Satyagrah which originally was a device to evict the Britishers from India has ever since been used by numerous parties and organisations to obtain their objectives. While they may have achieved some redress of unnoticed grievances, and secured an improvement in the living conditions of industrial workers and government servants, an imbalance in the wage structure has been created and, in addition, these movements have eroded the authority of the Government considerably. While, originally, satyagraha was meant to be a non-violent device to secure objectives a growing tendency now is for every form of protest and agitation to culminate in sporadic violence. The social pressures that generate disorder are mounting. In a sample study made at the instance of this commission of 52 such cases taken from the years 1971 to 1975 it was found that the causes of the disturbances were political (15 cases), economic (8 cases), labour (10 cases), students (8 cases) and miscellaneous (11 cases), and for dealing with these 52 disturbances the police had fired 893 rounds killing 62 and injuring 169. Again between June 1977 and October, 1978 the police opened fire on over 30 occasions resulting in the death of more than 100 persons. Violence starts in accordance with some typical patterns. A police party goes to arrest somebody but a mob, in order to prevent the arrest, starts throwing stones on the police party. Sometimes even firearms are used by such mobs. A large mob of as many as 3,000 people tries to, as part of its protest against rising prices, loot a grain godown or plunder private grain shops. The police use force to disperse the mob. A large mob of students tries to force its way into a hall where a cultural programme is being held and is resisted by police. In the scuffle 10 students sustain injuries. The next day students take out a procession against police 'brutality', go to the Kotwali, and throw stones at the residence of the Station House Officer and brickbats at a group of policemen in another place. Police open fire, one person is killed and another injured. Students agitating for location of a State Road Transport Corporation Office at a particular place loot some sheds and the canteen; Police use lathis and then firearms to disperse them. All these examples are from actual cases. It is significant that almost all the judicial inquiries that follow police firing have found the firings justified. Obviously policemen are not going berserk; violence is in the air and its suppression requires counter-violence.

Organised crime

- 62.22 Organised crime has been in existence in the country for a long time. The thugs were an organised group of criminals. The slum lords are an organised group of criminals and so also those who commit the crimes of gambling, bootlegging, smuggling and narcotics. Satta is a kind of gambling which is organised from one place and operated in cities and towns many many miles away. Bets are accepted and payments made without any receipts given or taken. Smuggling is very big business in the country and as yet no effective answer has been found to curb this criminal activity partly due to lack of will. Smuggling of narcotics is also on the increase and while there are some cells here and there at the Centre the awareness of this crime and the organisation to handle it is lacking in the districts.

Terrorism

- 62.23 Rural terrorism has been with us for quite some time. Dacoit gangs of the Chambal valley not merely kidnap people for ransom but also, through indiscriminate killing and torture, first create terror in a particular area and then collect money at regular intervals from farmers and businessmen without resorting to any overt crimes. Thus for collection of money they rely on terror. Although the motivation is political, another type of terrorism which, starting in 1967, spread in the rural areas is that of

Naxalites. Their methods also are as violent and cruel as those of any dacoit gang. Only a little while ago it appeared that this type of terrorism had been wiped out but recent events show that while its earlier spread from West Bengal to Andhra Pradesh, Kerala, Tamil Nadu, Bihar and Punjab had been reduced there is a recrudescence of it in Tamil Nadu, Andhra Pradesh and Bihar and Tripura, West Bengal, Orissa and Kerala are also affected. As many as 39 districts in these States are affected. The persistence of rural poverty and the existence of large masses of landless poor would continue to provide a good breeding ground for Naxalites, and therefore this type of terrorism may increase. While there is reason to believe that urban terrorism of the type that is plaguing some European countries, particularly Italy, France and West Germany, has not yet taken root here it is an ominous sign that some organised gangs of dacoits do not commit kidnappings themselves. In various cities and towns criminal elements kidnap people and then sell them to organised gangs at a price. While discussing dacoity we have mentioned this development in Chapter XXXVII of our Fifth Report. In large cities gangs of toughs can be hired to intervene in landlord-tenant disputes. We have also had a hijacking and other forms of terrorism will also appear.

The trends in the criminogenic factors

- 62.24 What the criminogenic factors are is still a matter for debate. The means of mass communication for example are, by some, considered a factor that causes crime. In a sense criminalization also causes crime. Crime increases when more and more of the human conduct is categorised as criminal. Here, however, the concern is only with those factors that are visibly and indubitably related to crime and disorder. The first and most important is population.

Population

- 62.25 Crime rises with population. For a population of 50 crores in 1967 total cognizable crime was 8,81,981; for a population of 60 crores in 1975 total cognizable crime was 11,60,520; and for a population of 62.6 crores in 1977 total cognizable crime was 12,67,004. At the time of 1971 census the population of the country was 54.81 crores showing an increase of 24.8% over the figures of 1961 census. The population as on March 1, 1978 was estimated at 63.83 crores and the provisional figure for 1981 is 68.4 crores. Future projections of population for the period about 2000 AD range from 91.4 crores to 112.8 crores but we can work on the assumption of about 96 crores.
- 62.26 Some demographic features of the estimated population of about 96 crores are also of relevance for police planning. Population in the age group 15—34 will continue to increase up to the year 1996 which means that we will have very large numbers of young people in the year 2000. The number of children (age group 0—14) is expected to decline but even so it would be sizeable. By about 2000 AD the number of children in India would be more than 28 crores, that is, it would exceed the total population of India of 27.9 crores in 1931. Those in the age group 15—29 will be about 25 crores as compared to 14 crores in 1971.
- 62.27 All the demographic projections for the future, forecast an increase in the number of urban centres and the urban population. At present there are 189 Class I urban centres, 259 Class II urban centres, and 514 Class III urban centres. This number is likely to be 327 Class I centres, 399 Class II centres and 236 Class III centres, according to the Town and Country Planning Organisation. The 1971 census found the urban population of the country at 19.9% of the total population. 148 urban agglomerations had a population of about 1 lakh and 9 had a population over 10 lakh. It is estimated that the urban population around 2000 AD could be anywhere between 200 to 500 million, depending on the pattern of industrial development.
- 62.28 Most of our big cities as well as medium and small urban centres are growing in a haphazard manner. Even the cities within town planning centres have been violating the master plans in a big way. Most of our towns and cities are in a chaotic state and they are likely to get worse. The civic amenities are under tremendous pressure because the services have not kept pace with the tremendous increase in population. Thus problems of water supply, power, sanitation, housing, transport are becoming more and more acute. With the deterioration in the quality of life in our towns and cities, the problems of the police are bound to get more acute. Because of the tremendous

increase in the cost of land and housing in the urban areas the rents have registered a phenomenal increase. They are likely to increase much further in the coming years. According to a study even now a person in the lower brackets has to spend as much as 70% of his income on housing alone, if he has to have a reasonable place to live. For obvious reasons he just cannot do that. His survival depends more on food which also demands 60% to 70% of his income. This has resulted in encroachment on public land and emergence of slums. The majority of people in large cities are likely to live in "uncontrolled settlements" which means slums. Slums give rise to slum lords whose criminal activities enlarge from year to year. They also give rise to goondaism and some particular types of crime such as bootlegging within the slums and thefts, house-breaking and robberies in the nearby colonies. The masses of unanchored people, a large commuting population and the existence of a very large male population mean more crimes, particularly more crimes of violence and property crimes, because much movable property is available in various shapes.

62.29 The over-crowding in urban areas throws heterogeneous people into close proximity with one another and generates a state of tension which often explodes. The spark is provided by what appears a minor incident but the cause is the latent tension heightened by inadequate jobs and services. As we have already several sources of social tensions such as conflict between peoples of different religious communities, castes, sub-castes, haves and have-nots, etc. the manifestations of this tension are aggressive groups laying emphasis on sons of the soil concept and resisting outsiders. The phenomenon has been visible in Bombay, Assam, West Bengal and may by 2000 spread to several other cities. Yet internal migration will continue to take place, particularly for job opportunities.

62.30 Our industrialisation has not kept pace with the increasing availability of skilled and unskilled manpower seeking work. According to one projection for 2000 AD about 55% to 60% of the total population at that time would be in the working age group of 18-60. The agricultural sector is already saturated with as much manpower as it can absorb. Rapid growth of the industrial sector which alone can absorb more and more of the working population has yet to come about. Already unemployment is very sizeable and if it continues to increase the emerging phenomenon of educated unemployed or under-employed youth taking a life of crime may become about the most intractable police problem of the future.

62.31 The present situation is not very bright. At present 48.13% of our population lives below the poverty line and of this 50.82% are in the rural areas and 38.19% in the urban area. The average growth in our GNP during 1950-1975 has been 3.1%. If this rate of growth obtains in the future there should be no change in the extent of poverty by 2000. Even if the Planning Commission projection up to 1985 of an average annual compound rate of growth of 5.0% continues till 2000, India compared to developed nations would be poorer in 2000 AD than it is today. It has been found that to break the poverty barrier our GNP must grow at an annual compound rate of about 13.8%. While this estimate may be too high a successful check on the growth of population to bring it to something less than 96 crores by 2000 AD, say about 86 crores may help reduce economic disparities. Nevertheless the shortage of basic services and facilities would continue. At present about 65% of the people do not get safe piped water for drinking and personal hygiene. In 79,000 villages drinking water is not available and has to be fetched from some distance. Even in urban areas those who have storage facility can secure 100 gallons per person per day whereas those in the slums, about 35% of the urban population, can hardly manage 5 gallons per person per day. That is why fights over a solitary water tap are common in slums. This situation is not likely to change much by 2000 AD. The general forecasts for 2000 AD are not favourable. The Global 2000 Studies made in the USA between 1977 and 1980 found that the population growth will not slow down appreciably. The rate of growth in 1975 was 1.8% and the projected rate for 2000 is 1.7%. 92% of this growth will occur in the less developed countries rather than in the industrialised countries thus increasing the less developed countries share of the world's population from 72% in 1975 to 79% by 2000 AD. For both the developed and developing countries the rates of growth in GNP are projected to decelerate after 1975. And for every one dollar increase in GNP per capita in the less developed countries a \$20 increase is projected for the industrialised countries.

62.32

The problems of police in 2000 AD are not likely to be uniform all over the country. Even as several centuries can be seen to exist on our roads bullock-carts, horse-drawn carriages, cycles, cycle rickshaws, mopeds, motor-cycles, motor-rickshaws, the latest Mercedes and, occasionally, a jet screaming overhead, the various parts of the country are facing various kinds of police problems in varying degrees. The problems faced by the police in Bombay today may be faced by Delhi in another five years, and by Bangalore, Hyderabad, Lucknow in another fifteen years. The problems faced by cities like Lucknow, Allahabad, Tiruchirapalli today may be faced by numerous smaller cities by 2000 AD. Accordingly no single model can be applicable to the whole country although certain essential features would have to be common all over the country because of improved means of transport and communication available to criminals. In the responses required to deal effectively with the developing situation of crime and disorder we have tried to concentrate on the basic features only.

THE RESPONSES REQUIRED

The Response of the People

62.33

As the situation of crime and disorder develops it is evident that a primary need of the future would be self-policing. By self-policing we mean (1) taking adequate preventive measures to protect life and property; (2) resisting an attempt on life and/or property, should it take place in spite of preventive measures undertaken by exercising the right of private defence; and (3) active involvement in the processes of the criminal justice system.

62.34

Most people do not take adequate preventive measures to safeguard their lives and properties. For example, proper locks are not used. A list of property in the house together with identification marks is seldom available so that when a theft takes place it takes a long time to find out what has been lost and how can it be identified. Often large amounts of jewellery and cash are kept at home instead of in the lockers and banks. Good extra locks in automobiles can prevent their thefts but many people do not go in for this precaution. And one should, to the extent possible, avoid exposing oneself to any physical danger. If in spite of the precautions undertaken a threat to life and property develops then it should be possible for the people to make use of the provisions in the Indian Penal Code for the right of private defence. These are given in Sections 96 to 106. It might, however, be mentioned that hitherto these sections have not been very helpful in practice. The present practice discourages the exercise by the people of the right of private defence. Except for cases like villagers killing dacoits, by and large the police arrest the person, prosecute him in a court of law, and only if he is able to establish his right of private defence in the court may be more than one court, is he freed from the rigours of the criminal justice system. A person who kills another person in cold blood and a person who kills another person in self-defence, both have to undergo the same harassment, humiliation and prosecution at the hands of the police and the law courts. Both run somewhat similar risks. Even in cases of genuine self defence when the right of self defence is pleaded a person who had really acted in the right of private defence may find himself convicted by a lower court and his plea of self-defence accepted only by a higher court. Under these circumstances many people find it less troublesome to let go their property and even suffer some injury than to do something which would take them to a court as an accused. To illustrate in *Nanhu Kahar, Appellant Vs. the State of Bihar, Respondent* (Criminal Appeal No. 268 of 1968, D. 3-3-1971 AIR 1971 Supreme Court 2143 V. 58 C 449) the Supreme Court held that in the circumstances of the case serious injuries inflicted on the deceased were not necessary for protecting property from him etc. and held that the right of private defence was exceeded. The Appellant was convicted. In another case (*Vidhya Singh, Appellant V. the state of Madhya Pradesh, Respondent* AIR 1971 Supreme Court 1857 V. 58 C. 386), the Appellant killed one person and wounded three and was convicted by the High Court but acquitted of the charge of murder by the Supreme Court which stated: "Right of self-defence is a very valuable right. It has a social purpose. That right should not be construed narrowly". We also are of the view that it is a very important right and is the cornerstone of the concept of self-policing. And self-policing is going to be more and more important in the future. The present indications are that the people are becoming aware of their role in this regard. The

All-India Crime Prevention Society has sought to operate through 'Mohalla Units' whose functions are (1) to bring the police and the people nearer, (2) to keep track of and report on the people who have no ostensible source of income and are frequented by shady people, (3) to undertake 'know thy neighbour programmes', and (4) to take action by 'fearlessly' tackling those who do not come to the aid of their neighbour in his hour of need. Of the present gap between intention and action there is no doubt; but the existence of intention is relevant.

The response of the criminal justice system

62.35

We have, in our Second Report, referred to the weaknesses of our criminal justice system which indeed has to protect society from such acts of individuals or groups of individuals as can damage it. The visible processes of this protective operation are to ensure that individuals and the society do not suffer harm from criminal acts and should they, in spite of such effort, become victims of criminal acts the offenders are detected, their guilt or innocence adjudged objectively and depending upon the case punishment imposed and/or rehabilitation attempted. This means that legislatures that make laws, police who enforce them, courts who interpret and apply them and the jail administration which deals with those found guilty all are sub-systems of one large system. If the police do their job inefficiently and poorly investigate a case the law courts can do little about it; even if they are convinced of the guilt of the criminal they have to let him go. If a court of law insists on unrealistic evidentiary requirements then most criminals are likely to be acquitted to continue their career of crime. If dacoits are repeatedly enlarged on bail by courts of law then no amount of effort by any sub-system can control dacoity. If every person who goes to jail due to the conditions prevailing in jails, comes out a hardened criminal then police and law courts cannot control crime. There is no doubt at all that the whole system, if the objective of prevention and detection of crime and maintenance of some degree of order and stability in the society is to be achieved, must perform as an integrated whole. Unfortunately the present situation is the reverse of this requirement. While police oppose bails the courts liberally release even habitual murderers and dacoits on bail. While police oppose release on parole of habitual criminals executive authorities are usually inclined towards their release. The efforts at correction of those convicted are often nullified by the negative and hostile attitude of policemen. When courts only give adjournments and police delay investigations, jails face the problem. As on December 31, 1978 in the jail population undertrials outnumbered convicts two to one: 1,20,000 undertrials and 65,000 convicts. Police seldom look with a kindly eye upon criminals released on probation. The judiciary is so obsessed with the sophistication of our procedures of trial that the pendency of cases goes on increasing year by year and nothing ever seems to get finally decided. Every sub-system is thus in conflict with the other and the normal state of these sub-systems is of confrontation and, occasionally, hostility. In one State the District Judges refused to attend coordination meetings with the SP on the ground that it would tarnish their image of impartiality and fairness. When each sub-system is examined separately it appears that each in regard to effective performance of its role, is helpless because of the limitations imposed by the working of the other sub-systems. Judges say that they should not be made to bear the burden of laws that are badly drafted under the pressure of several lobbies at work during the enactment of the law. The police plead helplessness in the face of laws that openly distrust them; that make it, in several cases, impossible for them to discharge their duties. It has for example been felt that there is no legal way of investigating successfully a case of dacoity. The courts appear helpless before lawyers whose predilection for adjournments and for brow-beating witnesses knows no bounds. The jails and the correctional administration suffer from lack of space, lack of staff, lack of supervision, lack of motivation and lack of means. Those who make laws blame all the others, particularly the police. This situation of mutual recrimination is becoming worse year by year.

62.36

The remedy does not lie in homilies on teamwork, or sharing a 'national vision' or commitment to a common goal. Much of the present malaise springs from the structuring of the sub-systems and their legal base. For example it has been recognised for quite some time that legal remedies have not been provided to policemen for discharging their duties. It is common knowledge that policemen use stock witnesses and

make false statements in courts of law in order to secure conviction of those against whom they prefer charges. 'He is even forced by his calling to be a professional witness and his familiarity with the witness box breeds in him a contempt for its obligations... A temptation to lie deliberately becomes irresistible to a policeman who has spent days and weeks to detect an offence and knows at last that he has got the right man and is then faced in court with the frustrating task of having to prove beyond reasonable doubt the links of his case', says a judge. Perjury in our courts of law is a common offence which is committed by all kinds of witnesses including policemen. The gladiatorial contests in a court of law combined with the entire burden of proof on police handicapped by laws which distrust them do not promote the ends of the criminal justice system.

62.37

As regards the judicial hostility to what policemen say in courts of law a Judge has very rightly pointed out that the real trouble lies elsewhere. The police are viewed with distrust by courts because the law which the courts administer views them with distrust. Some of the provisions of the Indian Evidence Act and the Criminal Procedure Code appear to raise statutory presumption against the credibility of police officers. Section 25 of the Evidence Act renders inadmissible in evidence any confession made by an accused person to a police officer. There are at present several offences created by a multitude of statutes which are investigated by agencies other than the police, such as Excise officials, Customs officials, Tax officials, Food Inspectors, Drug Inspectors, and so on. None of them suffers from any such disability. The police officer alone is picked out—or rather he was picked out a century ago for this disability, at a time where there were practically no statutory offences outside the Penal Code and no investigating agencies other than the police. So many investigating agencies have since been created but stigma is made to stick only to the police.

62.38

It is only under section 27 of the Indian Evidence Act that the evidence of policemen becomes admissible but that is strictly circumscribed. It is again common knowledge that policemen always try to discover something in consequence of information furnished by the accused in order to make the statement made by the accused person admissible in evidence. Fake recovery has been intermittently condemned by courts of law and in fact a large number of cases are acquitted because the seizure memo prepared of such recovery is vigorously attacked by defence lawyers and the normal presumption is that all recoveries are fake unless proved otherwise. It has rightly been concluded by a learned Judge that such discoveries will continue until such time as Section 25 and 27 of the Evidence Act are removed from the statute. Following such removal adequate safeguards can be built into the legal framework. Several legal provisions are simply the result of inertia and the fear of the unknown, the usual stumbling blocks to any meaningful change in any organisation. As things are in a court of law an accused person is adjudged guilty or not guilty on the basis of the evidence produced before the court. Skies therefore are not likely to fall if the statements recorded by the police during the course of investigation are made admissible both for corroboration and for contradiction by the defence and the prosecution. The only objective of this section is to further strengthen suspicion of the police. The requirements of section 100 can also not be met in any real situation. This is well known to all. Yet the situation continues as it is.

62.39

Some half-hearted efforts have been made so far. The Law Commission devoted its Fourteenth Report to the Reform of Judicial Administration but nothing has come of it. The starting point of any such reform has to be the reform of laws and the process of regulation. Law reform means repeal of obsolete laws and revision of laws to make them more enforceable and to make such changes as may make them so. In addition to swift disposal of cases alternatives to imprisonment in jails have also to be found. We feel that the Criminal Justice System as a whole needs immediate attention. The faith of the people in criminal justice has been steadily eroded over the years till it has now reached a state of near total distrust in Bihar and to a lesser extent in other States. This was dramatised in a remarkable manner in the blindings of several criminals in Bhagalpur in the second half of 1980 followed by similar blindings in West Bengal and there were a few isolated instances also in U.P. The people took the law in their own hands even in the past but this has never been done in such a horrendous manner.

It is usual now to see thieves and dacoits being beaten to death by enraged villagers. The fact is that as people get more and more exasperated by the inability of the police to secure punishment for criminals they will take the law into their hands. Accordingly revitalization of the criminal justice system is a pressing necessity.

The response of the police

62.40 As the entire work of this Commission has been about the response of the police, in the preceding chapters of our various reports we already have suggested how the Police is to be prepared for the problems and challenges it is facing and will have to face.

62.41 Over the last 75 years, since the Indian Police Commission 1902-03 made its recommendations, the public expectations from the Police have undergone a sea-change. The role of the police needed to be redefined. We have tried to redefine it in our Second Report and have laid a great emphasis on service-oriented functions in disaster situations and a role has been assigned to police to counsel and dissolve conflicts and promote amity. The police, as we envisage, is no more the coercive arm of the administration. It has a direct accountability to law and has to be freed from day-to-day interference in the discharge of its duty by various pressure groups.

62.42 While our constant endeavour has been to prepare the police for the new challenges and tasks, factors having a bearing on crime and disorder are complex and any inflexible planning for the future is neither advisable nor possible. There are innumerable variables and imponderables. Accordingly we suggest that the Bureau of Police Research and Development and the State Research units must make a periodical analysis of the police problems and the police performance. Such an analysis should take into consideration the projections which had been made in the past and see to what extent they proved to be accurate. If they went awry, what were the reasons for it? Having done so, they would be in a position to say, with an amount of accuracy, about the future. The Central Police Committee and the State Security Commissions that we have recommended in our Reports will naturally have a significant role to play in this.

CHAPTER LXIII

POLICE ACT

- 63.1 We have in our Reports recommended certain basic reforms for the effective functioning of the police to enable it to promote the dynamic rule of law and to render impartial service to the people. This presupposes a professionally competent and attitudinally impartial police force. For the incorporation of our new recommendations, it is necessary to replace the existing, outmoded Police Act of 1861.
- 63.2 We have, therefore, drafted a new Police Act incorporating our recommendations. The same is at Appendix I.
- 63.3 In Chapter LVIII of our Seventh Report, we have recommended a role to the Central Government in the policing of the country. We have recommended the constitution of an expert high powered Central Police Committee. The role and functions of this Committee are delineated in detail in para 58.14 of our Seventh Report. We recommend that the Central Government may enact the necessary legislation for the constitution of this Committee, define its role and functions and detail the procedure therefor.
-

CHAPTER LXIV

EPILOGUE

Commission's task

- 64.1 We have now come to the end of our exercise — an exercise that has spanned about 3½ years and taken us through analytical studies and research on a variety of subjects combined with a careful and close assessment and appreciation of actual field conditions, in relation to all facets of the Indian Police system. We had commenced our task with very wide ranging terms of reference, practically covering the entire gamut of police functions which required us to identify the basic reforms in the structure, organisation and administration of the police to make it function as a truthful and impartial agent of law in serving the cause of peace and order in a free society. Under the compulsion of events in history, the police in India had developed as a sharp instrument to enforce the writ and will of a foreign power that ruled the country. As the first National Police Commission constituted after the country gained independence we were aware of the immensity of the task involved in radically changing such a police system to suit the requirements of an independent developing democratic welfare State. We, therefore, decided to organise our work in a manner which would facilitate our interaction with a wide variety of people among the public as well as within the services including the police and would also involve representative groups of well-informed and experienced public men in different States in a joint exercise to identify the important and basic needs of police reform.

Study groups

- 64.2 In December, 1977 we requested the State Governments and Union Territory Administrations to set up study groups consisting of prominent public men, senior administrators, police officers and eminent academicians for examining some important issues arising from our terms of reference and evolving their views and recommendations thereon. A copy of the Commission's letter dated 28th December, 1977 to the State Governments in this regard furnishing guidelines for the State study groups and recommending some specific issues for their study is furnished in Appendix II. The composition of the study groups in different States and Union Territories is furnished in Appendix III.
- 64.3 Within about a year we received detailed reports of study groups from the States of Andhra Pradesh, Assam, Bihar, Gujarat, Haryana, Himachal Pradesh, Jammu & Kashmir, Karnataka, Kerala, Madhya Pradesh, Maharashtra, Manipur, Meghalaya, Orissa, Punjab, Rajasthan, Tamil Nadu, Uttar Pradesh and West Bengal and the Union Territories of Pondicherry and Andaman and Nicobar Islands. We were greatly benefited by the analyses and recommendations made in these reports, and a number of our own recommendations are based on the material projected by these study groups.

Seminars

- 64.4 With the cooperation of local bodies and voluntary organisations like Universities, Institutes of Public Administration, etc., and with the active assistance of the Inspectors-General of Police in different States, several seminars were organised to promote and activise collective thinking on police problems and elicit views and suggestions from different sections of the public like lawyers, businessmen, trade unionists, academicians, etc. Deliberations at such seminars held in Karnataka, Andhra Pradesh, Kerala, Tamil Nadu, Maharashtra, Madhya Pradesh, Gujarat, Uttar Pradesh and Delhi helped us to appreciate the expectations of the public in regard to some aspects of police reform.

Press note

- 64.5 We also received several suggestions from individual members of the public in response to a press note issued in January, 1978.

Questionnaire

64.6

Since our terms of reference were very broad based and covered the whole range of police tasks and responsibilities in a variety of situations, we felt it would be advisable to draw up our questionnaire after we had had a preliminary round of tours in some States and gathered some specific ideas and suggestions regarding police reform so that the questionnaire could be elaborately devised to draw a pointed and precise response to such specific suggestions. A detailed questionnaire thus evolved was issued in December, 1978, with 14,000 copies printed and distributed among a wide cross section of public services as well as representative sections of the general public including Members of Parliament, Members of State Legislatures, Judges of the Supreme Court and High Courts, Bar Councils and Bar Associations, Vice Chancellors, Chambers of Commerce and Industries, Editors of widely circulated newspapers and periodicals, political parties, senior members of public services in the States, recognised service associations, senior officers in the Central Government and some retired senior administrators. A copy of the questionnaire may be seen in Appendix I of our First Report. The feed back we got on this questionnaire helped us to appreciate the views of different sections of the public on several important police matters which impact the public in their day-to-day life.

Expert Committees

64.7

As we progressed with our work we felt the need for studies in depth on certain important subjects by expert groups. The following committees were then constituted to make such studies :—

- (i) A committee under the chairmanship of Shri Ashwini Kumar, Director-General, Border Security Force, to study the comprehensive arrangements required for ensuring adequate welfare measures for the police families.
- (ii) A committee under the chairmanship of Shri S. Tandon, Director, Bureau of Police Research and Development, to study the subject of maintenance of crime records.
- (iii) A committee under the chairmanship of Prof. S. Sampath, Member, Union Public Service Commission, to study the needs of modernising the police.
- (iv) A committee under the chairmanship of Shri N. Krishnaswamy, Director of Vigilance and Anti-Corruption, Tamil Nadu to study the problem of reconstructing the police hierarchy.
- (v) A committee under the chairmanship of Shri R. D. Singh, Director, National Police Academy, to study the reorganisation of Railway Police.
- (vi) A committee under the chairmanship of Shri P. M. Pant, former Inspector-General of Police, Gujarat, to study the problem of enforcement of prohibition.

Detailed composition of the above Committees is furnished in Appendix IV. We are deeply grateful to the Chairmen and members of these committees for their invaluable help in furnishing us with well documented study reports which provided adequate and reliable material to evolve our own views and recommendations on connected matters.

Research studies

64.8

We also got research studies done on some selected subjects by the organisations mentioned below :—

- (i) A study on the socio-economic and working conditions of Police Constables in Uttar Pradesh and Delhi conducted by the National Council of Applied Economic Research, Delhi.
- (ii) A study on the socio-economic and working conditions of Police Constables in Maharashtra by the Tata Institute of Social Sciences, Bombay.
- (iii) A study on "The image of the police in India" by the Indian Institute of Public Opinion, Delhi.
- (iv) A study on "Reconstructing the police hierarchy" by the Administrative Staff College of India, Hyderabad.

The reports of the above studies were duly taken into consideration by us in assessing the needs of reform in connected matters.

Research papers

- 64.9 Apart from the reports of the expert committees and the study reports from the above organizations, we have been greatly assisted by the research papers on certain selected subjects prepared by the Bureau of Police Research and Development, Institute of Criminology and Forensic Science and the Syndicate groups in the National Police Academy, Shri P. V. Venkateswaran, D.S.P. in the Police Research Centre, Madras, rendered considerable assistance with detailed analytical reports on certain subjects marked to him.

Tours in States — Visits to police stations

- 64.10 We, as a Commission, toured the States of Andhra Pradesh, Assam, Bihar, Haryana, Himachal Pradesh, Jammu and Kashmir, Karnataka, Kerala, Madhya Pradesh, Maharashtra, Manipur, Meghalaya, Nagaland, Punjab, Tamil Nadu, Uttar Pradesh and West Bengal, besides the Union Territories of Goa, Pondicherry, Andaman and Nicobar Islands and Delhi. During these tours in States we held group discussions separately with senior administrators in Government, police officers, members of the Judiciary, members of the Bar, representative sections from Trade and Commerce and labour leaders. In each State we visited a number of police stations in the rural as well as urban areas and had interaction with a large number of Police Constables and the middle level officers. These station visits were very helpful in generating a free and frank exchange of views and ideas between the Commission and the rank and file of the police. Some members of the Commission and the research staff attached to the Commission individually visited Gujarat, Orissa and Rajasthan and held local discussions.

Discussions with Governors and Chief Ministers

- 64.11 In many of these States we were able to have pointed discussions with the Governors and Chief Ministers whose free and frank views on several aspects of police administration helped us greatly to clarify our own thinking in connected matters.

Conference of Inspectors-General of Police

- 64.12 Our discussions with the State Inspectors-General of Police at the time of their annual conference in Delhi in May, 1978 helped in ascertaining their general views and reactions to some specific ideas on certain important aspects of police reform.

Meeting with Heads of Central Police Organisations and Service Associations

- 64.13 In July, 1979, we held group discussions with the Director of Intelligence Bureau, Director of Research and Analysis wing of the Cabinet Secretariat, Director of Central Bureau of Investigation, Director General of Border Security Force, Director General of Central Reserve Police and Director of the Bureau of Police Research and Development and ascertained their views on some of the proposed reforms. We also met representatives from the Indian Civil and Administrative Service Association and the Indian Police Service Association and took note of their views on service problems affecting the police.

Record of Commission's deliberations

- 64.14 The Commission held 43 sittings, and the deliberations at each sitting were with reference to the detailed research papers, study reports and a digest of ideas and suggestions received from several quarters on different subjects from time to time. The Commission's Secretariat has maintained a detailed record of the deliberations of the Commission at each of its sittings. Three sets of copies of these proceedings along with the connected Agenda papers including research notes and other relevant material have been prepared, one to be given to the Bureau of Police Research and Development in the Ministry of Home Affairs for retention in the Bureau's library, another to the National Police Academy for its library and the third to be given to the Ministry of Home Affairs for being lodged in the National Archives.

Commission's Reports

- 64.15 In the early sittings of the Commission it was decided to identify the various subjects to be covered by different chapters in the Commission's report and then group them in such a way as to facilitate the submission of separate report by the Commission

covering different groups of subjects successively. In this arrangement, each report of the Commission was conclusive and final as far as the subjects covered by that report were concerned, and it was hoped that this arrangement would facilitate quick analysis and follow up action by the Central Government and State Governments on each report as and when it was submitted. In this scheme of work, the First Report was submitted by the Commission in February, 1979 which was followed by Seven more reports at intervals of a few months each, including this eighth and concluding report. The subjects dealt with in the eight reports are listed and furnished in Appendix V, for easy reference.

Publication of reports

64.16 We deeply regret to observe that excepting the First Report of February, 1979 which the Government released for publication closely following the incidents of police unrest in some States in May, 1979, none of the other reports has till now been authorised for publication. Our recommendations in these reports cover several basic needs of police reform. In the context of fast changing conditions of the present day society and the innumerable problems of stress, strain and public order that are thrown up by a variety of factors that operate at a furious pace on the national scene, we consider it imperative that all the reports are published immediately to gauge public reaction and response thereto which would help early implementation of the urgently needed reforms, before the credibility of the police system gets badly eroded beyond repair.

64.17 In their letter No. F.15/16/81-NPC(SU) dated 3rd March, 1981 the Ministry of Home Affairs desired that the Commission should conclude its work by 31st May, 1981. In the closing stages of our work we had brought to the notice of the Ministry of Home Affairs in our letter No. 24/66/80-NPC dated 13th May, 1981 that we considered it necessary to study the following important subjects and make our recommendations thereon :—

- (i) Terrorism
- (ii) Intelligence
- (iii) State Criminal Investigation Departments
- (iv) Criminal Justice System
- (v) Government Railway Police

Since the Commission is being wound up by 31st May, 1981, we have not been able to make our detailed recommendations on the above mentioned subjects.

Modalities for implementing recommendations

64.18 We would reiterate the importance and urgency of examining the recommendations in our eight reports and taking concrete steps for their early implementation. We would strongly deprecate and caution against any view that might be entertained and projected in Government circles or elsewhere to relegate the task of police reform to the background on the specious plea that police reform cannot have priority in a welfare State. We would like to observe that a State must first exist as a State with assurance of security and public order to its free citizens before they can be enthused to join in the march towards the ideal welfare State. The urgent needs of police reform as outlined in our recommendations are meant to secure a measure of the minimum desired levels of public order and security for the common citizen. We would, therefore, recommend that soon after the publication of all the eight reports submitted by the Commission, the Union Home Minister may call for a conference of Chief Ministers of all States and Union Territories to evolve a consensus on the modalities for examining and implementing the recommendations. This may be appropriately followed by another conference of Chief Secretaries and Inspectors-General of Police from the States and Union Territories to go further into details and constitute a standing committee for ensuring early and effective follow up action and monitoring its progress from time to time.

Central financial help to States

64.19 The question of financial resources would naturally come up while examining some of the recommendations. For the reasons mentioned in foregoing paragraph we would reiterate that financial difficulties should not unduly deter the Government from

quickly implementing the recommendations if they are accepted as necessary in the interests of security and public order among the people. Having regard to the significance of police reform from the overall national security and solidarity point of view, we would strongly recommend that the Central Government should take a leading hand in offering financial assistance to the States for the implementation of these recommendations. In this context we wish to draw attention to the financial help extended by the Central Government for implementing the recommendations of the University Grants Commission for the upward revision of the scales of pay of the academic staff of Universities and Colleges in the States. In November, 1974 the Central Government came forward to assist the States for that purpose to the extent of meeting 80% of the additional expenditure for a period of five years and leaving it to the State Governments to bear the full responsibility thereafter. A copy of Government of India, Ministry of Education and Social Welfare (Department of Education) letter No. F. 1-40/74-U.I., dated 2nd November, 1974 (without its enclosures) addressed to all State Governments is furnished in Appendix VI. We would strongly recommend the adoption of a similar scheme of financial assistance from the Central Government to the State Governments for implementing our recommendations.

Accommodation

- 64.20 Though the constitution of the Commission was announced in November, 1977, it took some time to get the full complement of the Commission's Secretariat staff in position. The Commission commenced functioning from the accommodation allotted to it in the first floor of Vigyan Bhavan Annexe from April, 1978, and just when the Commission had settled down to its work in good speed, it was asked to shift to a new building in Lok Nayak Bhavan since Vigyan Bhavan Annexe was required for an international conference. Some construction work in the nature of partitions and other fittings had to be completed in the new accommodation in Lok Nayak Bhavan before it could become functionally operative. This process again took some time and the Commission settled down to resume its work from Lok Nayak Bhavan from March, 1979.

Commission's secretariat

- 64.21 At the peak of its work the Commission's Secretariat staff comprised the following:—

Member-Secretary	...	1
Principal Director of Research and Joint Secretary	...	3
Director of Research	...	5
Assistant Director of Research	...	8
Deputy Superintendents of Police	...	2
Under Secretary	...	1
Section Officer	...	1
Private Secretary	...	4
Personal Assistants and Stenographers	...	20
Assistants	...	13
Upper Division Clerks	...	7
Lower Division Clerks	...	14

The nominal roll of the Secretariat staff is furnished in Appendix VII.

Appreciation and thanks

- 64.22 The Commission could not have accomplished its stupendous task but for the whole hearted cooperation, active support and assistance rendered to it by the Ministry of Home Affairs in the Central Government and all the State Governments and Union Territory administrations. The Chief Secretaries and Inspectors-General of Police in all the States and Union Territories were most helpful during our tours and we would like to record our very grateful appreciation of the valuable assistance rendered by them in all our work.

64.23 We would specially like to record our grateful thanks to the Director General, Border Security Force, and his officers for all the assistance rendered during our tours in the interior in some States.

The Secretariat Staff

64.24 Shri C. V. Narasimhan, former Director of Central Bureau of Investigation, functioned as Member Secretary of the Commission from its inception till 19th April, 1980 when he left to take a posting in his parent cadre in Tamil Nadu on replacement of his services from the Central Government to the State Government. He had brought to bear on his work as Member Secretary his wide experience and deep knowledge in the handling of a variety of situations concerning the police at the Centre as well as in the State. His intimate knowledge of the ground situation in police work was of immense help in analysing the problems of the police in their proper perspective. An efficient and compact administrative set up for the Commission, identification of different subjects for studies relevant to our wide ranging terms of reference, involvement of Study Groups in States and other experienced administrators and publicmen in examining police problems and evolving new ideas and suggestions on police reform interaction with the rank and file of the police to ascertain their expectations and views regarding performance of police duties in the field, arrangements for studies of certain subjects by expert committees and specialised organisations, etc., were all brought about on the initiative and personal efforts of Shri Narasimhan. He was a source of great inspiration and valuable guidance to the research staff of the Commission in the preparation of several important papers which helped the Commission to concretise its views and recommendations. The Commission submitted four Reports to the Government while Shri Narasimhan held office as Member-Secretary. We wish to record our deeply grateful appreciation of the highly dedicated work put in by Shri Narasimhan in organising the Commission's work in its several details which greatly helped the completion of our task on the programmed lines.

64.25 After the departure of Shri Narasimhan, Shri M. D. Dikshit, Principal Director of Research, functioned as the Secretary Incharge. We very much appreciate the dedicated analytical work put in by him. He got together all the relevant material on different subjects for Commission's consideration from time to time.

64.26 Enthusiastic projection of ideas and suggestions by Shri Kailash Prakash, Joint Secretary and a practical analysis of the points that arose for consideration, by Shri Ved Marwah, Joint Secretary were of considerable help to the Commission.

64.27 S/Shri D. Ramachandran and S. N. Mishra, as Directors of Research, were of immense assistance to the Commission with their well prepared analytical notes on several police problems and their well reasoned arguments and clarification of the points involved during the Commission's sittings. Similar contributions made by the other Directors of Research S/Shri V. N. Channa, M. Mukherjee and R. Srinivasan, Assistant Directors of Research S/Shri N. C. Padhi, R. C. Sharma, J. C. Madan, P. C. Kannan and H. S. Sachdeva deserve special mention and the Commission gratefully acknowledges and appreciates their work.

64.28 On the administration side our Under Secretary Shri Hari Chand and his Section Officer, Shri Har Gopal went about their task systematically with meticulous attention to details right from the beginning and ensured most satisfactory arrangements all round. We have great pleasure in acknowledging their role in the Commission's work.

64.29 Shri Satya Paul, as Private Secretary to Chairman, did commendable work in compiling exhaustive and accurate tour notes during Commission's tours. S/Shri R. Natarajan and I. J. Mittal, who had successively functioned as Private Secretary to Member-Secretary cheerfully bore the brunt of stenographical work involved in the preparation of the Commission's reports, besides coordinating the compilation of papers for all meetings of the Commission. While Shri Natarajan attended to the First and Second reports, the remaining six reports were all handled by Shri I. J. Mittal. Their dedication, enthusiasm and excellence in handling this work neatly and expeditiously have been highly praiseworthy.

64.30 In the last, but not the least, we would like to place on record our appreciation of the hard and willing work put in by all other members of the secretariat staff whose names figure in Appendix VII.

CHAPTER LXV

SUMMARY OF OBSERVATIONS AND RECOMMENDATIONS

Accountability of police performance

- 65.1 Accountability is liability to account for proper performance of assigned task. In a democratic society, the police is accountable for its performance to the people. Then, all activities of the police are governed by various provisions of law and each action of the police is to conform to the law of the land. So the police has an accountability to law. Finally, the police functionaries are accountable for their performance to the organisation.
(Paras 61.4, 61.5 and 61.6)
- 65.2 The departmental instructions regarding stay in the rural areas for 90 days in a year must be strictly complied with by all officers of the level of SDPO & SP. Such stays would help them to come in close contact with the common people, know their problems in detail, and seek their cooperation in various police-activities.
(Para 61.9)
- 65.3 An important aspect of inspections carried out by supervisory officers is to assess the qualitative performance of policing, its impact in that area on citizens and feeling of security prevailing in the community. The Inspecting Officer should not take inspections as a routine drill but they should introduce inter-action with the people which will enable them to elicit the maximum information regarding the views of the people in regard to the functioning of the officials in the area.
(Para 61.10)
- 65.4 Among the various sources which would aid the State Security Commission to have an objective evaluation, one would be the Annual Administration Report submitted by the Chief of Police every year. Besides, the State Security Commission should have under it an independent Cell to evaluate police performance. This Cell should function outside the State police organisation and may have experts from various fields according to the need. The State Security Commission would also be receiving the assessment report regarding the state of policing from the Central Police Committee recommended by us in the Seventh Report. These three reports emanating from different channels will provide a reliable base to enable the State Security Commission to assess the police performance in an objective manner. Based on these reports, the State Security Commission should prepare a final report on the performance of the State police to be placed before the State Legislature.
(Para 61.12)
- 65.5 Although a totally direct accountability of the police to the people is beset with various difficulties, it is not impossible to introduce a near-direct accountability of the police to the people. This would involve among other things creation of awareness in the police functionaries at various levels regarding accountability to the people. The police functionaries individually as well as in groups should be sensitized to the idea of accountability to the people.
(Paras 61.14 and 61.15)
- 65.6 During the inspections, inspecting officers should seek out people in order to get the necessary feed-back to assess the functioning of operational level policing. During such inspections, the inspecting officers should call meetings of cross-section of people and discuss their problems. At the district level, they should hold meetings not only with the cross-section of people but also with the representatives of the people in the Municipality and Zila Parishad and with the MLAs and MPs of the constituency.
(Para 16.16)

During such inspections, the inspecting officers should devote special care to scrutinise and review the overall pattern of complaints that are received. If a particular nature of complaint is repeated or frequent complaints are noticed from a particular areas, the inspecting officer should investigate the causes. Selective inspections should be carried out so that the complaints as well as the results thereof could be ascertained in detail.

(Para 61.17)

- 65.7 The responsibility should be squarely fixed on the officers of the level of SP and above to carefully watch the reputation of SHOs and take appropriate measures wherever warranted. Any failure on their part in this regard should be seriously viewed. In those circumstances where the supervisory officer may either fail to assess the reputation of the SHO or fail to take appropriate action in a particular instance, the people have a right to petition to the State Security Commission. In the event of such complaints, the State Security Commission should gauge the reputation of the SHO concerned and take such action as may be required.

(Para 61.18)

- 65.8 When the Range DIG or SP of the District feels that the particular station house or other operational level is not providing necessary satisfaction to the people, he should go into the causes in depth and try to remove the same. If the attitude of a particular SHO or his method of functioning is not in the interest of the people of the locality, the higher officer should not hesitate to shift the officer from that particular area and to take corrective or disciplinary action against him to mend his attitude and behaviour.

(Para 61.20)

- 65.9 Section 132 and Section 197 of the Cr.P.C. 1973 provides protection to various categories of public servants against any prosecution brought against them relating to performance of official duties. The protection available to the police officers under these sections should be withdrawn so that the private complainant is free to press his complaint against police official for a judicial pronouncement without there being a provision to obtain prior permission of the competent authority for such prosecution. However, the police officer against whom a complaint is brought in a court of law should be defended at the cost of the Government. Officers of and above the rank of Superintendent of Police should be authorised to order defence of their subordinates. An order from the State Government should be necessary in these cases when a complaint is filed against the police officer of the rank of IGP or DGP and also in case the complaint against the police officer is of rape, or murder. Such defence at the Government's cost should extend upto the appellate stage. In those cases where the court comes to the finding that the case is unfounded, it should by law be empowered to take the explanation of the complainant, and if the explanation is unsatisfactory, to inflict suitable punishment on the complainant. Suitable amendment should be made in this respect in the law. High Courts may impress upon subordinate courts that such complaints against police officials should be disposed of on priority basis. The High Court may further draw the attention of the lower courts to the provisions of 202 Cr.P.C. and advise them generally to ask for a report from the District Superintendent of Police on the complaint filed before them. It would be the responsibility of the District SP to either make an inquiry himself or have it made by a sufficiently senior officer and submit a factual report to the court before the latter decides to proceed further with the case. On mere filing of a complaint, unless there is a prima facie case and justification for the same, transfer of the concerned official should not be ordered.

(Paras 61.26 to 61.36)

- 65.10 The following yard-sticks should be adopted by the State Police Organisations for evaluating group-performance of the police at various levels :—

(1) *Prevention of Crime :*

- (i) Sense of security prevailing in the community.
- (ii) People's willing cooperation and participation secured by the Police in preventing crime.

- (2) *Investigation of Crime :*
- (i) Correct registration of crime.
 - (ii) Prompt visit to the scene of occurrence.
 - (iii) Speedy investigation.
 - (iv) Honesty and impartiality in investigation.
- (3) *Law and Order :*
- (i) Extent to which law and order is maintained taking into account the forces which promote lawlessness.
 - (ii) The manner in which law and order is maintained. Two factors have to be judged — (a) People's cooperation, (b) Use of force.
- (4) *Traffic Management :*
- (i) Smooth flow of traffic in urban areas and control of fatal and seriousness accidents by prosecution of persistent offenders.
- (5) *Service :*
- (i) General spirit of service, especially to weaker sections, physically handicapped women and children.
 - (ii) Quality of service rendered in a distress situations like cyclone-havoc, flood-damage, famine etc.
 - (iii) Specific instances of service-oriented functions performed by the Police which drew special appreciation and gratitude from the public.
- (6) *Reputation of integrity and courtesy :*
- (i) General reputation.
 - (ii) Police collusion with criminals organising illicit distillation, gambling, economic crimes, prostitution etc.
 - (iii) Reputation for courteous behaviour.
 - (iv) Prompt and satisfactory enquiry into complaints against policemen.

(Para 61.42)

65.11 Functionaries in the department at each level should be held accountable only with respect to the functions and duties assigned to him and accountability should not extend to duties over which he has no direct control. Therefore, police functionaries from SHO to that of Chief of Police cannot be held accountable for each isolated incident in a particular region in their respective jurisdiction, however serious it may be, unless it is proved that the particular incident occurred because of act of omission or commission on the part of the police functionary or such incidents have been widespread and the official has failed to react adequately.

(Para 61.43)

The sanction of fixing unreasonable or impossible targets which cannot be achieved except through illegal or irregular means should be effectively discouraged.

(Para 61.44)

Looking ahead

65.12 The object of looking ahead is to determine what the police organisation has to do *now and from now on* to adequately discharge its responsibilities.

(Para 62.1)

65.13 So far law and order problem has been an urban phenomenon, but the last couple of years have shown that the awakening in the rural areas is leading to bitter and brutal caste and class conflicts. In addition unrest emerging from organised demand in the rural areas also for more money for what they produce is another emerging factor of importance. Hitherto this phenomenon was confined to the urban workers only. When this ferment is viewed against the background that about 80% people live in the rural areas it is evident that the most serious threats to law and order will in future arise in the rural areas.

(Para 62.20)

- 65.14 So far organised crime has grown almost unchecked. The police will have to develop special expertise to tackle it. Another such crime is terrorism the spectrum of which embraces the rural terrorism of dacoits and Naxalites, kidnapping in urban areas and hijacking of aircrafts.
(Para 62.23)
- 65.15 The factors that cause crime are increasing in strength and intensity. Some of these factors are population, internal migration, urbanisation and development of slums combined with increasing unemployment and iniquitous distribution of wealth. Our cities and towns are in a chaotic state and the services, particularly the civic amenities, have been unable to keep pace with the constantly increasing urban population. Thus problems of water supply, power, sanitation, housing, transport are becoming more and more acute. With the deterioration in the quality of life in our towns and cities, the problems of police are bound to become more acute.
(Paras 62.25 to 62.28)
- 65.16 The agricultural sector is already saturated with as much manpower as it can absorb. Rapid growth of the industrial sector which alone can absorb more and more of the working population has yet to come about. Already unemployment is very sizeable and if it continues to increase the emerging phenomenon of educated unemployed or under-employed youth taking to a life of crime may become about the most intractable police problem of the future.
(Para 62.30)
- 65.17 The problems of police in 2000 AD are not likely to be uniform all over the country. Even as several centuries can be seen to exist on our roads—bullock-carts, horse-drawn carriages, cycles, cycle rickshaws, mopeds, motor-cycles, motor-rickshaws, the latest Mercedes and, occasionally, a jet screaming overhead — the various parts of the country are facing various kinds of police problems in varying degrees. The problems faced by the police in Bombay today may be faced by Delhi in another five years, and by Bangalore, Hyderabad, Lucknow in another fifteen years. The problems faced by cities like Lucknow, Allahabad, Tiruchirapalli today may be faced by numerous smaller cities by 2000 AD. Accordingly, no single model can be applicable to the whole country although certain essential features would have to be common all over the country because of improved means of transport and communication available to criminals.
(Para 62.32)
- 65.18 Of the answers to the police problems that are developing the most important is self-policing. Self-policing means (1) taking adequate preventive measures to protect life and property ; (2) resisting an attempt on life and/or property, should it take place in spite of preventive measures undertaken by exercising the right of private defence, and (3) active involvement in the processes of the criminal justice system. The present practice of police, however, is a hindrance to self-policing in the sense that the right of private defence cannot be exercised by a person without running the risk of prosecution by police and conviction by a court of law.
(Paras 62.33 and 62.34)
- 65.19 The various sub-systems of the criminal justice system have to be harmonised structurally so that they may work together for the common objective of protecting society from such acts of individuals or groups of individuals as can damage it. At present the sub-systems are at cross-purpose and a frequently visible posture is confrontation.
(Paras 62.35 and 62.39)
- 65.20 As the entire work of the Commission has been about the response of the police, in the preceding chapters of various reports it has already been suggested how the Police is to be prepared for the problems and challenges it is facing and will have to face.
(Para 62.40)

65.21 While the constant endeavour has been to prepare the police for the new challenges and tasks, factors having a bearing on crime and disorder are complex and any inflexible planning for the future is neither advisable nor possible. Accordingly it is suggested that the Bureau of Police Research and Development and the State Research units must make a periodical analysis of the police problems and the police performance. Such an analysis should take into consideration the projections which had been made in the past and see to what extent they proved to be accurate. If they went awry, what were the reasons for it? Having done so, they would be in a position to say, with an amount of accuracy, about the future. The Central Police Committee and the State Security Commissions that have been recommended in earlier Reports will naturally have a significant role to play in this.

(Para 62.42)

Police Act

65.22 For the incorporation of our new recommendations, it is necessary to replace the existing, outmoded Police Act of 1861. A draft new Act has been given as an Appendix.

(Paras 63.1 and 63.2)

65.23 We recommend that the Central Government may enact the necessary legislation for the constitution of a Central Police Committee, define its role and functions, and such other details in terms of our recommendations delineated in detail in paragraph 58.14 of our Seventh Report.

(Para 63.3)

(Sd./- N. KRISHNASWAMY REDDY)
(Sd./- N. S. SAKSENA)

(Sd./- DHARMA VIRA)
(Sd./- K. F. RUSTAMJI)
(Sd./- M. S. GORE)

NEW DELHI,
May 31, 1981.

APPENDICES

POLICE ACT

Arrangement of Sections

CHAPTER I

<i>Sections</i>	<i>Title</i>
1.	Short title, extent and commencement.
2.	Definitions.

CHAPTER II

3.	One police force for the whole State of _____
4.	Constitution of police force.
5.	Director/Inspector General/Additional and Deputy Inspector General.
6.	Appointment of Director of Prosecutions.
7.	Appointment of Financial Advisors etc.
8.	Terms of Office of Director General/IGP.
9.	Commissioner.
10.	Appointment of Superintendent and Additional Assistant and Deputy Superintendents.
11.	Administration of District Police.
12.	Coordination in Distt. Administration.
13.	Appointment of Director of Police Wireless and of Superintendent, Assistant and Deputy Superintendent for Wireless system, motor transport system or any specific duty.
14.	Organisation of common services.
15.	Organisation of Research.
16.	Appointment of Principals of Police Training Institutions.
17.	Deputies to Commissioner.
18.	Assistant Commissioners within jurisdiction of Commissioners.
19.	Constitution of divisions and sections.
20.	Inspectors.
21.	Oath or affirmation by Members of Police Force.
22.	Certificate of Appointment.
23.	Effect of suspension of police officer.
24.	General powers of the Commissioner and Superintendent.
25.	Power of I.G. and Commissioner to investigate and regulate matters of police accounts.
26.	Special police officers.
27.	Appointment of additional police.
28.	Appointment of Railway Police.

CHAPTER III

29. Establishment and constitution of the State Security Commission.
30. Superintendence of police force.
31. Functions of the Commission.
32. Vacancies not to invalidate acts.
33. Removal from office of member.
34. Fees and other allowances payable to members of the Commission.
35. Disqualifications.
36. Vacation of seats of members.
37. Procedure for Commission.
38. Appointment of Director of Inspection and Principal Director of Inspection.
39. Expenses of the Commission.
40. Annual report of the Commission.
41. Power to make regulations.
42. Powers of the State Government.

CHAPTER IV

43. Duties of police officer.
44. Duties of police officers towards weaker sections, poor persons and public.
45. Powers of police officers while regulating traffic etc.
46. Duties of police officers to enforce provisions of the Acts.
47. Power to enter place of public resort.
48. Power to search suspected persons in streets etc.
49. Emergency duties of police.
50. Superior police officer may himself perform duties imposed on a subordinate officer.
51. Persons bound to comply with the reasonable directions of police officer.

CHAPTER V

52. Framing of rules for administration of the police.
53. Disciplinary penalties.
54. Suspension.
55. Procedure for awarding punishments.
56. Appeals from orders of punishments.
57. Authorities competent to order transfer/suspension of subordinate police officers.
58. Police officers always on duty.
59. Police officers not to resign without leave or notice.
60. Police officers not to engage in other employment.

CHAPTER VI

61. Power to make regulations for regulating traffic and for preservation of order in public place etc.
62. Power to give directions to the public.
63. Power to prohibit certain acts for prevention of disorder.
64. Police to provide against disorder etc. at places of public amusement or public assembly or meeting.
65. Power to prohibit etc. continuous of music sound or noise.
66. Issue of order for prevention of riot etc.
67. Maintenance of order at religious or ceremonial display etc.
68. Commissioner or SP may take special measure to prevent outbreak of epidemic disease at fairs etc.
69. Power to reserve street or other public place for public purpose and power to authorise erecting of barriers in streets.
70. Power to make regulations — prohibiting disposal of the dead except at places set apart.

CHAPTER VII

71. Employment of additional police to keep peace.
72. Employment of additional police in cases of special danger to public peace.
73. Employment of additional police at large work and where apprehension regarding behaviour of employees exists.
74. Compensation for injury caused by unlawful assembly — how recoverable.
75. Dispute in regard to cost of deputing additional compensation under Sections 72 to 74.
76. Recovery of amount payable under Sections 71 to 74.
77. Collector/State Government to award compensation.
78. Recovery of amounts payable under Sections 72 to 73.
79. Control of camps parades etc.
80. Constitution of Defence Societies.

CHAPTER VIII

81. Power of State Government to authorise Commissioner/Superintendent of Police certain other officers to exercise powers of District Magistrates and Executive Magistrates under the Cr.P.C.
82. Notification under Section 59.A to be laid before legislature.
83. Powers of Commissioners/Superintendent of Police under other Acts.

CHAPTER IX

- 84. Police to take charge of unclaimed property.
- 85. Procedure for disposal of property taken charge of under Section 84.
- 86. Delivery of property to person entitled.
- 87. In default of claim, property to be at the disposal of Government.

CHAPTER X

- 88. Disregarding the rules of the road.
- 89. Causing obstruction or mischief by animal.
- 90. Exposing animal for hire, sale etc.
- 91. Causing any obstruction in a street.
- 92. Obstructing a footway.
- 93. Causing obstruction and annoyance by performance.
- 94. Doing offensive acts in or near a street or public place.
- 95. Letting loose horse etc. and suffering ferocious dogs to be at large.
- 96. Bathing or washing in places not set apart for those purposes.
- 97. Defiling water in public wells.
- 98. Obstructing bathers.
- 99. Behaving indecently in public.
- 100. Obstructing or annoying passengers in the street.
- 101. Misbehaviour with intent to provoke a breach of the peace.
- 102. Prohibition against flying kites etc.
- 103. Committing nuisance in or near street etc.
- 104. Drunkardness in street etc.
- 105. Affixing notice etc. in public property without consent of authority.
- 106. Disregard of notice in public building.
- 107. Penalties for offences under Sections 88 to 106.
- 108. Penalty for failure to keep in confinement cattle etc.
- 109. Punishment for cruelty to animals.
- 110. Wilful trespass.
- 111. False alarm of fire or damage to firebrigade.
- 112. Being found under suspicious circumstances between sunset and sunrise.
- 113. Possession of property of which no satisfactory account can be given.
- 114. Omission by pawn-brokers etc. to report to police, possession of tender of property suspected to be.
- 115. Melting etc. of property referred to be in Section 114.
- 116. Taking pledge from child.
- 117. Suffering disorderly conduct at places of public amusement etc.
- 118. Cheating at games and gambling in street.

119. Penalty for contravening regulations etc. under Section 40.
120. Liability of licensee of place of public amusement or entertainment for acts of servants.
121. Penalty for not obtaining licence in respect of place of public entertainment or certificate of registration in respect of eating house for not renewing such licence or certificate within prescribed period.
122. Penalties for contravention of orders, etc. under sections 62, 63, 64, 65, 66 and 67.
123. Penalties for contravention of regulations etc. made under sections 68, 69 and 70.
124. Penalty for contravention of orders under section 79.
125. Penalty for opposing or not complying with direction given under clause (b) of sub-section (1) of Section 46.
126. Penalty for contravening directions under section 51.
127. Dangerous performances.
128. Penalty for making false or misleading statement etc. for misconduct of police officers.
129. Vexatious entry, search, arrest, etc. by police officer.
130. Penalty for vexatious delays in forwarding a person arrested.
131. Penalty for unauthorised use of police uniform.
132. Prosecution of police officers.
133. Power to make regulations regarding carrying weapons without authority.
134. Prosecution for offences under other enactments not affected.
135. Prosecution for certain offences against this Act to be in the discretion of police.
136. Power to compound certain offences.
137. Summary disposal of certain cases.
138. Offences by companies.

CHAPTER XI

139. Disposal of fees, rewards etc.
140. Method of proving orders and notifications.
141. Rules and orders not invalidated by defect of form or irregularity in procedure.
142. Officers holding charge of, or succeeding to, vacancies competent to exercise powers.
143. No police officer to be liable to penalty or damage for act done in good faith in pursuance of duty.
144. No public servant liable as aforesaid for giving effect in good faith to any rule, order or direction issued with apparent authority.
145. Suits, or prosecutions in respect of acts done under colour of duty as aforesaid not to be entertained, or to be dismissed if not instituted within the prescribed period.

146. Licences and written permissions to specify conditions etc., and to be signed.
147. Public notices how to be given.
148. Consent etc. of a competent authority may be proved by writing under his signature.
149. Signature on notices etc. may be stamped.
150. Persons interested may apply to State Government to annual, reverse or alter any rule or order.
151. Power to make rules.
152. Notification of rules and regulations in the official Gazette and laying of rules and regulation.
153. Repeal and savings.
154. Existing Police Force deemed to be constituted under this Act.
155. Saving of laws relating to village and Armed Police. (To be drafted by each State Government).
156. Power to remove difficulties.

Schedule I.

Schedule II.

(Form of oath or affirmation by members of Police Force).

Schedule III

(Certificate of appointment in Police Force).

Schedule IV.

(Authorities competent to order suspension).

Schedule V.

(Central Acts).

THE POLICE BILL

Preamble

A Bill to consolidate and amend the law for the regulation of the Police.

WHEREAS the Nation's founding faith is the primacy of the rule of law and the police must be organised to promote the dynamic rule of law and render impartial service to people ;

AND WHEREAS the police has a paramount obligation and duty to function according to the requirements of the Constitution, law and the democratic aspirations of the people ;

AND WHEREAS such functioning of the police requires it to be professional and service oriented, and free from extraneous influences and yet accountable to the people ;

AND WHEREAS it is expedient to redefine the police role, duties and responsibilities ;

AND WHEREAS it is necessary to provide the police with the appropriate powers to ensure its functioning as an efficient and effective agency for the above purposes ;

AND WHEREAS it is necessary to consolidate and amend the law relating to the regulation of the police and exercise of powers and performance of functions by policemen for the investigation and prevention of crimes, maintenance of public order and security of State ;

AND WHEREAS it is necessary to provide for certain other purposes, hereinafter appearing ; it is hereby enacted as follows :—

POLICE ACT

CHAPTER I

PRELIMINARY

Short title,
extent and
commencement.

1. (1) This Act may be called the _____ Police Act.

(2) It extends to the whole of the _____.

(3) It shall come into force on such date as the Government may, by notification in the Official Gazette, specify in this behalf.

Definition

2. In this Act, unless the context otherwise requires :—

(a) 'cattle' include elephants, camels, horses, asses, mules, sheep, goats and swine ;

(b) 'commission' means the State Security Commission constituted under section 29 ;

(c) 'competent authority' when used with reference to the exercise of any power or discharge of any duty under the provisions of this Act, means—

(i) in relation to areas for which a Commissioner of Police is appointed under section 9, the Commissioner or the Additional Commissioner when specially empowered in that behalf by the State Government.

- (ii) in relation to the areas other than those referred to in clause (i), the Superintendent or any other police officer specially empowered in that behalf by the State Government.
- (d) 'corporation' means a municipal corporation constituted under the ——— Act ———.
- (e) Director General, Inspector General, Special Inspector General, Additional Inspector General, Commissioner, Additional Commissioner, Deputy Inspector General, Deputy Commissioner, Assistant Commissioner, Superintendent, Additional Superintendent, Assistant Superintendent and Deputy Superintendent means respectively the Director, Inspector General of Police, a Special Inspector General of Police, an Additional Inspector General of Police, a Commissioner of Police, an Additional Commissioner of Police, a Deputy Inspector General of Police, including the Director of Police Wireless and Deputy Inspector General of Police appointed under section 13, a Deputy Commissioner of Police, a Superintendent of Police including a Superintendent of Police appointed under section 13 or 28, and Additional Superintendent of Police, an Assistant Superintendent of Police, and a Deputy Superintendent of Police appointed or deemed to be appointed under this Act.
- (f) 'district' means the territorial area declared under section 10 to be a district.
- (g) 'eating house' means any place to which the public are admitted and where any kind of food or drink is supplied for consumption on the premises by any person owning, or having any interest in, or managing, such place and includes —
- (i) a refreshment room, boarding house or coffee house, or
 - (ii) a shop where any kind of food or drink is supplied to the public for consumption in or near such shop, but does not include a place of public entertainment;
- (h) 'municipality' means a municipality or municipal borough established under any law for the time being in force in or any part of the State but does not include a municipal corporation.
- (i) 'place' includes —
- (i) any building, tent, booth or other erection, whether permanent or temporary; and
 - (ii) any area, whether enclosed or open.
- (j) '————— Police' or 'Police Force' means the police force referred to in section 3 and includes —
- (i) all persons appointed as special police officers under sub-section (1) of section 26 and additional police officers under section 27; and
 - (ii) all other persons, by whatever name known, who exercise any police function in any part of the State of ———.
- (k) 'place of public amusement' means any place where music, singing, dancing or game or any other amusement, diversion, or recreation or the means of carrying on the same is provided, to which the public are admitted either on payment of money or with the intention that money may be collected from those admitted and includes a race course, circus, theatre, music hall, billiard or bagatelle room, gymnasium, fencing school, swimming pool or dancing hall;
- (l) 'place of public entertainment' means a lodging house, boarding-and-lodging house or residential hotel, and includes any eating house in which any kind of liquor or intoxicating drug is supplied (such as a tavern, a wine shop, a beer shop or a spirit, arrack, toddy, ganja, bhang or opium shop) to the public for consumption in or near such place;

- (m) 'police officer' means any member of the _____ police ;
- (n) 'prescribed' means prescribed by rules ;
- (o) 'public place' means any place to which the public have access, whether as of right or not, and includes —
- (i) a public building and monument and precincts thereof ; and
- (ii) any place accessible to the public for drawing water, washing or bathing or for purposes of recreation ;
- (p) 'regulations' means regulations made under this Act ;
- (q) 'rules' means rules made under this Act ;
- (r) 'street' includes any highway, bridge, way over a causeway, viaduct or arch or any road, lane, footway, square, court, alley or passage accessible to the public, whether or not it is a thoroughfare ;
- (s) 'subordinate ranks' means members of the police force of any below the rank of the Inspector ;
- (t) 'vehicle' means any carriage, cart, van, dray, truck, handcart or other conveyance or any conveyance of any description and includes a bicycle, tricycle, a rickshaw, a motor vehicle, a vessel or an aeroplane ;

CHAPTER II

ORGANISATION OF THE POLICE FORCE

One police force for the

3. There shall be one Police Force for the _____ and all members of the police force shall be liable for posting to any branch of the force including the Armed Police/Armed Police Battalions.

Constitution of Police Force.

4. Subject to the provisions of this Act —

- (a) the Police Force shall consist of such number in the several ranks and have such organisation and such powers, functions and duties as the State Government may by general or special order determine ;
- (b) the recruitment to and the pay, allowances and all other conditions of service of the Police Force shall be such as may from time to time be determined by the State Government by general or special order ;

Provided that nothing in clause (b) shall apply to the recruitment, pay, allowances and other conditions of service of the members of the Indian Police Service.

Director/Inspector General/
Additional and
Deputy Inspector General.

5. (1) For the direction and supervision of the Police Force, the State Government shall* in the manner prescribed, appoint a Director General/Inspector General of Police who shall exercise such powers and perform such functions and duties and shall have such responsibilities and such authority as may be provided by or under this Act or rules made thereunder.

(2) (a) The State Government may appoint one or more Inspector General or one or more Special Inspector General, one or more Additional Inspector-General and one or more Deputy Inspector General of Police.

(b) The State Government may direct that any of the powers, functions, duties and responsibilities and the authority of the Director General/Inspector General may be exercised performed or discharged, as the case may be, by an Inspector General, a Special Inspector General or an Additional Inspector General or a Deputy Inspector General.

*Note :— The selection of the Chief of Police is required to be made in terms of the recommendations contained in para 15.35 of the Report. This section enables the State Government to frame rules to implement the recommendations of the Commission in this regard. (Viz. the Constitution of the Committee, appointment of members, their terms etc.)

Provided that no such order shall deprive the Director General/Inspector General of Police of his overall charge of any branch of the Police Force, so that the unity of command is not disrupted or damaged.

(c) The State Government may also by a general or special order direct that an Inspector General/Special Inspector-General or an Additional Inspector-General or a Deputy Inspector-General shall assist and aid the Director General/Inspector-General in the performance, exercise and discharge of his powers, functions, duties, responsibilities and authority in such manner and to such extent as may be specified in the order.

Appointment of Director of prosecutions.

6. The State Government shall appoint a Director of Prosecutions, to assist and aid the Director General/Inspector General of Police.

Appointment of Financial Adviser etc.

7. The State Government may appoint a Personnel Adviser, a Financial Adviser, and a Police Welfare Adviser to assist and aid the Director General/Inspector-General of Police.

Terms of office of Director-General/Inspector-General of Police.

8. The term of office of Director General/Inspector General of Police appointed under the Act shall be four years from the date of his appointment.

Provided that the Director General/Inspector General of Police may be removed from his post before the expiry of the tenure period, with the approval of the Commission or when the removal is consequent on —

- (i) a punishment of dismissal/removal/compulsory retirement from service or reduction to a lower post, awarded under the provisions of All India Services (Discipline and Appeal) Rules; or
- (ii) suspension ordered under the provisions of the above said Rules; or
- (iii) retirement from service on superannuation in the normal course; or
- (iv) promotion to a higher ranking post either under the State Government or the Central Government, provided the officer had given his consent to the posting on promotion.

(2) An officer who has functioned as the Director General/Inspector General of Police, after his retirement from service, shall not be eligible for any employment under the Government of India or under the State Government or in any public undertaking in which Government of India or the State Government have a financial interest.

Commissioner of Police.

9. (1) The State Government may appoint a Police Officer to be the Commissioner of Police for any area comprising a city or town specified in a notification issued by the State Government in this behalf and published in the Official Gazette.

(2) The State Government may also appoint one or more Additional Commissioner of Police for the areas specified in clause (1).

(3) The Commissioner shall exercise such powers, perform such functions and duties and shall have such responsibilities and authority as are provided by or under this Act or rules made thereunder.

Provided that any of the powers, functions, duties, responsibilities, or authority exercisable or to be performed or discharged by the Commissioner shall be exercised, performed or discharged subject to the control of the Director General/the Inspector General.

(4) The State Government may, by general or Special order, empower an Additional Commissioner to exercise and perform in the areas for which a Commissioner is appointed under sub-section (1) all or any of the powers, functions or duties to be exercised or performed by a Commissioner under this Act or under any law for the time being in force.

Appointment of Superintendent and Additional, Assistant and Deputy Superintendents.

10. (1) The State Government may by notification declare that as from such date as may be specified in the notification, any area in the State shall be a district for the purposes of this Act.

(2) The State Government may appoint for each District a Superintendent of Police and one or more Additional, Assistant and Deputy Superintendents of Police as it may think expedient.

(3) The State Government may, by a general or special order, empower an additional Superintendent to exercise and perform in the district for which he is appointed or in any part thereof, all or any of the powers, functions or duties to be exercised or performed by a Superintendent under this Act or under any law for the time being in force.

(4) The Superintendent may, with the previous permission of the Director General/Inspector General of Police, delegate any of the powers (except the power to make regulations) and functions conferred on him by or under this Act to an Assistant or Deputy Superintendent.

Administration of District Police.

11. The administration of the police throughout a district, or part thereof, shall be vested in the Superintendent of Police appointed under section 10.

Coordination in District administration.

12. (1) For the purpose of efficiency in the general administration of the district it shall be lawful for the district officer, by whatever name he is called in the different States, to coordinate functioning of the police with other agencies of the district administration in respect of the following:—

- (a) in matters relating to the promotion of land reforms and the settlement of land disputes;
- (b) in matters relating to the extensive disturbance of the public peace and tranquillity in the district;
- (c) in matters relating to the conduct of elections to any public body;
- (d) in matters relating to the handling of natural calamities, and the rehabilitation of the persons affected thereby;
- (e) in matters relating to situations arising out of any external aggression; and
- (f) in any similar matter, not within the purview of any one department, and affecting the general welfare of the people of the district.

(2) For the purpose of such coordination, the district officer, by whatever name he is called, may

- (a) call for information of a general or special nature, as and when required, from the police, and any other agency connected with the general administration of the district;
- (b) call for a report regarding the steps taken by the police or other agency to deal with the situation; and
- (c) give such directions in respect of the matter, as are considered necessary by him to the police and the concerned agency.

(3) The Superintendent of Police or the head of the agency mentioned in sub-section (2) above, shall render assistance to the authority specified in sub-section (1) for the purpose of coordination, as specified above.

Explanation :

For the purposes of this section, coordination means to combine or integrate harmoniously.

Appointment of Director of Police Wireless and of Superintendent, Assistant and Deputy Superintendent for Wireless system, motor transport system or any specific duty.

13. (1) The State Government may appoint for the whole of the State or for any part thereof —

- (i) one or more Directors of Police Wireless and Deputy Inspector-General of Police for Police Wireless System hereinafter referred to as the Director of Police Wireless as it thinks fit, and
- (ii) One or more Superintendents of Police, and Assistant and Deputy Superintendents of Police as it thinks fit —
 - (a) for the Police Wireless Systems ;
 - (b) for the Police Motor Transport system ; or
 - (c) for the performance of such specific duties as the State Government may from time to time determine in this behalf.

(2) Any Director of Police Wireless and Superintendent so appointed shall exercise such powers and perform such functions as the State Government may from time to time assign to each of them. The Director may, with the previous permission of the State Government, delegate any of the powers and functions conferred on him by or under this Act to a Superintendent or to an Assistant or Deputy Superintendent, and the Superintendent may, subject to the like previous permission, delegate such powers and functions to an Assistant or Deputy Superintendent :

Provided that, the powers and functions aforesaid shall be exercised or performed by the Director, Superintendent or Assistant or Deputy Superintendent, subject to the control of the Director General/Inspector General of Police.

Organisation of common services.

14. The State Government may provide towards the provision or maintenance of, forensic science laboratories and such other organisation and services as it may consider necessary or expedient for promoting of the efficiency of the police.

Organisation of Research.

15. The State Government may set up such bodies and take such other steps as appears it to be necessary or expedient for the purpose of undertaking research into matters affecting the efficiency of the police.

Appointment of Principals of Police Training Institutions.

16. (1) The State Government may appoint any Police Officer not below the rank of Superintendent to be the Principal of the Police Training College established by it. The State Government may assign to each of the Principals aforesaid such powers, functions and duties as it may think fit.

(2) The State Government may appoint any Police Officer not below the rank of an Assistant or Deputy Superintendents to be the Principal of any Police Training School established by it. An officer not below the rank of a Deputy Inspector-General authorised by the State Government in that behalf may, subject to the control of the State Government, assign to each Principal so appointed such powers, functions and duties as he may think fit.

Deputies to Commissioner.

17. (1) The State Government may appoint one or more Deputy Commissioners of Police in any area in which a Commissioner has been appointed under sub-section (1) of section 9.

(2) Every such Deputy Commissioner shall under the orders of the Commissioner, exercise and perform any of the powers (except the power to make regulations) functions and duties of the Commissioner to be exercised or performed by him under the provisions of this Act or any other law for the time being in force in accordance with the general or special orders of the State Government made in this behalf.

Assistant Commissioners within jurisdiction of Commissioners.

18. (1) The State Government may appoint for any area for which a Commissioner of Police has been appointed under section 9 such number of Assistant Commissioners of Police as it may think expedient.

(2) An Assistant Commissioner appointed under sub-section (1) shall exercise such powers (except the power to make regulations) and perform such duties and functions as can be exercised or performed under the provisions of this Act or any other law for the time being in force or as are assigned to him by the Commissioner under the general or special orders of the State Government.

Constitution of divisions and sections.

19. (1) Subject to the control of the State Government, the Commissioner, for the area for which he is appointed and the Director-General/Inspector General of Police for other areas, shall,

- (a) constitute within the area under his charge, Police divisions,
- (b) sub-divide the same into sections, and
- (c) define the limits and extent of such divisions and sections.

(2) Each such division shall be in charge of an officer of a rank not below that of an Assistant Commissioner or Deputy Superintendent of Police, as the case may be, and each section shall be in charge of an officer of a rank not below that of an Inspector of Police.

Inspectors.

20. Subject to the general or special orders of the State Government, the Commissioner for the area for which he is appointed and the Director General/Inspector General for other areas shall appoint Inspectors.

Oath or affirmation by members of Police Force.

21. Every member of the Police Force enrolled under this Act shall, on appointment, make and subscribe before the Superintendent of Police or Commissioner as the case may be or some person appointed in that behalf by him, an oath or affirmation according to the form set out for the purpose in Schedule II.

Certificate for appointment.

22. (1) Every Police Officer of the grade of Inspector or below, shall on appointment receive a certificate in form provided in Schedule III. The certificate shall be issued under the seal of such officer as the State Government may by general or special order direct.

(2) A certificate of appointment shall become null and void whenever the person named therein ceases to belong to the Police Force or shall remain inoperative during the period within which such person is suspended from such force.

Effect of suspension of Police officer.

23. The powers, functions and privileges vested in a police officer shall remain suspended whilst such Police Officer is under suspension from office :

Provided that notwithstanding such suspension such person shall not cease to be a Police Officer and shall continue to be subject to the control of the same authorities to which he would have been, if he was not under suspension.

General powers of Commissioner and Superintendent.

24. The Commissioner or the Superintendent, subject to the orders of the Director-General/Inspector-General, shall, within their respective spheres of authority direct and regulate all matters of arms, drill, exercise, observation of persons and events, mutual relations distribution of duties, study of laws, orders and modes of proceedings and all matters of executive detail or the fulfilment of their duties by the Police Force under him.

Power of Director General/Inspector General and Commissioner to investigate and regulate matters of police accounts.

25. The Director General/Inspector General, throughout the State and the Commissioner in the area for which he is appointed, shall have authority to investigate and regulate all matters of account connected with the Police in the State or in the area, as the case may be, and all persons concerned shall be bound to give him reasonable aid and facilities in conducting such investigations and to conform to his orders consequent thereto.

Special Police Officers.

26. (1) The Commissioner or the Superintendent of Police, specially empowered in this behalf by the State Government, may, at any time by a written order signed by himself and sealed with his own seal appoint any able-bodied male person between the ages of 18 and 50, whom he considers fit to be a Special Police Officer to assist the Police Force.

(2) Every special Police Officer so appointed shall, on appointment —

- (a) receive a certificate in a form approved by the State Government in this behalf ;

(b) have the same powers, privileges and immunities and be liable to the same duties and responsibilities and be subject to the same authorities as an ordinary Police Officer.

Punishments for refusal to serve.

(3) If any person, being appointed a special police officer as aforesaid, without sufficient excuse, neglects or refuses to serve as such or to obey such lawful order or direction as may be given to him for the performance of his duties, he shall be liable, upon conviction before a Magistrate, to fine not exceeding five hundred rupees for such neglect, refusal or disobedience.

Appointment of additional police.

27. (1) Additional Police Officers of such rank or grade for such time and on such pay as the authority specified by or under the provisions of this Act in that behalf may determine, may be employed or deputed for the purpose stated in such provisions.

(2) Every additional Police Officer appointed, shall on appointment —

(a) receive a certificate in a form approved by the State Government in this behalf;

(b) be vested with all of such of the powers, privileges and duties of a Police Officer as are specially mentioned in the certificate; and

(c) be subject to the orders of the Commissioner or the Superintendent as the case may be.

(3) The employment or deputation of such additional Police Officer may be made at the request of any person requiring such Police and the cost of such employment shall be recovered in such manner as is provided by or under this Act or under any other law for the time being in force.

Appointment of Railway Police.

28. (1) The State Government may, by notification in the Official Gazette, create one or more special police districts embracing such railway areas in the State as it may specify, and appoint a Superintendent of Police one or more Assistant and Deputy Superintendent and such other Police Officers for each such special district as it may think fit

(2) Subject to the control of the Director-General/Inspector-General, such police officers shall discharge police functions connected with the administration of railways situated within their respective charges, and such other functions as the State Government may from time to time assign to them.

(3) Any member of the said Police Force whom the State Government shall generally or specially empower to act under this sub-section may, subject to any orders which that Government may make in this behalf, exercise within the special district or any part thereof any of the powers of an officer-in-charge of a police station in that district, and when so exercising such powers shall, subject to any such order as aforesaid, be deemed to be an officer-in-charge of the police station discharging the functions of such officer within the limits of his station.

(4) Subject to any general or special orders which the State Government may make in this behalf, such police officers shall, in the discharge of their functions, be vested within every part of the State with the powers and privileges and be subject to the liabilities of police officers under this Act or any other law for the time being in force.

(5) The Superintendent of Police may, with the previous permission of the State Government, delegate any of the powers and functions conferred on him by or under this Act to an Assistant or Deputy Superintendent.

CHAPTER III

THE STATE SECURITY COMMISSION

Establishment and constitution of the State Security Commission.

29. (1) The State Government, shall, as soon as may be, by notification in the official Gazette, establish a commission to be called the State Security Commission for the purpose of exercising such functions and discharging such duties as may be assigned to the commission by or under this Act.

(2) The Commission shall consist of the following members, namely :—

- (i) the Minister in-charge of Police, who shall be the Chairman, ex-officio ;
- (ii) two members of the State Legislature one from the ruling party and another from the opposition parties preferably from the recognised or main opposition party, to be nominated by the State Government on the advice of the speaker of the State Legislature ;
- (iii) four members to be nominated by the Chief Minister of the State after approval by the State Legislature, as far as possible one each from among retired judges of the High Court, retired Government servants who had functioned in senior positions in the Government while in service, social scientists or academicians of public standing and eminence.

(3) The Director General/Inspector General of Police, ex-officio, shall be the Secretary of the Commission.

(4) The names of the members nominated to the Commission shall be notified by the State Government in the Official Gazette and the nomination shall take effect with effect from the date of such notification.

(5) Every member nominated under clauses (ii) and (iii) of sub-section (2) above, shall unless their seats became vacant earlier by resignation, death or otherwise, hold office for a period of three years from the date on which the nomination of such member is notified and shall be eligible for re-nomination.

Superintendence
of Police Force.

30. (1) The Superintendence of the police force throughout the state shall vest in the State Government and shall be exercised through its commission constituted under this Act.

(2) The power of superintendence of the State Government over the police shall be limited for the purpose of ensuring that police performance is in strict accordance with law.

Functions of the
Commission.

31. The functions of the Commission shall include matters relating to —

- (i) laying down broad policy guidelines and directions for the performance of preventive tasks and service oriented functions by the police ;
- (ii) evaluation of the performance of the State Police ;
- (iii) functioning as a forum of appeal for disposing of representations from any police officer of the rank of Superintendent of Police and above, regarding his being subjected to illegal or irregular orders in the performance of his duties ;
- (iv) functioning as a forum of appeal for disposing of representations from police officers regarding promotions to the rank of Superintendent of Police and above ; and
- (v) generally keeping in review the functioning of the police in the State.

Vacancies not to
invalidate acts.

32. The functions of the Commission may be exercised notwithstanding any vacancy therein.

Removal from
office of
member.

33. The State Government may, at any time, for sufficient cause, remove from office any member of the commission after giving him a reasonable opportunity of showing cause against proposed removal.

Fees and other
allowances pay-
able to members
of the commis-
sion.

34. The fees and other allowances payable to members for the attendance at meetings of the Commission or of any Committee thereof shall be such as may be specified by the State Government by regulations made in consultation with the Commission.

Disqualifica-
tions.

35. No person shall be eligible to be a member of the Commission or any Committee thereof who —

- (a) is of unsound mind and stands so declared by a competent Court ; or

(b) is or has been convicted of an offence which, in the opinion of the State Government involves moral turpitude.

Vacation of
seats of
members.

36. (1) If a member of the Commission —

- (a) becomes subject to any disqualifications specified in Section 35; or
- (b) in the case of member nominated under clause (ii) of sub-section (2) of Section 29, ceases to be member of the State Legislature, his seat shall thereupon fall vacant; or
- (c) in the case of a member nominated under sub-clause (iii) of sub-section (2) of Section 29, joins a political party after being appointed to the Commission, his seat shall thereupon fall vacant.

(2) If any question arises as to whether a member of the Commission has become subject to any disqualification specified in Section 35, the question shall be referred for the decision of the Chairman of the Commission and his decision shall be final:

Provided that before giving decision on any such question, the Chairman of the Commission shall give the member concerned a reasonable opportunity of being heard.

(3) If a member of the Commission, is absent without sufficient cause for more than three consecutive meetings thereof, the Chairman of the Commission may, by order, remove such member from the membership of the Commission:

Provided that no member shall be removed under the provisions of this sub-section except after giving him a reasonable opportunity of showing cause against such removal.

(4) Any member of the Commission, may resign his office by giving notice, in writing, of his intention so to do, to the authority which nominated him, and on such resignation being accepted he shall be deemed to have vacated his office.

Procedure for
Commission.

37. The Commission shall regulate its own procedure and the conduct of the business to be transacted by it.

Appointment of
Director of
Inspection and
Principal
Director of
Inspection.

38. (1) The State Government may appoint one or more police officer as Director of Inspection as the State Government may in consultation with the Commission determine and of the persons so appointed one may be appointed as Principal Director of Inspection.

(2) It shall be the duty of the Directors of Inspection to evaluate the over-all performance of all police forces constituted under Section 3 of this Act, and report to the Commission thereon.

(3) The Directors of Inspection shall carry out such other duties for the purpose of furthering police efficiency as the Commission may from time to time direct.

(4) The Principal Director of Inspection shall in each year submit to the Commission a report in such form as the Commission may direct.

(5) The Directors of Inspection shall be paid such salary and allowances as the State Government may with the approval of the Commission determine.

Expenses of the
Commission.

39. The expenses of the Commission, including any salaries, allowances and pensions payable to or in respect of members or staff of the Commission shall be charged on the consolidated fund of the State.

Annual Report
of the
Commission.

40. The Commission, shall, within 3 months after the end of each year submit to the State Government annual report on the performance of the Police in the State and the work done by the Commission.

(2) The State Government shall, as soon as may be possible but not later than 3 months after the receipt of such report (unless the Legislature is not in Session) cause such report to be laid before the Legislature of the State.

Power to make regulations.

41. The State Government may by regulations made in consultation with the Commission make provision with respect to the number of members of the staff of the Commission and their conditions of service.

Powers of the State Government.

42. Notwithstanding anything contained in Section 30 the State Government may in any emergency directly issue a policy directive or guidelines in regard to a specific situation but such direction or guidelines, shall as soon as possible be brought before the Commission for ratification and be subject to such modifications as the Commission might decide.

CHAPTER IV

DUTIES, POWERS AND RESPONSIBILITIES OF THE POLICE

Duties of a Police Officer.

43. It shall be duty of every police officer to —
- (i) promote and preserve public order ;
 - (ii) investigate crimes, and where appropriate to apprehend the offenders and participate in subsequent legal proceedings connected therewith ;
 - (iii) identify problems and situations that are likely to result in commission of crimes ;
 - (iv) reduce the opportunities for the commission of crimes through preventive patrol and other prescribed police measures ;
 - (v) aid and co-operate with other relevant agencies in implementing the prescribed measures for prevention of crimes ;
 - (vi) aid individuals who are in danger of physical harm ;
 - (vii) create and maintain a feeling of security in the community ;
 - (viii) facilitate orderly movement of people and vehicles ;
 - (ix) counsel and resolve conflicts and promote amity ;
 - (x) provide necessary services and afford relief to people in distress situations ;
 - (xi) collect intelligence relating to matters affecting public peace and crimes in general including social and economic offences, national integrity and security ; and
 - (xii) perform such other duties as may be enjoined on them by law for the time being in force.

Duties of police officers towards weaker sections, poor persons and public.

44. It shall be the duty of every police officer to—
- (1) register all cognizable offences brought to his notice by a complainant in person or by post or from his knowledge and take prompt steps to acknowledge registration of such offences where necessary and proceed with such investigation as is prescribed by law ;
 - (2) aid and cooperate with other agencies for the prevention of all offences and all wanton destruction of public property by violence, fire and accidents ;
 - (3) prevent such conduct in public places as would prove to be dangerous for the persons indulging in such acts like overloading of boats during river crossing or spirited youngsters driving dangerously and recklessly ;
 - (4) guide and assist members of the public particularly the poor and indigent, disabled or physically weak and children who are either lost or find themselves helpless on the streets or other public places ;
 - (5) take charge of intoxicated persons and lunatics at large who in their ignorance may cause harm to themselves or other members of the public and their property ;
 - (6) assist in preventing the poor and indigent persons from exploitation by any organised group ;

- (7) prevent harassment of women and children in public places ;
- (8) behave with all members of the public with due decorum and courtesy particularly so in dealing with women and children where strict regard should be paid to decency and reasonable gentleness ;
- (9) refrain from needless inconvenience to the members of the public in the discharge of his duties ;
- (10) while taking a person into custody to ensure that he is not denied his rights and privileges and in particular ensuring that an arrested person in custody is able to inform a person of his choice the fact of his detention ;
- (11) arrange for legally permissible sustenance and shelter to every person in custody and making known to poor persons in custody provisions of legal aid schemes being enforced in the State and also inform the authority concerned to provide such aid ;
- (12) provide every kind of assistance to victims of road accidents and in particular ensuring that they are given prompt medical aid without waiting for formalities ;
- (13) assist accident victims or their heirs or their dependents where applicable with such information and documents as would facilitate their compensation claims and making the victims of road accidents aware of their rights and privileges ; and
- (14) show by personal conduct that it is in the general interest of the society to abide by the law in operation.

Powers of Police Officers while regulating traffic etc.

45. It shall be duty of every police officer —

- (i) to regulate and control the traffic in the streets, to prevent obstructions therein and to the best of his ability, to prevent the contravention of any rule, regulation or order made under this Act or any other law in force for observance by the public in or near the streets ;
- (ii) to keep order in the streets and at and within public bathing and washing places, fairs, temples and all other places of public resort and in the neighbourhood of places of public worship ;
- (iii) to regulate resort to public bathing and washing places and all other places of public resort, to prevent overcrowding in such places and to the best of his ability, to prevent the contravention of any regulation or order lawfully made for observance by the public at such place ; and
- (iv) to prevent to the best of his ability the commission of public nuisances.

Duties of Police officers to enforce provisions of the Act.

46. (1) It shall be the duty of every police officer to ensure compliance with the provisions of this Act or any rule, regulation or order made thereunder and for that purpose such police officer may —

- (a) warn persons who from ignorance fail to comply with any provision of this Act or any rule, regulation or order made thereunder ;
- (b) require any person acting or about to act contrary to any provision of this Act or rule, regulation or order made thereunder, to desist from so doing ;
- (c) subject to the provisions of sub-section (2) and (3), arrest any person contravening any provision of this Act or any rule, regulation or order made thereunder, where such contravention is an offence punishable under this Act ; and
- (d) seize any object used, or about to be used, in contravening, or in contravention of the provisions of this Act, or any rule, regulation or order made thereunder, where such contravention is an offence punishable under this Act.

(2) A Police officer shall not arrest any person under Clause (c) of sub-section (1), without a warrant issued by Magistrate, unless such person —

- (a) has contravened any regulation made for regulating traffic and for preservation of order in public places under section 61 of this Act;
- (b) has contravened any order or notification made under section 62 or under section 63, section 65 or section 79;
- (c) commits in the presence of such police officer offences punishable under section 107; sub-section (1) of section 118, Clause (a), (b) or (c) of section 119, or sub-section (2) of section 122, in respect of contravention of any order made under sections 66 or 67;
- (d) commits in his presence in any street or public place any non-cognizable offence punishable under this Act or any rule or regulation made thereunder if such person —
 - (i) after being warned by the police officer persist in committing such offence; or
 - (ii) refuses to accompanying the police officer to a police station on being required so to do.

(3) The Commissioner or Superintendent of Police or any other police officer specially empowered in this behalf by the Director General/Inspector General of Police may arrest without warrant by a magistrate any person who has committed an offence under section 100.

Power to enter places of public resort.

47. Subject to the provisions of this Act and the rules, regulations and orders made thereunder, every police officer may, for the purpose of discharging any of the duties referred to in sections 43, 44, 45 & 46 enter without a warrant and inspect any place of public resort which he has reason to believe is used as a place for the storing, sale or consumption of intoxicating drinks or narcotics or a place for resort of loose and disorderly characters.

Power to search suspected persons in streets etc.

48. When in a street or a place of public resort a person is in possession or suspected to be in possession of any article which a police officer in good faith suspects to be stolen property, such police officer may search such person and if the account given by the possessor be manifestly false or suspicious, may detain such article after giving a receipt in the prescribed form and report the facts to a Magistrate, having jurisdiction in the case who shall thereupon proceed according to the provisions of sections 457, 458 and 459 of the Code of Criminal Procedure, 1973.

Emergency duties of police.

49. (1) The State Government, may by notification in the official gazette, declare any specified service to be an essential service to the community.

(2) A declaration made under sub-section (1) shall remain in force for one month in the first instance, but may be extended from time to time by a notification.

(3) Upon a declaration being made under sub-section (1) and so long as it remains in force, it shall be the duty of every police officer to obey any order given by any superior officer in relation to any employment in connection with the service specified in the declaration.

Superior police officer may himself perform duties imposed on a subordinate officer.

50. A police officer of a rank superior to that of a constable may perform any duty assigned by law or by a lawful order to any officer subordinate to him, and in the case of any duty imposed on such subordinate, a superior may aid, supplement, supersede or prevent any action of such 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.

Persons bound to comply with the reasonable directions of police officer.

51. (1) All persons shall be bound to comply with the reasonable directions given by a police officer in the discharge of his duties under this Act.

(2) Where any person resists, refuses or fails to comply with any direction referred to in sub-section (1), a police officer may, without prejudice to any other action that he may take under any other provision of this Act or any other law for the time being in force, remove such person and either produce him before the nearest Magistrate or, in trivial cases, release him when the occasion which necessitated the removal has ceased to exist :

Provided that the person so removed shall in all cases be produced before the nearest Magistrate or released, as the case may be, within a period of twenty-four hours of such removal.

CHAPTER V

REGULATION, CONTROL AND DISCIPLINE OF THE POLICE FORCE

Framing of rules for administration of the Police.

52. Subject to the orders of the State Government, the Director General/Inspector General may make rules or orders not inconsistent with this Act or with any other enactment for the time being in force —

- (a) for the prevention and investigation of crime ;
- (b) for the maintenance of law and order ;
- (c) regulating the inspection of the police force by his subordinates ;
- (d) determining the description and quantity of arms-accoutrements, clothing and other necessaries to be furnished to the Police ;
- (e) prescribing the places of residence of members of the Police Force ;
- (f) for the institution, management and regulation of any Police fund for any purpose connected with Police administration ;
- (g) regulating, the distribution, movements and location of the Police ;
- (h) assigning duties to Police Officers of all ranks and grades and prescribing —
 - (i) the manner in which, and
 - (ii) the conditions subject to which they shall exercise and perform their respective powers and duties ;
- (i) regulating the collection and communication by the Police of intelligence and information ;
- (j) prescribing the books and registers to be maintained and the returns to be submitted by Police Officers ; and
- (k) generally, for the purpose of rendering the police efficient and preventing abuse or neglect of their duties.

Disciplinary penalties.

53. (1) Subject to the provisions of Article 311 of the Constitution and the rules, the Director General/Inspector General, Deputy Inspector General, Assistant Inspector General of Police, Commissioner of Police, Superintendent of Police, Principal of the Police Training College or the Police Training School or any other officer of equivalent rank, may award to any police officer of subordinate rank any of the following punishments, namely —

- (a) dismissal ;
- (b) removal from service ;
- (c) reduction in rank ;
- (d) forfeiture of approved service ;
- (e) reduction in pay ;
- (f) withholding of increment ;
- (g) withholding of promotion ; and
- (h) fine not exceeding one month's pay.

(2) Subject to the rules —

- (a) any police officer specified in sub-section (1) may award the punishment of reprimand or censure to any police officer of subordinate rank ;
- (b) the Assistant Superintendent of Police or any other officer of equivalent rank, may award the punishment of reprimand or censure to police officers of or below the rank of Sub-Inspectors of Police ; and
- (c) any police officer of and above the rank of Inspector may award punishment drill, extraguard, fatigue or other punitive duty, not exceeding fifteen days, with or without confinement to quarter guard to Constables and Head Constables.

(3) Nothing in sub-section (1) or sub-section (2) shall affect any Police officers liability for prosecution and punishment for any offence committed by him.

Suspension.

54. (1) The Director General/Inspector General of Police, Superintendent of Police, Commissioner of Police or any other officer of equivalent rank may place a police officer under suspension—

- (a) Where a disciplinary proceedings against him is contemplated or is pending ; or
- (b) Where in the opinion of the authority aforesaid he has engaged himself in activities prejudicial to the interest or the security of the State ; or
- (c) Where a case against him in respect of any criminal offence is under investigation, inquiry or trial and in the opinion of the authority aforesaid there is a prima facie case.

(2) An order of suspension made under this Section shall continue to remain in force until it is modified or revoked by the authority competent to do so.

(3) Where a Police Officer is suspended (whether in connection with any disciplinary proceeding or otherwise) and any other disciplinary proceeding is commenced against him during the continuance of that suspension, the authority competent to place him under suspension may, for reasons to be recorded by him in writing, direct that the police officer shall continue to be under suspension until the termination of all or any such proceedings.

(4) An order of suspension made may at any time be modified or revoked by the authority which made the order or by any authority to which that authority is subordinate.

Procedure for awarding punishments.

55. When any officer passes an order of awarding a punishment of dismissal, removal from service, reduction in rank, forfeiture of approved service, reduction in pay, withholding of increments, withholding of promotions, or fine, he shall record such order or cause the same to be recorded together with the reasons thereof, in accordance with the rules.

Appeals from orders of punishment.

56. An appeal against any order of punishment passed against a police officer under section 53 or the rules thereunder (not being an order of punishment drill, extraguard, fatigue or other punitive duty, not exceeding fifteen days with or without confinement to quarter guard to Constables and Head Constables under clause (c) of sub-section (2) of that section) shall lie :—

- (a) where the order is passed by the Director General/Inspector General of Police to the State Government ;
- (b) where the order is passed by a Deputy Inspector General or Commissioner of Police to the Director General/Inspector of Police ;
- (c) where the order is passed by a Superintendent of Police, Deputy Commissioner of Police, Principal of the Police Training College or School or any other officer of equivalent rank, to the Deputy Inspector General/Commissioner of Police of the area as the case may be.

Authorities competent to order transfer or suspension of subordinate police officers.

57. Subject to the provisions of section 50, transfer or suspension orders of different ranks of subordinate officers of the force shall be made only by the appointing authority or the authority prescribed in Schedule IV.

Police officers always on duty.

58. Every police officer not on leave or under suspension shall, for all purposes of this Act, be considered to be always on duty and may at any time be employed as police officer in any part of the State.

Police Officers not to resign without leave or notice.

59. No police officer shall resign his office or withdrawn himself from the duties thereof, unless expressly allowed to do so in writing by the Director General/Inspector General of Police or by such other officer as may be authorised by the Director General/Inspector General of Police to grant such permission or unless he shall have given to his superior officer, notice in writing for a period not less than two months of his intention to do so.

Explanation :

A police officer who, being absent on leave, fails without reasonable cause to report himself for duty on the expiration of such leave shall be deemed within the meaning of this section, to withdraw himself from the duties of his office.

Police officers not to engage in other employment.

60. No police officer shall engage in any employment or office whatever other than his duties under this Act, unless expressly permitted to do so in writing by the Director General/Inspector General of Police or by some other authorised officer.

CHAPTER VI

POLICE REGULATIONS

Power to make regulations for regulating traffic and for preservation of order in public place etc.

61. The Commissioner or Superintendent, as the case may be, with respect to any of the matters specified in this sub-section, in areas under their respective charges or any part thereof, may by notification in the official gazette make regulations to provide for all or any of the following matters, namely —

- (a) regulating traffic of all kinds in streets and other public places, and the use of streets and other public places by persons riding, driving, cycling, walking or leading or accompanying cattle, so as to prevent danger, obstruction or inconvenience to the public;
- (b) regulating the conditions under which vehicles may remain standing in streets and other public places, and the use of streets as halting places for vehicles or cattle;
- (c) specifying the number and position of lights to be used on vehicles in streets and the hours between which such lights should be used;
- (d) licensing, controlling or prohibiting the erection, exhibition, fixation or retention of any sign, device or representation for the purpose of advertisement, which is visible against the sky from some point in any street and is hoisted or held aloft over any land, building or structure at such height as may be specified in the regulations, having regard to the traffic in the vicinity, and the likelihood of such sign, device or representation at that height being a distraction, or causing obstruction, to such traffic;
- (e) specifying certain hours of the day during which cattle shall not be driven, or as the case may be, driven only in accordance with such regulations, along the streets, or along certain specified streets;
- (f) regulating the leading, driving, conducting or conveying of any elephant or wild or dangerous animal through or in any street;
- (g) regulating and controlling the manner and mode of conveying timber, scaffold poles, ladders, iron girders, beams or bars, boilers or other unwieldy articles through the streets, and the route and hours for such conveyance;

- (h) licensing, controlling or in order to prevent obstruction, inconvenience, annoyance, risk, danger or damage to the residents or passengers in the vicinity, prohibiting the carrying in streets and public places of gun-powder or any other explosive substance ;
- (i) prohibiting except along certain specified streets and during specified hours and subject to such conditions as may be specified in that behalf, the exposure or movement in any street of persons or animals suffering from contagious or infectious diseases, the carcasses of animals or parts of such carcasses or corpses of persons deceased ;
- (j) specifying certain hours of the day during which ordure or offensive matter or objects shall not be taken from or into houses or buildings in certain streets or conveyed through such streets except in accordance with such regulations ;
- (k) setting apart places for slaughtering animals, the cleaning of carcasses or hides, the deposit of noxious or offensive matter and for obeying calls or nature ;
- (l) in cases of existing or apprehended epidemic or infectious disease of men or animals, the cleanliness and disinfection of premises by the occupier thereof and residents therein and the segregation and management of the persons or animals diseased or supposed to be diseased, as may have been directed or approved by the Government, with a view to prevent the disease or check the spread thereof ;
- (m) directing the closing or disuse, wholly or for certain purposes, or limiting to certain purposes only, the use of any source, supply or receptacle of water and providing against pollution of the same or of the water therein ;
- (n) licensing, controlling or in order to prevent obstruction, inconvenience, annoyance, risk, danger or damage to the residents or passengers in the vicinity, prohibiting the playing of music, the beating of drums, tom-toms or other instruments and the blowing or sounding of horns or other noisy instruments or in near streets or other public places ;
- (o) regulating the conduct of or behaviour or action of persons constituting assemblies and processions on or along the streets and specifying in the case of processions, the routes by which, the order in which, and the times at which, the same may pass ;
- (p) prohibiting the hanging or placing of any cord or pole across a street or part thereof, or the making of a projection of structure so as to obstruct traffic or the free access of light and air ;
- (q) prohibiting, except in accordance with such regulations, the placing of building materials or other articles or the fastening or detention of any horse or other animals in any street or public place ;
- (r) licensing, controlling or, in order to prevent obstruction, inconvenience, annoyance, risk, danger or damage to the residents or passengers in the vicinity, prohibiting —
 - (i) the illumination of streets and public places and the exteriors of building abutting thereon by persons other than servants of Government or Corporation or other Municipal Officers duly authorised in that behalf ;
 - (ii) the blasting of rock or making excavations in or near streets or public places ;
 - (iii) the using of a loudspeaker in or near any public place or in any place of public entertainment ;
- (s) closing certain streets or places temporarily, in cases of danger from ruinous buildings or other cause, with such exceptions as shall appear reasonable ;

- (t) guarding against injury to person and property in the construction, repair and demolition of buildings, platforms and other structures from which danger may arise to passengers, neighbours or the public ;
- (u) prohibiting the setting of fire to or burning of any straw or other matter, or lighting a bonfire or wantonly discharging a fire-arm or air-gun, or letting off or throwing a fire work or, sending up a fire baloon or rocket in or upon a street or within fifty feet of a street or building or, the putting up of any post or other thing on the side of, or across a street for the purpose of affixing thereto lamps or other contrivances for illumination except in accordance with regulations in this behalf ;
- (v) regulating the hours during which and the manner in which any place for the disposal of the dead, any *dharmashala*, village-gate or other place of public resort may be used, so as to secure the equal and appropriate application of its advantage and accommodation and to maintain orderly conduct amongst those who resort thereto ;
- (w) (i) licensing or controlling places or public amusement or public entertainment ;
- (ii) prohibiting the keeping of places of public amusement or public entertainment or assembly, in order to prevent obstruction, inconvenience, annoyance, risk, danger or damage to the residents or passengers in the vicinity ; and
- (iii) regulating the means of entrance and exit at places of public amusement or public entertainment or assembly and providing for the maintenance of public order and the prevention of disturbance thereat ;
- (x) (i) licensing or controlling in the interest of public order, decency or morality or in the interest of the general public (with such exceptions as may be specified in such regulations), musical, dancing, mimetic or theatrical or other performances for public amusement, including melas ;
- (ii) regulating in the interest of public order, decency or morality or in the interest of the general public, the employment of the artists and the conduct of the artists and the audience at such performance ;
- (iii) prior scrutiny of such performance and of the scripts in respect thereof, if any, and granting of suitability certificate therefor subject to conditions, if any, by a Board appointed by the State Government for the purpose, either for the whole of the State or for the area concerned or by an Advisory Committee constituted by the Director General/Inspector General of Police (the members of the Board or the Advisory Committee being persons who in the opinion of the State Government, or, as the case may be the Director General/Inspector General of Police, possess knowledge of, or experience in literature, the theatre and other matters relevant to such scrutiny), provision for appeal against the order or decision of the Board or the Advisory Committee to an appellate authority, its appointment or constitution, its procedure and other matters ancillary thereto, and the fees (whether in the form of court-fee stamps or otherwise) to be charged for the scrutiny of such performances or scripts, for applications for obtaining such certificates and for issuing duplicates thereof and in respect of such appeals and any such performances and of the scripts in respect thereof granted suitability certificate by State shall be exempted from this section ;
- (iv) regulating the hours during which and the places at which such performances may be given ;
- (y) regulating or prohibiting the sale of any ticket or pass for admission, by whatever name called, to a place of public amusement ;
- (z) registration of eating houses, including granting a certificate of registration in each case, which shall be deemed to be a written permission required and obtained under this Act for keeping the eating house, and annual renewal of such registration within a specified period ;

- (za) prescribing the procedure in accordance with which any licence or permission sought to be obtained or required under this Act should be applied for and fixing the fees to be charged for any such licence or permission.

Provided that nothing in this section and no licence or certificate or registration granted under any regulation made thereunder shall authorise any person to import, export, transport, manufacture, sell or possess any liquor, or intoxicating drug, in respect of which a licence, permit pass or authorisation is required under any law relating to prohibition which is for the time being in force.

(2) The power to make regulations under clause (b) of sub-section (1) shall be subject to the control of the State Government and the power to make regulations under the other clauses of that sub-section shall be subject to the previous sanctions of the State Government.

(3) The power of making regulations under this section shall be subject to the condition of the regulations being made, after previous publication and for the purposes of section 23 of the General Clauses Act, 1897 such regulations shall be deemed to be rules; and every regulation made, under this section, shall also be published in the locality affected thereby by affixing copies thereof in conspicuous places near to the building, structure, work or place, as the case may be, to which the same specially relates or by proclaiming the same by the beating of drum or by advertising the same in such local newspapers as the Commissioner or Superintendent of Police may deem fit, or by any two or more of these means, or by any other means he may think suitable;

Provided that any such regulation may be made without previous publication if the Commissioner or Superintendent of Police is satisfied that circumstances exist which render it necessary that such regulation should be brought into force at once.

(4) If any regulation made under this section relates to any matter with respect to which there is a provision in any law, rule or bye-law of the Corporation or of any other municipal or local authority in relation to public health, convenience or safety of the locality such regulation shall be subject to such law, rule or bye-law.

Power to give directions to the public—

62. In areas under the respective charges the commissioner and subject to his orders, every police officer not below the rank of an Inspector and the Superintendent and subject to his orders any police officer not lower than such rank as may be specified by the State Government in that behalf, may from time to time as occasion may arise but not so as to contravene any regulation made under section 61 or any law, or bye-law — referred to in sub-section (4) of that section, give all such orders either orally or in writing as may be necessary to:

- (a) direct the conduct of, and behaviour or action of persons constituting processions or assemblies on or along streets;
- (b) specify the routes by which and the times at which any such processions may pass or shall not pass;
- (c) prevent obstructions —
 - (i) on the occasion of all processions and assemblies;
 - (ii) in the neighbourhood of all places of worship during the time of worship; and
 - (iii) in all cases when any street or public place or place of public resort may be thronged or liable to be obstructed;
- (d) keep order on, and in all streets, and at, and within, public bathing and washing places, fairs, temples, mosques, gurdwaras, churches and all other places of public resort or public worship;
- (e) regulate and control the playing of music, singing or the beating of drums, tom-toms and other instruments and the blowing or sounding of horns or other noisy instruments in, and near, any street or public place;

- (1) regulate and control the use of loudspeakers in residential areas, streets, near any public places and places of public amusement or public entertainment; or
- (g) make reasonable orders consequential to, and in furtherance of, any order made under this section.

Power to prohibit certain acts for prevention of disorder.

63. The Commissioner or the Superintendent of Police in areas under their respective charges, may whenever and for such time as he shall consider necessary for the preservation of public peace or public safety, by notification publicly promulgated or addressed to individuals; prohibit at any town, village, or place —

- (a) the carrying of arms, cudgels, swords, spears, bludgeons, guns, knives, sticks or lathis, or any other article, which is capable of being used for causing physical violence;
- (b) the carrying of any corrosive substance or explosives;
- (c) the carrying, collection or preparation of stones or other missiles of instruments or means of casting or impelling missiles;
- (d) the exhibition of persons or corpses;
- (e) the public utterance of cries, singing of songs, or playing of music; or
- (f) the delivery of harangues, the use of gestures of mimetic representations, and the preparation, exhibition or dissemination of pictures, symbols, placards or any other subject or thing which may in the opinion of the Commissioner of Police or Superintendent of Police, as the case may be, offend against decency or morality or undermine the security of the State.

(2) If any person goes armed with any such articles as is referred to in clause (a) of sub-section (1) or carries any corrosive substance or explosive or missile or instrument in contravention of any prohibition under the sub-section, the article, corrosive substance or explosive or missile shall be liable to be seized from him by any police officer.

(3) The Commissioner or Superintendent of Police, as the case may be, by notification publicly promulgated prohibit any assembly or procession whenever and for such time as he considers such prohibition to be necessary for the preservation of the public order.

(4) No notification promulgated under sub-section (3) shall remain in force for more than fifteen days from the promulgation thereof:

Provided that if the State Government consider it necessary so to do for the preservation of the public order, it may, by order published in the Official Gazette, direct that such notification shall remain in force for such further period not exceeding six months from the date on which it would have, but for such order, expired as it may specify in the said order.

Police to provide against disorder etc. at places of public amusement or public assembly or meeting.

61. (1) For the purpose of preventing serious disorder or breach of the law or manifest and imminent danger to the persons assembled at any place of public amusement or at any assembly or meeting to which the public are invited or which is open to the public, any police officer of the rank of Assistant Sub-Inspector and above, present at such place of public amusement, or such assembly or meeting, may subject to such rules, regulations and orders as may have been lawfully made, give such reasonable directions as to the mode of admission of the public to, and for securing the peaceful and lawful conduct of the proceedings and the maintenance of the public safety, at, such place of amusement or such assembly or meeting as he thinks necessary and all persons shall be bound to conform to every such reasonable direction.

(2) Every police officer shall have free access to every place of public amusement, assembly or meeting for the purpose of giving effect to the provisions of sub-section (1) and to any direction made thereunder.

Power to prohibit etc. continuance of music, sound or noise.

65. If the Commissioner or the Superintendent of Police in areas under their respective charges, is satisfied from the report of an officer in charge of a Police Station, or other information received by him, that it is necessary to do so in order to prevent annoyance, disturbance, discomfort or injury, or risk of annoyance, disturbance, discomfort or injury, to the public or to any person who dwells, or occupies property, in the vicinity, he may, by written order, issue such directions as he may consider necessary to any person for preventing, prohibiting, controlling or regulating—

(a) the incidence or continuance in any street, open space or any other premises of—

(i) any vocal instrumental music ;

(ii) sounds caused by the playing, beating, clashing, blowing or use in any matter whatsoever of any instrument, appliance or apparatus or contrivance which is capable of producing or reproducing sound ; or

(iii) use of loudspeaker or other apparatus for amplifying any musical or other sound at such pitch or volumes as may cause disturbance to others ; or

(b) the carrying on, in any premises, of any trade, avocation or operation resulting in or attended with noise ;

Provided that no direction shall be issued to any persons under clause (b) without giving to such person an opportunity of being heard in the matter.

(2) The Commissioner or Superintendent of Police may, either on his own motion or on the application of any person aggrieved by an order made under sub-section (1), either rescind, modify or alter any such order :

Provided that before any such application is disposed of, the Commissioner or Superintendent of Police shall afford to the applicant an opportunity of appearing before him either in person or by counsel and showing cause against the order and shall, if he rejects any such application either wholly or in part, record the reasons for such rejection.

Issue of order for prevention of riot etc.

66. In order to prevent or suppress any riot of grave disturbance of peace, the Commissioner or Superintendent of Police may temporarily close or take possession of any building or other place and may exclude all or any persons therefrom, or may allow access thereto such persons only and on such terms as he shall deem expedient and all persons concerned shall be bound to conduct themselves in accordance with such orders as the Commissioner or Superintendent of Police may make and notify in exercise of his powers under this Section.

Maintenance of order at religious or ceremonial display etc.

67. In any case of an actual or intended religious or ceremonial or corporate display or exhibition or organised assemblage in any street or public place, as to which or the conduct of, or participation in, which, it shall appear to the competent authority that a dispute or contention exists, which is likely to lead to grave disturbance of the peace, the competent authority may give such orders as to the conduct of the persons concerned towards each other and towards the public as it shall deem necessary and reasonable under the circumstances, regard being had to the apparent legal rights and to any established practice of the parties and of the persons interested and all persons concerned shall obey such orders.

Commissioner or Superintendent may take special measure to prevent outbreak of epidemic disease at fairs, etc.

68. (1) Whenever it shall appear to the Commissioner or Superintendent of Police that any place in the area under their respective charges (being a place where on account of a pilgrimage, fair or other such occurrence, large bodies of persons have assembled or are likely to assemble) is visited or likely to be visited with an outbreak of any epidemic disease, he may in consultation with the Corporation or municipality or local authority within the local limits of the jurisdiction whereof such place is situated take such special measures and may by a public

notice prescribe such regulations to be observed by residents of the said place and persons present thereat or repairing thereto or returning therefrom as he deems necessary to prevent the outbreak of such disease or the spread thereof.

(2) The expenses incurred by the Commissioner or Superintendent of Police in respect of the arrangements for sanitation and the preservation of order at or about the place of assembly referred to in sub-section (1) may be recovered from the Corporation or the municipality concerned.

Power to reserve street or other public place for public purpose and power to authorise erecting of barriers in streets.

69. (1) The Commissioner or Superintendent of Police in areas under their respective charges may, by public notice, temporarily reserve for any public purpose any street or other public place and prohibit persons from entering the area so reserved, except on such conditions as may be specified by him.

(2) The Commissioner or Superintendent of Police in areas under their respective charges may, whenever in his opinion such action is necessary —

(a) authorise such police officer as he thinks fit to erect barriers on any street for the purpose of stopping temporarily vehicles driven on such street so as to satisfy himself that the provisions of any law for the time being in force have not been contravened in respect of any such vehicle or by the driver or the person in charge of such vehicle ; and

(b) make such orders as he deems fit for regulating the use of such barriers.

Power to make regulations prohibiting disposal of the dead except at places set apart.

70. (1) The Commissioner or Superintendent of Police in areas under their respective charges may, from time to time, make regulations prohibiting the disposal of the dead, whether by cremation, burial or otherwise at places other than those set apart for such purpose :

Provided that no such regulations shall be made in respect of any area for which places have not been so set apart :

Provided further that the Commissioner or Superintendent of Police or any officer authorised by him in this behalf may, in his discretion, on an application made to him by any person, grant to such person permission to dispose of the corpse of any deceased person at any place other than a place so set apart, if in his opinion such disposal is not likely to cause obstruction to traffic or disturbance of the public peace or is not objectionable for any other reason.

(2) Any regulations made under sub-section (1) shall specify the places set apart for the disposal of the dead of different communities or sections of communities.

(3) All such regulations shall be deemed to be rules for the purposes of section 23 of the General Clauses Act, 1897 and shall be subject to the conditions of previous publication and the date to be specified under clause (3) of that section shall not be earlier than two months from the date on which the draft of the proposed regulations is published.

CHAPTER VII

SPECIAL MEASURES FOR MAINTENANCE OF PUBLIC ORDER AND SECURITY OF STATE

Employment of Additional police to keep peace.

71. (1) The Commissioner or Superintendent of Police, as the case may be, may, on the application of any person, depute any additional number of police to keep the peace, to preserve order, to enforce any of the provisions of this Act or of any other law in respect of any particular class or classes of offences or to perform any other duties imposed on the police at any place in the area under his charge.

(2) Such additional police shall be employed by the cost (which shall be determined by the Commissioner or Superintendent of Police in accordance with

the rules made in this behalf) of the person making the application, but shall be subject to the orders of the police authorities and shall be employed for such period as the Commissioner or Superintendent of Police considers necessary.

(3) If the person upon whose application such additional police are employed shall at any time make a written requisition to the Commissioner or Superintendent of Police for the withdrawal of the said police he shall be relieved from the cost thereof at the expiration of such period not exceeding one week from the date of the delivery of such requisition as the Commissioner or Superintendent of Police shall determine.

(4) Where there is any dispute as to the amount to be paid by way of cost, the Commissioner or Superintendent of Police, as the case may be, shall, on an application made in that behalf by the aggrieved party, refer the matter to the State Government or any authority nominated by the State Government whose decision thereon shall be final.

Employment of additional police in cases of special danger to public peace.

72. (1) If in the opinion of the State Government any area in the State is in a disturbed or dangerous condition or the conduct of the inhabitants or of any particular section or class of the inhabitants of such area renders it expedient to employ temporarily additional police in the area, it may, by notification in the Official Gazette, specify the area (hereafter in this section referred to as the disturbed area) in which, and the period for which, the additional police shall be employed and thereupon the Commissioner or Superintendent of Police shall depute such number of additional police officers as he considers necessary in the disturbed area :

Provided that the period so specified may be extended by the State Government from time to time, if in its opinion it is necessary so to do in the interests of the public.

(2) On the issue of a notification under sub-section (1), the State Government may require the District Collector or any other authority specified by the State Government, to recover, whether in whole or in part, the cost of such additional police generally from all persons who are inhabitants of the disturbed area or specially from any particular section or class of such persons, and in such proportion as the State Government may direct.

(3) It shall be lawful for the State Government to exempt, by order in writing, and for sufficient reasons, any person from liability to bear any portion of the cost of such additional police.

Explanation :

In this section and in section 74 the expression "Inhabitants", when used in relation to any disturbed area, includes persons who themselves or by their agents or servants occupy or hold land or other immovable property within such area and landlords who themselves or by their agents or servants collect rent from holders or occupants of land in such area notwithstanding that they do not actually reside therein.

Employment of additional police at large work and when apprehension regarding behaviour of employees exists.

73. (1) Whenever it appears to the State Government or to the competent authority that :

- (a) any large work which is being carried on or any public amusement which is being conducted in any place is likely to impede the traffic or to attract a large number of people ; or
- (b) the behaviour or a reasonable apprehension of the behaviour of the persons employed on any railway, canal or other public work, or in or upon any manufactory or other commercial concern, under construction or in operation at any place necessitates the employment of additional police at such place, the State Government, or the competent authority, as the case may be, may depute such number of additional police to the said place for so long as the necessity to employ the additional police shall appear to the State Government or the competent authority to continue.

(2) Such additional police shall be employed at the cost of the person by whom the work, public amusement, manufactory or concern is being constructed, conducted or carried on and the said person shall pay the costs therefor at such rates as the Government or the competent authority, as the case may be, shall from time to time require.

Compensation for injury caused by unlawful assembly how recoverable.

74. (1) When any loss or damage is caused to any property or when death results or grievous hurt is caused to any person or persons, by anything done in the prosecution of the common object of an unlawful assembly, the State Government may, by notification in the official Gazette, specify the area (hereafter in this section called the "disturbed area") in which, and the date on which or the period during which, such unlawful assembly in its opinion, took place.

(2) On the issue of a notification under sub-section (1), the State Government or any authority nominated by the State Government may, after such inquiry as he deems necessary, determine the amount of the compensation which, in his opinion, should be paid to any person or persons in respect of the loss or damage or death or grievous hurt aforesaid.

(3) The amount of the compensation shall be deemed to be a fine imposed under this section, and shall be payable by the inhabitants of the disturbed area.

(4) It shall be lawful for the State Government or any authority nominated by the State Government to exempt by order in writing and for sufficient reasons, any persons from liability to pay any portion of the compensation amount.

Dispute in regard to cost of deputing additional compensation under sections 72 to 74.

75. In the event of any dispute relating to the cost payable under section 72 or section 73 or the compensation determined under section 74 or the person or persons or the section or class of persons by whom or the proportion in which such cost or compensation should be paid the matter shall be referred by the State Government or any authority nominated by the State Government or the competent authority, as the case may be, on an application made in that behalf by the aggrieved party, to the Chief Metropolitan Magistrate or the Chief Judicial Magistrate as the case may be, whose decision thereof shall be final.

Recovery of amount payable under Sections 71 to 74.

76. Any amount payable under section 71, section 72, section 73 or section 74 shall be recovered in the same manner as if it were an arrear of land revenue.

State Govt. or any nominated authority to award compensation.

77. (1) Amounts payable under section 71, section 72, section 73 or section 74 shall, when recovered, be credited to the State Government.

(2) The State Government or any authority nominated by the State Government shall pay, from the amount recovered by him as compensation payable under section 74, such amount as he deems just and proper by way of compensation to any person who has suffered loss or damage to property or grievous hurt or to the legal heirs of any person who died, by reason of anything done in the prosecution of the common object of the unlawful assembly.

(3) No compensation shall be paid under this section, except when a claim has been made therefor within forty-five days from the date of the notification referred to in sub-section (1) of section 74, and the State Government or any authority nominated by the State Government is satisfied that the claimant, where the claim is by the person who suffered the loss, damage or grievous hurt, or the deceased, where the claim is by the legal heirs of such deceased, has been free from blame in connection with the occurrence which led to the loss, damage, grievous hurt or death.

(4) The compensation payable to any person under sub-section (2) shall not in any way be capable of being assigned or charged or be liable to attachment or to pass to any person other than the person entitled to it by operation of law, nor shall any claim be set off against the same.

(5) No civil suit shall be maintainable in respect of any loss, damage or grievous hurt for which compensation has been granted under this section.

Recovery of amounts payable under sections 72 and 73 (2 of 1974).

78. Without prejudice to the provisions contained in section 76, all amounts payable under section 72 or section 73 shall be recoverable in the manner provided in sections 421 and 422 of the Code of Criminal Procedure, 1973, as if each such amount were a fine imposed on any offender by a Court.

Control of camps, parades etc.

79. (1) If the State Government is satisfied that is necessary in the interest of maintenance of public order so to do, it may by general or special order prohibit or restrict throughout the State or any part thereof all meetings and assemblies of persons for the purpose of training or drilling themselves or being trained or drilled to the use of arms or for the purpose of practising military exercise, movements, or evolutions, or for the purpose aforesaid of attending or holding or taking any part in any camp, parade or procession.

Banning of use of dress etc. resembling uniform of armed forces.

(2) If the State Government is satisfied that the wearing in public, by any member of any body, or association or organisation, of any dress or article of apparel resembling any uniform required to be worn by a member of the Armed Forces of the Union or by a member of any police force or of any force constituted by or under any law for the time being in force, is likely to prejudice the security of the State or the maintenance of public order, it may, by a general or special order, prohibit or restrict the wearing, or display, in public of any such dress or article of apparel by any member of such body or association or organisation.

(3) Every general or special order under sub-section (1) and (2) shall be published in the manner prescribed for the publication of a public notice under section 147.

Explanation :

For the purposes of sub-section (2) a dress or article of apparel shall be deemed worn or displayed in public if it is worn or displayed in any place to which the public have access.

Constitution of Defence Societies.

80. (1) For the protection of persons, the security of property and the public safety in any locality, the Commissioner or Superintendent of Police, as the case may be, may constitute voluntary bodies (hereafter in this section referred to as Defence Societies) in the prescribed manner.

(2) The Commissioner or Superintendent of Police or any officer of a Defence Society may at any time call up officers subordinate to him or any member of a Defence Society for training or to discharge any of the duties under this Act assigned to them.

(3) Every officer or member of a Defence Society shall on appointment receive a certificate in such form as may be specified or approved by the State Government in this behalf.

CHAPTER VIII

POWERS OF COMMISSIONER AND SUPERINTENDENT OF POLICE UNDER OTHER ACTS

Power of State Government to authorise Commissioner, Superintendent of Police and certain other officers to exercise power of District Magistrates and Executive Magistrates under the Cr.P.C.

81. (1) The State Government may, by notification in the official gazette and subject to such conditions and limitations as may be specified therein, empower

(a) the Commissioner and the Superintendent of Police to exercise and perform in areas under their respective charges, the powers and duties of an Executive Magistrate and of a District Magistrate under such of the provisions of the Code of Criminal Procedure 1973 (2 of 1974), as may be specified in the notification;

(b) any officer subordinate to the Commissioner or Superintendent of Police (not being an officer below the rank of an Assistant Commissioner or Assistant Superintendent or Deputy Superintendent of Police) to exercise and perform in relation to such areas as may be specified in the notification the powers and duties of an executive Magistrate under such of the provisions of the said Code as may be specified in the notification.

(2) Every officer subordinate to the Commissioner/Superintendent of Police, shall in the exercise and performance of any powers and duties which he is empowered to exercise or perform under sub-section (1), be subject to the general control of the Commissioner/Superintendent of Police in the same manner and to the same extent as an Executive Magistrate appointed under section 20 of the said Code would be subject to the general control of the District Magistrate appointed under that section.

(3) The Commissioner, Superintendent of Police or any officer subordinate to him shall not be subject in the exercise and performance of any powers and duties which he is empowered to exercise and perform under sub-section (1), to the general control of District Magistrate appointed under Section 20 of the said Code.

(4) The provisions of this section shall have effect notwithstanding anything contained in the said Code.

Notifications under Section 81 to be laid before Legislature.

82. Every notification made by the State Government under Section 81 shall be laid, as soon as it is made, before the State Legislative Assembly while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions and if, before the expiry of the session immediately following the session or the successive session aforesaid, the State Legislative Assembly agrees in making any modification in the notification or the State Legislative Assembly agrees that the notification should not be made, the notification shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that notification.

Powers of Commissioner and Superintendent of Police under other Acts.

83. (1) The Commissioner and Superintendent of Police shall exercise all powers and discharge all functions which may be exercised or discharged by a District Magistrate under the Acts mentioned in Sch. V including the rules made thereunder.

(2) The Commissioner or Superintendent of Police as the case may be, may authorise any Additional Commissioner of Police, Deputy Commissioner of Police or Additional Deputy Commissioner of Police or Additional Superintendent of Police or Assistant Superintendent of Police or Deputy Superintendent of Police to exercise any of the powers or discharge any of the functions of the Commissioner or Superintendent of Police mentioned in sub-section (1) in accordance with the general or special orders of the State Government.

CHAPTER IX

POWERS OF POLICE IN RELATION TO UNCLAIMED PROPERTY

Police to take charge of unclaimed property.

84. (1) It shall be the duty of every police officer to take temporary charge—
 (a) of all unclaimed property found by, or made over to him; and
 (b) of all property found lying in any public street, if the owner or person in charge of such property, on being directed to remove the same, refuses or fails to do so.

(2) The police officer taking charge of the property under sub-section (1) shall furnish an inventory thereof to the Commissioner or Superintendent of Police as the case may be.

Procedure for disposal of property taken charge of under section 84.

85. (1) Where any property has been taken charge of under sub-section (1) of section 84, the Commissioner or Superintendent of Police, as the case may be, shall issue a proclamation specifying the articles of which such property consists and requiring that any person who may have a claim thereto shall appear before him or some other officer whom he authorises in his behalf and establish his claim within six months from the date of such proclamation.

(2) If the property, or any part thereof, is subject to speedy and natural decay or consists of livestock or if the property appears to be of the value of less

than one hundred rupees, it may forthwith be sold by auction under the orders of the Commissioner or Superintendent of Police, as the case may be, and the net proceeds of such sale shall be dealt with in the same manner as is hereinafter provided for the disposal of the said property.

(3) Where any person who has a claim to the property is required by the proclamation under sub-section (1) to appear before the other officer authorised by the Commissioner or Superintendent of Police in that behalf and establish his claim, such officer shall forward the record of the proceedings before him with his findings thereon to the Commissioner or Superintendent of Police, as the case may be.

Delivery of property to person entitled.

86. (1) The Commissioner or Superintendent of Police in areas under their respective charges on being satisfied of the title of any claimant to the possession or administration of the property specified in the proclamation issued under sub-section (1) of section 85 order the same to be delivered to him, after deduction or payment of the expenses incurred in the seizure and detention thereof.

(2) The Commissioner or Superintendent of Police, as the case may be, may, at his discretion, before making any order under sub-section (1), take such security as he may think proper from the person to whom the said property is to be delivered and nothing hereinbefore contained shall affect the right of any person to recover the whole or any part of the same from the person to whom it may have been delivered pursuant to such order.

In default of claim, property to be at disposal of Govt.

87. (1) If no person establishes his claim to such property within the period specified in the proclamation, the property, or such part thereof as has not already been sold under sub-section (2) of section 85, shall be at the disposal of the State Government and such property may be sold by auction under the orders of the Commissioner or Superintendent of Police as the case may be, and the proceeds thereof shall be credited to the Government.

(2) If any claim is made to any proceeds credited under sub-section (1) to the Government and if such claim is established, whether wholly or to any extent, to the satisfaction of the prescribed authority, the Government shall pay to the claimant the amount determined in that behalf by the prescribed authority.

(3) The form and manner in which claims may be made under sub-section (2) and the procedure for dealing with such claims and all other matters connected therewith shall be such as may be prescribed.

CHAPTER X

OFFENCES AND PUNISHMENTS

Disregarding the rules of the road.

88. No person shall —

- (a) when driving a vehicle along a street (except in cases of actual necessity or of some other sufficient reason for deviation) fail to keep on the left side of such street and when passing any other vehicle proceeding in the same direction fail to keep on the right side of such vehicle; or
- (b) leave in any street or public place insufficiently tended or secured any animal or vehicle.

Causing obstruction or mischief by animal.

89. No person shall cause obstruction, damage, injury, danger, alarm or mischief in any street or public place —

- (i) by misbehaviour, negligence or ill-usage in the driving, management, treatment or care of any animal or vehicle; or
- (ii) by driving any vehicle or animal laden with timber, poles or other unwieldy articles through a street or public place contrary to any regulation made in that behalf.

Exposing animal for hire, sale etc.

90. No person shall in any street or public place expose for hire or sale any animal or vehicle, clean any furniture or vehicle, or clean or groom any horse or other animal except at such times and places as the competent authority permits,

or shall train or break in any horse or other animal or make any vehicle or any part of a vehicle or (except when as a result of any accident repairing on the spot is unavoidable) repair any vehicle or part of a vehicle, or carry on therein any manufacture or operation so as to be a serious impediment to traffic or serious annoyance to residents in the vicinity or to the public.

Causing any obstruction in a street.

91. No person shall cause obstruction in any street or public place —

- (a) by allowing any animal or vehicle, which has to be loaded or unloaded, or take up or set down passengers, to remain or stand in the street or the public place longer than may be necessary for such purpose; or
- (b) by leaving any vehicle standing or fastening any cattle in the street or the public place; or
- (c) by using any part of a street or public place as a halting place for vehicles or cattle; or
- (d) by leaving any box, bale, package or other things whatsoever in or upon a street, for an unreasonable length of time or contrary to any regulation; or
- (e) by exposing anything for sale or setting out anything for sale in or upon any stall, booth, board, cask, basket or in any other way whatsoever.

Obstructing a footway.

92. No person shall drive, ride, load, propel or leave on any footway any animal or vehicle other than a perambulator or fasten any animal in such a way that the animal can stand across or upon such footway.

Causing obstruction and annoyance by performance etc.

93. No person shall, in contravention of any regulation made by the Commissioner or Superintendent of Police, as the case may be —

- (a) exhibit any mimetic, musical or other performances of such a nature as may attract crowds; or
- (b) carry or place bulky advertisements, pictures, figures or emblems in any street or public place;

whereby any obstruction to passengers or annoyance to the residents in the vicinity may be occasioned.

Doing offensive acts in or near a street or public place.

94. No person shall slaughter any animal, clean a carcass or hide, or bathe or wash his person in or near to and within sight of a street or public place, except at a place set apart for the purpose, so as to cause annoyance to the neighbouring residents or to passers-by.

Letting loose horse, etc., and suffering ferocious dogs to be at large.

95. No person shall in any street or public place —

- (a) negligently let loose any horse or other animal, so as to cause danger, injury, alarm or annoyance; or
- (b) suffer a ferocious dog to be at large without a muzzle; or
- (c) set on or urge a dog or other animal to attack, worry or put in fear any person or horse or other animal.

Bathing or washing in places not set apart for those purposes.

96. No person shall bathe or wash in, or by the side of, a public well, tank or reservoir not set apart for such purpose by order of the competent authority, or in, or by the side of, any pond, pool, aqueduct, part of a river, stream, nullah or other source or means of water supply in which such bathing or washing is forbidden by order of the competent authority.

Defiling water in public wells etc.

97. No person shall defile or cause to be defiled the water in any public well, tank, reservoir, pond, pool, aqueduct or part of a river, stream, nullah or other source or means of water supply, so as to render the same unfit for any purpose for which it is set apart by the order of the competent authority.

Obstructing bathers.

98. No person shall obstruct or incommode a person bathing at a place set apart for the purpose by the order of the competent authority under section 96 by

wilful intrusion or by using such place for any purpose for which it is not so set apart.

Behaving indecently in public.

99. No person shall wilfully and indecently expose his person in any street or public place or place of public resort or within sight of, and in such manner as to be seen from, any street or public place or place of public resort, whether from within any house or building or not, or use indecent language or behave indecently or riotously or in a disorderly manner in a street or public place or place of public resort or in any public office, police station or station house.

Obstructing or annoying passengers in street.

100. No person shall wilfully push, press, hustle or obstruct any passenger in a street or public place or by violent movements, menacing gestures, wanton personal annoyance, screaming, shouting, wilfully frightening any animal or otherwise, disturb the public peace or order.

Misbehaviour with intent to provoke a breach of the peace.

101. No person shall use in any street or public place any threatening, abusive or insulting words or behaviour with intent to provoke a breach of the peace or whereby a breach of the peace may be occasioned.

Prohibition against flying kite etc.

102. No person shall fly a kite or any other thing as to cause danger, injury or alarm to persons, animals or property.

Committing nuisance in or near street etc.

103. No person shall in or near to any street, public place, or place of public resort —

- (a) commit a nuisance by easing himself ; or
- (b) having the care or custody of any child under seven years of age, suffer such child to commit a nuisance as aforesaid ; or
- (c) spit or throw any dust, ashes, refuse or rubbish so as to cause annoyance to any passer-by.

Drunkardness in a street etc.

104. No person shall be so drunk and incapable of taking care of himself in a street or place of public resort.

Affixing notice etc. upon public property without consent of authority.

105. No person shall without the consent of the government or public authority concerned, affix or cause to be affixed any bill, notice or other paper upon any lamp-post, tree, letterbox, transformer, street or any other property belonging to Government or any public authority or write upon or deface or mark or cause to be written upon or defaced or marked on any such lamp-post, tree, letter box, transformer, street or other property.

Disregard of notice in public building.

106. No person shall, in any court, police station, police office or building occupied by Government or building occupied by any local body, smoke or spit in contravention of a notice, by the competent authority in charge of such place, displayed in such court, police station, police office or building.

Penalties for offences under sections 88 to 106.

107. Any person who contravenes any of the provisions of sections 88 to 106 (both inclusive) shall, on conviction, be punished with fine which may extend to five hundred rupees, or, in default of payment of such fine, with imprisonment for a term not exceeding fifteen days.

Penalty for failure to keep in confinement cattle, etc.

108. (1) Whoever allows any cattle which are his property or in his charge to stray in any street or to trespass upon any public or private property shall on conviction be punished —

- (a) for the first offence, with imprisonment for a term which may extend to one month with fine which may extend to three hundred rupees, or with both ; and
- (b) for the second or subsequent offence, with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees or with both.

(2) The Magistrate trying an offence under sub-section (1) may order that the accused shall pay such compensation not exceeding two hundred and fifty rupees as such Magistrate considers reasonable, to any person for any damage proved to have been caused to his property or the produce of his land by the cattle under the control of the accused trespassing on his land.

(3) Any compensation awarded under sub-section (2) may be recovered as if it were a fine imposed under this section.

(4) It shall be the duty of every police officer and it shall be lawful for any other person to seize and take to any cattle pound for confinement therein any cattle found straying in any street or trespassing upon any private or public property.

(5) Any fine imposed under this section may, without prejudice to any other means of recovery provided by law, be recovered by sale of all or any of cattle in respect of which the offence was committed, whether they are the property of the person convicted of the offence or were only in his charge when the offence was committed.

(6) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, the offence punishable under this Section shall be cognizable.

Punishment for cruelty to animals.

109. Whoever in any place cruelly beats, goads, overworks, ill-treats or tortures or causes, or procures to be cruelly beaten, goaded, overworked, ill-treated or tortured, any animal shall, on conviction, be punished with imprisonment which may extend to 15 days, or with fine which may extend to five hundred rupees, or with both.

Wilful trespass.

110. Whoever without sufficient cause wilfully enters or remains in or upon any dwelling house or premises or land or ground attached thereto, or on any ground, building, monument or structure belonging to Government or used for public purposes, or on any vehicle, shall, on conviction, whether he causes any actual damage or not, be punished with imprisonment which may extend to fifteen days or with fine which may extend to five hundred rupees, or with both.

False alarm of fire or damage to fire brigade.

111. Whoever knowingly gives or causes to be given a false alarm of fire to the fire brigade of the Government or the Corporation or a municipality or to any officer or fireman thereof, whether by means of a street fire alarm, statement, message or otherwise, or with intent to give such false alarm wilfully breaks the glass of, or otherwise damages a street fire alarm, shall, on conviction, be punished with imprisonment for a term which may extend to one month or with fine which may extend to one thousand rupees, or with both.

Being found under suspicious circumstances between sunset and sunrise.

112. Whoever is found between sunset and sunrise —

- (a) armed with any dangerous instrument with intent to commit an offence ; or
- (b) in any dwelling-house or other building, or on any vehicle, without being able to account satisfactorily for his presence there ; or
- (c) lying or loitering in any street, yard or other place, being a reputed thief and without being able to give a satisfactory account of himself ; or
- (d) having in his possession without lawful excuse (the burden of proving which excuse shall be on such person) any implement of house breaking,

shall, on conviction, be punished with imprisonment for a term which may extend to three months.

Possession of property of which no satisfactory account can be given.

113. Whoever has in his possession or conveys in any manner, or offers to transfer by sale or otherwise, anything which there is reason to believe is stolen property or property fraudulently obtained, shall, if he fails to account for such possession or conveyance or offers for sale or otherwise to the satisfaction of the Magistrate, on conviction, be punished with imprisonment for a term which may extend to one year or with fine which may extend to one thousand rupees, or with both.

Omission by pawn-brokers, etc. to report to police possession or tender of property suspected to be stolen.

114. Whoever being a pawn-broker, dealer in second hand property, or worker in metals, or reasonably believed to be such a person by the Commissioner or Superintendent of Police in the areas under their respective charges, and having received from a police officer written or printed information in relation to any property suspected to have been transferred by any offence mentioned in section 410 of the Indian Penal Code or by any offence punishable under section 417, section 418, section 419 or section 420 of the said Code, is found in possession, or after the receipt of such information, comes into possession or has an offer, either by way of sale, pawn, exchange, or for custody, alteration or otherwise howsoever, made to him, of property answering the description contained in such information, shall, unless —

- (i) he forthwith gives information to the Commissioner or Superintendent of Police as the case may be, or at a police station of such possession or offers and takes all reasonable means to ascertain and to give information as aforesaid of the name and address of the person from whom the possession or offer was received, or
- (ii) the property, being an article of common wearing apparel or otherwise, is incapable of identification from the written or printed information given and has been in no way concealed after the receipt of such information,

on conviction, be punished with fine which may extend to fifty rupees in respect of each such article of property so in his possession or offered to him.

Melting, etc. of property referred to in sec. 114.

115. Whoever having received such information as is referred to in section 114 alters, melts, defaces or puts away or causes or suffers to be altered, melted defaced or put away, without the previous permission of the police, any such property as is referred to in that section shall, on proof that the same was stolen property within the meaning of section 410 of the Indian Penal Code or property in respect of which any offence punishable under section 417, section 418, section 419 or section 420 of the said Code has been committed, be punished with imprisonment for a term which may extend to three years or with fine, or with both.

Taking pledge from child.

116. Whoever takes from any child, not appearing to be above the age of fourteen years, any article whatsoever as a pawn, pledge or security for any sum of money lent, advanced or delivered to such child or without the knowledge and consent of the owner of the article buys from such child any article whatsoever, shall, on conviction, be punished with fine which may extend to five hundred rupees.

Suffering disorderly conduct at places of public amusement etc.

117. Whoever, being the keeper of any place of public amusement or public entertainment, knowingly permits or suffers drunkenness or other disorderly behaviour or any gambling whatsoever, in such place, shall, on conviction, be punished with fine which may extend to five hundred rupees.

Cheating at games and gambling in street.

118. (1) Whoever by any fraud or unlawful device or malpractice in playing at or with cards, dice or other game or in taking part in the stakes or wagers, or in betting on the sides or hands of the players, or in wagering on the event of any game, sports, pastime or exercise, wins from any other person, for himself or any other or others any sum of money or valuable thing, shall be deemed to have committed the offence of cheating within the meaning of section 415 of the Indian Penal Code, and be liable to punishment accordingly.

(2) Whoever assembles with others, or joins any assembly, in a street assembled for the purpose of gambling or wagering shall, on conviction, be punished with fine which may extend to five hundred rupees.

Penalty for contravening regulations, etc. under section 40.

119. Except as provided in section 121, whoever contravenes or abets the contravention of, any regulation made under section 61 or any of the conditions of a licence issued under such regulation shall, on conviction, be punished —

- (a) if the regulation was made under clause (a) of sub-section (1) of section 61 providing for the prohibition of the sale or exposure for sale, of any

goods on any street or portion thereof so as to cause obstruction to traffic or inconvenience to the public —

- (i) for the first offence, with imprisonment for a term which may extend to one month, or with fine which may extend to five hundred rupees, or with both ; and
 - (ii) for any subsequent offence, with imprisonment for a term which may extend to six months and with fine which may extend to one thousand rupees.
- (b) if the regulation was made under clause (c), (g), (h) or (i), sub-clause (i) or (ii) of clause (r) or clause (u) of sub-section (1) of section 61 with imprisonment for a term which may extend to seven days, or with fine which may extend to two hundred rupees or with both ;
 - (c) if the regulation was made under clause (n) or (o) of sub-section (1) of section 61 with fine which may extend to five hundred rupees ; and
 - (d) if the regulation was made under any clause of sub-section (1) of section 61 and for the contravention of which no penalty is provided under clause (a), (b) or (c) of this section, with fine which may extend to two hundred rupees.

Liability of licensee of place of public amusement or entertainment for acts of servants.

120. The holder of a licence granted under this Act in respect of a place of public amusement or public entertainment shall be responsible, as well as the primary offender for any offence under section 119 committed by his servant or other agent acting with his express or implied permission on his behalf as if he himself had committed the same, unless he establishes that all due and reasonable precautions were taken by him to prevent the commission of such offence.

Penalty for not obtaining licence in respect of place of public entertainment or certificate of registration in respect of eating house or for not renewing such licence or certificate within prescribed period.

121. (1) Whoever fails to obtain a licence under this Act in respect of a place of public entertainment or a certificate of registration thereunder in respect of any eating house, or to renew the licence or the certificate, as the case may be, within the prescribed period shall on conviction, be punished with fine which may extend to two hundred rupees.

(2) Any court trying any such offence shall, in addition, direct that the person keeping the place of public entertainment, or the eating house in respect of which the offence has been committed shall close such place, or eating house until he obtains a licence or fresh licence, or a certificate of registration or fresh certificate of registration, as the case may be, in respect of thereof and thereupon such person shall forthwith comply with such direction.

(3) If the person fails to comply with any such direction, he shall, on conviction, be punished with imprisonment for a term which may extend to one month or with fine which may extend to five hundred rupees or with both.

(4) Without prejudice to any action taken under sub-section (3), on the failure of such person to comply with the direction of the court, any police officer authorised by the Commissioner or Superintendent of Police as the case may be, by an order in writing, may take or cause to be taken such steps and use or cause to be used such force as may, in the opinion of such officer, be reasonably necessary for securing compliance with the court's direction.

Penalties for contravention of orders etc. under sections 62. 63. 64. 65. 66 and 67.

122. (1) Whoever contravenes, disobeys, opposes or fails to conform to any order given by a police officer under section 62 shall, on conviction, be punished with fine which may extend to two hundred rupees.

(2) Whoever contravenes a notification or an order made under section 63, section 65, section 66, or section 67 or abets the contravention thereof, shall, on conviction, be punished —

- (a) if the said notification or order was made under sub-section (1) of section 63, or under section 66 or section 67, with imprisonment for a term which shall not be less than four months but which may extend to one year, and shall also be liable to fine ;

Provided that the court may, for adequate and sufficient reasons to be mentioned in the judgment, impose a sentence of imprisonment for a term of less than four months;

(b) if the said order was made under sub-section (2) of section 63 with imprisonment for a term which may extend to one month, or with fine which may extend to one thousand rupees, or with both;

(c) if the said notification was made under sub-section (3) of section 63 with fine which may extend to five hundred rupees; or

(d) if the said order was made under section 65 with imprisonment for a term which may extend to three months, or with fine which may extend to one thousand rupees, or with both.

(3) Whoever opposes or fails to conform to any direction given by a police officer under section 64 shall, on conviction, be punished with fine which may extend to one thousand rupees.

Penalty for contravention of regulations etc., made under sections 68, 69, 70.

123. Whoever contravenes, or abets the contravention of, any regulation, notice or order made under section 68, section 69 or section 70 shall, on conviction, be punished with imprisonment which may extend to three months, or with fine which may extend to one thousand rupees, or with both.

Penalty for contravention of orders under section 79.

124. Whoever contravenes any order made under section 79 shall, on conviction, be punished with imprisonment for a term which may extend to three years, or with fine, or with both.

Penalty for opposing or not complying with direction given under clause (b) of sub-sec. (1) of sec. 46.

125. Whoever opposes or fails forthwith to comply with any reasonable requisition made by a police officer under clause (b) of sub-section (1) of sec. 46 or abets the opposition thereto or failure to comply therewith, shall on conviction, be punished with imprisonment for a term which shall not be less than four months but which may extend to one year and shall also be liable to fine:

Provided that the court may, for adequate and special reasons to be mentioned in the judgement, impose a sentence of imprisonment for a term of less than four months.

Penalty for contravening directions given under sec. 51.

126. Whoever opposes or fails to conform to any direction given by any police officer under section 51 or abets the opposition or failure to conform to such direction shall, on conviction, be punished with fine which may extend to two hundred rupees.

Dangerous performance.

127. (1) No person shall without the previous permission of the Commissioner or Superintendent of Police as the case may be, and except in accordance with any conditions subject to which such permission is granted hold or give in any place which is likely to cause an assembly of persons, any performance in which or during which he buries himself under ground or seals himself in any room or receptacle or other thing, in such manner as to prevent all access of air to him and for such time as could ordinarily result in death by suffocation.

(2) If any person contravenes or attempts to contravene the provisions of sub-section (1), he shall, on conviction, be punished with imprisonment for a term which may extend to one year or with fine or with both.

(3) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, the offence punishable under this section shall be cognizable.

Penalty for making false or misleading statement, etc. and for misconduct of police officers.

128. (a) Any person who makes a false statement or a statement which is misleading in a material particulars or uses a false document for the purpose of obtaining employment or release from employment as a police officer, or

(b) any police officer who —

(i) is guilty of cowardice, or

(ii) being a police officer of subordinate rank, resigns his office or withdraws himself from duties thereof in contravention of Sec. 38; or

- (iii) is guilty of any wilful breach or neglect of any provision of law or of any rule or regulation or any order which he is bound to observe or obey ; or
- (iv) is guilty of any violation of duty for which no punishment is expressly provided by any other law in force ; or
- (v) being in a state of intoxication, while on duty ;
- (vi) malingering or feigning or voluntarily causing hurt to himself with the intention to render himself unfit for the service ; or
- (vii) being grossly insubordinate to his superior officers or using criminal force against superior officer ; or
- (viii) engage himself or participate in any demonstration, procession or strike or resort to or in any way abet any form of strike or coercion or physical duress to force any authority to concede anything,

shall, on conviction, be punished with imprisonment for a term which may extend to one year, or with fine which may extend to five hundred rupees, or with both.

Explanation :

A Police Officer who being absent on leave fails without reasonable cause, to report himself for duty on the expiration of such leave shall, for the purpose of sub-clause (ii) of clause (b) be deemed to withdraw himself from the duties of his office within the meaning of section 59.

Vexatious entry, search, arrest etc. by Police officer.

129. Any Police Officer who —

- (a) without lawful authority or reasonable cause enters or searches, or causes to be entered or searched, any building, vessel, tent or place ; or
- (b) vexatiously and unnecessarily seizes the property of any person ; or
- (c) vexatiously and unnecessarily detains, searches or arrests any person ; or
- (d) offers any unnecessary personnel violence to any person in his custody ;
or
- (e) holds out any threat or promise not warranted by law,

shall, for every such offence, on conviction, be punished with imprisonment for a term which may extend to one year, or with fine which may extend to five hundred rupees, or with both.

Penalty for vexatious delays in forwarding a person arrested.

130. Any police officer who vexatiously and unnecessarily delays the forwarding of any person arrested to a Magistrate or to any other authority to whom he is legally bound to forward such person, shall, on conviction, be punished with imprisonment for a term which may extend to one year, or with fine which may extend to five hundred rupees, or with both.

Penalty for unauthorised use of police uniform.

131. If any person not being a member of the State Police wears, without the permission of an officer authorised by the State Government in this behalf by general or special order, the uniform of the State Police or any dress having the appearance or bearing any of the distinctive marks of that uniform, he shall, on conviction, be punished with fine which may extend to two hundred rupees.

Prosecution of Police Officers.

132. (1) No court shall take cognizance of any offence under this Act when the accused person or any one of the accused is a police officer except on a report in writing of the facts constituting such offence by, or with the previous sanction of an officer authorised by the State Government in this behalf.

(2) No court below that of an Metropolitan Magistrate or a Magistrate of the first class shall try any offence under this Act when the accused person or any one of the accused person is a police officer.

- Power to make regulations regarding carrying weapons without authority.
- 133. (1)** The Commissioner or Superintendent of Police in the areas under their respective charges may, by notification in the official gazette, make regulations to provide that no person, other than a member of the armed forces of the Union acting as such or a police officer, shall go armed with any sword, spear, bludgeon, gun or other offensive weapon or with any explosive or corrosive substance in any street or public place unless so authorised by such authority as may be specified in such regulations.
- (2) Any regulation made under sub-section (1) may provide that any police officer may seize any weapon or firearm carried in contravention of such regulation and the weapon or substance so seized shall be forfeited to the Government, unless redeemed within two months by payment of such fine, not exceeding five hundred rupees, as the Commissioner of Police or Superintendent of Police, as the case may be, imposes.
- Prosecution for offences under other enactments not affected.
- 134.** Subject to the provisions contained in section 300 of the Code of Criminal Procedure, 1973, nothing in this Act shall be construed to prevent any person from being prosecuted and punished under any other law for anything made punishable by this Act or from being prosecuted and punished under this Act for anything made punishable under any other law.
- Prosecution for certain offences against this Act to be in the discretion of Police.
- 135.** It shall not, except in obedience to a rule, regulation or order made by State Government or by the Director General/Inspector General of Police, be incumbent on the Police to prosecute for an offence punishable under section 107, section 114, sub-section (1) of section 122, section 123, section 126 when such offence has not occasioned serious mischief and has been promptly desisted from on a warning being given.
- Power to compound certain offences.
- 136.** An offence punishable under section 107 or under clause (a), (b) or (c) of section 119 may be compounded, if the offender pays, on the spot or at a designated place on demand by a Police Officer of such rank as the State Government may, by notification in the official gazette prescribe, such amount as may be prescribed for the offence by the State Government.
- Summary disposal of certain cases.
- 137. (1)** A court taking cognizance of an offence punishable under section 107 or under clause (a), (b) or (c) of section 119 may state upon the summons to be served on the accused person that he may, by a specified date prior to the hearing of the charge plead guilty to the charge by registered letter and remit to the court such sum not exceeding five hundred rupees in the case of an offence punishable under section 107 and in any other case rupees two hundred, as the court may specify.
- (2) Where an accused person pleads guilty and remits the sum specified in the summons, under sub-section (1), no further proceedings in respect of the offence shall be taken against him.
- Offence by companies.
- 138. (1)** Where an offence under this Act has been committed by a company, every person who at the time the offence was committed, was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence, and shall be liable to be proceeded against and punished accordingly :
- Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act, if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.
- (2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or that the commission of the offence is attributable to, any neglect on the part of any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation :

For the purposes of this section —

- a. "company" means a body corporate, and includes a firm or other association of individuals; and
- b. "director", in relation to a firm, means a partner in the firm.

CHAPTER XI**MISCELLANEOUS**

Disposal of fees, rewards, etc.

139. All fees paid for licences or written permissions issued under this Act, and all sums paid for the service of processes by Police Officers and all rewards, forfeitures and penalties or shares thereof which are by law payable to Police Officers as informers shall, save in so far as any such fees or sums belong under the provisions of any enactment in force to any local authority, be credited to the State Government :

Provided that with the sanction of the State Government, or under any rule made by the State Government in that behalf, the whole or any portion of any such rewards, forfeiture or penalty may for special services, be paid to a Police Officer, or be divided amongst two or more Police Officers.

Method of proving orders and notifications.

140. Any order or notification published or issued by the State Government or by a Magistrate or officer under any provision of this Act, and the due publication or issue thereof may be proved by the production of a copy thereof in the Official Gazette, or of a copy thereof signed by such Magistrate or officer, and by him certified to be a true copy of an original published or issued according to the provisions of the section of this Act applicable thereto.

Rules and order not invalidated by defect of form or irregularity in procedure.

141. No rule, order, direction, adjudication, inquiry or notification made or published, and no act done under any provision of this Act or of any rule made, under this Act, or in substantial conformity to the same, shall be deemed illegal, void, invalid or insufficient by reason of any defect of form or any irregularity of procedure.

Officers holding charge of, or succeeding to, vacancies competent to exercise powers.

142. Whenever in consequence of the Office of a Commissioner, or Police Officer becoming vacant, any officer holds charge of the post of such Commissioner, or Police Officer or succeeds, either temporarily or permanently, to his office, such officer shall be competent to exercise all the powers and perform all the duties respectively conferred and imposed by this Act on such Commissioner, Magistrate or Police Officer, as the case may be.

No Police Officer to be liable to penalty or damage for act done in good faith in pursuance of duty.

143. No Police Officer shall be liable to any penalty or to payment of damages on account of an act done in good faith in pursuance or intended pursuance of any duty imposed or any authority conferred on him by any provision of this Act or any other law for the time being in force or any rule, order or direction made or given therein.

No public servant liable as aforesaid for giving effect in good faith to any rule, order or direction issued with apparent authority.

144. No public servant or person duly appointed or authorised shall be liable to any penalty or to payment of any damages for giving effect in good faith to any such order or direction issued with apparent authority by the State Government or by a person empowered in that behalf under this Act or any rule, order or direction made or given thereunder.

Suits or prosecutions in respect of acts done under colour of duty as aforesaid not to be entertained, or to be dismissed if not instituted within the pres-

145. (1) In any case of alleged offence by a Police Officer or other person, or of a wrong alleged to have been done by a Police Officer or other person, by any act done under colour or in excess of any such duty or authority as aforesaid, or wherein, it shall appear to the Court that the offence or wrong if committed or done was of the character aforesaid, the prosecution or suit shall not be entertained, or shall be dismissed, if instituted, more than 3 months after the date of the act complained of.

In suits as aforesaid one month's notice of suit to be given with sufficient description of wrong complained of.

(2) In the case of an intended suit on account of such a wrong as aforesaid, the person intending to sue shall be bound to give to the alleged wrong-doer one month's notice at least of the intended suit with sufficient description of the wrong complained of, failing which such suit shall be dismissed.

Plaint to set forth service of notice and tender of amends.

(3) The plaint shall set forth that a notice as aforesaid has been served on the defendant and the date of such service, and shall state whether any and if any, what tender of amends has been made by the defendant. A copy of the said notice shall be annexed to the plaint endorsed or accompanied with a declaration by the plaintiff of the time and manner of service thereof.

Licences and written permissions to specify conditions, etc., and to be signed.

146. (1) Any licence or written permission granted under the provisions of this Act shall specify the period and locality for which, and the conditions and restrictions subject to which, the same is granted, and shall be given under the signature of the competent authority and such fee shall be charged therefor as is prescribed by any rule under this Act in that behalf.

Revocation of licences etc.

(2) Any licence or written permission granted under this Act may at any time be suspended or revoked by the competent authority if any of its conditions or restrictions is infringed or evaded by the person to whom it has been granted, or if such person is convicted of any offence in any matter to which such licence or permission relates.

When licence revoked, etc. granted to be deemed without licence.

(3) When any such licence or written permission is suspended or revoked, or when the period for which the same was granted has expired, the person to whom the same was granted shall, for all purposes of this Act, be deemed to be without a licence or written permission, until the order for suspending or revoking the same is cancelled, or until the same is renewed, as the case may be.

Grantee to produce licence etc., when required.

(4) Every person to whom any such licence or written permission has been granted, shall, while the same remains in force, at all reasonable time, produce the same if so required by a Police Officer.

Explanation :

For the purpose of this section any such infringement or evasion by, or conviction of, a servant or other agent acting on behalf of the person to whom the licence or written permission has been granted shall be deemed to be infringement or evasion by, or as the case may be, conviction of, the person to whom such licence or written permission has been granted.

Public notices how to be given.

147. Any public notice required to be given under any of the provisions of this Act shall be in writing under the signature of a competent authority and shall be published in the locality to be affected thereby, by affixing copies thereof in conspicuous public places, or by proclaiming the same with beat of drums, or by advertising the same in such local newspapers, — in regional languages and English or Hindi — as the said authority may deem fit, or by any two or more of these means and by any other means it may think suitable.

Consent etc., of a competent authority may be proved by writing under his signature.

148. Whenever under this Act, the doing or the omitting to do anything or the validity of anything depends upon the consent, approval, declaration, opinion or satisfaction of a competent authority, a written document signed by a competent authority purporting to convey or set forth such consent, approval, declaration, opinion or satisfaction shall be sufficient evidence thereof.

Signature on notices, etc., may be stamped.

149. Every licence, written permission, notice or other document, not being a summons or warrant or search warrant, required by this Act, or by any rule thereunder, to bear the signature of the Commissioner or the Superintendent of Police, as the case may be, shall be deemed to be properly signed if it bears a facsimile of his signature stamped thereon.

Persons interested may apply to State Government to annul, reverse or alter any rule or order.

150. (1) In the case of any rule or order made by the State Government under an authority conferred by this Act and requiring the public or a particular class of persons to perform some duty or act, or to conduct or order themselves or those under their control in a manner therein described, it shall be competent to any person interested to apply to the State Government by a memorial given to a Secretary to the State Government to annul, reverse or alter the rule or order aforesaid on the ground of its being unlawful, oppressive or unreasonable.

When a suit shall lie to the District Court declare a rule or order unlawful.

(2) After such an application as aforesaid and the rejection thereof wholly or in part or after the lapse of four months without an answer to such application or a decision thereof published by the State Government, it shall be competent to the person interested and deeming the rule or order contrary to law to institute a suit against the State for a declaration that the rule or order is unlawful either wholly or in part. The decision in such suit shall be subject to appeal, and a rule or order finally adjudged to be unlawful shall by the State Government be annulled or reversed or so altered as to make it conformable to law.

Power to make rules.

151. (1) The State Government may make rules for carrying out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

- (a) recruitment to and the pay, allowances and other conditions of service of the members of the State Police under section 4;
- (b) the manner of selection and appointment of Director General/Inspector General of Police under section 5;
- (c) the manner of publication, under sub-section (2) of section 26, by the Commissioner or the Superintendent of Police, of the names of special police officers appointed under that section;
- (d) matters that may be prescribed under section 43;
- (e) form of receipt to be given in respect of any article detained under section 48;
- (f) awarding of any of the punishments referred to in sub-section (1) or sub-section (2) of Section 53 to any police officer of subordinate rank;
- (g) procedure for awarding punishments under section 55;
- (h) determination of the cost of employing additional police under sub-section (2) of section 71;
- (i) manner of constituting defence societies under sub-section (1) of section 80;
- (j) the authority to whose satisfaction claims are to be established under sub-section (2) of section 87 and the form and the manner in which claims may be made under that sub-section; the procedure for dealing with such claims and all other matters connected therewith under that section;
- (k) prescribing the ranks of police officers and the fines referred to in section 136;
- (l) payment to any police officer or division among two or more police officers the whole or any portion of any reward, forfeiture or penalty, under the proviso to section 139; and
- (m) any other matter which has been or may be, prescribed or provided for by rules, under this Act.

Notification of rules and regulations in the official Gazette and laying of rules and regulations.

152. (1) Every rule and regulation made under this Act shall be made by notification in the official Gazette.

(2) Every rule and regulation made under this Act shall be laid, as soon as may be after it is made before the State Legislature, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, the State Legislature, agree in making any modification in the rule or regulation as the case may be, or the State Legislature agree that the rule or regulation should not be made, the rule or regulation shall thereafter have effect only in such modified form or be of no effect, as the case may be, so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or regulation.

Repeal and savings.

153. (1) The enactments specified in Part I of Schedule I are hereby repealed:

Provided that —

- (i) all rules prescribed, appointments made, powers conferred, orders made or passed, directions and certificates issued, consent, permit, permission or licences given, summons or warrants issued or served, persons arrested or detained or discharged on bail or bond, search warrants issued, bond forfeited, penalty incurred under any such enactment shall, so far as they are consistent with this Act, be deemed to have been respectively prescribed, made, conferred, given, passed, served, arrested, detained, discharged, forfeited and incurred thereunder;
- (ii) all references made in any enactment to any of the enactments so ceasing to be in force shall be construed as references to the corresponding provision of this Act.

(2) Nothing in sub-section (1) shall be deemed to affect —

- (a) the validity, invalidity, effect or consequence of anything done or suffered to be done in an area before the date on which the provisions of this Act come into force in such area;
- (b) any right, privilege, obligation or liability already acquired, accrued or incurred before such date;
- (c) any penalty, forfeiture or punishment incurred or inflicted in respect of any act before such date;
- (d) any investigation, legal proceeding or remedy in respect of such right, privilege, obligation, liability, penalty, forfeiture or punishment;
- (e) any legal proceeding pending in any court or before any officer on the aforesaid date or anything done or suffered to be done in the course of such proceedings, and any such proceeding or any appeal or revisional proceedings arising out of such proceeding shall be instituted, continued or disposed of, as the case may be, as if this Act had not been enacted.

Existing Police Force deemed to be constituted under this Act.

154. Without prejudice to the provisions contained in Section 153, the Police Force functioning in the State of, immediately before the commencement of this Act, shall on such commencement, be deemed to be Police Force constituted under this Act..

155. Saving of laws relating to village and Armed Police — (To be drafted by each State Government).

Power* to remove difficulties.

156. (1) If any difficulty arises in giving effect to the provisions of this Act in consequence of the transition to the said provisions from the provisions of the enactments mentioned in Schedule I, the State Government may, by notification

in the Official Gazette, make such provisions as appear to it to be necessary or expedient for removing the difficulty :

Provided that no such notification shall be issued after the expiry of two years from the commencement of this Act.

(2) Every notification issued under this section shall, as soon as may be after it is issued, be laid before the State Legislative Assembly.

SCHEDULE I

(See Section 153)

Year	No.	Short Title
1861	V	The Police Act, 1861

(NOTE:—Such other Acts which are in force are also to be included).

SCHEDULE II

(See Section 21)

Form of oath or affirmation by members of Police Force

I, do swear/solemnly affirm that I will be faithful and bear true allegiance to India and to the Constitution of India as by law established ; that as a member of the police in the State of I will honestly, impartially and truly serve the people without favour or affection malice or ill-will ; that I will to the best of my ability, skill and knowledge discharge according to law, such functions and duties as may be entrusted to me as a police officer, and in such a manner as to uphold and protect the dignity and rights of the citizens as proclaimed in the Constitution.

SCHEDULE III

(See Section 22)

SEAL

(Photograph to be affixed in the case of Inspectors and Sub-Inspectors)

CERTIFICATE OF APPOINTMENT IN THE POLICE FORCE

No.

Certificate of Appointment issued under the Police Act
 Mr. has been appointed as
 and is invested with the powers, functions, and privileges of a Police Officer under
 the Police Act of In the District Police/Railway
 Police/Area under the charge of the Commissioner for
 on the day of 19 ..

Signature

Designation

SCHEDULE IV

(See Section-57)

I. *Authorities competent to order suspension*

S. No.	Rank of officers on whom suspension order is to be made	Authority competent to issue orders
1.	Inspector, Sub-Inspector, Assistant Sub-Inspector and Officers of Corresponding ranks.	Officers of the rank of Superintendent of Police.
2.	Head constables, Police Constables and Officers of corresponding ranks.	" "

II. *Authorities competent to order transfer*

S. No.	Rank of officers on whom transfer order is to be made	Authority competent to issue orders
1.	Inspector, Sub-Inspector, and Officers of corresponding ranks.	Officers of the rank of Superintendent of Police.
2.	Assistant Sub-Inspector, Head Constable, Police Constable and Officers of corresponding ranks.	Officers of the rank of Assistant Superintendent of Police or Deputy Superintendent of Police.

SCHEDULE V

(See Section 83)

PART I

Central Acts

1. The Press and Registration of Books Act, 1867.
2. The Indian Explosives Act, 1884.
3. The Indian Lunacy Act, 1912.
4. The Poisons Act, 1919.
5. The Police (Incitement to Disaffection) Act, 1922.
6. The Cinematograph Act, 1952.
7. The Suppression of Immoral Traffic in Women and Girls Act, 1956.
8. The Arms Act, 1959.

PART II

Note

(The State Acts as may be included under this section are to be specified under this part. Such of the State Acts which regulate Habitual Offenders, Gambling, Begging, Dramatic performances etc., may be specified under this part.)

Appendix II
(Para 64.2, Chapter LXIV)
D.O. No. 1/77/NPC-SG
Government of India
Ministry of Home Affairs

C. V. Narasimhan
Member Secretary

National Police Commission,
New Delhi
28th December, 1977.

Dear Sir,

The National Police Commission constituted by the Government of India in Ministry of Home Affairs Resolution No. VI-24021/36/77-GPA.I dated the 15th November, 1977 (copy enclosed for ready reference — Annexure I) held its first meeting on 22nd December, 1977, and observed, *inter alia*, that it would greatly facilitate the work of the Commission if the various issues arising from the terms of reference are examined in the first instance by a Study Group in each State and its assessment report is made available to the Commission. I am to request that a Study Group may kindly be set up accordingly in your State, keeping in view the following guidelines :—

- (i) The chairman of the Study Group may be a prominent person with a background of wide experience in administration and/or having association with social work or public welfare activities of a non-political nature.
- (ii) One or two senior retired officers of Chief Secretary's or Inspector's General rank may be included among the members.
- (iii) Two or three members could be drawn from non-officials in the political or academic or administrative fields.
- (iv) A senior serving police officer of the rank of D.I.G. or above may function as the Convenor of the Study Group. It would be helpful if the Inspector-General of Police himself could kindly take up this function, having regard to the importance of the proposed exercise.
- (v) Membership of the Study Group including the chairman and the Convenor may not exceed seven. Others may be co-opted as Advisers to examine any specific issue as and when necessary.

2. The Study Group may be requested to examine the terms of reference of the Commission and identify the related subjects for study. Some subjects that could be taken up by the Study Group straight away are furnished in Annexure II. Additional subjects considered relevant by the Study Group may also be gone into and covered in their final report.

3. Some senior officers with administrative experience in certain Government Departments like law, labour, jails, correctional services, local administration and education, may be associated with the Group for studying certain selected items like Sl. Nos. 4, 14, 15, 21, 24, 25 and 35 in the list at Annexure II.

4. While making studies the Group may take due note of the actual ground position in the districts, particularly at the village, taluk and police station level.

5. In selected districts it may be of advantage to form small Study Groups comprising taluk/police station level officers also to secure response from their level to some of the pressing issues. The views of these Groups may then be taken into account before the State level Study Group evolves its recommendations. Some examples of subjects that could be considered by taluk/police station level Study Groups are Sl. Nos. 6, 7, 13, 14, 15, 16, 17, 20, 21, 28, 30 and 33 in the list at Annexure II.

6. The names of the Chairman, Convenor and other members of the Study Group may please be intimated very early to the undersigned.

7. A copy of this letter is being marked to your Inspector-General of Police so that he may identify and earmark suitable senior police officers to assist the Study Group as the work progresses.

8. It is clarified that the views and suggestions of the Study Group will be that of the Group only and will not be taken to reflect the State Government's views on any issue or commit the State Government to any related matter.

9. I shall be grateful if arrangements are made for the Study Group in your State to start its work immediately and plan its deliberations in such a manner as to send us its report with recommendations before the 31st March, 1978.

10. A brief conference of the Convenors of Study Groups in different regions is proposed to be held in February, 1978 at convenient regional centres to assess the progress of studies and clarify matters for their expeditious completion.

Yours faithfully,

Sd./-
(C. V. NARASIMHAN)

Encl: As above

To the Chief Secretaries
(as per list attached)

GOVERNMENT OF INDIA

MINISTRY OF HOME AFFAIRS (GRIH MANTRALAYA)

New Delhi 110001, the 15th November, 1977

RESOLUTION

No. VI-24021/36/77-GPA. I.—Far-reaching changes have taken place in the country after the enactment of the Indian Police Act, 1861 and the setting up of the second Police Commission of 1902, particularly during the last thirty years of Independence. Though a number of States have appointed Police Commissions after Independence to study the problems of the Police in their respective States, there has been no comprehensive review at the national level of the police system after Independence despite radical changes in the political, social and economic situation in the country. A fresh examination is necessary of the role and performance of the Police—both as a law enforcement agency, and as an institution to protect the rights of the citizens enshrined in the Constitution. The Government of India have, therefore, decided to appoint a National Police Commission composed of the following:—

- | | |
|---|--|
| 1. Shri Dharma Vira
(retired Governor) | Chairman |
| 2. Shri N. K. Reddy
(retired Judge, Madras High Court) | Member |
| 3. Shri K. F. Rustamji
(ex-IGP, Madhya Pradesh and ex-Special
Secretary, Home Ministry) | Member |
| 4. Shri N. S. Saksena
(ex-IGP UP and ex-DG CRP and at present,
Member, UPSC) | Member |
| 5. Prof. M. S. Gore,
(Professor, Tata Institute of Social
Sciences, Bombay) | Member |
| 6. Shri C. V. Narasimhan
(presently Director, CBI) | full-time Member-Secretary of the Commission
(on relief from his present post.) |

2. The following will be the terms of reference of the Commission:—

- (1) Re-define the role, duties, powers and responsibilities of the police with special reference to prevention and control of crime and maintenance of public order.
- (2) Examine the development of the principles underlying the present policing system, including the method of magisterial supervision, evaluate the performance of the system, identify the basic weaknesses of inadequacies, and suggest appropriate changes in the system and the basic laws governing the system.
- (3) Examine, if any changes are necessary in the existing method of administration, disciplinary control and accountability.

- (4) Inquire into the system of investigation and prosecution, the reasons for delay and failure ; the use of improper methods, and the extent of their prevalence ; and suggest how the system may be modified or changed, and made efficient, scientific and consistent with human dignity ; and how the related laws may be suitably amended.
- (5) Examine methods of maintaining crime records and statistics and suggest methods for making them uniform and systematic.
- (6) Review policing in rural areas, evaluate any new arrangements that have been made, and recommend changes that are necessary.
- (7) Examine the system of policing required in non-rural and urbanised areas including metropolitan areas, and suggest the pattern that would be the most suitable.
- (8) Examine the steps taken for modernising law enforcement, evaluate the work of police communications, the computer net-work, scientific laboratories and agencies for research and development, and examine whether modernisation can be speeded up ; examine to what extent, as a result of the modernisation of Police forces, streamlining of its functions and its re-structuring, it would be possible to economise in the manpower in the various areas of its activities.
- (9) Examine the nature and extent of the special responsibilities of the Police towards the weaker sections of the community and suggest steps to ensure prompt action on their complaints for the safeguard of their rights and interests.
- (10) Recommend measures and institutional arrangements :—
 - (i) to prevent misuse of powers by the police, and to examine whether police behaviour, out-look, responsiveness and impartiality are maintained at the correct level, and if not the steps such as recruitment and training which should be taken to improve them ;
 - (ii) to prevent misuse of the Police by administrative or executive instructions, political or other pressure, or oral orders of any type, which are contrary to law ;
 - (iii) for the quick and impartial inquiry of public complaints made against the police about any misuse of police powers ;
 - (iv) for the quick redressal of grievances of police personnel and to look after their morale and welfare ; and
 - (v) for a periodic objective evaluation of police performance in a metropolitan area/District/State in a manner which will carry credibility before the public.
- (11) Examine the manner and extent to which police can enlist ready and willing co-operation of the public in the discharge of their social defence and law enforcement duties and suggest measures regarding the institutional arrangements to secure such co-operation and measures for the growth of healthy and friendly public-police relationship.
- (12) Examine the methods of police training, development, and career-planning of officers and recommend any changes that are required at any time in their service, to modernise the outlook, and to make the leadership of the force effective and morally strong.

- (13) Examine the nature of the problems that the police will have to face in the future, and suggest the measures necessary for dealing with them, and for keeping them under continuous study and appraisal.
- (14) Consider and make recommendations and suggestions regarding any other matter which the Government may refer to the Commission; and
- (15) Any other matter of relevance or importance having an impact on the subject.

3. The Headquarters of the Commission will be at Delhi.

4. The Commission will devise its own procedure and may consult such advisers as it may consider necessary for any particular purpose. It may call for such information and take such evidence as it may consider necessary. Ministries and Departments of the Government of India will furnish such information and documents and other assistance as may be required by the Commission. The Government of India trust that the State Government, Union Territories Administrations, Service Associations and others concerned will extend to the Commission their fullest co-operation and assistance.

5. The Commission will make its recommendations as soon as practicable.

ORDER

ORDERED that a copy of the Resolution be communicated to all State Governments, Administrations of Union Territories and Ministries/Departments of the Government of India, Planning Commission, Cabinet Secretariat, Prime Minister's Office, Lok Sabha and Rajya Sabha Secretariats.

2. ORDERED also that the Resolution be published in the Gazette of India for general information.

Sd./-(T.C.A. SRINIVASAVARADAN)
Secretary to the Government of India.

SOME SUBJECTS THAT COULD BE TAKEN UP FOR EXAMINATION
BY STUDY GROUPS

1. Quantitative increase and qualitative change in the duties the police are now being called upon to perform, in the context of the vast changes (social, economic and political) that have come about in our country after Independence. The increasing variety and complexity of duties the police are required/expected to discharge for "maintenance of public order" may also be analysed.
2. What are the existing provisions in law which define the role, duties, powers and responsibilities of the police in regard to —
 - (i) Prevention and control of crime, and
 - (ii) maintenance of public order.Are any modifications called for in this regard? If so, for what reasons?
3. What can reasonably be laid down as the responsibility of the citizen in regard to—
 - (i) prevention and control of crime, and
 - (ii) maintenance of public order?To what extent can his responsibility be spelt out statutorily? Existing provisions of law on this aspect may be analysed.
4. To what extent can non-police agencies be associated with prevention of crime? What are the practical steps for co-ordinating the preventive functions of several other departments like courts, jails, correctional services, corporations, municipalities and other local bodies in regard to several factors which induce or facilitate the commission of crime?
5. Section 23 of the Police Act (Act V of 1861) refers to the responsibility of police for collecting and communicating intelligence affecting the public peace only. In actual practice, police are required/expected to collect intelligence regarding a variety of matters like corruption in public services, economic offences like hoarding and blackmarketing, etc., and also regarding some matters having a bearing on national security. It may be determined what kind of intelligence duties can be legitimately performed by police in a socialist, democratic, free society as ours.
6. What are the merits and demerits in the existing policing system including the method of magisterial supervision in addition to the departmental supervision within the police hierarchy?
7. What are the existing provisions in law which spell out the supervisory responsibility of the magistrate in regard to maintenance of law and order and control of crime? What are the merits and demerits in this system?
8. What institutional arrangement can be devised to bring about certain measure of accountability of the performance of the district police to the district public themselves? In what precise manner can representative sections of the public be associated with this exercise of calling the district police to account for their actions?
9. The Police Act of 1861 envisages only a few ranks in the police hierarchy. In the course of years, several additional ranks have come into being in the

supervisory command structure from the Constable upwards. Can a yardstick be evolved to determine the size of the supervisory structure at different levels having regard to —

- (i) the need for adequate manpower for performance of duties, and
 - (ii) the need for adequate career prospects by way of promotion and placement in the hierarchy?
10. Are any changes necessary in the existing method of administrative and disciplinary control and accountability?
 11. Having regard to the importance of discipline in an organisation like the police, is there a case for exempting police personnel from the operation of Art. 311 of the Constitution? Can some arrangement be devised for summary dismissal in appropriate cases of extreme misconduct where the formal processes of securing and recording evidence may present practical difficulties?
 12. What is the existing ratio of the armed police to the unarmed police in the districts and the State as a whole? Is there scope for reducing the holding of arms by police?
 13. The role of home-guards in rendering assistance to police in various situations including those of a non-emergency nature.
 14. What are generally the causes of delays in investigations and prosecutions, including court trials? What are the areas in which there is scope for minimising delays at different stages even in the existing system? What are the possible modifications in laws, rules, regulations and procedures which could eliminate these delays?
 15. Are there any provisions in law which spell out unrealistic requirements of evidence in certain situations? Do these provisions induce the introduction of falsehood in the police record of investigation? What are the records that are usually fudged or padded up? What are the possible remedial measures?
 16. What are the factors which induce the adoption of third degree methods during investigations? What remedial measures can be suggested to eliminate them?
 17. What are the factors which induce certain acts of police misconduct/negligence which cause acute dissatisfaction to the public? Examples: Failure to register cases of complaints received at the police station, failure to visit scene of crime promptly, fake encounters, citizens fear of getting themselves involved in a crime on reporting it to the police or being witness to it, etc.
 18. Are any changes called for in the policing of rural areas? Have any new experiments been tried in the States in this matter? If so, with what results?
 19. To what extent can rural home guards be associated with police functions in daily life?
 20. Can Section 17 of the Police Act be suitably amended to enlarge the concept of special police officers to cover ordinary crime situations also, particularly in rural areas?
 21. Is there any State legislation which confers powers on village officers to dispose of petty crimes? How is it working in actual practice? Can the provisions of such an Act be further enlarged to confer similar powers on panchayats and other local bodies to deal with a larger volume of ordinary crimes at their level without involving elaborate processes before a magistrate/judge as such?

22. What special policing arrangements are required in metropolitan areas as different from rural areas? What is the pattern that would be most suitable, having regard to the experience of the Commissioner system that now prevails in certain metropolitan towns
23. Scope for modernising law enforcement, particularly in regard to transport/communications/forensic laboratories/agencies for research and development, etc. Scope for economising on manpower by increased modernisation of methods of work.
24. What are the special arrangements in the State for protecting the interests of weaker sections and ensuring for them —
 - (a) prompt investigation of crimes against them,
 - (b) adequate employment in the reserved quota, and
 - (c) social equality and justice in daily life.
25. What has been the practical effect of the enforcement of the provisions of the Protection of Civil Rights Act, 1955 (previously, the Untouchability (Offences) Act)
26. What are the various situations in which there is scope for misuse of powers by police and what are the remedial measures to eliminate this scope?
27. What are the defects in the existing recruitment procedures which result in the induction of personnel with improper behaviour, outlook and responsiveness into the police community at various levels? What are the special measures that can be introduced during training, both initial as also the later in-service training, to inculcate in a police officer the proper attitudes to his work and conduct towards the public?
28. What is the existing scope for misuse of police by the higher levels in administration including the political leadership? Can an assessment be made of the quantum of existing misuse of this type? What practical measures can be suggested to insulate the police from political or other pressures which demand compliance of oral orders of an unjust or irregular or illegal nature?
29. What mechanism can be suggested for quick and impartial enquiries into public complaints of police misconduct?
30. What arrangements can be devised within the police for quick redressal of grievances of police personnel and maintenance of their welfare and morale?
31. What mechanism can be suggested for evaluation of police performance in a metropolitan area/district/State? To what extent can some non-officials be associated with this process of evaluation?
32. What special measures can be devised to deal effectively with corruption in police at various levels?
33. What are the practical methods of securing public cooperation and assistance in the discharge of police functions, generally, in daily life and in particular, in regard to investigation of crime and maintenance of order? What is the possible role of the press in this matter and how to secure it?
34. What aspects of service conditions in the Indian Police Service affect the morale of police leadership? What are the necessary remedial measures?
35. What is the likely pattern of problems that the police will have to face in future on account of —
 - (i) population increases;

- (ii) growing percentage of people below poverty-line ;
- (iii) student behaviour in schools and colleges ;
- (iv) industrial urban labour activity ;
- (v) rural peasant labour activity ;
- (vi) increase in stress and strain in the life of slum dwellers and crowded habitations in metropolitan areas ;
- (vii) growing influx of people from rural tracts to urban areas ;
- (viii) growing industrialisation ;
- (ix) increased use of science and technology in the modus operandi of the criminals themselves ;
- (x) growth of organised crime by Mafia gangs ;
- (xi) guerilla activities ;
- (xii) situation in border areas, particularly in North-eastern region ;
- (xiii) infiltration of political elements into police ranks.

Can some mechanism be suggested for a continuous study and appraisal of the above problems from time to time, so that the police can be quickly and easily restructured and readjusted to meet these problems squarely.

36. Any other matter of relevance or importance, having a bearing or impact on any of the above subjects.

**COMPOSITION OF STUDY GROUPS IN THE STATES AND
UNION TERRITORIES**

STATES

ANDHRA PRADESH

- | | |
|---|---------------|
| 1. Sri Akbar Ali Khan, Bar-at-law (Ex-Governor) | Chairman |
| 2. Sri O. Pulla Reddy, ICS (Retd.) (Ex-Chief Secretary to Government of Andhra Pradesh and Ex-Defence Secretary to Govt. of India). | Vice-Chairman |
| 3. Sri V. Kl. Rao, ICS (Retd.) (Ex-Chief Secretary to Government of Andhra Pradesh). | Member |
| 4. Sri M. Krishna Rao (Retired Judge, Andhra Pradesh High Court). | Member |
| 5. Sri Shiv Kumar Lal, IPS (Retd.) (Ex-Inspector General of Police of Andhra Pradesh). | Member |
| 6. Shri Atma Jayaram, IPS (Retd.) (Ex-Inspector General of Police of Andhra Pradesh). | Member |
| 7. Prof. G. Ram Reddy, Vice-Chancellor, Osmania University, Hyderabad. | Member |
| 8. Sri M. Satyanarayana Rao, MP, Karimnagar. | Member |
| 9. Sri A. Bhagawanth Rao, MLA | Member |
| 10. Sri V. Srikrishna, MLA | Member |
| 11. Sri Gora Sastry, Editor, Andhra Bhoomi and Deccan Chronicle, Secunderabad. | Member |
| 12. Sri K. Ramchandra Reddy, IPS, Inspector General of Police. | Member |

The following officers were also associated with the study group :

- | | |
|--|--------|
| 1. Sri V. V. V. Satyanarayana, Secretary to Government, Law Department. | Member |
| 2. Sri M. B. Balraj, IAS, Commissioner of Labour | Member |
| 3. Shri T. S. Rao, IPS Inspector General of Police and Director of Correctional Services. | Member |
| 4. Sri K. L. N. Reddy, Deputy Inspector General, Prisons. | Member |
| 5. Sri N. Raghava IAS, Secretary to Government, Services, Training and Administrative Reforms. | Member |
| 6. Sri V. Ramachandran, Director, Higher Education. | Member |

ASSAM

- | | |
|---|----------|
| 1. Shri B. N. Sarma, Retired Justice, Gauhati High Court. | Chairman |
| 2. Dr. R. Kl. Goswami, Ex-MLA, Tezpur. | Member |

- | | |
|--|----------|
| 3. Shri R. C. Dutta, IPS (Retired), Solapur, Gauhati—781008. | Member |
| 4. Dr. H. K. Barpuzari, Professor and Head of the Department of History, Uzan Bazar, Gauhati—1. | Member |
| 5. Shri Bijoy Kr. Das, Advocate, Birubari, Gauhati—16. | Member |
| 6. Shri B. C. Sarma, IPS, Director, Bureau Investigation, (Economic Offences), Rehabri, Gauhati. | Convenor |

BIHAR

- | | |
|---|----------|
| 1. Shri Ram Sewak Mandal, Ex-Chief Secretary, B-144, Bouring Canal Road, East Budha Colony, Patna. | Chairman |
| 2. Shri Rajeshwar Lal, Inspector General of Police, Patna, Bihar. | Member |
| 3. Shri Sharda Prasad Verma, Ex-Director, Central Bureau of Investigation, 232, Patliputra Colony, Patna. | Member |
| 4. Shri Brahm Deve Sharma Purunindra, 112, Sri Krishan Nagar, Road No. 7, Patna—1. | Member |
| 5. Shri Jagdish Poddar, Vill. & P.O. Severain, Via Bathan, Darbhanga. | Member |
| 6. Dr. Sachidanand, Director, Anugarh Narain Smaj Adhyayan Institute, Patna. | Member |
| 7. Shri S. K. Ghosh, Patrakar Nagar, Patna. | Member |
| 8. Shri J. M. Prasad, Dy. Inspector General of Police, Patna, Bihar. | Member |
| 9. Shri Jagadanand, Dy. Inspector General of Police, Patna, Bihar. | Member |
| 10. Shri Harihar Prasad Singh, Dy. Inspector General of Police, Patna. | Member |
| 11. Shri Dineshnandan Sahay, DIG, CID, Bihar, Patna. | Member |
| 12. Shri B. N. Sinha, DIG, Bihar, Patna. | Member |
| 13. Shri Narendra Narain Singh, DIG, Patna. | Member |

GUJARAT

- | | |
|--|----------|
| 1. Shri Tribhuvandas K. Patel, Anand. | Chairman |
| 2. Shri L. R. Dalal, ICS (Retired), Ex-Chief Secretary to Government of Gujarat. | Member |
| 3. Shri P. M. Pant, Inspector General of Police, Gujarat State. | Member |
| 4. Prof. P. G. Mavalankar, Member of Parliament. | Member |
| 5. Shri Raghavjibhai T. Leuva, M.L.A. | Member |
| 6. Shri Chandrakant T. Daru, Advocate, High Court. | Member |

HARYANA

- | | |
|---|------------------|
| 1. Shri E. N. Mangat Rai, former Chief Secretary, Punjab and J&K. | Chairman |
| 2. Shri A. Banerji, Home Secretary, Government of Haryana. | Member |
| 3. Shri P. A. Rosha, Inspector General of Police, Haryana. | Member-Secretary |
| 4. Shri Harphool Singh, former Chairman, Haryana Public Service Commission. | Member |
| 5. Shri Pritam Singh Jain, Advocate and former District & Sessions Judge. | Member |
| 6. Shri Janak Raj, retired S.P. | Member |
| 7. Principal, Law College, Kurukshetra University. | Member |

HIMACHAL PRADESH

- | | |
|--|----------|
| 1. Shri Inder Singh, Retired IG of Police, Himachal Pradesh. | Chairman |
| 2. Shri Harish Chander, Retired IAS Officer from Himachal Pradesh. | Member |
| 3. Shri L. R. Malhotra, Retired DIG of Police, Punjab. | Member |
| 4. Assistant Inspector General of Police (Head-quarters), Simla. | Convenor |

JAMMU & KASHMIR

- | | |
|--|----------|
| 1. Shri Kanwar Randip Singh, Adviser, Home. | Chairman |
| 2. Shri P. N. Kaul, Ex-Chief Secretary, (Presently Member, Public Service Commission). | Member |
| 3. Shri L. D. Thakur, Retired Inspector General of Police, (Presently Chairman, Anti-Corruption Tribunal). | Member |
| 4. Shri Ghulam Ahmed Tak, Retired Sessions Judge, (Presently Advocate, Jammu). | Member |
| 5. Miss Mehmooda Ahmed Ali, Retired Principal Government Women's College, Srinagar. | Member |
| 6. Shri Ghulam Mohi-ud-din Shah, Advocate, Srinagar, Presently at Jammu. | Member |
| 7. Shri M. S. Farouqi, D.I.G. of Police (Admn.). | Member |

KARNATAKA

- | | |
|--|----------|
| 1. Shri Justice T. K. Tukol. | Chairman |
| 2. Shri K. Balasubramaniam. | Member |
| 3. Shri C. V. S. Rao (Retd. Inspector General of Police). | Member |
| 4. Shri Balakrishna Shetty, (Retired Inspector General of Police). | Member |

- | | |
|---|--------|
| 5. Smt. Sudha Reddy, (Social Worker). | Member |
| 6. Shri V. Hanumanthappa, I.A.S. (Retired). | Member |
| 7. Shri T. Albert Manoraj. (Inspector General of Police). | Member |

KERALA

- | | |
|---|----------|
| 1. Shri M. M. Philip, ICS (Retired Secretary to the Govt. of India, Civil Aviation). | Chairman |
| 2. Shri George Jacob. (Retired Vice-Chancellor, Kerala University). | Member |
| 3. Shri M. P. Manmadhan, Retired College Principal and Sarvodaya worker. | Member |
| 4. Shri Sankaradasan Thampi, Principal, Law College, Trivandrum. | Member |
| 5. Shri M. Krishna Menon, IP (Retd.), (Retired Inspector General). | Member |
| 6. Shri N. Chandrabhanu. IAS (Retd.), (Retired Chief Secretary to the Government of India). | Member |
| 7. Shri V. N. Rajan, Inspector General of Police. | Convenor |

MADHYA PRADESH

- | | |
|---|-----------------|
| 1. Shri R. P. Naronha, Retired Chief Secretary, Government of Madhya Pradesh. | Chairman |
| 2. Shri M. S. Choudhary, Retired Chief Secretary, Government of Madhya Pradesh. | Member |
| 3. Shri B. A. Sharma, Retired Inspector General of Police, Madhya Pradesh. | Member |
| 4. Shri J. S. Kukreja, Commandant General, Home Guards, Madhya Pradesh. | Member |
| 5. Shri Naresh Johri, Member, Legislative Assembly, M.P. | Member |
| 6. Shri Dharam Swaroop Saxena, Member, Legislative Assembly, Madhya Pradesh. | Member |
| 7. Shri K. S. Dhillon, Deputy Inspector General of Police, Gwalior, Madhya Pradesh. | Member-Convenor |

MEGHALAYA

- | | |
|--|----------|
| 1. Shri A. Rahman, IPS, Inspector General of Police, Meghalaya, Shillong. | Convenor |
| 2. Shri G. Hamilton. | Member |
| 3. Lt. Col. (Retd.) C. Bareh. | Member |
| 4. Shri S. N. Phukan, Secretary, Law Department. | Member |
| 5. Shri Ganold S. Massar. | Member |
| 6. Prof. Kenneth Momin. | Member |
| 7. Smt. E. N. Shullai, Director, Institute of Art and Culture. | Member |
| 8. Miss Marion Pugh, Officer on Special Duty, Historical and Antiquarian Studies | Member |

MAHARASHTRA

- | | |
|-------------------------------------|----------|
| 1. Shri Abasaheb Deshmukh Parwekar. | Chairman |
| 2. Shri H. Nonjundiah. | Member |
| 3. Shri M. G. Mugve. | Member |
| 4. Shri N. S. Pardasani. | Member |
| 5. Prof. Arun Kamble. | Member |
| 6. Shri S. V. Tankhiwale. | Convenor |

MANIPUR

- | | |
|--|------------------|
| 1. Shri M. K. Priyabrata Singh, Ex-Chief Minister of Manipur. | Chairman |
| 2. Shri B. Lal, IGP, Manipur. | Convenor |
| 3. Shri K. C. Johorey, IAS. | Member |
| 4. Shri N. Bhdhachandra Singh, District & Sessions Judge, Manipur, Imphal. | Member |
| 5. Dr. M. Taraniya, Head of the English Department, JNU Centre, Imphal. | Member |
| 6. Shri Priyananda Singh, Advocate, Imphal | Member |
| 7. Shri G. S. Pander, IPS, DIG, Manipur. | Member-Secretary |
| 8. Dr. Asharam. | Member |
| 9. Shri P. C. Misao, Advocate. | Member |
| 10. Shri K. S. Subramanian, DIG, CID, Manipur. | Member |

ORISSA

- | | |
|--|----------|
| 1. Justice Sh. Abhimanyu Mishra, Retired Judge of the Orissa High Court. | Chairman |
| 2. Shri B. B. Misra, IP Retired. | Member |
| 3. Shri D. Chhotrai, IPS Retired. | Member |
| 4. Shri Dinabandhu Sahu, Advocate. | Member |
| 5. Dr. Sadasiva Misra. | Member |
| 6. Shri P. N. Mohanty, IAS, Retired. | Member |
| 7. Shri S. S. Padhi, IPS, Addl. IGP. | Convenor |

PUNJAB

- | | |
|--|------------------|
| 1. Dr. Baldev Parkash, Member, Parliament. | Chairman |
| 2. Shri P. S. Shukla, IPS, Deputy Inspector General of Police. | Member-Secretary |
| 3. Dr. M. S. Randhawa, I.C.S. (Retd.). | Member |
| 4. Sardar Gian Singh Kahlon, I.G.S., former Chief Secretary, Punjab. | Member |
| 5. Sardar Gurdial Singh, IPS. | Member |
| 6. Shri R. C. Kapila, I.A.S. | Member |
| 7. Sardar Parkash Singh Majithia, M.L.A. | Member |

8. Shri Ramesh Chander, M.L.A.	Member
9. Sardar Charanjit Singh, M.L.A., Ludhiana.	Member
RAJASTHAN	
1. Shri R. D. Mathur, Retired Chief Secretary, Rajasthan Government.	Chairman
2. One Member Parliament.	Member
3. Shri Mathura Das Mathur, Member, Legislative Council, Rajasthan.	Member
4. Shri Sardari Lal Kakkar, Retired I.A.S.	Member
5. Shri Hanuman Sharma, Retired I.G.P.	Member
6. Shri S. C. Misra, Retired I.G.P.	Member
7. Shri P. D. Sharma, Rajasthan University.	Member
8. I.G.P. Rajasthan, Jaipur.	Convenor
TAMIL NADU	
1. Tr. P. T. Raman Nair, ICS (Retd.), Retired Chief Justice of the Kerala High Court.	Chairman
2. Tr. K. N. George, Director, Madras School of Social Work, Madras.	Member
3. Tr. N. T. Vanamamalai, Advocate.	Member
4. Tr. S. R. Govindarajan, Rotary Governor and Educationist.	Member
5. Tr. L. M. Menezes, IAS, Member-Secretary, Madras Metropolitan Development Authority.	Member
6. Tr. K. K. Swaminath, Consultant, Administrative Staff College of India, Madras Regional Office.	Member
7. Tr. S. M. Diaz, Retd. Director, SVP, National Police Academy, Hyderabad.	Member
8. Tr. N. Krishnaswamy, M.Sc., IPS, Director, Vigilance and Anti-Corruption, Madras.	Member
9. Tr. E. L. Stracey, I.G.P., Tamil Nadu.	Convenor
TRIPURA	
1. Shri T. S. Murty, Chief Secretary, Tripura.	Chairman
2. Shri Ajit Bhattacharjee.	Member
3. Shri S. B. Basu, I.P.S., Inspector General of Police.	Member-Secretary
UTTAR PRADESH	
1. Shri Vishwa Nath Lahiri, Ex-IGP, U.P., and Ex-State Scouts Commissioner.	Chairman
2. Shri Bharat Singh Yadav, Ex-Inspector General of Police, Himachal Pradesh.	Member
3. Dr. Anand Swarup Gupta, Ex-Director BPR&D, Government of India.	Member

- | | |
|--|----------|
| 4. Shri Girjapati Mukerji, Ex-Home Secretary, U.P. | Member |
| 5. Dr. Sushil Kumar, Director, Institute of Social Science, Agra. | Member |
| 6. Himanyu Kumarkar, Deputy Inspector General of Police (Ex), U.P. | Member |
| 7. Shri Vasudeva Panjani, DIG, CID, U.P. | Convenor |

WEST BENGAL

- | | |
|---|-----------------|
| 1. Shri R. Gupta, ICS (Retd.), Formerly Chief Secretary to the Government of West Bengal. | Chairman |
| 2. Shri M. A. H. Maswood, IP, former Additional Inspector General of Police, West Bengal. | Member |
| 3. Shri Srikanta Ghosh, IPS (Retd.), Formerly Inspector General of Police, Orissa. | Member |
| 4. Shri S. M. Bhattacharyya, IAS, (Retd.) Formerly Chairman, PSC, West Bengal. | Member |
| 5. Shri R. K. Bhattacharyya, IPS, Deputy Inspector General of Police, Training. | Member-Convenor |

UNION TERRITORIES**ANDAMAN AND NICOBAR ISLANDS**

- | | |
|---|----------|
| 1. Shri Govind Rajulu. | Chairman |
| 2. Shri S. K. Saxena, IGP, A&N Islands, Port Blair. | Convenor |
| 3. Dr. A. V. V. Iyer, Principal, Govt. College, Port Blair. | Member |
| 4. Shri A. A. Khan. | Member |
| 5. Shri Bakhtawar Singh. | Member |

ARUNACHAL PRADESH

- | | |
|---|------------------|
| 1. Shri Wangpha Lowang, Ex-Minister (Education), Arunachal Pradesh. | Chairman |
| 2. Shri I. P. Gupta, Chief Secretary, Govt. of Arunachal Pradesh. | Member |
| 3. Shri R. K. Patir, Revenue Commissioner. | Member |
| 4. Shri J. M. Srivastava, Secretary (Law). | Member |
| 5. Shri B. Das Sastri, Retired Director of Research, Arunachal Pradesh. | Member |
| 6. Shri K. P. Srivastava, IGP, Arunachal Pradesh. | Member-Secretary |

PONDICHERY

- | | |
|----------------------------|----------|
| 1. Shri N. Krishnadattan. | Chairman |
| 2. Shri T. R. Kakkar. | Convenor |
| 3. Shri N. Sivapragasam. | Member |
| 4. Smt. Velon. | Member |
| 5. Prof. Ambady Narayanan. | Member |
| 6. Shri A. Gandhiraj. | Member |

The Committee for studying arrangements for police families welfare

- | | |
|---|----------|
| 1. Shri Ashwini Kumar, D.G., B.S.F. | Chairman |
| 2. Shri R. C. Gopal, D.G., C.R.P.F. | Member |
| 3. Shri P. A. Rosha, I.G.P., Haryana. | Member |
| 4. Shri T. Albert Manoraj, I.G.P., Karnataka. | Member |
| 5. Shri N. Krishnaswamy, Director of Vigilance & Anti-Corruption, Tamil Nadu. | Member |
| 6. Shri T. A. Chari, Director, Police Computers, Ministry of Home Affairs. | Member |
| 7. Shri D. Ramachandran, Additional Commissioner of Police, Bombay. | Member |
| 8. Shri K. Ramamurti, I.G. (HQ), B.S.F. | Convenor |

The Committee for studying the maintenance Crime records

- | | |
|--|------------------|
| 1. Shri S. Tandon, Director, Bureau of Police Research and Development. | Chairman |
| 2. Shri N. Krishnaswamy, Director, Vigilance and Anti-Corruption, Tamil Nadu. | Member |
| 3. Shri P. C. Nawani, DIG, CID (Intt.), Gujarat. | Member |
| 4. Shri Bhattacharya, DIG, CID (Crime) West Bengal. | Member |
| 5. Shri V. D. Mehta, DIG, CID, Madhya Pradesh. | Member |
| 6. Shri B. B. Upadhyaya, Deputy Director, C.B.I., New Delhi. | Member |
| 7. Shri Lala Prasad, Director, Central Finger Print Bureau. | Member |
| 8. Shri T. Anantha Chari, Director of Coordination, Police Computers, Ministry of Home Affairs, New Delhi. | Member-Secretary |

The Committee for studying the needs of modernising the police

- | | |
|---|-----------------|
| 1. Prof. S. Sampath, Member, U.P.S.C., New Delhi. | Chairman |
| 2. Shri C. P. Joshi, Director, Police Telecommunications and IG (Communications), BSF, New Delhi. | Member-Convenor |
| 3. Shri N. Krishnaswamy, Director of Vigilance and Anti-Corruption, Madras. | Member |
| 4. Dr. S. N. Mitra, Chief Engineer, AIR, New Delhi. | Member |
| 5. Dr. H. L. Bami, Director, Central Forensic Science Laboratory, C.B.I., New Delhi. | Member |
| 6. Shri T. Ananthachari, Director of Coordination, Police Computers, New Delhi. | Member |
| 7. Shri M. L. Mehta, Secretary to Chief Minister, Government of Rajasthan, Jaipur. | Member |
| 8. Shri S. S. Ahluwalia, Director (P), Ministry of Home Affairs. | Member |
| 9. Shri V. N. Channa, Director, National Police Commission, New Delhi. | Member |

The Committee for studying the restructuring of police hierarchy

- | | |
|---|----------|
| 1. Shri N. Krishnaswamy, IPS (Retd.) Tamil Nadu | Chairman |
| 2. Shri G. C. Singhvi, I.P.S. | Member |
| 3. Shri H. C. Chitharanjan, IPS, DIG of Police, Shillong, Meghalaya. | Member |
| 4. Shri Rathinaranath Roy, Senior Technologist, Murugappa Chettiar Research Centre, Madras. | Member |
| 5. Shri M. D. Dikshit, I.P.S. | Member |

The Committee for studying the reorganisation of Railway Police

- | | |
|---|----------|
| 1. Shri R. D. Singh, IPS (Bihar). | Chairman |
| 2. Shri B. C. Misra, IPS (Retd.). | Member |
| 3. Shri Kailash Prakash, Officer on Special Duty, National Police Commission. | Member |

The Committee for studying the enforcement of prohibition

- | | |
|--|----------|
| 1. Shri P. M. Pant, I.G.P., Gujarat, (Retired). | Chairman |
| 2. Shri P. G. Navani, DIG of Police, Gujarat. | Member |
| 3. Shri K. V. Subramaniam, DIG (Prohibition Enforcement), Tamil Nadu. | Member |
| 4. Shri P. R. Parthasarthy, Additional Commissioner of Police (Crime), Bombay. | Member |
| 5. Shri S. N. Misra, Director, National Police Commission, New Delhi. | Member |

-
1. *A Report on the Image of Police in India* by Indian Institute of Public Opinion, New Delhi.
 2. *A study of Police Constables in U.P. and Delhi* — National Council of Applied Economic Research, New Delhi.
 3. *A study of Police Constables in Maharashtra* — Tata Institute of Social Sciences, Bombay.
 4. *Report on restructuring of the Civil Police (Computerised analysis)*—Director, Administrative Staff College of India, Consulting and Applied Research Division, Hyderabad.
-

The following studies were conducted at the instance of National Police Commission by Police Research Centre, Tamil Nadu Police, Madras.

1. A survey on "Public needs and expectations on matters relating to arrest and bail under IPC Offences in Tamilnadu". (1978).
2. A study on cases compounded in 1978 in criminal courts and the time gap between the date of charge sheet and compounding of cases in selected districts in Tamilnadu (1979).
3. A Report of views, suggestions and recommendations that emerged out of eleven seminars conducted in Tamilnadu in February and March, 1978, on subjects suggested by the National Police Commission.
4. A study on the victims of non-cognizable offences and their resort to criminal justice system.
5. A study on totality in criminal justice system, extent of work load and cost involved in criminal justice system during the past 15 years 1963-77.
6. Study of analysis of types of persons involved in trivial offences and detained in central prison, Madras and four sub-jails in Chenglepattu (E).

The following study was conducted at the instance of National Police Commission by Bureau of Police Research and Development.

Release of arrested persons on bail and misuse of the system. (1980)

Research Centres of three States who were requested to take up study on "scriptory work".

- | | |
|------------------|-------------------|
| 1. Tamil Nadu | (Report received) |
| 2. Delhi | (Report received) |
| 3. Uttar Pradesh | (Report received) |

States who conducted Urban Policing studies —

Uttar Pradesh, Madhya Pradesh, Delhi, Andhra Pradesh, Karnataka and Kerala.

SUBJECTS DEALT WITH IN THE EIGHT REPORTS OF THE COMMISSION

FIRST REPORT

1. The Constabulary.
2. Pay structure.
3. Housing.
4. Supply of essential commodities.
5. Orderly system.
6. Machinery for redressal of grievances of police personnel.
7. Recruitment, Training and Career planning.
8. Modalities for inquiry into complaints against police.
9. Financial implications.

SECOND REPORT

1. Welfare measures for police families.
2. Police role, duties, powers and responsibilities.
3. Interference with and misuse of police by illegal or improper orders or pressure from political, executive or other extraneous sources — remedial measures.
4. Gram Nyayalayas.
5. Maintenance of crime records and statistics.

THIRD REPORT

1. Police and the weaker sections of society.
2. Village police.
3. Special law for dealing with serious and widespread breaches of public peace or disturbance of public order.
4. Corruption in police.
5. Economic offences.
6. Modernisation of law enforcement.
7. Scriptory work in police.

FOURTH REPORT

1. Investigation.
2. Court trial.
3. Prosecuting agency.
4. Industrial disputes.
5. Agrarian problems.
6. Social legislation.
7. Prohibition.

FIFTH REPORT

1. Recruitment of Constables and Sub-Inspectors.
2. Training of personnel in the civil police in the rank of Constables, Sub-Inspectors, Inspectors and Deputy Superintendents of Police with focus on implementation of the Committee on Police Training's Report, 1973.

3. Dacoities.
4. Arms Act.
5. District police and the executive magistracy.
6. Code of behaviour for police officers.
7. Police-public relations.
8. Women police.

SIXTH REPORT

1. Police leadership — The Indian Police Service.
2. Training of Indian Police Service officers.
3. Police and students.
4. Communal riots.
5. Urban policing.

SEVENTH REPORT

1. Organisation and structure of police.
2. State armed police battalions and district armed reserve.
3. Delegation of financial powers to police officers.
4. Traffic regulation.
5. The ministerial staff and administrative work in the police department.
6. Auxiliary to police — Home Guards.
7. Performance appraisal of police personnel.
8. Disciplinary control.
9. Role of the Centre in planning, evaluation and co-ordination.
10. Policing in the North-East.

EIGHTH REPORT

1. Accountability of police performance.
 2. Looking forward.
 3. Police Act.
 4. Epilogue.
-

No. F. 1-40/74-U. 1

Government of India
Ministry of Education & Social Welfare
(Department of Education)

New Delhi, dated the 2nd November, 1974.

To

.....

Subject :—Revision of salary scales of University and College Teachers.

Sir,

I am directed to invite a reference to Union Education Minister's letter dated March, 30, 1974 (Appendix I) to Education Minister on the subject mentioned above, and to state that the Government of India have decided to implement the scheme of the revised pay scales of University and College teachers in the Central Universities and other Institutes fully financed by the Central Government, with effect from January 1, 1973. A copy of the letter addressed to the University Grants Commission, together with its enclosure, is attached (Appendix II).

2. The Government of India would be prepared to assist the State Governments, who wish to adopt the revised scales of pay for University and College teachers in the States similar to those approved by the Central Government for Central Universities, to the extent indicated in para 3 below. The State Governments, after taking local conditions into consideration, may also decide in their discretion to introduce new scales of pay different from those adopted by the Central Universities from January 1, 1973 or a later date. In that case full details of the proposed scheme and pay scales as also the manner and conditions of implementation, financial implications, etc., may kindly be furnished to the Government of India to enable them to examine the proposals with a view to conveying their concurrence as may be called for, in consultation, as necessary, with the University Grants Commission. The pattern of Central assistance and conditions for meeting the balance of expenditure and taking over the entire responsibility for maintaining such revised pay scales with effect from April 1, 1979 will, however, remain the same as indicated in para 3 below.

3. In case the State Governments are willing to adopt the revised scales of pay in their Universities and Colleges (including Government colleges) as indicated in col. 3 of the statement at Appendix III, assistance to the extent of 80% of the additional expenditure involved in giving effect to the revised scales of pay, will be made available by the Government of India, subject to the following conditions:

- (i) Central assistance to this extent will be available for the period January 1, 1973 to March 31, 1979;
- (ii) the State Governments will bear the entire balance of expenditure and will not pass on the liability for any portion of it to the Universities or the Managements of private colleges; and
- (iii) the State Governments will take over the entire responsibility for maintaining the revised scales with effect from April 1, 1979.

The revision of pay scales, as suggested and payment of Central Assistance will be further subject to the conditions stipulated in Appendix IV.

Posts created after the date of implementation and pay scales higher than those adopted for Central Universities will not be eligible for Central assistance.

4. I am to request that necessary action to introduce the revised pay scales in Universities and Colleges in your State may kindly be taken at a very early date and proposals submitted to the Government to enable them to release their share of Central assistance.

5. The Government of India have also accepted the recommendation of the University Grants Commission regarding Professors of Eminence. Separate instructions on this subject will issue later.

6. The question of revision of scales of pay of Librarians and Directors/Instructors of Physical Education is still under consideration and a separate communication will follow.

7. The receipt of this letter may kindly be acknowledged.

Yours faithfully,

Sd./-
(R. S. CHITKARA)
DIRECTOR.

NOMINAL ROLL OF THE SECRETARIAT STAFF

Name	Designation	Date of joining Commission	Date on which relieved	Remarks
(1)	(2)	(3)	(4)	(5)
Shri C. V. Narasimhan	Member-Secretary	27-11-77	19-4-80	
Shri M. D. Dikshit	PDR Secy. Incharge	14-3-78	31-5-81	Functioning as Secretary Incharge & Head of the Department w.e.f. 20-4-80.
Shri V. P. Marwah	Jt. Secretary	8-5-80	31-5-81	
Shri Kailash Prakash	Jt. Secretary	1-4-78	31-5-81	He was appointed as OSD in the Commission on a fixed pay of Rs. 2,500/- from 1-4-78. Appointed as Joint Secretary from 4-12-79.
Shri V. N. Channa	Director of Research	20-5-78	31-12-79	
Shri D. Ramachandran	Director of Research	6-2-79	18-9-80	
Shri S. N. Misra	Director of Research	10-4-78	31-5-81	
Shri M. Mukherji	Director of Research	7-11-78	31-5-81	
Shri R. Srinivasan	Director of Research	6-10-78	31-5-81	
Shri Surendra Sharma	Asstt. Director of Research	5-8-78	31-12-78	
Shri A. K. Agarwal	Asstt. Director of Research	26-10-78	19-4-80	
Shri D. P. S. Chauhan	Asstt. Director of Research	3-11-78	21-11-80	
Shri S. C. Dwivedi	Asstt. Director of Research	13-10-78	31-3-81	
Shri P. C. Kanan	Asstt. Director of Research	28-4-78	15-9-80	Again from 1-11-80 to 31-5-81.
Shri N. C. Padhi	Asstt. Director of Research	15-12-78	31-5-81	
Shri H. S. Sachdeva	Asstt. Director of Research	29-4-78	31-5-81	
Dr. J. C. Madan	Asstt. Director of Research	15-7-78	31-5-81	
Shri R. C. Sharma	Asstt. Director of Research	19-7-78	31-5-81	
Shri Kuldip Singh	Dy. Supdt. of Police	4-10-78	31-5-81	
Shri Hari Chand	Under Secretary	16-1-78	31-5-81	
Shri Satya Paul	PS to Chairman	18-1-78	31-5-81	
Shri R. Natarajan	PS to Member-Secretary	1-2-78	6-9-79	
Shri B. R. Puri	PS to Member	2-3-78	31-5-81	
Shri S. V. Ramani	PS to Member	10-3-78	31-5-81	
Shri Har Gopal	Section Officer	23-1-78	31-5-81	
Shri N. K. Mann	Dy. Supdt. of Police	14-6-78	31-5-81	
Shri I. J. Mittal	PS to Member-Secretary	23-1-78	31-5-81	Formerly he was PA to Member-Secretary from 23-1-78 to 30-12-79. From 31-12-79 appointed as PS to Member-Secretary in the Commission.

(1)	(2)	(3)	(4)	(5)
Shri S. Duraiswamy	Steno Grade 'B'	27-3-78	31-5-81	
Shri A. R. Harea	Research Assistant	6-6-78	18-9-80	
Shri U. D. N. Sidhwani	Assistant	23-1-78	31-5-78	
Shri R. P. Vasishtha	Assistant	1-2-78	18-2-81	
Shri A. K. Roy	Assistant	14-12-78	1-6-79	
Shri Dina Nath Sharma	Assistant	16-1-78	31-5-81	
Shri C. M. Nagarajan	Do.	25-1-78	31-5-81	
Shri D. N. Sharma	Do.	10-1-78	31-5-81	
Shri Bal Kishan	Accountant	25-1-78	31-5-81	
Shri V. K. Gupta	Assistant	3-2-78	31-5-81	
Shri S. N. S. Rawat	Do.	1-3-78	31-5-81	
Shri K. S. Rawat	Do.	8-11-78	31-5-81	
Shri Rulia Ram	Do.	1-8-79	31-5-81	
Shri Khushal Chand	Do.	23-10-78	31-5-81	
Shri C. M. Sharma	Do.	23-10-78	31-5-81	
Shri B. B. Agarwal	Do.	27-1-78	31-5-81	
Shri Sarjit Singh	Steno Gr. 'C'	23-2-78	12-7-78	
Shri P. D. Kalarikkal	Do.	1-4-78	5-7-80	
Shri Dev Raj	Do.	1-2-78	31-5-81	
Shri P. S. Kohli	Do.	24-1-78	31-5-81	
Shri R. K. D. Kapoor	Steno Gr. 'C' (Sel. Grade)	8-2-78	31-5-81	
Shri S. S. Washist	Steno Gr. 'C'	23-12-78	31-5-81	
Shri B. D. Jain	Do.	21-3-78	31-5-81	
Shri Ajit Kumar	Do.	1-12-78	31-5-81	
Shri R. C. Arora	Do.	10-3-78	31-5-81	
Shri S. P. Bhardwaj	Do.	13-2-78	31-5-81	
Shri R. S. Verma	U.D.C.	10-3-78	16-3-81	
Shri M. P. Singh	Do.	23-1-78	28-2-81	
Shri S. P. Nautiyal	Do.	12-1-78	31-5-81	
Shri N. K. Sehgal	Do.	1-2-78	31-5-81	
Shri J. P. Bhatt	Do.	9-1-78	31-5-81	
Shri R. K. Sharma	Do.	27-9-79	31-5-81	
Shri J. L. Sharma	Do.	1-2-78	31-5-81	
Shri B. P. Misra	Steno Gr. 'D'	10-1-78	10-5-78	
Shri D. K. Bhatnagar	Do.	14-2-78	3-10-78	
Shri P. P. Madhavan	Do.	8-3-78	16-4-80	
Shri Rakesh Kumar Piplani	Do.	25-2-78	17-8-79	
Shri A. Mohanan	Do.	17-8-78	25-8-80	
Shri T. V. Janardhan	Do.	15-2-79	30-10-79	
Shri U. C. Gupta	Do.	22-1-78	16-3-81	
Shri T. S. Pandian	Do.	9-2-79	31-3-81	
Shri N. D. Rajan	Do.	14-3-78	31-5-81	
Shri A. S. Vedi	Do.	27-12-78	31-5-81	
Shri Pishori Lal	Do.	1-9-79	31-5-81	
Shri Kanwar Pal	Do.	11-9-79	31-5-81	
Shri Ram Lagan Prasad	L.D.C.	17-3-78	31-5-81	He was formerly a Daftry. Appointed as L.D.C. from 29-3-79.

(1)	(2)	(3)	(4)	(5)
Shri S. L. Sharma	L.D.C.	17-10-79	31-5-81	
Shri Jai Singh	Do.	1-3-78	31-5-81	<i>Ad-hoc</i> L.D.C.
Miss Veena Kumari	Do.	21-5-80	31-5-81	<i>Ad-hoc</i> L.D.C.
Shri Mohana Krishana	Do.	7-12-78	31-5-81	
Shri D. S. Sharma	Do.	15-9-78	31-5-81	
Shri V. S. Perumal	Do.	3-2-78	30-9-80	
Shri Ramesh Chand	Do.	28-1-78	28-8-78	
Shri Ram Rattan	Do.	1-2-78	31-7-79	
Shri H. S. Rawat	Do.	1-2-78	5-5-80	
Shri M. L. Sikka	Do.	7-12-78	17-10-79	
Shri P. Ahmad Jan	A.S.I.	12-4-78	30-9-80	
Shri Nageshwar Prasad	G. Operator	11-4-78	30-4-80	
Shri Chander Singh	Head Ct.	18-7-78	23-10-78	
Shri Om Prakash	Sweeper	11-10-78	31-3-81	He was a casual worker on daily wages.
Shri Hem Chand	Peon	19-4-78	31-3-81	He was on daily wages from 19-4-78 to 25-10-79.
Shri Inder Singh	Peon	28-4-78	31-3-81	He was on daily wages from 28-4-1978 to 25-10-1979.
Shri Chander Singh	Const. Driver	25-10-78	22-12-78	
Shri Raj Kumar Tripathi	Constable	16-11-78	12-1-81	
Shri Jai Narain	Do.	5-4-78	18-1-80	
Shri A. Ethirajan	Do.	4-1-78	31-5-80	
Shri G. Ramaswamy	Do.	1-4-79	30-8-80	
Shri Dharam Singh	Do.	2-9-78	9-5-79	
Shri Narindra Kumar	Do.	1-5-78	26-12-78	
Shri Bahori Singh	Do.	15-7-78	10-3-80	
Shri Panna Lal	Do.	28-11-78	12-8-80	
Shri B. V. Madhavan	Do.	4-12-78	22-6-80	
Shri Ram Krishan Sharma	Peon	23-1-78	19-10-79	
Shri Sumer Singh	Head Ct.	1-5-78	31-5-81	
Shri Sube Singh	Const. Driver	2-3-78	31-5-81	
Shri Shyam Singh	Constable	1-1-79	31-5-81	
Shri Chakravarty Joshi	Do.	13-2-79	31-5-81	
Shri V. I. Yacob	Ct. Driver	4-3-80	8-5-81	
Shri Chhotu Ram	Constable	6-8-79	31-5-81	
Shri Shishpal Singh	Do.	3-9-78	31-5-81	
Shri Harnam Singh	Do.	7-3-80	31-5-81	
Shri S. P. Misra	Do.	10-11-78	31-5-81	
Shri Raj Gopalan	Do.	13-10-80	31-5-81	
Shri C. N. Tewari	Do.	17-9-79	7-5-81	
Shri Karamjit Singh	Do.	12-9-80	31-5-81	
Shri Pugal Kishore	Do.	6-5-78	31-5-81	
Shri Pushp Raj	Do.	1-12-78	31-5-81	
Shri Kishan Lal	Do.	15-6-79	31-5-81	
Shri Rakesh Chander	Do.	8-9-80	31-5-81	
Shri Khub Ram Verma	Do.	29-9-80	31-5-81	
Shri Sohan Singh	Ct. Driver	18-12-80	31-5-81	

(1)	(2)	(3)	(4)	(5)
Shri Chandan Singh	Ct. Driver	9-5-78	31-5-81	
Shri Inder Singh	D/R	15-5-78	16-6-80	
Shri Ram Dhan	Constable	12-7-78	19-7-78	
Shri Niranjana Singh	Do.	13-2-79	24-5-79	
Shri Anand Singh Bora	Peon	2-6-78	31-5-81	
Shri Vijay Kumar	Do.	8-3-79	31-5-81	