

# ROLE OF POLICE IN THE ELIMINATION OF CRIME: A LEGAL STUDY

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## CHAPTER-ONE

### INTRODUCTION

#### 1.1. ORIGIN OF THE WORD POLICE

The term "police" originates from the Greek word "Polis," which refers to a city. The circumstances of the state or the administration are referred to as the Politeia in Latin. It is essential to keep in mind that, in administrative parlance, the police are regarded as an executive civil force of a state and are assigned with the responsibility of keeping public order and enacting laws to minimize crime. It's possible that man's very existence resulted in the establishment of the police force. Oxford Dictionaries describes it as "a regulation system for the preservation and enforcement of the law." A person paid to carry out their responsibilities and actions, which they may choose to undertake willingly, was defined as a police officer by the Royal Commission on the Police Powers and Processes in 1929. This definition was published in the United Kingdom. Keeping order in a society that is constantly shifting is the focus of the science of policing. It is no longer permissible to adhere to policing tactics and attitudes that were prevalent in the past if one wants to uphold an outdated policing ideology. Because of this, it is essential to comprehend how it has evolved and progressed to reach its current condition. Before that time, it would be more important to research the factors and events that led to the formation of the modern police force, as well as an analysis of the force's organizational structure and job responsibilities.

#### 1.2. HISTORICAL BACKGROUND

The role of police in our criminal justice system, the job of the police is to stop, find, investigate, and catch criminals. This is sometimes called "enforcing the law." The police do this job within the limits of the Constitution and laws, and they do it with the idea that their work is for the protection and well-being of the people. Crime may be committed within sight of the police, and some are never reported. The police can investigate criminal activity, bring charges against those responsible for breaking the law, initiate criminal proceedings, and assist prosecutors in their job. Notwithstanding India's dedication to the rule of law, the police force is transforming significantly. Since India gained independence in 1947 and became a Republic in 1950, the country has dramatically transitioned from a police state to a welfare state. However, recent unprecedented changes in the country's governance have been witnessed, with coalition politics playing a significant role. This has essential vital questions about the difficulties faced by police in today's welfare state, given the ever-changing legal framework. There has been a dramatic shift in the dynamic

between the political Leaders and the public workers, especially the police. Further recent developments have been noted, which may not bode well for the future of the country's democratic institutions. Because the Supreme Court serves as the ultimate arbiter, law enforcement agencies frequently find themselves on the receiving end of the court's interpretations. The police serve as protectors and saviours of society by conducting investigations using scientific techniques, staying away from questionable practices, acting professionally, and acting quickly. The police force's principal responsibility is to uphold the law and protect the public. The purpose of a police state in a welfare state. Law and order are the only things that the state exists to safeguard. The police are instrumental in carrying out this duty. This is still considered a role for a sovereign government. This is the essential role that the state plays. There are various policies that the state must enact in the interest of the general public. To achieve this goal, the police force in a democratic society must be able to effectively prevent, detect, and investigate criminal activity; keep the peace; safeguard citizens' lives, freedoms, honour, and property; apprehend and punish wrongdoers; and serve the public with integrity and objectivity. Although formerly static in importance, the police now occupy a more central role due to the evolving nature of internal security threats. State of governance within the increasingly precarious internal security situation in large parts of the country; consequently, it is urgently imperative to secure a police organisation that is structurally cohesive, functionally competent, and operationally oriented to fulfil the organisation's broad goals in providing efficient and qualitative services to the people; in doing so, the police must maintain the highest standards of integrity in the profession. The Indian police are governed mainly by the Police Act of 1861, enacted to make an even more effective tool in the fight against crime. Each state government is authorised to form its police force under the Police Act. According to Section 3 of the Police Act, the State Government can supervise the police. Law enforcement's two primary responsibilities are keeping the peace and looking into investigating activity. The police, who work with the prosecutor to gather evidence against the accused, serve as the investigative agency in India's criminal justice system. During investigations, police have a great deal of leeway. They understand via experience and education that sometimes, the best way to resolve crimes is through casual conversation. Some reported crimes are investigated thoroughly and quickly, while others receive either a cursory examination or none. Local enforcement policy informs these decisions regarding where to focus investigations; this policy is shaped by several factors, including the resources available to law enforcement and the relative seriousness of various crimes in the eyes of law enforcement; judicial decisions reflect the views and opinions of the local populace. After all, the premise that people who breach predetermined norms of conduct should be subject to appropriate punishment under criminal law is the bedrock of the criminal justice system.

Because most places have much crime and not many police officers, the police's ability to act on their own is a powerful part of law enforcement. When people decide not to look into or handle some cases of wrongdoing that are technically criminal in an informal way, like by talking about it and warning, many criminal cases don't go any further in the system. When you add up the cases that are never reported and those that are handled "in-house" by the police (that is, the cases that are not sent to prosecutors), you get a minimal number of criminal cases taken to court.

- *Prakash Singh v. Union of India*<sup>1</sup>

The police force is being reformed thanks to the work of many commissions. Nevertheless, for any of these suggestions to improve how the police in the country do their jobs, the government would have to make meaningful efforts to adopt them over time. Senior police officers and other concerned citizens banded together in 1996 to file public interest lawsuits with India's highest court after feeling disillusioned and betrayed by the system. The first petitioner, Prakash Singh, was a highly decorated IPS officer who served as the top cop in Assam, Uttar Pradesh, and the Border Security Force. In light of the widespread distress caused by the government's inactivity and seeming unwillingness to address the issue, the Supreme Court agreed to hear the case. It requested a response from all parties involved, including the government of India. In 2006, after hearing extensive arguments, the Supreme Court established definite rules for the conduct of police officers in the country and the police force in general since there had been no such rules before the court's establishment and until that point. The Judges noted:

- *“21. Considering the seriousness of the issue, (ii) the pressing need to protect and bolster the Rule of Law, (iii) the fact that this petition has been pending for over a decade, (iv) the fact that numerous Commissions and Committees have proposed similar reforms to the country's police structure, and (v) the complete lack of certainty regarding when these reforms will be implemented, we believe that further delay would be unacceptable and urge that immediate action be taken. It is also worth noting that the efficiency of the police force has a major impact on the state of the country's criminal justice system. Hence, the required directives must be issued in light of the greater public interest.”*<sup>2</sup>

The States, responsible for law and order under the federal structure of things in India, rejected even a letter written by the union Home minister in 1997 due to the woeful lack of interest in police reforms. There was a statement from the Supreme Court on it:

- *“15. About a decade ago, on August 3, 1997, a union home minister sent a letter to the State Governments describing a troubling situation and saying that it must be fixed if the Rule of Law is to be upheld. Even though many Commissions, Committees, and even the country's Home Minister have given strong opinions, the situation has not changed because these opinions have only been written down, and nothing has been done with them. The situation has become even worse.”*<sup>3</sup>

One of the essential directions was to keep the police from feeling any pressure, which was primarily political in nature so that the police could professionally do their jobs. This is an excellent example of a passage that talks about protecting the police and defending the rules:

- *“23. We can only hope that the Central Government will prepare a model Police Act and that the State Governments will pass new Police Acts providing therein for the composition of State Security Commissions. Similarly, we can only express our hope that all State Governments would rise to the occasion and enact a new Police Act wholly insulating the police from any pressure whatsoever, thus*

<sup>1</sup> Prakash Singh case, as reported in 2006 Indlaw SC 514, paragraph 21 1998 1 SCC 226

<sup>2</sup> *Ibid*

<sup>3</sup> *Ibid*

*putting in place an important measure for securing the rights of citizens under the Constitution for the Rule of Law, treating everyone equally and being partisan to none, and also helping to secure an efficient and better criminal justice delivery system. Expressing this desire and waiting for additional developments is neither sufficient nor appropriate. Establishing regulations will remain in effect until the new laws are passed at the state level.”<sup>4</sup>*

The Supreme Court made several important recommendations, including the separation of investigation and law and order, a minimum tenure for senior police officers, the establishment of a State Security Commission led by the Chief Minister of each state and including the Director General of Police, the establishment of a Police Establishment Board and Police Complaints Authority to handle issues involving junior and middle-level police officers, and the establishment of a National Security Council. On December 31, 2006, compliance was required with the directives.

There has been a long-standing demand from police personnel, reflected in several recommendations from reforms committees and the Law Commissions, that investigation be separated from law and order. This is because the entire police force spends so much time maintaining law and order that there is little time left for severe and proper investigation, which weakens the country's criminal justice system. In the Prakash Singh case, the Supreme Court ordered the complete disconnection of investigations from police enforcement. Despite such a directive from 2006, there has been no clean break.

Recently, in the case *State of Delhi v. Ashok Kumar Jain*<sup>5</sup>, the Delhi High Court voiced severe concerns regarding the competency of police officials in carrying out inquiries, whether from a lack of training or an inability to execute one's duties.

The Delhi High Court made the following observations:

*“9. We are appalled at how the investigating officer handled this case. Because of how this case was investigated, we can declare that this officer lacks even the most fundamental skills and knowledge required to investigate criminal activity... As it turns out, the Investigative Agency's inability to commit such major mistakes is not unique to this one case. This is primarily due to the incompetence of many police officers who have been given the responsibility of investigating any crime and secondarily due to the government's unwillingness to separate the investigation from law and order, as the Hon'ble Supreme Court has repeatedly directed them to do since the authoritative pronouncement in Prakash Singh vs Union of India<sup>6</sup>.*

The Rule of Law cannot exist without a robust and efficient criminal justice system. The criminal justice system is made up of the following institutions: the police (investigation), the prosecutor's office (prosecution), the courts (trial), and the penal institution (punishment and reforms). Without question, the

<sup>4</sup> Prakash Singh case, as reported in 2006 Indlaw SC 514, paragraph 23

<sup>5</sup> *State of Delhi v Ashok Kumar Jain*2005[8] ad 446 [Del]; Delhi High Court; 07 February 2014; Bench: Kailash Gambhir and Sunita Gupta, JJ.; Reported in 2014 Indlaw DEL 707

<sup>6</sup>(2006) 8 SCC 1; 2006 Indlaw SC 514 and various recommendations made by Law Commission of India in this regard.”

police play a crucial role in quelling violent outbreaks and eliminating immediate dangers to public safety. Police indeed play an essential role in maintaining public safety, but other parts of the criminal justice system are much more critical for the long-term stability of our communities. Those who abide by the law are safeguarded by the criminal justice system, while those who could transgress the law are discouraged. To be effective, the criminal justice system must ensure that those who commit crimes are brought to trial as soon as possible and that those found guilty get both proportional and deterrent punishments. Our performance in this area should be better; we have a history of delays, rising pendency, and decreasing conviction rates. There is a seemingly endless supply of cases in which criminals, even those responsible for the most terrible crimes, walked free. This was the observation of India's previous chief justice:

“The criminal justice system is on the edge of imploding for many reasons. The State's <sup>17</sup>executive branch will have to shoulder some of the load. The apparatus for investigating and prosecuting crimes has not seen considerable progress. Notable recommendations, such as the disentangling of the Investigative division from Law & Order responsibilities and the revision of the standards of evidence, have been ignored. We should all be shaken by the public's fury over the criminal justice system's failure in certain recent high-profile instances. Still, we should also avoid knee-jerk reactions and remember that law is a serious business.”

## **CHAPTER-TWO**

### **POLICE AND CRIMINAL PROCEDURE GLOBAL SCENARIO**

#### **2.1. ANCIENT POLICE**

##### **2.1.1. Police in Ancient India**

The rule of law and the administration of justice have existed in India ever since the Vedas were recognised as the absolute embodiment of Dharma, despite the common misconception that the police in India is a British invention.<sup>8</sup>Evidence from the Harappan culture suggests the existence of security organizations. The Indus Valley Civilization established trading outposts along the coast so that ships could be repaired and brought in when in trouble. When people move away from rural areas and into cities, they face new challenges and must find ways to maintain a sense of calm inside themselves. Statues of several gods, such as Indra, the God of Thunder, and Shakti and War, the Mother Goddesses, were placed in various areas. Another race, the Aryans, arrived in India during the same period through the Khyber Pass and quickly integrated into Indian society. The Vedic Era in India, characterised by a pastoral way of life and commitment to religious books known as The Vedas, may be traced back to the Aryan influence. The Brahmana (priests and academics) rose to the top of society, followed by the Kshatriya (warriors) the day after, the Vaishya (merchants and farmers), and the Shudra (the lowest caste) (labourers).Probably the lowest caste was the Dalits, the untouchables, who handled waste and various types of meat<sup>9</sup>.In the beginning, it appears this particular caste system was simply a manifestation of one's occupation, but, in

<sup>7</sup> *Ibid*

<sup>8</sup> Giriraj Shah, *The Indian Police- A retrospect* 9 (Himalaya Publishing House, Bombay, 1992).

<sup>9</sup> Available at: <http://www.ancientsu/india/> (visited on 26 february 2023)

time, it became much more rigidly interpreted to be based on one's birth, and one was not permitted to replace castes either to marry into a caste apart from one's own. This in-depth comprehension gave rise to the belief that there is an everlasting order to human life defined by a superior god. The religion, agriculture, and ferocity of the Aryan civilisation all contributed to their success as a people. A grama (waggon train) was their typical political unit, and a tribe was composed of individual gramas under the direction of a king or chieftain. The earliest Vedic Aryans were from the same group that developed the Chariot, and they embarked on one of the most significant invasions and migrations in human history. A warrior category operated their Chariots of theirs, the costly wonder tool of its day. The mobile chariot was a significant technological advancement over its donkey cart ancestor and provided an additional military advantage to the Aryan warrior class. Iron weapons were also carried by the invaders and used on their chariots. Iron is a great asset to the invading forces since it is more durable and easier to transport than copper or bronze. Invasion by the Aryans wiped out not just the sedentary people but also their culture. As the Aryans mingled with the Indians, they produced a new civilisation. The nomadic tribes were still actively shaping society and government from the very beginning. The Aryans formed a semi-nomadic civilisation based on herding; a closed category system was imposed. The Vedic Aryans founded multiple rival kingdoms, each skirmishing, changing and battling alliances to govern their neighbours' persons and land. Heavy chariots had previously dominated the battlefield, unlike Egypt's sleek, fast, two-wheeled chariots. The traditional Indian chariot was a massive, four-wheeled war vehicle pulled by four to six horses. They weren't deployed to outflank foes but to charge straight into enemy ranks and obliterate anyone unlucky enough to be in their path. Two to six men rode in each chariot, using the 6-foot height advantage to hurl arrows down on the opposing forces. On the other hand, soldiers armed with spears made sure no outsiders managed to board. The Indians developed scythe-drawn chariots shortly after that. They had curved blades attached to the wheels and could dismember and kill anyone unlucky enough to be in their path.

Early Indian soldiers mostly used bows, but javelins and slings were also used as ranged weapons during the Vedic period. In close combat, swords, axes, and spears were used. However, as the many warring kingdoms fought for more power, many weapons and tactics were created, such as the first use of battle elephants in history.

The duties of the King or the Raj Dharma have been discussed in the Samritis and Vedas. The king's subject matter was made to help him prevent and detect crime. As enunciated in Shastras and Vedas, the duties of the raja revolve around the can think of policing, army and spying. The upkeep of order and law for thenation andthe safety of individuals from international aggression, having and locating the criminals punished, had been the primary jobs for which the institution of governance and raja had been produced. The earlier Vedic Samritis elaborate the insecure living conditions of the pastoral Vedic group that continuously beseeched the celestial deities to defend them as well as their substance belongings not simply from natural calamities but additionally from man marauders. Duties have been supplied for the

individuals of all Varnas. The raja had especially recommended duties as their conduct of his was to blame for the health and happiness of their subjects of his.

In Vedas, Indra has been provided as a raja, and the other Gods, Varuna, Sun, Agni, and Aswani, are high ministers to assist him in his governance. In the distribution of portfolios, Agni is the minister in charge of ambassadors and spies; Varuna is the minister in charge of the Police department. Varuna had three kinds of handcuffs for arresting the culprits of 3 types significantly hardened criminals, casual criminals and ordinary criminals. Varuna is directed to stop the criminals and leave the gentlemen. In other words, the activities of Varuna or maybe the Police include finding criminals, arresting them, getting them punished by the competent authority, and placing them behind bars after conviction. The Rig Veda explicitly mentions thieves (Satayas or maybe Tayas) and robbers (Taskarr). Manu created this idea of crime, and Manu Smriti was the first exposition of the Hindu legal system and proclaimed the essential law governing community relations. Manu classified crimes under 18 heads which included betting, gambling, violence, adultery, robbery, theft, defamation, assault etc. References to the police system are also found as early as the laws of Manu. According to these laws, a king's chief duty is restraining violence and punishing evildoers.<sup>10</sup> He's to keep up patrols and police stations or even fixed posts and maintain spies.

Manusamriti mentions the art of secret intelligence prevalent in the ancient period for the prohibition and detection of crime with the help of soldiers and spies.<sup>11</sup> The judiciary and police were the two most important wings of the state administration talked about in Manusamriti. In the Vedic period, when states were little and the king directly administered justice, the police were an essential product component. But with time, police responsibilities widened, and a diverse organisation had to be produced. Manu's police are split into two functional departments: the Criminal Investigation Department and the Law-and-Order Wing. The Criminal Investigation Department is even more divided into specific crime branches. The crime branch had two responsibilities: collecting criminal intelligence and investigating crimes. The unique branch was entrusted with collecting intelligence for the security of essential dignitaries, safety and prevention of economic offences and undertook espionage. Manu calls the city police chief Nagar Rakshadhikrita. He advised the king to publish in every community an officer exalted in position, imposing it looks like the world among the stars. He's discussed as 'Nagarraksha-dhikrita' in Sudraka, Nagarakh in Nagarika and Arthshastra in Gupta's Kalidasa. He wasn't just accountable for crime control but also pursued the rebels. Police officers were detailed to view the rendezvous of antisocial components like town outskirts, vacant houses, theatres, brothels, inns, hotels, sweet-meat shops, water houses, and lodges. Batches of secret agents and stationary police officers had watched them.

Manu said there should be police stations or police pickets for every two, three, five, or even more villages. From the old Sthanakas came the police stations of today. Someone the king put in charge of finding

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<sup>10</sup> Dr. Deepa Singh, *Human Rights and Police Predicament* 59 (The Bright Law House Delhi, 2002)

<sup>11</sup> Dr. Dalbir Bharti, *Police & People Role and Responsibilities* 8 (APH Publishing Corporation, New Delhi, 2006).

crimes or finding out who did them was called a Suchaka or maybe an Investigating Officer. The Katyayana Smriti also suggests that there was something like modern police to help the king keep order.<sup>12</sup>

Around 1000-500 BC, two old Indian epics were written, the Mahabharata and the Ramayana. Both epics are about wars and fights between small kingdoms and tribes. They talk about different military formations, ideas, and strange weapons. The Mahabharata talks about the Pasa, a triangle-shaped noose made of rope and iron balls for fat used to choke people. The Sudarshana Chakra is another example. It is a weapon made of a spinning disc with a sharp edge thrown at the enemy. Several of these weapons have been linked to the Hindu religion. For example, the Chakra is an item that belongs to the Hindu god Vishnu and is made by Vishvakarma, who is known as the architect of gods. Some other examples are hammers on the end of 5-foot poles and iron clubs with eight sides.

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<sup>12</sup> Dr. Dalbir Bharti, *Police & People* 8 (APH Publishing Corporation, New Delhi, 2006)



### 2.1.2. Ramayana Period

The Valmiki Ramayanafurnishes glimpses of police officers on patrol, spies, and security guards. Ramcharitmanas is filled with instances of the presence of spies.<sup>13</sup> The ApastambhaDharamasutra prescribes that the king must find no risk from thieves in forests and villages. It tells the king to appoint truthful and pure officers to save the subject matter from thieves. The first instance where it mentions the presence of method is the incident when Sati went to her father of her despite Shiva having not agreed to her going there as they weren't invited by Daksha (Sati's father) for the Yagya being carried out by him. Subsequently, to ward off a few untoward incidents, Shiva sent a few of his spies there to watch what happened. When Sati gave up her life of her given Daksha, having insulted Shiva, the spies created a disturbance in the Yagya and narrated the general happenings to Shiva on return. The following incident is when Sati becomes Parvati in the rebirth of her and wishes to have Shiva as her husband of her; Shiva sends Saptrishis to evaluate her bonafides in her having undertaken to marry Shiva just, and the reports back to Shiva about the profound goal of her of having Shiva as her husband, Similarly, in another event at Ram's birth, Shiva had come incognito as a Brahmin to have his darshan. The method of spies continued all along the phase of Ram Rajya. At the time of Sita's sayamvar, Janak's spies advised Janak of Ram, Lakshman and Vishwa Mitra's arrival. Then Janak came to get them officially, and likewise, all happenings in the marriage might be recognised by Janak through their spies of his.<sup>14</sup>

### 2.1.3. Krishna Period

Material about the Krishna period is readily available in Srimad Bhagwat; apart from Krishna, there are mentions of all different incarnations and the rajyas of the Puranic period. Raja Pruthu was coroneted despite being a younger era after the erstwhile Raja Vena was dethroned and murdered as his principal was extremely oppressive that even therakshas, thieves, wild animals and bandits feared his existence of his. Hewasn't conducting the kingdom of his well. Thus, the Rishis killed him and coroneted Raja Pruthu. Raja Pruthu was an extremely capable raja and used to tour his kingdom with a Dhanushban in his hand so that a reason, if any, was discovered may be murdered there and then. He ruled his kingdom with the help of the spies of his that used to report even the minutest issue for the thought of his. Likewise, there are mentions of another King being replaced by his son Prahlad, as the king was uncaring and cruel to his folks. There were sufficient spies in Kansa's rajya, and he could understand the birth of Krishna and unsuccessfully directed many of his spies to kill him. Jarasandha had been attacking Dwarka after finding out through his spies that Krishna wasn't in Dwarka, whereas Krishna used to get all the info through his spies.<sup>15</sup> There's mention of spies during the Krishna period at some other places, too, such as:

- Krishna also sent Akroor as his spy to examine the behaviour of Dhritrashtra towards Pandavas.

<sup>13</sup> Anandswarup Gupta, *Crime and police in India* [Upto1816] 1 (J.J.Offset Printers, Delhi, Reprint Edition, 2007)

<sup>14</sup>Devi Dyal Aggarwal, *CBI and Policing in India* 18 (Kaveri Books, New Delhi, 2000)

<sup>15</sup> Supra note 164 at 33.

- Pandavas had a network of spies while living incognito in forests. They also received all of the info about the happenings all around through their spies and came to find out about Draupadi's sayamvar in Panchal through spies.
- Kauravas tried to locate Pandavas during their thirteen-year exile through their spies but in vain.
- In Mahabharata, spies of each party collected info about the preparedness of the other party and then passed on the information.

#### **2.1.4. Mauryan Period**

At that time, Chandra Gupta Maurya arrived on the scene. The Prime Minister of his was Chanakya (Kautilya). His Arthashastra is world known policy on governance. Chandra Gupta Maurya became ruler of India with the direction of his only. He initially became ruler of Magadha and then extended his Kingdom, defeating Seleucus, the Greek ruler of the North Western area. In Arthashastra, there's a detailed narration of the raja's duties, diplomacy, economic management, war strategy, spies' network etc.<sup>16</sup>

Based on Chanakya, the accomplishment of a king mainly depended upon the advisers of his ministers etc. Thus, the tasks of spies weren't just concerned with common criminals. The king's ministers and army commanders were to be spied upon.<sup>17</sup> The ministers had to be correctly selected and trained. At the time of their choice of theirs, their antecedents of theirs, family history, and capabilities of theirs must be examined. Likewise, all governor's/commissioners' antecedents must be verified. Their worth and integrity must be got checked by spies. For this particular purpose, the raja should appoint ladies and gent spies. And also suggests that firstly the girls were literate during that period and worked with males in all areas. As these spies were King's eyes, it was stipulated that the King must find out each day at night from the spies the intentions and actions of his officers and subjects and the views of the ministers, enemies, soldiers, the members of the assembly, associations and the females in harem. Chanakya emphasised the necessity of capable spies and the trained/confident, viewed as the empire's backbone. The Arthashastra describes two types of spies, i.e., stationary spies, Sanathah, Sancharah, or even wandering spies.

#### **2.1.5. Ashoka period**

India under Ashoka witnessed an intensive paternal spirit of administration. The Maurya viceroy was a Kumara of royal blood; a council of ministers and judicial and police officers assisted him. Even an executive Officer was there implementing the emperor's verbal directives. Even Ashoka, that had become benevolent after the Kalinga war dealt with the criminals recognised by spies in his kingdom quite severely. Immediately after the conquest, the individuals of Kalinga were under martial rule and then were subjected to sudden arrests (Akasma Vandhana), coercion and very long imprisonment.<sup>18</sup> The key officials were the Mahamatra, the Rajjukas, the Pulias, the Pradesikas, the Yutas, the Ayutas, the Vachabhumikas, the Pratedakas, the Dutas and the Lipikars. The policy process under Asoka may be summarised as follows.

<sup>16</sup> Dr. Dalbir Bharti, *Police and People Role and Responsibilities*, 7 (APH Publishing Corporation New Delhi 2006).

<sup>17</sup> Sir Percival Griffiths, *The History of Indian Police*, 11 (Ernest Benn Limited, Bombay, Allied Publishers Private Limited, 1972).

<sup>18</sup> K.K. Mishra, *Police Administration in Ancient India* 28 (Mittal Publications, Delhi, 1987).

The Mahamatras were the highest executive officers in the provinces (outlying territories) and were responsible for the general peace and order. They were of different types, and those used in Kalinga were of the cadre of the Anta Mahamatras, meaning the ministers of outlying territories. The Dhamma Matarashas been a category of highly significant ministers that used to work as censors of public morals. They, along with Dhammayutas, who were subordinate to them, were used to look after the moral and spiritual advantages of the individuals and were provided with a protective mission and then worked among masters and servants, Nigranthas and brahmans, the powerless and the aged as well as helped all to free themselves from worldly cares. They might therefore be viewed as spiritual police officers working under the division of law of piety. These officers were also empowered to revise the sentences of delivery or imprisonment and significantly reduce penalties or grant release on humanitarian consideration. Under them, the Pradesikas had been used to compile revenue, maintain peace and administration and order of justice. The Rajjukas came next to the Pradesikas and were in charge of the welfare and happiness of the Janapada, an administrative division of the province with absolute powers in issues of punishment and reward. The Rajjukas were under the surveillance of Pulisas. The Pulisas were on active vigilance duties on the affairs of other officers and the Rajjukas.

### **2.1.6. Gupta Period**

After Kanishka, India split into small kingdoms. The arrival of Gupta period began with Chandra Gupta as the first emperor. In the Gupta period, Chandra Gupta, Samudra Gupta, and Chandra Gupta II (Vikramaditya) were the essential rulers, who ruled the nation from 320 A.D. to 415 A.D. After Chandragupta, Samudra Gupta became the King, he conquered the kingdoms in the southern area but rather than annexing them in the empire of his, he kept them as vassal states and held Aswamedhayagyas in which all of the vassal states acknowledged the emperor's sovereignty. Generally, there was no rebellion in their time of his as he'd a great web of spies published in the kingdom of his as also in the vassal states of his, though the vassal states had been provided autonomy in internal governance. The spies used to keep the emperor informed of probably the minutest happenings in the state, detected criminals and got them punished.

The administrative institutions grew considerably during the imperial Gupta, and political ideas underwent extensive changes. Samudragupta declared he was God and compared himself with Dhanada, Varuna, Antaka and Indra. He called himself an incomprehensible being or maybe Achintya Purusha and God dwelling in this world (lokadhama Deva). The administrative devices under the Guptas were therefore considered sacrosanct. Fahien, a Chinese traveller, visited India during that period (he arrived during the reign of Chandragupta II Vikramaditya) and provided info about the Gupta period. He's created that folks had been extremely prosperous.<sup>19</sup>

They didn't have to report about the inmates in their houses of theirs, as was the process during the Maurya period. Generally, there was no crime, nor had anyone go to Magistrate. People may travel in high ways with no fear. Also, he mentions that the individuals were happy and prosperous; they don't have to register

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<sup>19</sup> Supra note 214 at 26

households or perhaps attend to any magistrate and their rules; just those that cultivated the royal land had to spend a percentage of the gain from it. Anyone might live in the city and leave the town whenever they desire. There seemed to be no method of corporal punishment neither was there a death sentence in existence. Punishments were given on a pecuniary foundation based on the circumstances of each situation. The criminal laws were much more humane than in the Mauryan period. Fa Hein writes about the total safety of the travellers on the street, although he was a few times robbed by footpads. This was in contradiction to what existed in the Maurya period. Several top posts were hereditary in character, while the same persons usually held military and civil offices. Provincial governors and district officers have been helped by officials such as Dandika, Prathama Kayastha, Prathamakulika, Sarthavaha, Nagara Shrishti, Dandaparika, Chauroddharanika, Pushtapala etc. Of these officials, the dignitaries as Dandika, Dandaparika and Chauroddharanika were police officers.

## **2.2. MEDIVAL POLICING**

### **2.2.1. Global Scenario**

In mediaeval Spain, especially in Castile, "brotherhoods," also called "hermandades," were armed groups working together to keep the peace. Since most mediaeval Spanish kings couldn't keep everyone safe, municipal safety leagues started to form in the 12th century. They fought bandits, other criminals in the countryside, and lawless nobles and people who wanted to take the crown. These businesses were meant to be temporary, but they stayed in Spain long. The first known case of a hermandad was when the peasants and the towns of the north worked together to protect pilgrims on the road to Santiago de Compostela in Galicia from robber knights and keep the pilgrims safe. During the Middle Ages, groups of towns often made these alliances to protect the roads that connected them. They were also often made for political reasons. One of the most effective was the Hermandad de las marismas, comprised of Villarreal, Talavera, and Toledo.

With the end of the War of the Castilian Succession in 1479, Isabella and Ferdinand took immediate steps to construct a national police force, forming the centralised and influential Holy Brotherhood (Santa Hermandad). They modified an already existing brotherhood to use its members as a general police force, with officials nominated by the brotherhood and given exceptional powers of summary jurisdiction, including the ability to carry out executions. When they were outlawed for good in 1835, the original brotherhoods did an excellent job as municipal police. When Germany's state institutions failed, the Fehmic courts intervened to help. Throughout the Middle Ages in France, the Marshal of France and the Constable of France were both High Officers of the Crown of France charged with policing the country. The Marshal of France entrusted his military police responsibilities to his provost, and this force became known as the Marshalcy since its power originated with the Marshal. Some historians place the origins of the marshalcy as far back as the early 12th century, at the time of the Hundred Years' War. The Constable of France also oversaw a separate law enforcement agency called the Constabulary (French: Conntablie). In 1337, the constabulary became a formal military force. Under the reign of King Francis I (1515–1547), the Marchausse and the Constabulary were combined. The resulting pressure was formally called the

Marsharcy and Constabulary of France (or Marchausse) in French. Since the Norman invasion, the English have used a private system of tithings, headed by a constable, based on a cultural obligation for the excellent conduct of the others; much more common was the practice of local lords and nobles being responsible for maintaining law and order in their territories by appointing a constable, sometimes unpaid. There were also "Juries" that probed procedural irregularities. One of the oldest constructions of the English police is the 1252 Assize of Arms, which mandated the appointment of constables to summon males to arms, suppress breaches of the peace, and take criminals to the sheriffs or maybe reeves. Between the Norman Conquest and the Metropolitan Police Act of 1829, the Statute of Winchester of 1285 is often considered the fundamental piece of law controlling policing in the country.<sup>20</sup>

Since about 1500, private people and organizations have paid for private security guards to do police work. Later, they were called "Charlies," possibly after the king at the time, Charles II. Thief catchers were also given money for catching thieves and giving back things that had been stolen. The book "The Second Part of the Institutes of the Lawes of England," which came out in 1642, is where the word "Police" was first used.<sup>21</sup>

### **2.2.2. In India**

Despite the existence of Hindu kingdoms during the Middle Ages, the country was primarily ruled by Muslim dynasties. A minister helped the Monarch, who was called Emperor or even sultan. Medieval kings and queens recognised the need for a well-functioning criminal justice system and made improvements to strengthen the judicial system.

The police practise of ancient India was modernised by the Sultans of Delhi. Regarding law enforcement, Kotwal was the man in charge. The Kotwal and his guys were responsible for various routine tasks, including nighttime patrolling, watching key locations, documenting the comings and goings of outsiders, and more. Before, the Amir-i-dad would supervise and coordinate the police operations of the Kotwals operating under him with the help of Muntasib. Balban pioneered the use of espionage to uncover criminals' true motivations. Justice system changes were among Sikandar Lodhi's first initiatives.

An organised government in India began forming in Babar's conquests in 1526. The Mughal emperors were mainly concerned with maintaining order inside their kingdom. The leader of each province's administration under Akbar's reign was called the Nazim or subedar, and he appointed several Faujdar's to oversee the province's police force. A Faujdar's primary responsibilities were of

- a) Defence of the roads and capture of highway bandits;
- b) Putting down any disturbances and uprisings, no matter how little;
- c) Realization of state dues from communities that have defaulted on their payments; and
- d) Defeating opponents with a display of superior might. Thanedar's served as the Faujdar's subordinates in his army. In India, the titles "Faujdar" and "Thanedar" are still often used in everyday speech.

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<sup>20</sup> Clarkson, Charles Tempest; Richardson, J. Hall (1889). Police! pp. 1–2. OCLC 60726408

<sup>21</sup> Coke, Sir Edward (1642). The second part of the Institutes of the lawes of England:

The Ain-i-Akbari, which was authored by Abul Fazal, one of Akbar's ministers, gives us an insight into the operations of the police force at that period. The Kotwal served as the city's police prefect throughout its history. A Kotwal was granted a large enterprise, and the state provided him with a salary, out of which he was required to pay the salaries of his subordinate employees.<sup>22</sup> There was always a potent male Kotwal present at royal durbars. He served as a magistrate and municipal officer, as well as the head of the city police. His primary responsibilities as a police officer included organising the patrol and ward of streets, publishing males at public gatherings, keeping an eye out for troublemakers and pickpockets, supervising the production, distribution, and distribution of alcoholic beverages overseeing prisons and executing royal sentences.

Sher Shah Suri thought that justice was essential to the stability of the federal government and that it was his responsibility to ensure that it was not violated by oppressing the poor or allowing the strong to break the law with impunity. The village council chiefs have been identified, and they have been instructed to prevent robberies and stealing. These were made to compensate the victim of a robbery. Among the pagans, the Shiqahdars, who had previously held powers similar to Kotwals, were granted magisterial status. In India, for the first time, formal police regulations were drafted.<sup>23</sup>

During the time that Muslims ruled India, Kotwals were in charge of police in cities, and Faujdars were in charge of police in the countryside. Chief Sadr and Chief Qazi were in charge of the police and the court system. Usually, the same person held both jobs.<sup>24</sup> In the towns, the Mughals set up the Kotwal process, and in the villages, they set up the Chowkidar process. The Court of Fauzdar heard cases about suspected criminals and security that were not very serious. Kotwals were also allowed to make decisions about minor crimes. In contrast to how Hindu law worked, under Islamic penal law, not all crimes were considered harmful to the State. The crimes were grouped into three categories: crimes against God, crimes against the government, and crimes against private people. Kotwal's institution ended when the British lost the first war for independence in 1857. Mr Gangadhar Nehru, the grandfather of Pandit Jawaharlal Nehru, India's first Prime Minister, was named the last Kotwal of Delhi just before the first war of independence broke out.<sup>25</sup>

From 1336 until 1646, the Vijayanagar Empire was the most powerful of the Hindu dynasties. Of the dynasty's kings, Krishnadevaraya stands out as the most notable. Evidence of a completely functional judicial system may be seen in the case of Vijayanagar and its criminal justice adjudication system. Sar-subheader, Subhedar, Havaldar, Kamavisdar, Patil, or Mukadam (village officials) were among Shivaji's tax officers in the Maratha empire. The forts were likewise under the Havaldars' watchful eye.

Prant and Subha had well-developed police forces during Peshwa's rule. The police forces were under the command of the SarSubhedars and Subhedars to ensure peace and order in their respective regions and the safety of the roadways. The mamlatdar's salary was paid for the territorial income, and the Pargana and

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<sup>22</sup> Ibid., pp. 389-390.

<sup>23</sup> Kulshre shtha, V.D., *Landmarks in Indian Legal and Constitutional History*, p.21

<sup>24</sup> The Gazetteer of India, Volume II, pp. 457-58

<sup>25</sup> History of Delhi Police, www.delhipolice.nic.in, as on 04.03.2006

District police were included in the budget. The Parganah police force also included both mounted and unmounted officers. Police costs may be recouped if well-heeled guys or perhaps merchants demanded more security. The Mukadams and the Patils were tasked with maintaining order in their villages.<sup>26</sup>

Minister of Emperor Akbar, Abul Fazul, demonstrates that the Mogul police system closely mirrored the preexisting structure in the country. In many ways, this system of mutual defence is very identical to the one used by the Anglo-Saxons and carried on by the Normans in England: "The kotwals of cities, husband, villages, and towns, in collaboration with the royal clerks, should compile a record of the dwellings and constructions of the same, which shall contain a detailed description of the people who live in each dwelling. Each household will be responsible for scrutinising the other, and their mutual pledges and obligations will bind each to the other. Each area will have its chief or maybe spics whose job is to keep track of all the comings and goings, overnight and during the day, in their area. The community is expected to rally around any break-in, fire, or disaster victims immediately. This is especially true of public informers and the prefect, who will be held accountable for failing to respond in such cases unless circumstances beyond their control prevent them. The perfect public informers or nearby residents must be notified before someone leaves or enters the district.

Those unable to afford adequate protection must reside in a location determined by the district prefect and public informers. Each district will have a certain number of people assigned to patrol the streets and surrounding areas of its cities, towns, villages, etc., at night, making sure that no outsiders settle there and making every effort to track down and catch any robbers, thieves, purse-snatchers, etc. Articles that are stolen or plundered should be returned by the police, with the perpetrator held accountable for their loss."

### **2.3. EARLY MODERN POLICING**

In 1667, King Louis XIV's central government set up the first centralised police force to protect Paris, the largest city in Europe. The royal edict, signed by the Parlement of Paris on March 15, 1667, created the position of lieutenant general de police ("lieutenant general of police"), who was in charge of the new Paris police force. The edict also said that the police's job was to "ensure the peace of the public and private people, purge the community of things that could cause disturbances, bring about plenty, and ensure that everyone lives according to his or her station".

Gabriel Nicolas de la Reynie was the first person to hold this position, and he oversaw a team of 44 police commissioners (commissaries de police). A group of police inspectors had helped these commissioners in 1709. (Police inspectors). Inside the city of Paris, the sixteen wards were policed by commissaries who were each assigned to one of the wards with the help of a growing bureaucracy. A royal decree issued in October 1699 standardised the organisation of police forces across France after the success of Paris's force, and lieutenants general of police were subsequently established in virtually all-important French cities.

Napoleon, I reformed the police force in Paris and other towns with populations above 5,000 on February 17, 1800, establishing the Prefecture of Police. According to the Paris Police Prefecture's website, the

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<sup>26</sup> Joshi, Dr. P.L., *Nagpur Police Through Ages*, pp. 23-26.

world's first uniformed police officers were the French sergeants de ville ("city sergeants"), created on March 12, 1829, by a decree from the French government.<sup>27</sup>

Starting in 1737, specific guards in Middlesex and London began receiving tax money as payment, marking the beginning of the transition to government authority. Beginning in 1749, Henry Fielding led the organisation of the Bow Street Runners, a group of semi-professional constables. The MacDaniel incident provided further momentum for a publicly funded police force that received no bonuses. However, 45 parishes within a 10-mile radius of London had privately funded police forces in 1828.

The English word "police" was first adopted from the French in the 18th century, although for a long time, it referred primarily to police in France and continental Europe. Both the concept and the term "police" were seen negatively because they were "symbols of worldwide oppression" (Britannica 1911). The appointment of Commissioners of Police for Scotland in 1714 and the establishment of the Maritime Police in 1798 are the first governmental records in the United Kingdom to use the term "police".

## **2.4. POLICING IN LONDON**

### **2.4.1. How Suspects were Apprehended**

From 1674 to 1913, she saw how policing in London went from being done by private citizens and part-time officials to being done by salaried officials and semi-official "thief-takers" and finally to the modern master police system. In the system, the way people were tried at Old Bailey was found and arrested was utterly changed, and in the end, the state took control of the process.

### **2.4.2. The Role of Private Individuals before the Police**

From 1674 until 1829, many victims of crime were able to identify and apprehend their attackers before reporting them to the police. Witnesses to a felony were required by law to apprehend the perpetrators and report the incident to a constable or maybe a justice of the peace. Also, locals were expected to attend the "hue and cry" for any suspected criminal if a constable ever contacted them.

Even though these mandates were rarely followed, Londoners continued to assist in the arrest of suspected offenders. The Proceedings regularly show that victims' shouts of "stop thief!" or even "murder!" effectively attracted the help of onlookers.<sup>28</sup> Throughout the eighteenth century, this sense of personal responsibility for law enforcement faded, but more and more men were given the authority to execute the law. For example, those robbed often hire thieves to track down and arrest the perpetrators. Because of the difficulties in identifying and capturing criminals, the government also offered rewards to witnesses whose information led to the capture of a significant offender and amnesty to those willing to turn in their accomplices. Increasingly, average Londoners have begun to rely on those motivated to apprehend criminals by the promise of income or other benefits.

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<sup>27</sup> "Bicentenaire: theme expo4". prefecture-police-paris.interieur.gouv.fr. Archived from the original on May 6, 2008. Retrieved 2009-06-21.

<sup>28</sup> "Bicentenaire: theme expo4". prefecture-police-paris.interieur.gouv.fr. Archived from the original on May 6, 2008. Retrieved 2009-06-21.



### 2.4.3. Constables and the Night Watch

Justices of the peace might demand that constables bring anybody suspected of being a criminal to court. They also had the usual responsibility to maintain order but were not responsible for finding or bringing criminals to justice. Between nine or ten at night and dawn, night guards were on patrol and were to keep an eye out for anyone acting suspiciously.

The City Marshall and the bealdles were formerly responsible for daytime patrols within the City of London. Like the night watch, they were tasked with preventing major crimes and capturing petty criminals. Changes in the roles and responsibilities of male constables and guards during the eighteenth century had far-reaching effects on detecting and capturing criminals.

Household members would take turns or be appointed to act as constables. They split their time between performing their duties and working throughout the business year. Similarly, it was common to practise for residents to take turns delivering packages during the night shift. Beginning in the late 1700s, many homeowners avoided these duties by having proxies make deliveries. More opportunities for men to work as deputy constables or security guards for a living resulted from this activity. Regarding the watch, this particular treatment was institutionalized in many areas of London through the enactment of "Watch Acts," which substituted householders' duty of service with a charge explicitly imposed to obtain full-time watchmen. There were also men patrols in the region, recruited by several voluntary prosecution associations.<sup>29</sup>

The introduction of paid constables and guards in 18<sup>th</sup>-century London highlighted several features typical of modern police departments. Male officers, whose mission was to keep the streets safe by apprehending criminals, patrolled them often. Several of these men were uniformed and walked regular beats. It seems from the Proceedings that men in these jobs increasingly referenced their "obligation" in their everyday speech. They were far more experienced than the part-timers they replaced, but because of their low pay and the low prestige of their work, they were only sometimes seen as more reliable or respected. Several people suspected that specific paid guards and constables had corrupt ties to the same criminal element they were hired to control. This was especially true for law enforcement personnel participating in or participating in the thievery process.

### 2.4.4. Thief-Takers

To combat the rising crime rate in London around the end of the seventeenth century, the central government offered significant incentives for information leading to the capture and conviction of persons responsible for crimes such as highway robbery and coining. Expanding in the eighteenth century, this practice was bolstered by private victims of crime who offered rewards for the safe return of their stolen property. Improved daily newspapers in the early eighteenth century allowed advertisements about such incentives to reach a broad audience, which supported both activities. Introducing such financial incentives dramatically altered the nature of criminal justice in the city.

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<sup>29</sup> Dick Paterson, *Origins of the Thames Police*, Thames Police Museum

Thieves capitalized on both types of rewards thanks to their knowledge of the criminal underground. They mediated discussions between crooks and their victims to facilitate the safe return of stolen property in exchange for payment. They would also utilize their connections to help the state catch criminals and bring them to trial at the Old Bailey in exchange for substantial financial rewards. The following action probably made it easier to carry out criminal justice. But, the more dishonest of the thief-takers went even further by blackmailing criminals into paying protection money by threatening to report them to the police if they didn't. Others went so far as to become "thief manufacturers," influencing impressionable young men to commit crimes so that they might be caught and prosecuted for the money. Such tactics indicate that not all "crimes" punished at the Old Bailey had happened; some prosecutions were malevolent.

Jonathan Wild, the self-proclaimed "Thief taker General of Ireland" and England, who ruled London's criminal underworld in the early 1720s, was responsible for developing many aspects of the thief trade. Taker's After being found guilty of receiving stolen property at the Old Bailey, Wild was executed by hanging in 1725. While the identity of the thieves among the prosecutors and witnesses in the Proceedings was seldom revealed, save by the defendants themselves to cast doubt on the validity of the prosecution's evidence, there were many more.<sup>30</sup>

Authorities kept offering incentives and promoting the legal side of thievery despite the unfavourable publicity surrounding Wild's and the McDaniel gang's operations in the middle of the century. Identifying and apprehending thieves would have been considerably more difficult without the tasks and incentives provided by the thief-takers.

#### **2.4.5. The Bow Street Runners**

In the 1730s, judges in the City of Middlesex and London set up "rotation offices" so that Londoners could always locate a magistrate during regular business hours and be more likely to report crimes. In 1739, Sir Thomas De Veil established one of these rudimentary rotation offices on Bow Street, close to Covent Garden. In 1748, after De Veil's death, Henry and John Fielding took over the business. To combat crime, the Fieldings instituted a novel practice of having a team of professional "thief-takers" on retainer whom the magistrates would dispatch upon receiving a theft report. Even though the men liked to be addressed as Senior Officers of Bow Street, the appellation Bow Street Runners quickly gained popularity. John Sayer and John Townsend are only two examples of guys who attained widespread fame. Other than the fees they charged for their services, the incentives they received from victims for identifying suspects, and the benefits from the state for favourable convictions, they earned a comfortable life.

It was hoped that the new system would deter illegal behaviour by increasing the likelihood that perpetrators would be identified and convicted. The Fieldings anticipated that by monitoring the thief takers' activities, they might raise their profile, as they saw them as having been instrumental in the fight against crime. The Bow Street headquarters of the Fieldings was the hub of a criminal information

<sup>30</sup> T.A. Critchley, *A History of Police in England and Wales*, 2nd edition. Montclair, NJ: Patterson Smith, 38-39.

network. They also organized horse and foot patrols of important routes by part-time hired constables to avoid robberies and other significant crimes. These innovations helped increase the detection rate.

The Fielding's' approach to thievery proved crucial, and their runners frequently featured in the Proceedings. Westminster and Middlesex now host additional rotating offices. The Middlesex Justices Act of 1792 established seven police stations across the city, with three stipendiary magistrates and six constables assigned to each. Wapping's Thames Police Office opened in 1800 due to rising dock and shipping robberies. It eventually employed three stipendiary judges and one hundred constables to patrol the river and the parishes along its banks.

By the end of the eighteenth century, London had a considerable force of watchmen to deter crime and a system of detective policing meant to play a significant part in capturing criminals. Instead of immediately trying to track down the perpetrator, victims now have an equal chance of reporting the incident to a rotation office. Many defendants who appeared in the Old Bailey had been identified and captured by paid officials or maybe quasi-official thief-takers. The evidence of such persons comprised many of the Proceedings, in contrast to the situation at the turn of the century. That altered the nature of the criminal proceeding. Defence attorneys (when their clients could afford them) would often doubt the credibility of such witnesses because of the financial gain they would experience should the accused person be found guilty.

## **2.5. DEVELOPMENT OF THEORIES OF POLICING IN GERMANY AND FRANCE**

The German police force, like all other agencies, has had to adapt its security strategy to the country's changing political, social, and economic climate in recent years. A different political climate emerged when the Berlin Wall ended, and the country was reunited in 1989/90. These presented several challenges to the German Border Guard (now known as the German Federal Police). Due to the dissolution of the inner German border, building and strengthening security along the new eastern border inside the expanding Schengen region became necessary. One of the most critical functions of integrated border management has been the fight against illegal immigration (by asylum seekers and others) and the (organised) trafficking of humans.

New criminal phenomena emerged in the 1990s thanks to developments like the Internet, and cybercrime expanded fast during that period. Internet as information and communication means introduced new options in the areas of commercial and organised crime and the field of crime against national security, making it more straightforward to perpetrate well-known types of crime (such as fraud and juvenile pornography). New legal and tactical tools, such as financial investigations, were adopted by police and prosecutors in the 1990s as the battle against organised crime (people trafficking, drugs trafficking, and business crime) became a significant priority. It evolved into a novel approach to punish offenders by seizing and confiscating, in addition to the instrumentalities, any unlawful gains, whether it's expensive cars, cash, bank accounts, personal property, or even real estate. This deprivation has proven effective and acceptable in the fight against significant crime.

The benefits of police collaboration across borders and inside a standard European security zone emerged in the mid-1990s and continue to this day. The political process of "Europeanization" built and strengthened the political, financial, and legal basis for the many multinational and international institutions (e.g., OLAF, Interpol, Eurojust, Europol, Frontex).

Federal and state police personnel from Germany began serving with the European Union and then the United Nations in the Balkans in the mid-1990s, marking the beginning of the German police's involvement in peacekeeping operations more generally. In 1988, 35 police officers participated in UN missions worldwide. By 2011, that number had risen to 17,500. Germany has sent over 6,000 police personnel to international peacekeeping deployments since 1990. (See Feltes, 2008).<sup>31</sup> They had to take on a difficult job since the people of transitioning nations wanted more than just an improvement in their economic status due to partition, civil war, or any other forces driving change. After the end of the 1990s, the idea that security is a public benefit was developed by scholars like Clifford Shearing and others (Shearing and Ayling, 2008).<sup>32</sup> Great societies are built on a foundation of security, and the democratic state plays an essential and admirable role in laying this foundation. If a state is considered "failed" or "weak," the central government is unlikely to be able to serve as a political authority that improves security. The opening and "democratisation" of society in virtually all formerly Soviet nations inevitably resulted in a rise in crime (starting with the former GDR in 1989). These nations will come next in line after the "Western" ones, where neo liberalism and the "world of egoism" it promotes (Dunn, 2005: 137) have risen to power, allowing the most significant sources of social and economic capital to seize control of the police and security forces and distribute them in a way that is inversely proportional to the level of risk and, therefore, the degree of need.

The German police force had a fad in the '90s towards victim advocacy. After discussing the legal, political, and cultural implications, police developed innovative methods for investigating the victim's occupation. As time went on, the victims of burglary, robbery, and rape were no longer merely addressed as witnesses or perhaps also as ways of research (during the ongoing investigations and the crucial trial) but rather as people with personal passions and fears who deserved to be protected and supported in the series of a criminal offence and prevention of crime. Furthermore, this shift affects domestic abuse cases' operative and legal ideas. The police have been crucial in supporting victims of domestic violence, overwhelmingly women, to leave abusive relationships since the early 2000s. It all started in Austria, but every German state has implemented bans since then.

The eleven September 2001 terrorist attacks prompted discussions about the role of law enforcement, the military, and intelligence agencies, as well as broader questions about the correct security architecture (federal and state offices for the defence of the constitution). The effort and information exchange between the different external and internal security players had been improved, and new legislative tools were adopted. German counter terrorism teams have had to familiarise themselves with Islamic terrorism, a kind

<sup>31</sup> Feltes, T. (2008). *Peacebuilding and police reform in the new Europe: Lessons from Kosovo*. In H. W. Möllers & R. C. van Ooyen (Eds.), *Jahrbuch öffentliche Sicherheit 2008/09* (pp. 439–466). Frankfurt: Verlag für Polizeiwissenschaft

<sup>32</sup> Ayling, J., & Shearing, C. (2008). Taking care of business: Public police as commercial security vendors. *Journal of Criminology and Criminal Justice*, 8(2), 27–50.

of political crime that continues to be a priority despite the success of their efforts against more well-known forms of leftist and rightist terrorism.

The post-9/11 German law came about along several different paths (for the various approaches used by the German government between 1970 and 2000 and after 9/11, see Albrecht, 2006). Since September 11, anti-terrorist legislation has centred on laws already drafted to control illegal immigration, money laundering, and transnational crime. Without any rational examination or even possible evaluation of whether these laws affect terrorism, they were dubbed "anti-terrorism legislation" (see Albrecht: forty-four).<sup>33</sup>

For instance, efforts are being made to get data gathered by commercial telecommunications providers as part of creating duties on the private sector (individuals or even businesses) to aid in criminal law-based policies of repression and prevention. These shifts become evident in the widespread and systematic use of standard precarious investigative strategies like the use of private informants or crown witnesses, as well as the further deployment and extension of new investigative techniques that have been initiated since the 1980s within the context of the influence of organised crime or perhaps transaction crime.

All state police forces went on large-scale fishing net expeditions based on police laws (which were partly changed right after 9/11 to include data mining investigations) and other sources of information (including faculty info systems). Police laws allow for data launching or mining net fishing expeditions when there is a severe threat to the Federal Republic of Germany (or a state) or when there is an immediate threat to the life or limb of a person. This is done to stop the threat.

Fishing net missions that began after 9/11 were not systematically analysed. Unified data allows one to conclude that the approach was fruitless. We don't know what sleeper cells look like yet. Male, 18–40 years old, of Islamic faith, a former student or students, lawful immigration status, not relying on social security, and originating from chosen (Islamic) countries are some of the search criteria used (e.g. in Bavaria). However, suspicious cases have not been found. Because of this anti-terrorist programme, the former Minister of Finance set aside 3 billion marks. The money was obtained from the levy on cigarettes.

At the same time, there appears to be a general trend towards harsher punishments across Germany. Since the mid-1990s, punishment in Germany, especially for sexual offenders, has been more severe. According to data on sexual abuse of children, the proportion of sentences of five years or more for rape and sexual assault quadrupled between 1980 and 2004. (Obergefell, 2008: 305).<sup>34</sup> The proportion of lengthier sentences and sentences with probation suspension has grown in Germany. Offenders now have a greater chance of earning a lengthy jail term than twenty years ago but are less likely to be detained.

<sup>33</sup> Albrecht, H.-J. (2006). Counterterrorism policies in Germany: Country report on Germany. In R. Neve, L. Vervoorn, F. Leeuw, & S. Bogae (Eds.), *Een eerste inventarisatie van contraterrorismebeleid: 'Policy and research in progress' in Duitsland, Frankrijk, Italië, Spanje, het Verenigd Koninkrijk en de Verenigde Staten* [A first inventory of counterterrorism policy: Policy and research in progress in Germany, France, Italy, Spain, the UK and the US]. The Hague: WODC. Retrieved from [http://www.mpicc.de/shared/data/pdf/fa\\_38\\_albrecht10\\_06.pdf](http://www.mpicc.de/shared/data/pdf/fa_38_albrecht10_06.pdf)

<sup>34</sup> Obergefell, J. (2008). "Punitivity" within the criminal justice system in Germany. In H. Kury (Ed.), *Fear of crime—Punitivity: New developments in theory and research* (pp. 303–320). Bochum: Universitätsverlag Brockmeyer

### 2.5.1. Trends in Policing

Price pressures on government services, including law enforcement, have necessitated the adoption of private-sector best practices since the late 1980s. With the quality and quantity of police work growing, the new public management plan was proposed as a solution to the staffing crisis. Outcome-based management (as opposed to input-based management), customer focus, and decentralized authority to maximize efficiency and boost morale are just a few of the recent police priorities. This progress was followed in the 2000s by organizational and personnel growth concepts. As personnel costs account for about 70% of the overall police budget, it was thought that putting the appropriate people in the right jobs (the "right person in the right job") was crucial to maintaining public safety and order at a reasonable cost.

In contrast, the German market and the need for private security have grown since the 1980s. We now have about 3,000 firms employing about 173,000 people. Over the past fifteen years, the population has grown more than forty per cent, from 121,000 people in 1997. Their primary responsibilities include guarding private properties, moving money, and protecting valuables at significant public events like concerts and sports games. Typically, private security personnel lack proper training and firearms. The mandatory training period in Germany is four weeks. Public and private security forces are increasingly working together, especially in high-traffic areas like railway stations and at significant events. Twenty thousand private security guards working together successfully ensured a safe 2006 World Cup.

However, opposition to police-private partnerships comes mostly from police unions and major political parties. Nonetheless, many more municipalities are now contracting out security duties to private companies, especially building safety. Yet, there is still much controversy over how well private and state police units work together, especially among police unions. The present state no longer relies on its institutions, such as the police and the municipal departments, for public order to accomplish its original duty (to guarantee the protection of its people while preserving an open society). Now, private security firms, public interest groups, non-profits, and quasi-governmental organizations all work with government agencies to address threats to public safety. Even though many of these companies operate at least in part independently, they often frequently work together to establish both public and private order. The protection framework in European countries is increasingly characterized by such collaboration, to which distinct legal powers have been granted and are organized differently. There is a wide variety of security providers, each of which has developed its own security culture and system as a function of the country context in which it operates.

Regarding this new monitoring system, opinions in Germany (and the rest of the EU) are highly divided. So, there are no agreements or EU recommendations that control, for instance, uniform schooling needs for the police and private security forces and these organization's capabilities. Surveillance techniques range widely, much like educational and social approaches. Surveillance regimes produce varying degrees of citizen security against organized crime, everyday crime, terrorism, and politically motivated crime, much like educational and social methods produce varying results regarding the level and social standards of

provision about certain instructional quality and participation in training. However, it's simple to have the same or comparable results in terms of security while employing entirely distinct tactics.

Particular inclinations towards novel and comprehensive forms of control may be discernible in creating and maintaining public safety. There has been a shift from a hierarchical control mode to a cooperative community mode, with the state focusing on administrative tasks in the public security sector and various other policy domains of modern services of common interest, including economic and social policy (currently of different intensity). As power is delegated across a network of players, traditional divisional borders and organizational hierarchies within security institutions become less salient. When examined more closely, policing reveals itself as a more integrated undertaking in which various organizations, groups, and individuals engage. It is now more accurate to say that public and private security agencies work together in a mutually beneficial partnership to maintain public safety. The line between personal and public obligations blurs increasingly in this setting.

## 2.6. POLICING IN OTHER COUNTRIES

- 1) **United States:** Fair processes are considered essential to achieving just outcomes, which is reflected in the American criminal justice system. The product may be damaged when seemingly responsible parties rely on technical legalities to secure their autonomy. Nonetheless, there is a firm sense that all-encompassing norms and approaches best safeguard personal liberty. Instead of a system in which those in authority are free to do as they like, we have created one in which they must comply with the law. Having the police get a search warrant before entering your home is your best defence against them searching on a hunch or intuition as to whether or not illegal substances are stored there.<sup>35</sup> Arresting and convicting criminals is naturally hindered by a criminal procedural system that throws too many legal impediments in their path. Yet if the authorities have too much leeway in their investigation, false confessions, unwarranted questioning, and wrongful convictions might occur. There is an effort in the United States to develop a criminal process system that protects individuals' right to be left alone while allowing for the investigation, detection, and conviction of offenders. As times and circumstances have changed, so has the equilibrium between rights and protection. Pressure on social safety and security has increased during times of war and other dangers to national security. Some periods saw a shift towards safeguarding the rights of criminal suspects.
- 2) **Australia:** The Australian Constitution clarifies that the federal parliament has legislative authority over some issues, and the Federal government may thus pass legislation in this area under the Australian federal system. The Commonwealth government may pass laws '...for good administration, order, and the peace of the Commonwealth...' relating to the various subjects listed in s fifty-one within the specific scopes of power specified therein. Since the Federation, innumerable Commonwealth legislation has been passed using either the specific legislative authority outlined in the Constitution or the broad outlines of authority provided by s. 51. It should be noted that the Commonwealth Constitution does not provide a direct source of power for criminal legislation. The

<sup>35</sup> The Convention on the Rights of the Child was adopted by the General Assembly.

Crimes Act of 1914 and the Criminal Code Act of 1995, two of the most critical pieces of federal criminal law legislation, are examples of laws passed by the Commonwealth parliament to exercise the incidental powers and the executive authorities outlined above.

The following sections elaborate on these legal provisions. It is important to note that the Commonwealth may assume legislative responsibility under s 51(xxxvii), where States and Territories refer some duty to the federal parliament, even if the Constitution does not provide a specific grant of authority to the Commonwealth to legislate in that spot. A recent example of Commonwealth law enacted in response to a situation the States and Territories raised is the swathe of criminal legislation dealing with terrorist offences. As skilful and constitutionally legitimate enactments of the federal parliament, the laws of the Commonwealth are widely available now, and the variety of Commonwealth laws will likely grow. Thus, we should expect the federal area of obligation to expand, along with an increase in federal criminal legislation.

- 3) **Canada:** Participating in and attending meetings of local Criminal Justice Subsections of the BC Branch of the Canadian Bar Association (CBA) is an excellent method for criminal law attorneys to stay abreast of developments in this niche the law. Crown and defence attorneys often meet to address recent issues. Other lecturers or even local judges are usually there to provide input on particular aspects of criminal law and practice. The CBA may be reached by phone at (604.687.3404) or online. Attorneys should also routinely participate in seminars and workshops focusing on practising criminal law. Such events are regularly held by the Continuing Legal Education Society of BC, and many of them may be accessed through a live webinar or webinar archives. Current and timely materials are developed for these courses, and materials from past years' sessions are also available. Live and recorded webinars are available on Courthouse Libraries BC's website. The Federation of Law Societies of Canada hosts a substantial learning opportunity each summer.<sup>36</sup>Each, the National Criminal Law Program hosts a Substantive Law Program, and every other year, they host a Criminal Evidence and Process Program. Criminal defence and prosecution counsel, a Methods Advisor, or the CBA's Criminal Practice Advisory Committee are all excellent resources for criminal attorneys seeking practice direction, especially on ethical matters. The Committee comprises top-tier criminal attorneys who are always ready to lend a hand. You may get a list of current Committee members from the CBA or the CBABC Attorneys' Directory, published annually by the CBA in British Columbia. Defence attorneys should be aware that many prosecutors are willing to assist them in resolving other difficulties and procedural concerns of mutual relevance if they ask.
- 4) **Lebanon:** The following evaluation of Lebanon's compliance with the Convention is based on the country's response to a comprehensive self-assessment checklist, additional information provided pursuant to paragraph twenty-seven of the terms of reference of the Review Mechanism, and the fruitful dialogue between government experts from Seychelles and Iran conducted via telephone conferences, electronic mail switches, or any other means of rob. Lebanon Main Ideas Mr Charbel Sarkis, Judge Arlette Jreissati (during the review), and, following her lead, Judge Rana Akoum1 and

<sup>36</sup> Brodeur, Jean-Paul (2010). *The Policing Web*. Oxford University Press. Retrieved 2013-02-07.



the rest of the National team of experts were helped by the folks at the UN Office on Drugs and Crime.<sup>37</sup> Lebanon ratified the Convention against Corruption of the United Nations (UNCAC) on April 22, 2009, and it went into effect on May 22, 2009. The Constitution established Lebanon as a parliamentary democratic republic. It is a matter of domestic law in Lebanon that international treaties signed by the parliament be observed. Based on article two of the Code of Civil Process is granted priority over domestic legislation. Personal status, marriage, divorce, and other family relationships in Lebanon are governed by Christian and Islamic religious law and secular civil law based on the French civil code and Ottoman legal traditions.

- **International policing:** The strategy aims to combat transnational crime by bolstering the rule of law and encouraging international collaboration in law enforcement. As this crime occurs across international boundaries, it will need committed and effective institutions from throughout the globe to combat it. To be effective, these institutions require a culture where the rule of law is the norm rather than the exception. To achieve this goal, we may work with our international allies to establish universal rules for combating international crime, promote compliance with those norms, encourage collaboration on police activities, and entrench societies globally devoted to ideals of lawfulness.
- **Interpol:** With 186 member nations, INTERPOL is the largest international police organisation. Its General Secretariat is based in the French city of Lyon. In addition to its headquarters in New York City, INTERPOL also maintains six sub-regional bureaus, each operated by local law enforcement officials. A seventh regional office is expected to open in Cameroun in early 2008, joining existing facilities in Argentina, Ivory Coast, El Salvador, Kenya, Zimbabwe, and Thailand. Each country has a National Central Bureau (NCB) that is an INTERPOL member. Staffed and run entirely by relevant services from member countries, the NCB is the point of contact for the General Secretariat and other member countries in need of assistance with the apprehension, location, and transnational investigations of fugitives, as well as any other international enquiries relating to the job of law enforcement. To aid its 186 member countries' police forces in reducing crime and investigating crimes promptly and thoroughly, INTERPOL's principal mission is to facilitate international cooperation among police forces. In particular, INTERPOL promotes international police cooperation and, when necessary, lends aid to international and national agencies, organizations, and services dedicated to crime prevention and enforcement.

INTERPOL offers four primary services to its member nations and selected partner organizations to fulfil its mission.:

- 1) Secure global police communications services: INTERPOL just established a state-of-the-art global communications system for law enforcement called "I 24/7." This new communication tool, to which all member countries are already connected, lets information about suspected criminals and crimes be sent in real-time and securely to INTERPOL member countries that need help with international investigations.

<sup>37</sup> "The National Archives | NDAD | Metropolitan Police". Ndad.nationalarchives.gov.uk.

- 2) When police forces worldwide can connect with one another, it is imperative that they have access to information that might aid in investigations or prevent criminal activity. Therefore, INTERPOL has developed and maintains several global databases and information services, which include data as vital as the names, fingerprints, photographs, and DNA profiles of people who are under investigation or even wanted for arrest, as well as data as diverse as Stolen and Lost Travel and Identification Documents (SLTD), stolen vehicles, and stolen works of illicit weapons and art connected to criminal cases.
- 3) As the third pillar of its operational police support services, INTERPOL offers targeted assistance to law enforcement agencies regarding various criminal activities. Drugs and organised crime, high-tech and financial crime, fugitives, public security and terrorism, human trafficking (including crimes against children), and crises are the six priority crime areas that INTERPOL focuses on. Intellectual and environmental property theft are two forms of the crime warranting attention. INTERPOL organises thematically focused specialist working groups that bring together professionals worldwide to collaborate on improving search strategies. Crime patterns, criminal organizations, methods of operation, and offenders can all be uncovered using INTERPOL's thematic criminal analysis. INTERPOL maintains a Command and Coordination Centre (CCC) that links the General Secretariat, the National Central Bureaux (NCBs), and regional offices for urgent police-related concerns or crises around the clock, seven days a week. When a member government requests assistance in an international investigation, the CCC facilitates information sharing amongst responding nations. During major incidents, the CCC takes on a crisis management function and acts as a primary contact for any member country needing help. In addition, INTERPOL's Incident Response Teams (IRT) are available to provide analytical and investigative support to local law enforcement agencies at the scene of an event at the request of a member nation.
- 4) Training and Development: INTERPOL helps member countries fight serious transnational crime and terrorism more effectively by offering (a) focused police training programmes and (b) advice, help, and help to build reliable crime-fighting components with national police forces. The second part involves sharing knowledge, best practices, and police skills by making Interpol routes of global standards for how to fight different kinds of crime.

## **2.7 CONCLUDING REMARK**

- Police and criminal procedure are vital in ensuring justice and maintaining law and order. The global scenario of police and criminal procedures varies significantly from country to country, depending on the legal framework, political system, social norms, and cultural values. In this concluding remark, we will discuss the key themes and trends that emerged from the analysis of the global scenario of police and criminal procedure.
- One of the key themes that emerged from the analysis is the importance of a robust legal framework for police and criminal procedure. A well-designed legal framework provides the guidelines and standards for law enforcement agencies to operate within the bounds of the law and respect the rights of the citizens. However, in many countries, the legal framework for police and criminal

procedure is inadequate, outdated, or not implemented effectively. This leads to arbitrary and discriminatory practices by law enforcement agencies, undermining the rule of law and eroding public trust.

- Another critical theme from the analysis is the need for effective oversight and accountability mechanisms for law enforcement agencies. Oversight and accountability mechanisms serve as a check on the power of law enforcement agencies and ensure that they operate within the bounds of the law and respect the rights of the citizens. However, in many countries, oversight and accountability mechanisms are weak or non-existent, which leads to impunity for law enforcement officers who commit human rights abuses, corruption, or other forms of misconduct.
- The analysis also highlighted the importance of training and capacity building for law enforcement officers. Effective policing requires well-trained and skilled officers equipped to handle complex situations and interact with the public respectfully and professionally. However, in many countries, law enforcement officers receive inadequate training, which leads to poor performance, ineffective policing, and human rights abuses.
- Furthermore, the analysis revealed the need for greater community engagement and participation in policing. Community policing models, which involve law enforcement agencies working closely with communities to address local crime and disorder, effectively improve public trust, reduce crime, and enhance community safety. However, in many countries, law enforcement agencies operate in a top-down, authoritarian manner, which leads to a lack of trust and cooperation from the public.
- The analysis also highlighted the need for greater attention to the rights of suspects and defendants in criminal proceedings. The right to a fair trial, legal representation, and the prohibition of torture and other ill-treatment are fundamental human rights that must be respected in all criminal proceedings. However, in many countries, suspects and defendants are subjected to arbitrary detention, torture, and other forms of abuse, undermining the rule of law and eroding public trust.
- In conclusion, the global scenario of police and criminal procedure is complex and multifaceted, and many challenges must be addressed to ensure effectively and just policing. A robust legal framework, effective oversight and accountability mechanisms, training and capacity building for law enforcement officers, greater community engagement and participation in policing, and greater attention to the rights of suspects and defendants in criminal proceedings are all critical elements of effective and just policing. By addressing these challenges, we can ensure that law enforcement agencies operate within the bounds of the law and respect the rights of the citizens, which is essential for building trust and confidence in the justice system and promoting a safe and secure society.

## ROLE OF POLICE IN THE ELIMINATION OF CRIME IN THE LIGHT OF THE LEGISLATIVE PROVISION

### 3.1. ENACTMENT OF CODE OF CRIMINAL PROCEDURE

The Code of Criminal Procedure, often known as the CrPC, is an all-encompassing law regulating the procedural components of India's criminal justice system. It was first passed into law in 1973, and since then, it has been subject to a number of different revisions. The Criminal Procedure Code is the document that specifies how criminal proceedings, including investigations, arrests, bail, sentence, and appeals, are to be carried out. In the following paragraphs, I will outline the Criminal Procedure Code (CrPC), including its most important sections and its role in the Indian legal system.

The Criminal Procedure Code is applicable to all criminal processes in India, with the exception of those that are governed by specific laws that have their own set of procedures. It can be used in any court, even the highest ones, including the Supreme Court and the High Courts. The Criminal Procedure Code is broken into two distinct sections: the first contains the basic laws, and the second contains the procedural rules applicable to various categories of cases.

**Part I** of the Criminal Procedure Code outlines all criminal proceedings' fundamental principles. These sections cover the definitions of various terminology used throughout the Criminal Procedure Code, as well as the authorities and responsibilities of the police, the powers and duties of the magistrates, and the procedure for arresting an accused individual. In addition to that, it details the procedures for the delivery of summonses and the carrying out of warrants.

**Part II** The procedure standards for certain cases, such as trials, appeals, and revisions, are outlined in the Criminal Procedure Code (CrPC). In addition, it details the processes that should be followed while investigating crimes, the upkeep of public order, and the prevention of public nuisances. In addition, provisions regarding transferring cases, withdrawing cases, and formulating charges may be found in Part II of the statute.

There are several reasons why the Criminal Procedure Code is such an important piece of law in the Indian legal system. First, it ensures that the accused's rights are safeguarded throughout the investigation, trial, and appeals processes. For instance, it guarantees the right to be represented by an attorney, the right to be notified of the allegations brought against the accused, and the right to a trial that is conducted impartially. It also establishes the guidelines for the admission of evidence, ensuring that only evidence pertinent to the case and can be relied upon will be submitted in court.

Second, the Criminal Procedure Code offers a transparent and all-encompassing structure for administering criminal proceedings. This contributes to ensuring that the legal proceeding is conducted fairly, effectively, and transparently. In addition, it helps avoid delays and guarantees that justice will be carried out promptly.

Thirdly, the Criminal Procedure Code allows for the creation of specialized courts and tribunals for the expedited trial of particular categories of criminal offences. For instance, the Code authorizes the creation of specialised courts for the trial of economic offences, offences committed against women, and offences committed against minors. When there is an urgent requirement for a rapid trial, this helps to guarantee that justice is carried out in a timely manner.

A witness or a victim of a crime is afforded protection by the Criminal Code, the fourth provision of the Code. It outlines the processes that are to be followed in the examination of witnesses and makes provisions for the recording of their testimonies. Additionally, it protects witnesses from being intimidated or harassed during their work.

Fifthly, the Criminal Procedure Code makes provisions for developing various organizations and entities essential to administering justice. For instance, it paves the way for forming the National Human Rights Commission, which is accountable for the defence and advancement of human rights in India. In addition, it makes provisions for the formation of the Central Bureau of Investigation, which will conduct investigations into certain categories of criminal activity.

Sixthly, the Criminal Code is an adaptable piece of law that has been modified in a number of different ways since it was first enacted in 1973. The Criminal Code of Canada (CrPC) has been given these revisions to continue serving its intended purpose while adapting to new realities. For instance, in 2005, the Code was revised to include new rules for protecting women against abuse in the home.

### **3.2. PREVENTIVE POWERS AND DUTIES OF POLICE IN INDIA**

Finding and investigating crimes, apprehending perpetrators, collecting evidence, etc. are all tasks that fall under the purview of law enforcement. Regular patrols and the taking of preventative measures against potential offenders are also part of their responsibilities. To reduce criminal activity, the police are primarily responsible for apprehending and detaining perpetrators and suspects.

Sections 149–153 of the Code of Criminal Procedure, 1973 grant the police the authority to conduct searches and seizures. Articles 41, 42, and 151 of the Criminal Procedure Code of 1973 allow police officers the authority to make warrantless arrests in certain situations. Lawful functions of the police include “conditional release of accused on bond”,<sup>38</sup> etc., given u/s 438 of CrPC, 1973, search and seizure, questioning of criminals and suspects, etc. The police can search and seize without a warrant provided they have a good basis to do so.

In accordance with section 174 of the Criminal Procedure Code of 1973, law enforcement officers must keep an inquest registry. The police are required to report a death that occurred under suspicious or unusual circumstances in the Inquest Register. By aiding the prosecutor, the police play an equally important role in

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<sup>38</sup> Ratanlal & Dhirajlal, *The Code of Criminal Procedure*, (18th ed., 2006)

the criminal justice system.<sup>39</sup>In reality, the investigation efficiency and timeliness of the police force makes or breaks a case.<sup>40</sup>

Preventive police action is discussed in detail in Sections 149 through 153. The following are types of police behaviour that fit within this category, viz.-

- (i) Preventing a punishable offence,
- (ii) Preventing damage to public property, and
- (iii) Weights and measures inspection.

By definition, there is no room for judicial review when police use force, since they must make split-second decisions based on the severity of the circumstance.

The powers conferred to the police from these sections are as follows:

#### **(A) Prevention of Cognizable Offence**

(1) In accordance with Section 149 of the Criminal Procedure Code. Every police officer has the authority to intervene to prevent the committing of a crime for which he has the authority to make an arrest without a warrant, known as a "cognizable offence." Article 149.

In accordance with Section 150 of the Criminal Procedure Code. When a police officer learns of a plot to commit a crime, they must report it to their superior as well as any other officer whose job it is to prevent or investigate the crime.

According to (Section 151). According to the law, "a police officer knowing of a design to commit any cognisable offence may arrest the person so designing without orders from a magistrate and a warrant if it appears to him that a commission of the offence cannot be otherwise averted".

Also, it states – ‘Legislature changed- Sub Section (2) is the new provision, it wasn’t included in section 151 of old code of 1898, the joint committee of the parliament observed’.<sup>41</sup>

That, in order to reduce the possibility of abuse or misuse of the authority, the committee is obligated to provide clarification on certain topics related to a preventative arrest conducted by a police officer under the provision of this paragraph under the section;

- Firstly, Any person arrested under this section of the CrPC should, to the extent possible, be subject to all the provisions of the code that apply to arrest without a warrant, including, but not limited to, production before the magistrate within a specified time and informing the person who is arrested on the grounds of his arrest.
- Secondly, If the arrested individual is eligible for release, he should be allowed to post bond and go free. The point is that he should be released from custody if no further legal action is taken against him following his arrest, whether that is to request a bail or to file formal charges against him.

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<sup>39</sup> Sarkar & Manohar, The Code of Criminal Procedure, (9th ed, 2007)

<sup>40</sup> Ibid

<sup>41</sup> Report of the Joint Committee, The Code of Criminal Procedure Bill, (pg. 15, 1970)

Finally, it is essential that a magistrate issue the release orders for the arrest. The risk of misuse of the service increases otherwise.

Further New sub-clause (2) also includes and seeks to provide for the above.”

### 1) Scope and Application

S. 151 permits possible arrests only if the person in question is thought to have the plan to commit a cognisable offence.<sup>42</sup>An arrestee's custody for a set number of days is reasonable and warranted if, for the commission of a cognizable offence, he has a purpose that can impair the preservation of peace and order.

Simply having a FIR filed against them or being taken into police custody does not make them suspects. When there is probable cause to think the allegations or facts levelled against this individual are true, we refer to them as the "accused".<sup>43</sup>The order of judicial custody was found to be unlawful because the detenu was unable to provide security and the magistrate had done so without conducting any investigation or using his judicial mind. Art.21 and Art.22 provide the right of an individual who has been arrested to secretly confer with his attorney. Furthermore, S. 151 was ruled constitutional.<sup>44</sup>

### 2. Justification for the arrest

Even if the police are mistaken in their belief that a suspect is plotting or preparing to commit a crime, they still have probable cause to make an arrest under this provision if they are acting in good faith or based on data and appearance from which a reasonable man would infer the design or possibility of the commission of a crime.<sup>45</sup>

#### (B) Prevention of Public Injury to Public Property

To use the authority granted by Section 152, a police officer must have visual evidence of an attempt to commit an offence against any public property, whether movable or immovable, or against any public landmark or other marks for navigation.

#### (C) Inspection of Weights and Measures

In addition, Section 153 gives the officer in charge of a police station the authority to visit any location for the purpose of conducting an inspection, during which he can search for and confiscate any counterfeit weights or measures he finds, as well as report the seizure to a magistrate with jurisdiction over the local region.

#### 3.2.1. Standard And Procedure For Crowd Control

These gatherings, in which residents use their constitutional right to congregate in public, are the responsibility of the district authorities and the police, who are responsible for enabling them. Additionally, in order for the state to fulfil its responsibility of ensuring the continued safety and tranquilly of all its

<sup>42</sup>*Jagdish Chandra Bhatia v. State, 1983 CrLJ NOC 235 (del); Ahmed Noor Bhai Bhatti v State of Gujarat, 2005(2) Crimes 26(SC).*

<sup>43</sup> *Uma Shankar Sahay v State of Bihar, 1998 CrLJ 2807*

<sup>44</sup> *Ahmed Noorbhai Bhatti v State of Gujarat, 2005(2) Crimes 26(SC)*

<sup>45</sup> *Kanhaiyalal Dongarwal v Sugansingh, 1961(2) CrLJ 875*

citizens at all times, those who live in democracies are expected to abide by a set of regulations. The information shown here provides historical evidence on the purpose of the demonstration, the time it will take place, and the route it will take. If these procedures are carried out in the correct order, the government and the police will be powerless to interfere with the conducting of peaceful demonstrations.<sup>46</sup>

A public rally always has the risk of degenerating into a disorderly assembly, which has the potential to endanger both people's lives and their property. At that point, the public assembly in question can be considered illegal, a term that is clearly defined under Section 141 of the Indian Penal Code.<sup>47</sup>In such a situation, the district officials and the police have the authority to disperse the crowd in order to avoid any injuries or other harm from occurring. This may entail the application of force in a manner that is both regulated and prescribed.

The principles that govern the use of force, as described in the law and police procedures, have not changed: the use of force should only be resorted to when it is absolutely required, it should be kept to a minimum and be proportionate to the situation, and its use should be discontinued as soon as the threat to life and property has been mitigated.

### **(A) The Police Code of Conduct**

They ought to make use of some kind of persuasion, in addition to counsel and warning, to some extent. If, on the other hand, the use of force appears unavoidable, then the use of force should be limited to the absolute bare minimum that the situation calls for.<sup>48</sup>

### **(B) Law**

Executive magistrates or an officer- in charge of a police station are the only authorities that can order the use of force.<sup>49</sup>Only in the event that an unlawful gathering or an assembly of five individuals or more that is likely to disrupt public peace does not dissolve when told to do so or demonstrates a resolve not to disperse can force be used to break up the crowd.<sup>50</sup>Imagine that such a gathering cannot be broken up in any other way, and that doing so is necessary in order to protect the public interest. In that scenario, the executive judge has the authority to issue an order and even call upon armed forces to break up the gathering. Even yet, the amount of force that is used should be kept to a minimum, and there should be as little damage done to both people and property as possible.<sup>51</sup>

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<sup>46</sup> PPS Sidhu, IPS (Retd.), *Precis on Crowd Control*, BPRD, MHA, GOI (2016)

<sup>47</sup> *Standards and Procedures for Crowd Control*, CHRI (2005)

<sup>48</sup> *The Code of Conduct for the Police in India, 1985, Guidelines by MHA, Principle 4*

<sup>49</sup> In her/his absence police officer not below the rank of sub-inspector

<sup>50</sup> *The Code of Criminal Procedure, 1973, No. 2, Acts of Parliament, 1974, S.129*

<sup>51</sup> *The Code of Criminal Procedure, 1973, No. 2, Acts of Parliament, 1974, S. 130*



Under the Indian Penal Code, members of the law enforcement community have the same right to private defence as other Indian residents. This right allows them to defend life and property, but the level of force they use cannot exceed what is required for defence in any circumstance.

### **(C) International Standards**

Because India is a responsible member of the international community, it is required to adhere to the standards established by the United Nations. These standards provide the foundation for many of our laws and regulations. To reiterate, the United Nations Basic Principles indicate that the dispersion of non-violent unlawful meetings should be avoided if feasible, and if this cannot be done, then the use of the least amount of force possible should take place.<sup>52</sup> And the use of guns in situations involving violent unlawful assemblies should only be done so if there are no other less risky options, and then only to the minimal amount necessary.

### **3.3. ROLE OF CRIMINAL BUREAU OF CRIMINAL INVESTIGATION DEPARTMENT IN THE INVESTIGATION ESTABLISHED UNDER THE UTTARAKHAND POLICE ACT 2007**

There is no particular reference to the Criminal Bureau of Criminal Investigation Department (CB-CID) in the Uttarakhand Police Act of 2007, which was passed in 2007. However, the Central Bureau of Criminal Investigations Department (CB-CID) is a specialised unit that handles difficult and high-profile criminal investigations inside various state police agencies in India, including Uttarakhand's. The Central Bureau of Criminal Investigations (CB-CID) was probably founded and operated in accordance with the general rules of the Uttarakhand Police Act, which describes the organisation and the functions of the state's police department.

The following are some examples of the roles that CB-CID plays in investigations:

- CB-CID is responsible for investigating sensitive, high-profile, or organised crime crimes. One of their responsibilities is to handle complex situations. They handle cases that are difficult for conventional police units to handle because they require specialised skills, technical experience, and unreadily available resources.
- Performing in-depth investigations, The CB-CID is responsible for performing in-depth investigations into cases that have been given to them. They conduct interviews with witnesses and suspects, gather and examine evidence, and coordinate their efforts with other law enforcement agencies and departments that are contributing to the investigation.
- Helping out the local police: The CB-CID is available to local police units when they are conducting difficult investigations. If the investigation into the crime requires specialised attention or resources, they may take over the inquiry from the local police.
- Expertise in various fields The Central Bureau of Investigations Criminal Investigation Division (CB-CID) may have specialised departments or employees with expertise in fields such as cybercrime, economic offences, organised crime, terrorism, or homicide. They bring a wealth of

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<sup>52</sup>Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, OHCHR, 1990, S. 13

specialised knowledge and expertise to the table when addressing situations that come under their authority.

- Liaison with other agencies: The Central Bureau of Criminal Investigation's Criminal Investigation Division (CB-CID) collaborates and coordinates with other state and central agencies, such as the Central Bureau of Investigation (CBI), the Intelligence Bureau (IB), and others state police units, to exchange information, seek assistance, and ensure that cases are investigated and prosecuted effectively.
- It is essential to note that the specific functions and jurisdiction of the CB-CID in Uttarakhand may be further detailed in the departmental regulations, standing orders, or directives issued by the state police department or government. These documents may provide more specific information about the CB-CID's role and responsibilities.
- *CBI is a premier investigation agency in India. It derives its power to do investigation from Delhi Special Police Establishment (hereinafter DSPE) Act, 1946. The Act confers jurisdiction on CBI to investigate offences in Union Territories only. However, its jurisdiction can be extended by the Central Government to other areas, including Railways and States. In the case of States, the CBI cannot exercise its powers except with the consent of the concerned State Government. The Director CBI is responsible for the administration of the organisation, while the superintendence is vested in Central Government.*<sup>53</sup>

#### Law and Process of Investigation by CBI

The CBI primarily investigates three categories of offences: corruption, economic and special. The jurisdiction of CBI, the nature of cases and the process of investigation adopted by the agency has been analysed in this section.

### 3.4. JURISDICTION OF CBI

#### a) Original Jurisdiction

The CBI can investigate offences the Central Government notifies under Section 3 DSPE Act, 1946. The DSPE Act of 1946 confers jurisdiction on CBI to investigate offences in Union Territories only. However, its jurisdiction can be extended by the Central Government to other areas, including Railways and States. 12 Generally, CBI takes up matters where the Central Government's interest is involved, e.g., corruption or economic offence by Central Government's employees, fraud in the stock exchange or bank, organised crimes having inter-state and international ramifications, drug trafficking etc.

#### b) Concurrent Jurisdiction

There are as many as 239 Sections of the Indian Penal Code, 1860 (hereinafter IPC), which CBI has been authorised to investigate. But this is not the original jurisdiction of CBI. The nature of this jurisdiction is concurrent. Generally, the power of investigating all these offences under IPC 1860 is

<sup>53</sup> The Delhi Special Police Establishment Act, No. 25 of 1946, § 2, INDIA CODE (2012) available on <http://indiacode.nic.in/> (last visited on August 28, 2012).

with the State Police. These offences include Rape (Sections 375 and 376), Murder (Section 302), Kidnapping (Section 363) etc. In case of these offences, the CBI cannot exercise its powers except with the consent of the concerned State Government. There have been several cases in which the State has referred to CBI at the initial stage or after the State Police failed to investigate them because of political pressure, communal pressure or any other complicity of the case.

c) Directions by Constitutional Courts

The Constitution of India guarantees basic human rights, called Fundamental Rights, to its citizens. The Supreme Court and High Courts are the protector of these rights and have been empowered to address any grievance pertaining to the same in the interests of justice. In pursuance thereof, several cases over the years have been referred to CBI by these Constitutional Courts. This reference by Courts is in addition to the power of Central and State Governments to refer the investigation of offences to the CBI. In Sampat Lal's case, the apex Court held that the 'Court' can direct CBI investigation, and for compliance with the Court order, the CBI need not take permission under Section 6 of the DSPE Act, 1946, which is otherwise essential.

### **3.5. NATURE OF CASES DEALS BY CBI**

The CBI probes government corruption.

Departments, Central Public Sector Undertakings, Financial Institutions, economic crimes, conventional/particular crimes such as human trafficking, murder, rape, bomb blast, terrorism, etc. DSPE Act 1946 authorises the CBI to investigate:

- A) Cases involving Central Government public officials, State Government servants, and others.
- B) Cases involving the Central Government, public sector projects or undertakings, or statutory corporations or bodies funded by the Government of India.
- C) Cases involving violations of Central Laws that affect the Indian government, such as import and export control order violations, passport fraud, high seas crime, and aviation crime.
- D) Other major instances include organised gangs or professional criminals, crimes with implications in numerous States, including Union Territories, serious cases of fake narcotics, important cases of professional interstate gangs kidnapping children, etc.

### **3.6. Process of Investigation by CBI**

The Code of Criminal Procedure, 1973, governs CBI investigations. Crime Manual, 2005 provides extensive investigative standards.

## ● Investigation: Meaning

Section 2(h) of the Cr.P.C., 1973 defines "investigation" as all proceedings under this Code for collecting evidence by a Police Officer or any person (other than a Magistrate) authorised by a Magistrate.

Information concerning a cognisable offence presented to a police station officer-in-charge and documented under Section 154 Cr.P.C., 1973 normally commences an investigation. In *H.N. Rishbud v. State of Delhi*<sup>54</sup> the inquiry included the following:

- i. proceeding to the spot;
- ii. ascertainment of the facts and circumstances of the case;
- iii. discovery and arrest of the suspected offenders;
- iv. collection of evidence relating to the commission of the offence, which may consist of:
  - a) the examination of the various persons (including the accused) and the reduction of their statements into writing, if officers think fit,
  - b) the search of places or seizure of things considered necessary for the investigation and to be produced at the trial; and
  - c) formation of the opinion as to whether, on the materials, there is a case to place the accused before a Magistrate for trial and, if so, taking the necessary steps for the same by the filing of a charge sheet under Section 173 (2) Cr.P.C., 1973.

### 3.6.1. Attendance and Examination of Witness

Section 160(1) Cr.P.C., 1973 allows an investigating police officer to order anyone to appear before him. A person under 15 or a woman must not be compelled to go somewhere other than their home.

Police can question witnesses under Sections 161 and 162 Cr.P.C., 1973. Section 161 seeks trial evidence. The accused receives free copies of such statements before trial. Section 161 covers spoken, written, and gestural statements. Section 162 prohibits cross-examination and oaths for police officer statements.

The Law of Evidence, 1872, does not regard such a declaration as substantial evidence of the facts mentioned.

Section 161(2) requires a person, including an accused, to answer all questions from the investigating police officer truthfully. Still, Article 20(3) of the Constitution protects an accused from questions that could lead to a criminal charge. Incriminating questions may be ignored by the accused.

### 3.6.2. Complaints

With regard to an investigation by CBI, the process commences with the receipt of complaints. The CBI may receive complaints dealing with various matters from different quarters, including the general public. Every complaint is entered in the complaint sub-module of the Crimes Module, or the Temporary Complaints Register maintained in the branch office. If the complaint is from the jurisdiction of any other branch of CBI, it will be forwarded to the respective branch without any delay. All complaints are treated

<sup>54</sup> AIR 1955 SC 196.

as 'confidential' at all stages.<sup>55</sup> The Superintendents of Police are required to have a preliminary look at each complaint and decide whether it falls within the purview of CBI and will merit its attention. If the analysis reveals that the complaint deals with a substantial issue, which falls within the ambit of CBI and needs further verification, the permission of the Competent Authority is obtained to verify the same.

In order to ensure uniformity in dealing with complaints, the following broad guidelines prescribed in the Manual are to be kept in view.<sup>56</sup> Ordinarily, no verification of a complaint of the following nature should be taken up except for special reasons: -

- (i) Complaints that are anonymous and pseudonymous.
- (ii) Complaints containing vague and unverifiable allegations.
- (iii) Where the allegations relate to service matters, which can be better looked into by the departmental authorities.
- (iv) Complaints of petty nature not involving specific allegations of bribery or corruption which can be better dealt with by the Vigilance Wing of the department or local Police
- (v) Complaints not otherwise falling within the purview of CBI.
- (vi) Complaints that have already been looked into or are being looked into by the department or its Vigilance Wing and the allegations prima facie do not reveal that these would require an open investigation by CBI.
- (vii) Complaints pertaining to matters/incidents which have occurred in the distant past.
- (viii) Complaints involving only State Government servants or private individuals and which are of no interest to CBI.

The following categories of complaints may be considered fit for verification<sup>57</sup>:-

- i) Complaints pertaining to the subject matters which fall within the purview of CBI either received from official channels or from well-established and recognised public organizations or from individuals who are known and who can be traced and examined.
- ii) Complaints containing specific and definite allegations involving corruption or serious misconduct against public servants, falling within the ambit of CBI, which can be verified.

Suppose the complaints are received against members of the lower judiciary. In that case, these may be forwarded to the Registrar of the High Court concerned, and the complaints received against members of the higher judiciary may be forwarded to the Registrar General of the Supreme Court through the Joint Director (Policy). The alleged offender's conduct is verified after taking permission from the Competent Authority. Then the complaint is assigned a regular complaint number.

Secret verification of complaints is to be completed within three months of receipt, which may be extended in complicated matters. When any complaint is received from CVC, it gets priority for investigation.<sup>58</sup> In

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<sup>55</sup> Central Bureau of Investigation (Crime) Manual, Government of India 73 (2005).

<sup>56</sup> id. at page 73.

<sup>57</sup> Central Bureau of Investigation (Crime) Manual, Government of India 74 (2005).

case the CVC has already made a preliminary study of the complaint and has asked CBI to investigate, there is ordinarily no need to re-verify the complaint. Preliminary verification should be limited to the instances which are worth verification and where special circumstances exist. In such cases, the permission of the Competent Authority should be taken at the earliest and, in no case, later than seven days after receipt of the complaint by the branch Superintendent of Police. The relevant facts and circumstances should be reported immediately to the CVC so that the latter may decide whether an open enquiry is to be taken up or not.

### **3.7. MODEL POLICE ACT 2006- A ROADMAP FOR FUTURE**

The Government of India presented the Model Police Act of 2006, which is also known as the Model Police Bill, in order to establish a framework for police reforms and to aid states in the process of creating their police legislation. The Model Police Act is also known as the Model Police Bill. Even though the act is intended to serve as a guide, individual states are free to alter and customise it to meet their constituents' needs better. The Model Police Act of 2006 specifies some important characteristics that can act as a road map for the future reform of the police force. The following are a few of the more important provisions:

- i) *Accountability of the Police:* This act emphasises the necessity of police accountability and establishes systems for both oversight and accountability of the police. It includes provisions for the establishment of Police Complaints Authorities at the state and district levels to resolve complaints against police employees. These authorities are responsible for investigating complaints.
- ii) *Recruitment and Training of Police Officers* The statute emphasises the significance of open and merit-based recruitment procedures for police officers and other law enforcement employees. In addition to this, it highlights the necessity of having regular and adequate training programmes for police officers in order to improve their professionalism, ethics, and understanding of human rights.
- iii) *roles and Obligations of the Police* The act lays out the roles and obligations of the police, which include the prevention and detection of crime, the upkeep of public order, the protection of life and property, and the provision of help to the general populace. It emphasises community-oriented policing as well as the building of partnerships between the police and the public.
- iv) *Reforms to the Police Force* This act proposes a number of changes to the way the police force is administered. One of these changes is the creation of a State Security Commission, which would be tasked with ensuring that the police force functions free of undue political involvement. In addition, it suggests compartmentalizing investigative and law enforcement functions to increase both specialization and productivity.

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<sup>58</sup> The Central Vigilance Commission (CVC) Act, No. 45 of 2003, § 8 INDIA CODE(2012) available on <http://india code.nic.in/> (last visited on August 12, 2012).

- v) **Human Rights and the Behaviour of the Police** The act places a strong emphasis on the protection of human rights. It lays forth principles for the behaviour of the police, including the use of force, arrest, search, and seizure, as well as the treatment of those who have been arrested. It encourages sensitivity towards underrepresented groups and establishes guidelines for the conduct of law enforcement.
- vi) **Internal Oversight and Discipline** The act emphasises the requirement for internal processes to ensure that the police force maintains discipline and is accountable for its actions. It makes provisions for the establishment of Police Establishment Boards, which will have oversight over promotions, transfers, and other things pertaining to employees.
- vii) **Cooperation Between the Police and the Public** The legislation promotes cooperation between the police and the public and develops procedures for community engagement in policing. It acknowledges the significance of comments, recommendations, and complaints from the general public in order to enhance the quality of police services.
- viii) While the Model Police Act of 2006 does provide a thorough framework for policing reforms, it is vital to note that its acceptance and implementation vary throughout different states in India. This is something that should be kept in mind. Certain states have accepted the act with amendments, while others have formed laws governing law enforcement. The act provides a point of reference and a starting point for debates on police reforms, allowing states to customise their own police laws to fit specific regional requirements and issues. It also acts as a starting point for the discussions.

### **3.8. POLICE SURVEILLANCE AND VIOLENCE UNDER THE CRIMINAL PROCEDURE CODE**

#### **3.8.1. Introduction**

Law enforcement organizations are equipped with critical instruments thanks to police surveillance, which plays an important part in current criminal investigations and is useful in preventing and solving crimes. The development of new technologies and surveillance methods has significantly impacted law enforcement's capacity to keep tabs on suspects, amass evidence, and ensure public safety. However, the installation of police monitoring raises substantial concerns regarding the preservation of individual rights as well as the potential for disproportionate use of force or invasions of privacy. These are all issues that could arise as a result of the surveillance. Protecting the rights of individuals should be one of the primary focuses of any democratic society. It is absolutely necessary to protect civil liberties in order to keep our legal system just and fair. Some examples of civil liberties are the right to privacy, freedom of expression, and due process. These rights operate as an essential check on the state's power, ensuring that law enforcement operations are carried out within the confines of the law and preventing abuses of authority. Finding a happy medium between concerns about public safety and individual privacy is difficult. On the one hand, efficient police surveillance can help prevent and investigate criminal activity. This can assist with the identification and apprehension of suspects, as well as the disruption of organised crime networks

and the protection of communities. On the other side, surveillance methods that are indiscriminate or intrusive have the potential to violate individuals' rights to privacy, expose innocent people to unnecessary scrutiny, and destroy public trust in law enforcement. This delicate equilibrium has become even more difficult to maintain as a result of the proliferation of new technologies like facial recognition software, predictive analytics, and the collection of massive amounts of data. Even though these technologies offer capabilities that have never been seen before in terms of identifying and tracking suspects, they also raise questions around accuracy, bias, and the potential for abuse. The criminal procedural rules play an important part in the regulation of police surveillance practices. These codes define the legal boundaries within which law enforcement agencies are permitted to carry out their duties. These laws specify the conditions for obtaining search warrants, gaining authorization for wiretaps, carrying out surveillance operations, and resorting to force when it is required. They are intended to ensure that police surveillance is carried out to maintain public trust, comply with legal norms, and respect the individual rights of those being surveilled. This article will dig into the many facets of police surveillance outlined in criminal procedural regulations, analysing the difficulties and debates surrounding its execution. Our goal is to contribute to the current conversation about the role of police surveillance in the context of criminal investigations by shedding light on the complex problems that are at hand through examining the delicate balance between individual rights and public safety.

Certainly! Continue our discussion on the topic of police surveillance and violence in accordance with the criminal procedure regulations.

### 3.8.2. Problems Associated with Police Surveillance

Despite the fact that the purpose of police surveillance is to strengthen public safety and provide assistance in the investigation of criminal activity, the practice is not without its complications.<sup>59</sup> The following are some of the most significant difficulties:

**Worries over Privacy** The fast growth of surveillance technologies has given rise to growing worries over the erosion of individuals' privacy rights. Techniques of surveillance such as closed-circuit television cameras, facial recognition systems, and data collecting systems have the capability of tracking the actions and movements of individuals in both public and private settings. Legislators and law enforcement organizations face a challenging task when attempting to strike a balance between the need to safeguard individual privacy and the requirement to ensure public safety.

1. ***Proportionality and Necessity:*** According to the principle of proportionality, the intrusion produced by surveillance measures should be proportional to the harm that is being prevented or examined. Necessity refers to the condition in which the intrusion cannot be avoided. It is vital to make certain that the actions of surveillance are justified by reasonable suspicion or probable cause and that these activities are not excessively intrusive or indiscriminate.

<sup>59</sup><https://www.brookings.edu/research/police-surveillance-and-facial-recognition-why-data-privacy-is-an-imperative-for-communities-of-color/>



2. **Data Retention and Access:** The proliferation of digital surveillance technology has increased the gathering and storage of massive amounts of data, both of which have been standard in recent years. There are problems with storing this data, determining how long to keep it, and providing access to it. Policymakers are confronted with the challenge of finding a happy medium between the competing goals of retaining data for investigative purposes and safeguarding individuals from unnecessary scrutiny.

Accountability in the Face of Rapid Technological Advancement The rapid development of new surveillance technology frequently outpaces the establishment of legal frameworks to govern their use. Because of this, there is a hole in accountability, as the legal system may find it difficult to keep up with the implications and potential abuses of evolving technologies. It is essential to ensure that rules and regulations are updated to account for advances in technology to ensure a suitable balance between the powers of surveillance and the rights of individuals.

3. **Bias and Discrimination:**<sup>60</sup> There is a rising concern about the potential for bias and discrimination in the use of surveillance technology, particularly facial recognition systems. This concern is growing as more people become aware of the potential for these issues. It's possible that unjust profiling and abuses of civil rights may result if these technologies were used in a way that disproportionately targeted certain populations or demographic groups.

● **Accountability and the Use of Force by the Police:**

The debate over monitoring and the problem of excessive force used by police are inextricably linked to one another. technology is possible for surveillance to be used improperly or abused in order to carry out acts of violence or stifle dissent, despite the fact that technology has the potential to serve as a tool for increasing accountability and transparency in policing. The need for strong accountability procedures within law enforcement agencies has been brought to light by recent incidents of police brutality and the excessive use of force.

The establishment of norms for the use of force by law enforcement officials is greatly aided by the existence of criminal process codes. These codes provide forth the conditions that must be met before the use of force can be authorised, as well as the maximum allowable amount of force and the required reasons. In addition to this, they establish methods for reviewing wrongdoing or excessive use of force and holding those involved accountable for their actions.

In order to effectively address the problem of police brutality, it is essential to put in place procedures that provide effective monitoring and accountability. Some of the ways in which openness and accountability might be improved include the establishment of independent civilian oversight committees, the use of body cameras, the requirement that reports be filed, and in-depth investigations.

<sup>60</sup><https://inclusive.princeton.edu/addressing-concerns/bias-discrimination-harassment#:~:text=Bias%20is%20a%20broad%20category,or%20beliefs%20or%20their%20expression.>

It is vital, for the purpose of gaining an understanding of the complexity underlying the balance between public safety and individual rights, to investigate police surveillance and violence in accordance with criminal procedural regulations. The protection of personal liberties and the right to privacy in the face of the need for efficient law enforcement is a continuing struggle. In order to find the sweet spot, there needs to be rigorous legislative frameworks, public discourse, and ongoing examination and adaption of surveillance practices so that they are in line with the values of society and the advancement of technology. By conducting an in-depth analysis of these topics, we may contribute to formulating policies that respect civil liberties while fostering the well-being of the general population.

Certainly! Let's delve deeper into the critical analysis of the relationship between police surveillance and violence as it relates to criminal procedure laws.

● ***Legal Protections and Independent Court Supervision:***<sup>61</sup>

It is usual for criminal procedure codes to include a variety of legal safeguards and measures to guarantee that police surveillance is carried out in accordance with the bounds of the law. These precautions include things like:

1. ***Warrants to Search:*** Before law enforcement personnel can undertake certain sorts of surveillance, such as entering private premises, accessing personal electronic devices, or intercepting communications, they are required to get a search warrant, which is issued by a court and must be obtained in many jurisdictions. The presentation of probable cause, which ensures that there is a reasonable belief that evidence of a crime will be found, is required before search warrants can be issued.

Both Reasonable Suspicion and Probable Cause are Legal criteria That function as Thresholds for Beginning Surveillance Activities The legal criteria of reasonable suspicion and probable cause function as thresholds for beginning surveillance activities. A higher level of certainty that a crime has been done or is about to be committed is required for probable cause, in contrast to the lower level of certainty required for reasonable suspicion, which requires specific and articulable facts showing a person's involvement in criminal behaviour.

2. ***Rule of Exclusion:*** The exclusionary rule is a legal theory that rejects evidence gathered through unconstitutional means, such as conducting surveillance in violation of constitutional rights or conducting searches without a warrant. This rule discourages illicit police monitoring and provides an incentive for law enforcement to comply with the obligations of the law.

Judicial Oversight There is a significant need for judicial oversight in order to guarantee that law enforcement agencies are conducting surveillance in an ethical manner. The petitions for search warrants are reviewed by judges, who then consider whether or not the methods of surveillance being employed are within the law, as well as whether or not the surveillance measures are necessary and proportionate. A

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<sup>61</sup><https://www.ijstr.org/final-print/jan2015/Judicial-Commission-Supervision-For-Judges-Behaviour-In-Independent-Judiciary.pdf>

check on the possible abuses of power by law enforcement is provided by judicial oversight, which also enables an unbiased evaluation of the legality and efficacy of surveillance operations.

● ***The Obstacles and the Criticisms:***

Challenges and criticisms about police monitoring in accordance with criminal procedural laws continue to exist, notwithstanding the legislative safeguards that are already in place. The following are some of the most significant difficulties and criticisms:

Surveillance tactics that were initially deployed for specific goals, such as counter terrorism or investigations into serious crimes, might gradually develop into larger surveillance programmes. This phenomenon is referred to as "surveillance creep." This expansion of the goal raises worries about the breadth of the surveillance and the potential for it to violate individuals' rights to privacy.

**Absence of Transparency** The clandestine nature of police surveillance operations can be a barrier to the existence of open government and public accountability. The public's trust in law enforcement organizations can be damaged when there is a lack of transparency regarding the methods of surveillance, the policies governing the preservation of data, and the overall scope of surveillance activities.

**Bias based on Race and Class** Surveillance practices have been criticised for disproportionately targeting marginalised communities, leading to bias based on race and class. These kinds of prejudices can make existing socioeconomic inequities worse, and they can also contribute to the over-policing of specific groups, which in turn erodes trust between the police and the communities they serve.

1. ***Inadequate monitoring and Safeguards:*** There are a school of thought that maintains the currently in place safeguards and monitoring procedures are not adequate to avoid abuses of surveillance authorities. Concerns include weak checks and balances within law enforcement agencies, inadequate judicial scrutiny due to the reliance on ex-party applications, and a lack of substantial sanctions for violations of procedural procedures.

**Impact on Freedom of Expression** There is reason for great worry regarding the possible chilling effect that surveillance could have on freedom of expression. Individuals may be dissuaded from participating in authorised actions, such as protests or dissent, out of a concern that they will be targeted or exposed to unwarranted scrutiny if they are aware of, or feel that they are, being under surveillance. This fear can be fueled by the knowledge that they are being watched.

**Conclusion:**

An analysis of police surveillance and violence in the context of criminal procedural codes reveals how important it is to find a middle ground between the need to effectively implement the law and the preservation of individual rights. It is essential to have legal protections, judicial oversight, systems for openness and accountability, and legal safeguards in place to ensure that police surveillance is carried out within the bounds of the law and with due regard for civil freedoms. However, concerns and complaints about the extent, openness, biases, and supervision of surveillance practises demand for continuing

dialogues, policy changes, and improvements in legal frameworks to address the ever-changing landscape of surveillance technologies and their impact on society. These issues can be addressed by addressing the evolving landscape of surveillance technologies and their influence on society.

### **3.9. Police Surveillance:**

The term "police surveillance" refers to the practise carried out by law enforcement authorities of conducting ongoing, methodical monitoring and observation of individuals, organizations, or locations with the intention of thwarting, uncovering, or investigating criminal actions. It entails gathering information, collecting evidence, and monitoring the behaviour or movements of persons or organizations that are suspected of being involved in illicit actions. There are a few distinct avenues that can be pursued by the police in the name of surveillance, including electronic surveillance and physical surveillance.

**Physical Surveillance:** When law enforcement officials directly observe individuals or sites, this type of surveillance is referred to as "physical surveillance." Gathering information and keeping an eye on activities can be accomplished through various methods, such as stakeouts, covert operations, or employing informants. When conducting physical surveillance, it is often necessary to have personnel present in the field who can watch and record pertinent information in a covert manner.

**Electronic Surveillance** Electronic surveillance is the practise of gathering information and monitoring communications through the use of various technical technologies. Wiretapping, the eavesdropping on phone calls or other forms of electronic communication, the installation of closed-circuit television (CCTV) cameras for the purpose of video surveillance, and the monitoring of electronic devices using techniques such as GPS can all fall under this category. Electronic surveillance gives law enforcement authorities the ability to collect evidence and monitor actions remotely, most of the time without the subjects of the monitoring even being aware that they are being watched.

#### **3.9.1. Structure of the Legal System That Governs Police Surveillance:<sup>62</sup>**

Although the legal structure that governs police surveillance differs from jurisdiction to jurisdiction, it is often based on criminal process laws and other related pieces of legislation. These legislative frameworks provide the rules, processes, and constraints for carrying out surveillance activities. As a result, they ensure that law enforcement authorities operate within the confines of the law and protect the rights of individual citizens.

**Codes of Criminal Procedure** The codes of criminal procedure lay out the norms and procedures that law enforcement agencies are expected to follow when carrying out surveillance operations. The majority of the time, they discuss topics like obtaining search warrants, carrying out searches and seizures, authorising wiretaps or intercepting communications, and carrying out undercover operations. When carrying out actions related to surveillance, police enforcement is obligated to conform to the legal requirements, thresholds, and processes that are outlined in the various criminal procedure codes.

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<sup>62</sup><https://www.cliffsnotes.com/study-guides/criminal-justice/the-criminal-justice-system/the-structure-of-criminal-justice>

Privacy laws define and preserve the right to privacy of persons and put limits on the breadth and amount of surveillance that can be done by law enforcement agencies. Privacy laws also limit the types of information that can be collected by law enforcement authorities. These laws may include measures that put restrictions on the use of surveillance technologies, govern the collection, retention, and use of personal information, and establish safeguards to prevent abuses of surveillance powers.

**Laws Protecting Human Rights** Human rights laws, such as international treaties or requirements enshrined in national constitutions, play a vital part in determining the contours of the legal framework that governs police surveillance. The protection of individual rights, such as the right to privacy, the right to freedom of expression, and the right to due process is a primary focus of these laws. In order to guarantee that surveillance laws are interpreted and applied in a manner that is compliant with human rights duties, they define the principles and criteria that will guide this process.

#### Guidelines for the Ethical and Effective Use of Surveillance Powers

- **Proportionality:** According to the principle of proportionality, the amount of intrusion produced by surveillance techniques has to be in appropriate proportion to the type of wrongdoing that is being investigated or stopped. It requires that the actions of surveillance that are carried out by law enforcement agencies are both necessary and appropriate in respect to the goals that are being sought. The goal of proportionality is to strike a balance between the requirements of law enforcement and the protection of individual rights. Proportionality helps guarantee that surveillance is not unduly invasive or indiscriminate by helping to ensure that it is not overly invasive.

Legality is the requirement that all activities involving police surveillance must be carried out in compliance with the law. Legality is sometimes referred to as legality. This involves following to the legal standards for commencing surveillance, complying with the procedural requirements for obtaining warrants or authorizations, and working within the bounds defined by criminal procedure codes and privacy laws. In addition, this includes conducting surveillance in a manner that is not unlawful. Legality both ensures that monitoring is founded on clear legal grounds and avoids practises of surveillance that are either arbitrary or unlawful.

Demonstrating that the use of surveillance powers is required for accomplishing law enforcement goals that are considered to be legitimate is one way to satisfy the necessity requirement. When conducting surveillance, law enforcement agencies are required to defend their actions by establishing a plausible foundation, such as probable cause or reasonable suspicion. When other investigation approaches are insufficient to obtain the outcomes that are wanted, it is necessary to conduct surveillance. This guarantees that surveillance is not carried out arbitrarily or as a matter of course, but rather in circumstances in which other investigating procedures are insufficient.

Adhering to these principles helps to guarantee that police surveillance is carried out within the bounds of the law, that individual rights are respected, and that public trust in law enforcement authorities is

preserved. It offers a framework for striking a balance between the need for efficient law enforcement and the safeguarding of individual privacy and civil liberties.

Let's go more into the topic of police surveillance, with a particular emphasis on the way in which it affects people's rights to privacy and the difficulties that come with striking a balance between security and civil freedoms.

- ***Impact on Individuals' Right to Privacy:***

The invasion of people's private life, monitoring of their actions, and gathering of sensitive information are all aspects of police surveillance that substantially negatively affect individuals' constitutionally protected rights to privacy. This consequence gives rise to worries over the possible invasion of privacy and the necessity of establishing safeguards to preserve the rights of persons. Consider the following important factors in relation to the influence on one's right to personal privacy:

The amount to which individuals are monitored and the breadth of information that is gathered might differ from case to case. This is referred to as the scope of the surveillance. It is of the utmost importance to ensure that the surveillance actions are narrowly limited to particular investigative reasons and that gathering personal data is commensurate with legitimate law enforcement aims.

- ***Data Collection and Storage:*** The collection and storage of personal data gained through surveillance raises issues regarding the storage, access, and potential misuse of such information. These concerns are raised because of the possibility of such information being misused. In order to prevent unauthorised access and preserve individuals' privacy, it is essential to set crystal-clear norms and regulations defining the amount of time that data is stored, the purposes for which it can be used, and the safe management of the collected data.

Surveillance in public places, such as the installation of closed-circuit television cameras, raises problems concerning the extent to which persons are entitled to a reasonable expectation of privacy. In spite of the fact that people in public spaces generally have lesser expectations of privacy, it is essential to strike a balance between the possibility of excessive monitoring or surveillance of individuals' activities in these areas and the need to ensure the general public's safety.

- ***Striking a Balance Between Civil Liberties and Security:***<sup>63</sup>

Significant difficulties can be encountered when trying to strike a balance between the requirements of security and public safety and the safeguarding of civil freedoms. To do so successfully needs giving thoughtful consideration to the following factors:

Comparison of Proactive and Reactive Surveillance can be either proactive, with the goal of preventing crimes and identifying possible dangers, or reactive, with the emphasis placed on investigating specific instances. It is essential to prevent overreach and ensure that surveillance actions are targeted and justified

<sup>63</sup><https://www.press.umich.edu/pdf/0472113941-ch7.pdf>

by reasonable suspicion or probable cause. Striking a balance between proactive and reactive surveillance is the key to achieving this balance.

**Accountability and Transparency** Improving the systems of transparency and accountability is vital to achieving a balance between protecting civil rights and maintaining public safety. Clear rules, supervision systems, and reporting requirements are all ways to assist guarantee that surveillance activities are carried out within the bounds of the law and are open to examination.

Rapid technical breakthroughs have led to enhanced surveillance capabilities, enabling the collecting and processing of huge volumes of data. These capabilities have been made possible as a result of technological advancements. To address concerns about accuracy, bias, and potential infringements on privacy rights, however, the use of developing technologies such as facial recognition or predictive analytics needs to be properly regulated. These issues stem from the fact that these technologies are still in their infancy.

- ***Judicial Review and Checks on Power:*** Judicial review is an essential component in striking a balance between the protection of civil freedoms and the maintenance of public safety. The evaluation of surveillance applications and authorizations by independent courts helps to guarantee that surveillance measures are justifiable, required, and in accordance with legal norms.

Building and sustaining public trust is an essential component of any strategy that seeks to strike a balance between the protection of citizens' civil liberties and their safety. Anxieties can be alleviated and broad societal acceptability of surveillance measures can be ensured by engaging in communication with the public, creating transparency, and addressing concerns regarding monitoring practises. The surveillance of citizens by the police has a significant bearing on the right to privacy and makes it more difficult to achieve a happy medium between safety and civil liberties. To ensure that surveillance activities are carried out legitimately, proportionately, and with regard for individual rights, it is essential to adhere to legislative frameworks, respect privacy standards, enhance transparency, and put appropriate oversight mechanisms into place. In the context of police monitoring, nations can strive to safeguard both public safety and civil liberties if they address the problems outlined below and find a way to strike a compromise between the two.

### **3.9.2. Considerations Regarding Ethics in Light of Recent Technological Developments:**

The methods that police use to conduct surveillance have been dramatically altered as a result of advances in technology, which presents both benefits and challenges. Even if these innovations make law enforcement more efficient, they also bring up important ethical questions regarding the use of technology such as facial recognition, biometric data collection, and predictive analytics.

- **The Influence of Recent Technological Developments:**

**Enhanced Capabilities for Surveillance** As a result of technological improvements, law enforcement organizations now have access to more sophisticated technologies for the purpose of conducting

surveillance. Both video footage and still photographs may be instantly analysed by facial recognition systems in order to identify individuals. At the same time, the collection of biometric data enables the gathering of distinctive behavioural or physical features that can be used for identification reasons. These technological improvements make it possible to conduct more effectively and precisely in a manner.

Collecting and analysing data is made possible by modern technology, which makes it possible to collect and analyse large volumes of data, making it easier to recognise patterns, trends, and potential dangers. The application of predictive analytics can assist law enforcement organizations in predicting criminal activities, efficiently allocating resources, and preventing crimes before they occur. The effectiveness of investigations as well as the distribution of resources, is improved by these technologies.

- ***Considerations of an Ethical Nature:***

**Problems Regarding Privacy** The implementation of technologies such as facial recognition and collecting biometric data gives rise to substantial privacy problems. These technologies require the acquisition and examination of extremely personal and easily identifiable information. It is possible that individuals will only sometimes be aware of when or how the data pertaining to them is being gathered and processed, which may result in potential violations of their right to privacy.<sup>64</sup>

**Obtaining Informed Consent and Maintaining Transparency** It is essential to obtain informed consent and maintain transparency in relation to the gathering and utilisation of biometric data. The individuals whose data is being collected and stored have to have a crystal-clear awareness of the purpose, scope, and potential repercussions of such collection and storage.

It is possible for technological systems used in surveillance to exhibit biases and mistakes. This is especially true with facial recognition technology. The potential for bias and discrimination exists. These prejudices can disproportionately impact marginalised communities and lead to discriminatory practices, which then exacerbates the socioeconomic inequality that already exists.

The usage of technologies that rely on algorithms and predictive analytics raises worries about the potential erosion of civil liberties and due process. These concerns stem from the fact that these technologies are becoming increasingly prevalent. It is possible that individuals will not have the ability to protest or contest the legitimacy of surveillance or its effects if decisions are made based purely on the predictions made by algorithms.

**Data Security and Misuse** It is imperative that the storage, retention, and security of the data obtained through surveillance technology be carefully protected against unauthorised access as well as misuse. Data breaches and improper treatment of information can result in severe invasions of personal privacy as well as potential abuses of power.

- **Threats to Personal Information, Infringements on Civil Liberties, and Possibilities of Bias:**

<sup>64</sup><https://www.distanceeducationju.in/pdf/BA%20Sem%20III%20Course%20No%20PL-301%20Philosophy.pdf>



Risks to Privacy Collecting and analysing an individual's personal data via surveillance technology presents a potential risk to that individual's privacy, particularly if the activity is carried out in secret or without the individual's knowledge or agreement. The possibility of all-encompassing and unceasing surveillance has the potential to have a chilling effect on individuals' rights to freedom of expression and association.

Civil freedoms: The use of surveillance technology in an excessive or indiscriminate manner can be an infringement of civil freedoms, such as the right to privacy, freedom of movement, and freedom from arbitrary surveillance, among other rights. When it comes to the protection of these fundamental rights, the establishment of transparent legal frameworks and safeguards is critical.

Bias and discrimination: It has been discovered that facial recognition systems display racial biases, gender biases, and age biases, which can lead to erroneous identifications and may even lead to discriminatory practices. These kinds of prejudices can lead to erroneous accusations, which can then result in false arrests, and they can also have a disproportionate effect on specific communities.

Absence of Accountability: The implementation of automated surveillance technology may present difficulties in terms of accountability. It may be difficult to assign culpability or question the foundation of surveillance measures if judgements are primarily based on the outcomes of algorithmic processes. This could undermine transparency and due process.

### **Conclusion:**

There is a possibility that technological developments in police surveillance will improve law enforcement capacities, yet, these advancements will also pose substantial ethical problems. It is absolutely necessary to address the privacy threats connected with technologies like as facial recognition, biometric data gathering, and predictive analytics. In addition, it is essential to defend civil liberties and minimise prejudices. In order to strike a balance between the benefits of these technologies and the preservation of individual rights, solid legal frameworks, openness, public supervision, and ongoing review of the impact these technologies have on privacy, potential biases, and civil liberties are required.

Certainly! The following are some other aspects of the impact of technology breakthroughs on police surveillance as well as the ethical considerations surrounding them that should be taken into account:

Mission Creep and Function Creep: Technological improvements can lead to mission creep, which is when surveillance technologies that were initially created for specific reasons, such as counterterrorism or major criminal investigations, are expanded to embrace a wider range of activities. Function creep is the opposite of mission creep and occurs when surveillance technologies were initially developed for specific goals, such as counterterrorism or serious crime investigations. This development has the potential to raise concerns about the overreach of surveillance authorities and the potential infringements on privacy and civil rights that could result from it.

**Lack of Transparency and Accountability** Lack of transparency and accountability can be caused by the sophisticated nature of surveillance technologies, which can include proprietary algorithms and methods that should be released to the public. It is difficult for the general public to evaluate the effects of these technologies, voice their concerns about them, or hold law enforcement authorities accountable for their use since there needs to be more clear information about the capabilities and limitations of these technologies.

The notion of proportionality mandates that the activities of surveillance be reasonable to the harm that is being prevented or examined. Necessity is another concept that is related to proportionality. In a similar vein, the concept of necessity dictates that surveillance tactics should only be used in situations when they are required and there are no other means that are less invasive that may be used instead. It is essential to ensure that surveillance technologies are implemented in a manner that is consistent with these principles if one wishes to steer clear of unwarranted or disproportionate intrusions into personal privacy and civil rights.

Surveillance technologies, such as facial recognition systems, have been found to exhibit biases, particularly when used towards marginalised communities. This prejudice is particularly problematic because it can lead to discrimination. These preconceived notions can lead to disproportionate targeting, incorrect identifications, and the ongoing practise of systemic prejudice. For the sake of ensuring fairness and preventing new injustices, it is vital to address and attempt to reduce these prejudices.

**Consent and Individual Autonomy** It is a tough ethical issue to obtain the informed consent of those who are the targets of monitoring, particularly in public areas. Clear rules on when and how consent should be sought, as well as means for individuals to opt-out of monitoring practises where they are practicable, are required in order to strike a balance between the competing demands of the need to protect the public and to respect individual autonomy and privacy.

**Mechanisms for Effective Safeguards and Oversight Are Necessary To Address The dangers connected With Technological developments In Surveillance** We need effective safeguards and oversight mechanisms to address the dangers that are connected with technological developments in surveillance. This includes conducting regular audits and reviews of surveillance practises, establishing independent oversight bodies with the capacity to review and control surveillance activities, and establishing means for individuals to seek restitution in the event that their rights have been violated or that they have been subjected to abuse.

**Debate and Involvement of the Public** Ethical considerations regarding police surveillance technologies should be the subject of public debate and participation. It is possible to help ensure that democratic ideals guide the deployment of surveillance technologies, respects human rights, and answers the concerns and needs of the communities who are touched by these technologies by engaging with the public, civil society organizations, and technological experts.

We can work towards striking a balance between efficient law enforcement and the protection of individual privacy, civil liberties, and societal values if we conduct a critical analysis of the influence that technical

improvements have had on police surveillance and if we address the ethical considerations that are linked with such advancements.

### 3.10. THE ROLE OF POLICE IN THE ELIMINATION OF CRIME: LEGISLATIVE PROVISIONS AND RESPONSIBILITIES

#### Introduction:

The elimination and prevention of crime within society are both significantly aided by the efforts of the police. In their capacity as law enforcement agents, they are accountable for ensuring the continued safety of the general public, enforcing the law, conducting investigations into illegal activity, and arresting those responsible for it. On the other hand, the legislative rules and the precise elaboration of their tasks and obligations significantly impact the degree to which they can fulfil these responsibilities successfully.

#### 1) *Provisions of the Legislation:*

The laws and regulations that are put into place by the legislative authorities of a country or jurisdiction are what are referred to as legislative provisions. In their efforts to eradicate crime, the authorities tasked with doing so are given the following powers, authorities, and constraints by these regulations.<sup>65</sup> They ensure that the activities of the police are lawful, accountable, and respectful of individual rights, providing a legal framework within which the police can function and allowing them to do their jobs. The following are examples of legislative measures that may be pertinent to the function of the police in the elimination of crime:

***Criminal Codes:*** Criminal codes are laws that specify different types of wrongdoing and spell out the penalty for committing those wrongdoings. They provide rules for investigating and prosecuting certain offences, such as drug trafficking and theft, and they describe the ingredients of specific crimes, such as larceny, assault, and drug trafficking. The police use the criminal codes as a foundation to identify criminal acts and formulate appropriate responses to those behaviours.

**Powers and Procedures Available to the Police** Legislative laws determine the powers and procedures that are available to the police for the purpose of reducing or eliminating crime. These may include the authority to conduct surveillance, question suspects, make arrests, search for and seize evidence, conduct searches and seizures, and use force when required. The procedures and precautions that must be adhered to in order to ensure the lawful exercise of these authorities are outlined in legislative laws as well. Examples of these procedures and safeguards include obtaining search warrants and adhering to due process rights.

**Legal Representation and the Defence of Individual Rights** Some pieces of legislation may contain provisions that safeguard the rights of individuals who are the subject of criminal investigations. This can include safeguards against unlawful imprisonment, the right to a fair trial, protection against self-incrimination, and provisions for legal aid and counsel in court. These rules ensure that the police act

<sup>65</sup>[http://www.oas.org/juridico/english/mesicic3\\_grd\\_provisions.pdf](http://www.oas.org/juridico/english/mesicic3_grd_provisions.pdf)

within the confines of the law and respect the rights of persons, thereby promoting justice and fairness within the system of criminal justice.

● ***The following are the responsibilities of the police:***

In addition to the rules established by legislation, the police also have special tasks to fulfil in the fight against crime. In general, however, these obligations consist of the following, although they can differ slightly according on the jurisdiction:

Community participation, public awareness campaigns, and the adoption of preventive measures are all examples of ways in which the police can play a proactive role in reducing the incidence of crime. This involves conducting patrols in areas with a high crime rate, running outreach programmes, working with community organizations, and advocating crime prevention initiatives.

Investigation: When a crime is committed, it is the responsibility of the police to undertake exhaustive investigations in order to gather evidence, identify suspects, and construct cases for prosecution. In order to accomplish this, it is necessary to conduct interviews with witnesses, collect forensic evidence, examine crime scenes, and work in conjunction with other law enforcement agencies and forensic experts.

The police have the authority to seize and arrest individuals who are suspected of committing crimes. In other words, they can take someone into custody. This responsibility entails locating potential suspects, carrying out arrest orders, guaranteeing the well-being of all parties concerned, and carrying out arrests in a lawful and courteous manner.

Cooperation with Other Organisations In order to ensure that criminal activity is eradicated in an efficient manner, the police frequently work together with other organizations, such as prosecutors, forensic laboratories, and victim assistance organizations. It is absolutely necessary for these authorities to work together and share information if they want their investigations and prosecutions to be effective.

***I. Structure of the Legislative:***

The legislative frameworks that define the powers and limitations of the police force, as well as the legal constraints within which they are allowed to function, play an essential part in defining the powers and limitations of the police force. These frameworks offer a number of important benefits, including the following:

Legislative frameworks, such as criminal codes and associated legislation, provide an outline of the authorities that are granted to the police. These are the powers that will be defined below. They make clear that officers have the ability to make arrests, search for and seize evidence, carry out surveillance, and resort to physical force when necessary. Legislation ensures that the police have the necessary instruments to carry out their tasks successfully and within the confines of the law by explicitly defining the authorities that they have.

Legislative frameworks also put constraints on the acts the police can take, which can be read as "limiting police actions." For the purpose of protecting individual rights and preventing abuses of power, they set

certain procedural requirements, such as the acquisition of search warrants and the observance of due process rights. By imposing these restrictions, legislation serves as a check against arbitrary or illegal behaviour on the part of law enforcement, thereby fostering accountability and defending the rights of individuals.

The legal basis for the actions and enforcement of law enforcement can be found in the many criminal codes and other related pieces of legislation. They not only impose punishments but also identify specific offences, detail the components of crimes, and define what constitutes a crime. The police are able to discover criminal activities, investigate cases, and take appropriate enforcement steps thanks to this legislative framework.

Legislative provisions are very necessary in order to ensure accountability within the police force in order to guarantee accountability. They set up reporting methods, monitoring bodies, and disciplinary processes in order to monitor incidents of wrongdoing or abuse and to respond appropriately to those instances. Legislation that encourages transparency, professionalism, and public trust in law enforcement institutions can achieve these goals by requiring officers to take responsibility for their actions.

A Legislative Framework Should act as a Safeguard for Individual Rights Legislative frameworks should act as a safeguard for individual rights. They establish the rights of individuals who are the subject of criminal investigations. These rights include the right to legal representation, the right to be protected from having to incriminate oneself, and the right to a trial that is fair. The legal system assures that the police will work in a manner that maintains the ideals of justice and protects the rights of all individuals by writing these rights into legislation. This ensures that the rights of suspects as well as victims will be protected.

## ***II. Crime Prevention:***

The proactive role that the police play in crime prevention is essential for ensuring the continued safety of the general public and cutting down on the number of instances of illegal behaviour. Provisions in the law give the police the authority to engage in preventative measures such as surveillance, patrols, and criminal analysis using a variety of tools, including the following:

Initiatives for Community Policing Community policing initiatives are an approach to crime prevention that encourages cooperation between local law enforcement and the communities they serve. The development of connections, the promotion of trust, and the mobilisation of community members to combat crime are the primary focuses of these projects. Community policing can be helped along by legislative frameworks, which can offer resources, rules, and legal provisions that make it possible for communities to collaborate with law enforcement effectively.

It is empowering Preventive Measures Legislative laws can give the police the authority to engage in preventative measures such as surveillance, patrols, and criminal analysis. This can be done by granting them the authority to engage in preventative measures. These provisions lay the groundwork for the establishment of a legal foundation for the implementation of preventative initiatives that are aimed at acts that are illegal.

Legislation lends support to the efforts of law enforcement to recognise and neutralise potential dangers well in advance of the commission of illegal activities by providing them with the tools necessary to do so.

The distribution of resources: Legislative frameworks can also have an impact on the distribution of resources for crime prevention. Legislation can prioritise funding for preventative activities, such as community outreach programmes, crime prevention education, and the formation of specialised units focusing on proactive policing techniques, through the use of budgetary provisions and guidelines. Legislation provides support for the execution of effective crime prevention measures by giving funding to the aforementioned sectors.

Sharing of Information and Collaborative Efforts Legislative provisions have the potential to make it easier for the police and other parties involved in crime prevention to share information and work together on preventative measures. This includes exchanging data, intelligence, and recommendations for best practises about crime prevention with community organizations, businesses, educational institutions, and other government authorities. The efficiency of efforts to prevent crime can be improved by the use of legislation to develop norms and structures that encourage cooperation and coordination among the various groups involved.

It is possible for societies to cultivate safer communities, establish confidence between law enforcement agencies and the general public, and effectively address the underlying causes of criminal activity if they acknowledge the significance of preventative measures against crime and provide the police with the authority to implement legal laws.<sup>66</sup>

### ***III. Investigation of Criminal Activity:***

In the course of criminal investigations, the police are responsible for a variety of tasks that are extremely important to the overall investigation process. These responsibilities usually consist of the following:

Evidence Collection The police are the ones who are responsible for collecting evidence in order to determine the components of a crime and identify the people who were involved in it. In order to construct a convincing case for the prosecution, this entails conducting interviews, collecting physical evidence, conducting forensic analysis of materials, and making use of other investigative techniques.

Searches and Seizures: As part of their investigation, the law enforcement personnel may opt to carry out searches and seizures. Nevertheless, it is imperative that all of these measures be carried out in compliance with the legal frameworks that control the processes of searching and seizing property. To guarantee that people's rights to privacy are respected, various legislative provisions, such as the Fourth Amendment in the United States, stipulate that the police must obtain search warrants based on probable cause, with a few exceptions. This is done to safeguard people's ability to maintain their privacy.

Obtaining Warrants, the police are required to seek a warrant from a legal authority before they can search a building or seize property in order to comply with the law. The presentation of probable cause, which can

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<sup>66</sup> Somasundaram, Vijay, Concepts and Definitions of Criminology, MHRD

be defined as a rational belief that a crime has been committed or that evidence linked to a crime can be found at a certain location, is necessary for the issuance of a warrant. In order to ensure that searches are carried out in accordance with the law and with the necessary level of oversight, the legal framework lays out the requirements and procedures for obtaining and executing search warrants.

**Interrogation of Suspects** The police are the ones who are tasked with the job of interrogating suspects as part of their investigational process. However, there are legislative frameworks that control the interrogation of suspects in order to protect their rights. These rights include the right to stay silent and the right to legal representation during the interrogation process. Before questioning a suspect in police custody, the police are required under legal rules, such as the Miranda warning in the United States, to advise the suspect of their rights.

**Observance of Procedural Safeguards** Legislative measures play an important part in ensuring that criminal investigations are carried out with procedural safeguards to protect individual rights and to keep the integrity of the investigative process intact. These precautions include things like:

- ***Due process:*** Legislative frameworks create due process rights, which ensure that individuals involved in criminal investigations receive fair treatment and procedural fairness. Due process rights are established through due process rights. These rights include the right to legal representation, the presumption of innocence until guilt is proven beyond a reasonable doubt, the right to a fair trial, and protection against incriminating oneself in court.

**Judicial Oversight** In order to guarantee that the appropriate protocols are adhered to by the police throughout the investigation process, several legal frameworks call for judicial oversight. In the course of this oversight, there may be an examination and authorization of search warrants, a monitoring of the interrogation of suspects, and an appraisal of the evidence's suitability for admission. The exercise of investigative powers by the police is subject to judicial monitoring, which serves as a check on the police and helps to keep the integrity of the legal process intact.

**The Exclusionary Rule** The exclusionary rule is a legal principle that is recognised in some regions of the world. It serves as a remedy for situations in which procedural safeguards have been violated. It indicates that evidence gathered through unconstitutional or unlawful tactics, such as unwarranted searches or compelled confessions, may be excluded from the trial in some circumstances. The exclusionary rule acts as a disincentive against unlawful behaviour on the part of law enforcement officers and ensures that evidence that is presented in court was collected in a manner that is in line with applicable legal standards.

#### ***IV. The Process of Arrest and Detention:***

The term "probable cause" refers to a reasonable belief that a crime has been committed and that the person who has been detained is involved in the crime. The police have the authority to make arrests based on probable cause. The following are some of the legal provisions that govern the process of arrest:

Before making an arrest, the police must have sufficient evidence or information to establish probable cause. This must be done before an arrest may be made. This condition helps avoid arbitrary or unjustifiable detentions and guarantees that arrests are based on reasonable grounds. It also ensures that arrests are based on reasonable grounds.

**Warrants for Arrest** In many instances, the police are obliged to acquire a warrant for arrest from a court authority. This warrant is issued based on a determination of probable cause, and the police must provide this evidence to the authority before they can receive the warrant. However, there are circumstances in which the police are permitted to make arrests without first obtaining a warrant. This includes situations in which a crime is committed in their presence or where there are grounds for believing that the suspect poses a risk to public safety.

**Protection of the Rights of the Arrested Person** Legislative laws ensure that the arrested person's rights are protected. The right to stay silent, the right to have legal representation, the right to be brought before a judge without undue delay, and the right to be told of the basis for the arrest are some of the rights that are often included in this category. During the process of arresting an individual, these clauses guarantee that the person will be treated properly and that their rights will be respected.<sup>67</sup>

**Jail and Judicial Oversight:** Legislative frameworks determine the length of time that arrested persons are required to be held in jail. They also demand judicial scrutiny to examine the legitimacy of continuous detention and determine whether or not it is necessary. This inspection guarantees that individuals are only detained for an indefinite period of time with adequate justification and that a court process is followed that is both fair and expeditious.<sup>68</sup>

The police can ensure that their actions are lawful, respectful of individual rights, and subject to adequate judicial review if they adhere to the legislative rules that govern arrest and detention. These provisions are set forth in the law and govern the process. These provisions create a balance between the necessary requirement for efficient law enforcement and the preservation of individual liberties, thereby contributing to the development of a criminal justice system that is just and responsible.

### ***The Employing of Force:***

The use of force by law enforcement officers is an essential part of their responsibilities; nonetheless, this aspect of their work needs to be governed by a robust legal framework in order to prevent abuse and preserve individual rights. In most cases, the following components make up the legal framework around the use of force:

These three principles—proportionality, necessity, and reasonableness—serve as a framework for the way in which law enforcement agencies employ physical force. The principle of proportionality dictates that the amount of force employed must be in proportion to the danger that is being faced. The application of force should only take place when it is unavoidable to accomplish a lawfully sanctioned goal, as the principle of

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<sup>67</sup><https://districts.ecourts.gov.in/sites/default/files/Arrest%20and%20Pre-Trial%20Detention%20-%20Maddasani%20Sreenu.pdf>  
<sup>68</sup><https://cjp.org.in/law-on-arrest-and-detention-know-your-rights/>



necessity mandates. The concept of reasonableness examines whether or not a reasonable officer, given the same set of circumstances, would have resorted to the same amount of force.

Provisions in the Legislation Legislative frameworks determine the conditions under which law enforcement officers are permitted to use force. They identify the sorts of force that are permissible, such as physical force, less-lethal weaponry, or deadly force, and they clarify the situations in which each type of force may be deployed. For example, they may allow physical force, but they may not allow deadly weapons. In addition, legislative laws place restrictions on the use of force, such as the prohibition on the use of disproportionate or arbitrary force, and provide direction on the strategies of de-escalation and alternatives to the use of force.

Accountability procedures Legislative laws provide accountability procedures to prohibit the excessive use of force and address incidents of misconduct. These mechanisms also handle the issue of addressing cases of misconduct. These methods could include mandates for reporting, internal probes, external monitoring organizations, and civilian complaint procedures. Legislative frameworks foster openness, accountability, and public trust in law enforcement by requiring that officers be held accountable for the use of force in the line of duty.

#### ***VI. Working in Partnership with the Criminal Justice System:***

It is imperative for efficient law enforcement that there be coordination between the police and the other parts of the criminal justice system, such as the prosecutor's office and the court system. Provisions in the law that make this coordination easier to achieve include:

Sharing of Information Legislative frameworks make it possible for law enforcement, prosecutors, and any other relevant government agencies participating in the criminal justice process to share information with one another. These requirements ensure that critical information, like as evidence, witness testimonies, and investigative findings, is efficiently disseminated to support the prosecution of cases, and that it is used to do so.

Evidence Handling Legislative rules set guidelines and processes for the collecting, preservation, and presentation of evidence in court. These provisions are known as "evidence handling." These requirements guarantee that the evidence is gathered in accordance with the law, that it is properly managed, and that it is presented in a manner that promotes the values of equity and justice.

Safeguards of Due Process Legislative frameworks provide protections for individuals participating in the process of criminal justice, such as the right to a fair trial, the presumption of innocence, and the right to legal representation. These rights are known as "due process safeguards." All of the components of the criminal justice system are encouraged to work together cooperatively and fairly thanks to these provisions.

#### ***VII. Accountability and Control of the Public Sector:***

Mechanisms of public accountability and monitoring are absolutely necessary for preserving public faith in the police force and ensuring that officers behave in a responsible manner. Provisions in the relevant laws play an essential part in the process of putting in place these systems, which may include the following:

**Independent Oversight Bodies** Legislative frameworks have the potential to form independent oversight bodies that are entrusted with monitoring and reviewing the conduct of law enforcement officers. It is the responsibility of these agencies to investigate accusations of misbehaviour, carry out audits, and provide suggestions for improving police practises.

**Internal Disciplinary processes:** Legislative regulations frequently require police organizations to establish internal disciplinary processes in order to address officer misconduct. These mechanisms can be used to investigate and punish officers for inappropriate behaviour. The accountability of the police force can be ensured by the use of these tools, which include investigations, disciplinary proceedings, and corrective measures.

**Complaint Procedures for people** Legislative frameworks have the potential to establish complaint procedures for people who have grievances against police officers. Individuals have the opportunity to voice their concerns, to begin inquiries into allegations of improper behaviour, and to seek resolution or redress through the use of these channels.

**Reporting and Transparency** Legislative measures may mandate law enforcement agencies to preserve transparency by regularly reporting on their activities, occurrences involving the use of force, and disciplinary proceedings. This transparency raises public knowledge, makes it possible to scrutinise police procedures, and assists in locating areas in which there is room for improvement.

It is possible for societies to cultivate a culture of responsible policing, effectively handle misconduct, and create confidence between the police and the communities they serve by implementing these accountability and oversight systems into legislative frameworks.

## **Conclusion:**

Legislative frameworks provide the basis for defining the police's authority, responsibilities, and boundaries, and serve as the foundation for the definition of police powers. They serve as the legal justification for acts taken by law enforcement, including as surveillance, investigation, arrest, and the deployment of force. Individual rights, accountability, and efficient crime prevention are given top priority under these frameworks. They encourage proactive crime prevention efforts, develop supervision systems to ensure responsible police conduct, and facilitate collaboration between the police and the other components of the criminal justice system. A society can develop a criminal justice system that is just and

responsible by continually examining and refining the provisions of its legal provisions in an effort to strike a balance between the protection of civil liberties and the preservation of public safety.

## CHAPTER – 4

### JUDICIAL TRENDS IN POLICE ADMINISTRATION

The link between the law and the administration of law enforcement is crucial to the health of any democracy. Regarding the authority given to law enforcement, the court system is an important check and balance. This ensures that these organizations respect the law and their constituents' rights. Judicial judgments, which include the interpretation and implementation of legal principles, form and impact the landscape of police administration. The actions of law enforcement agencies are also affected by judicial rulings. The purpose of this study is to investigate recent judicial changes in police administration. By analysing significant legal ideas, illuminating pivotal instances from the past, and addressing pressing issues, we want to create a holistic picture of the court's influence on law enforcement. We intend to be as informative as possible in this regard.<sup>69</sup> Many different aspects of police administration are discussed in this article. Issues such as racial profiling, community policing, the use of force, and technological advancements in law enforcement are also discussed. By delving further into these concerns, we may better understand how the judicial system handles complex legal challenges in a rapidly evolving society and how the balance of power between the judicial system and enforcement agencies evolves. The findings of this research will provide light on the effect that judgements from the courts have had on police procedures, identify areas of concern, and suggest possibilities for improvement.

The first portion of this work is devoted to an analysis of the relevance of the judicial branch in policing, with an emphasis placed on the function of the judiciary as a defender of the rule of law and a protector of individual liberties.<sup>70</sup> After that, we will provide an overview of the objective and scope of the essay, serving as a road map for the sections that will follow. The function of the judiciary is becoming increasingly important to ensure that the operations of the police administration are carried out in a manner that is fair, just, and responsible as public expectations continue to shift, legal frameworks continue to adapt, and new problems continue to surface. By gaining an awareness of the judicial trends in police administration, we may facilitate a conversation about efficient techniques, necessary reforms, and the delicate balance that must be maintained between protecting civil liberties and addressing security issues.

#### **4.1. The Rights of the Constitution and the Powers of the Police**

The management of law enforcement must always place a primary emphasis on ensuring the protection of constitutional rights. For instance, the Fourth Amendment to the Constitution of the United States of America protects against unlawful searches and seizures by mandating that law enforcement agencies obtain warrants based on probable cause. The legal system has played a very significant role, over the course of many years, in both the interpretation of the Fourth Amendment as well as the formation of

<sup>69</sup>[https://www.academia.edu/42720453/Police\\_Criminality\\_and\\_Judicial\\_Trends\\_in\\_India\\_A\\_Legal\\_Discourse\\_From\\_A\\_Human\\_Rights\\_Perspective](https://www.academia.edu/42720453/Police_Criminality_and_Judicial_Trends_in_India_A_Legal_Discourse_From_A_Human_Rights_Perspective)

<sup>70</sup><https://bprd.nic.in/WriteReadData/CMS/The%20Indian%20Police%20Journal.pdf>

norms for the behaviour of police enforcement. Recent years have seen significant judicial growth in this area, and one of those developments is the formulation of the exclusionary rule.<sup>71</sup> Any evidence that was gathered in violation of the Fourth Amendment is not allowed to be submitted in court since this is required under the exclusionary rule. In the famous case of *Mapp v. Ohio*<sup>72</sup> the applicability of the exclusionary rule was enlarged to cover state-level prosecutions. This change occurred as a result of the ruling. Because of this, any evidence that had been improperly obtained was able to be excluded from the trial. This decision marked a significant turning point in the fight to safeguard the rights of individuals against the unconstitutional conduct of law enforcement. The judicial system consistently struggles with this challenge when it comes to finding a balance between individual privacy and the protection of the general public. The court system is currently facing many challenging issues due to the proliferation of new technologies. Some examples of these challenges include monitoring cell phones, surveillance via GPS, and warrantless searches of digital devices. These technologies include the capability to track mobile phones, monitor whereabouts via GPS, and examine digital devices without a warrant. Recent cases, such as *Carpenter v. United States* have addressed the degree to which law enforcement can access individuals' digital information without a warrant being issued first. In light of these judgements, it has become clear that judicial oversight is necessary in order to keep up with the fast advancement of technology.

In addition, the courts have investigated the practice of stopping people on the street and searching them without a reasonable suspicion of wrongdoing. The Supreme Court established the "reasonable suspicion" standard in the case of *Terry v. Ohio* (1968). This standard allows law enforcement authorities to participate in a brief stop-and-frisk when they have a reasonable suspicion that criminal conduct is afoot. The judge ruled in *Terry's* favour and the lawsuit was dismissed. On the other side, the implementation of this standard has led to concerns surrounding racial profiling and the likelihood of arbitrary measures being taken by law enforcement. Recent cases and changes have attempted to address these concerns and guarantee that the stops are not led by bias or used as a pretext for unconstitutional searches to ensure these concerns are addressed.

One of the emerging problems in this field is the Fourth Amendment's effect on a person's ability to maintain their privacy online. The courts are having difficulty resolving issues with warrantless searches of digital devices, encryption, and the extent to which persons can expect to maintain their privacy in the digital era due to the rapid advancement of technology. When it comes to collecting and utilising electronic evidence, these challenges continue to impact judicial judgments and law enforcement operations. Both law enforcement agencies and the general public need to have a solid understanding of the ever-evolving interpretations of constitutional rights and police authority. Judicial rulings in this area establish the bounds for police actions. This helps to guarantee that individuals' rights are protected while also taking into consideration the factors necessary for effective law enforcement.

#### **4.2 Accountability for Use of Force and Police Procedures**

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<sup>71</sup><https://bprd.nic.in/WriteReadData/CMS/The%20Indian%20Police%20Journal.pdf>

<sup>72</sup>367 U.S. 643 (1961).

Naturally, the issue of law enforcement personnel using physical force is loaded with sensitivity and complexity because of the nature of the matter itself. When defining and amending the legal norms that control the use of force, it is the role of the courts to strike a balance between the legitimate demands of law enforcement and the protection of individual rights. This is done so that the legal norms can effectively regulate the use of force. The courts are responsible for performing this duty, which is of the utmost importance. Considered to be one of the most influential judicial tendencies in this area, the criteria of reasonableness are one that the Supreme Court established in the case of *Graham v. Connor*. The United States Supreme Court concluded that a police officer's use of force must be objectively reasonable in view of the whole set of circumstances that the officer was aware of at the time that the force was employed. This criterion considers several factors, such as the seriousness of the offence, the level of threat that the suspect poses, and the level of resistance that the suspect puts up.

Another landmark case that significantly influenced how police officers conduct themselves was *Garner v. Tennessee*,<sup>73</sup> which was decided in 1985. In this specific case, the Supreme Court of the United States concluded that an officer might only use lethal force to hold a suspect who is leaving the scene of an incident if the officer has reasonable cause to believe that the suspect poses a major threat of death or serious bodily injury to others. In other words, the suspect must be considered a significant potential aggressor. To put it another way, the suspect must pose a threat to the officer's safety if the officer chooses to use deadly force. A more restrictive framework for the use of lethal force was formed as a result of this ruling, which placed greater emphasis on the sacredness of human life. For law enforcement authorities and the judicial system, maintaining order during protests and demonstrations presents a one-of-a-kind set of obstacles. Maintaining public order while also protecting people's rights under the First Amendment is a difficult balancing act that must be performed. In recent cases, questions about the use of crowd control measures, dispersal orders, and the surveillance of social media during protests have been investigated. In this particular situation, judicial decisions have underlined how important it is to defend the rights to free speech while ensuring the general public's safety. The use of body-worn cameras, sometimes known as BWCs, has significantly influenced law enforcement's accountability. BWCs produce a neutral record of the interactions between the public and law enforcement, which can be used as critical evidence in investigations into misconduct allegations. The courts have acknowledged the utility of body-worn camera footage (BWC) as a tool for determining whether the acts of a police officer were reasonable and for fostering openness and accountability within the police force. However, problems concerning police discretion in activating the cameras and those regarding access to and preservation of BWC material continue to be contested in courts and legislatures across the country.<sup>74</sup>

Cases that involve the use of force by law enforcement agents continue to provide a number of difficult challenges and contentious debates. In order to determine whether or not an individual's constitutional rights have been violated, the courts are entrusted with investigating the events that led up to each occurrence, evaluating how reasonable the officer's actions were and considering any relevant precedents. The judicial

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<sup>73</sup>471 U.S. 1 (1985)

<sup>74</sup><https://www.ojp.gov/pdffiles1/nij/114211.pdf>

trends in this field are demonstrating a rising emphasis on de-escalation strategies, training, and policies that prioritise the protection of life and minimise the use of force whenever it is possible to do so. We can acquire insights into the shifting legal landscape and the measures that courts are taking to promote responsible and constitutional law enforcement activities when we closely examine judicial trends in the use of force and police accountability.

#### **4.2.1. The Rights of the Constitution and the Powers of the Police**

Protecting constitutional rights is one of the most important aspects of law enforcement administration since it helps to ensure that law enforcement agencies work within the parameters of the law and show respect for individual liberty. In particular, the Fourth Amendment to the Constitution of the United States of America plays a significant part in establishing the rights of citizens with regard to the conduct of searches and seizures.<sup>75</sup>

According to the Fourth Amendment, "The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated," and "no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched and the persons or things to be seized." In other words, people have the right to be free from being subjected to searches and seizures that are arbitrary and capricious.

- **Changing Interpretations of the Exclusionary Rule:**

The development of the exclusionary rule is an important judicial trend that can be seen in the field of constitutional rights as well as the powers of the police. Evidence gathered in violation of the Fourth Amendment's safeguards against unreasonable searches and seizures is not permitted to be presented in court under the exclusionary rule, a concept of the law that states such evidence cannot be presented.<sup>76</sup>

The precedent-setting decision of *Mapp v. Ohio*<sup>77</sup> had a significant bearing on the manner in which the exclusionary rule was implemented. In this particular case, the Supreme Court decided to expand the application of the exclusionary rule to state-level trials by finding that evidence gathered through illegal searches and seizures conducted by state law enforcement must be excluded from the trial. Regardless of whether the prosecution was carried out at the state or the federal level, this ruling made certain that the rights of persons were safeguarded against unlawful actions carried out by law enforcement.

Finding a Happy Medium Between Privacy and Public Safety:

Finding a happy medium between citizens' constitutional rights to privacy and legitimate concerns about public safety is a significant obstacle in the administration of police departments. It is often necessary for law enforcement agencies to collect evidence or information in order to prevent and investigate crimes; nevertheless, they are required to do so in a manner that respects the privacy rights of individuals.

<sup>75</sup>[https://nhrc.nic.in/sites/default/files/Unit\\_3.pdf](https://nhrc.nic.in/sites/default/files/Unit_3.pdf)

<sup>76</sup>[https://nhrc.nic.in/sites/default/files/Unit\\_6.pdf](https://nhrc.nic.in/sites/default/files/Unit_6.pdf)

<sup>77</sup>367 U.S. 643 (1961).

When issues of personal privacy and public safety collide, the interpretation of the Fourth Amendment's safeguards and the development of best practices for police behaviour fall squarely within the purview of the judicial system. As new technologies merge, this delicate balancing act is getting harder to pull off. The use of surveillance technology, the protection of one's digital privacy, and the extent to which people might expect to maintain their private in the digital era are all emerging problems.

### ***Terry v. Ohio*** and Its Implications for the "Stop and Frisk" Policy:

The practice of "stop and frisk" is another significant part of constitutional rights and the authorities that are granted to the police. In the case of *Terry v. Ohio*, the Supreme Court issued a ruling that established criteria for law enforcement personnel to follow when conducting Terry stops, also known as stop and frisks, which involve brief pauses and pat-down searches based on reasonable suspicion of criminal activity. The criteria were established by the Supreme Court in a ruling that established criteria for law enforcement personnel to follow when conducting Terry stops.

*Terry v. Ohio* was the case in which the Supreme Court made the decision that a police officer is permitted to perform a brief investigatory stop and pat-down search of a person if the officer has a reasonable suspicion, which must be backed by specific and articulable evidence, that the individual is engaged in criminal activity and may be armed and dangerous. The officer must have a reasonable suspicion that the individual is engaged in criminal activity and may be armed and dangerous in order for the search to be legal. This decision established a legal standard for the manner in which this type of law enforcement can be legitimately applied in the future.

On the other hand, the implementation of the stop-and-frisk policy has raised discussions concerning racial profiling and the possibility of arbitrary police operations. Some people believe that the practice of stop and frisk discriminates against people of colour and violates their civil rights because it targets certain communities disproportionately. The judicial system has struggled with racial bias issues and has worked to ensure that stop-and-frisk procedures do not violate the constitutional rights of the people who are subjected to them.

### Emerging Problems: Protecting Personal Information Online and the Fourth Amendment:

Because of the expansion of digital technology and the introduction of the internet, complicated legal concerns have arisen about the protection of digital privacy and the application of the Fourth Amendment to the domain of digital information.

Issues such as unwarranted searches of digital devices, tracking individuals' locations using mobile phone data, and the limit of privacy expectations in online conversations are currently being debated in the courts. Recent cases, such as *Carpenter v. United States*, have investigated whether or not law enforcement agents are required to get a warrant to access persons' digital information, such as mobile phone records, emails, or data from social media platforms.

The ruling that the Supreme Court made in the case of *Carpenter v. United States* acknowledged that persons are entitled to a reasonable expectation of privacy in regard to the location records of their cell



phones, which are extremely divulgence regarding their activities and whereabouts. The Supreme Court concluded that it violates the Fourth Amendment to get historical cell phone location records without obtaining a warrant.<sup>78</sup>

These rising concerns underscore the necessity for the judicial system to adapt constitutional protections to the changing technology reality. The judiciary is continually working to find solutions to the persistent difficulty of reconciling the rights to digital privacy held by individuals with the requirements of law enforcement investigations.

We can gain a comprehensive understanding of how constitutional rights and police powers intersect and develop within the judicial framework if we take a closer look at the development of the exclusionary rule, the difficulties of striking a balance between privacy and public safety, the implications of *Terry v. Ohio* on stop and frisk practices, and the emerging issues of digital privacy. These judicial movements have an effect on police processes, contribute to the establishment of legal norms, and assist protect individual rights in an era characterized by rapid advancements in technology innovation.

### 4.3 ACCOUNTABILITY FOR USE OF FORCE AND POLICE PROCEDURES

The use of force by law enforcement officials is a highly controversial and difficult issue that needs to be thoroughly evaluated in light of the requirements of effective law enforcement as well as the protection of individual rights. The use of force by law enforcement officials is a topic that needs to be carefully considered in light of the requirements of effective law enforcement. The process of developing and refining the legal standards that regulate the application of force is greatly aided and advanced by the court system's participation. This helps to guarantee that force is only used when it is absolutely necessary and in a way that is in conformity with the criteria that are outlined in the constitution for its use.

One example of a notable judicial trend that has evolved in this field is the test of reasonableness that was established by the Supreme Court in the case *Graham v. Connor*. This case is one example of an emerging trend in this area. In this key decision, the Supreme Court came to the conclusion that the appropriateness of the use of force by law enforcement officials should be evaluated according to an objective criterion. This criterion takes into account the whole range of information that the officer was aware of at the time of the occurrence in question. It takes into consideration things like the severity of the offense, the level of threat posed by the suspect, and the level of resistance that is encountered. The Court emphasized that the reasonableness of an officer's conduct should be examined from the viewpoint of a reasonable officer on the scene, rather than through the lens of hindsight, since this is the most accurate method to establish whether or not an officer's actions were reasonable. In other words, the most accurate approach to determine whether or not an officer's actions were reasonable is to assess them from the perspective of a reasonable officer on the scene.

Another landmark case that changed the way police operations were carried out was *Garner v. Tennessee*, which was decided in the United States Supreme Court. The Supreme Court investigated the use of fatal

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<sup>78</sup>[https://www.supremecourt.gov/opinions/17pdf/16-402\\_h315.pdf](https://www.supremecourt.gov/opinions/17pdf/16-402_h315.pdf)

force by law enforcement officers to catch defendants fleeing the site of an event to gather evidence against them. The Court came to the judgment that the use of deadly force can only be considered justified if the officer has substantial reasons for thinking that the suspect poses a significant risk of death or serious bodily harm to other people.<sup>79</sup> This was the decision that the Court reached. This judgement created a more limited framework for the use of deadly force, emphasising the sanctity of human life and requiring police to investigate alternatives before resorting to fatal force. In addition, the ruling established a timeline for the implementation of the new guidelines. In addition to this, it placed a focus on the use of force that is appropriate given the level of danger that is present.

When it comes to striking a balance between the upkeep of public order and the protection of rights protected by the First Amendment, the policing of protests and demonstrations provides the authorities in charge of law enforcement with a one-of-a-kind set of challenges. This is especially true when it comes to the problem of policing of protests and demonstrations. During protests, the judicial system has played an active role in resolving issues over crowd control techniques, dispersal orders, and social media surveillance. In this specific case, judicial rulings have highlighted how crucial it is to safeguard rights to free expression while guaranteeing the general public's safety. Striking a careful balance between the two opposing considerations is essential in this situation.

The usage of body-worn cameras, which are often abbreviated as BWCs in some circles, has profoundly impacted the accountability of police enforcement. BWCs are responsible for producing unbiased records of the interactions that take place between members of the public and law enforcement. These records have the potential to be utilized as essential evidence in investigations into claims of wrongdoing. The judicial system has recognised the significance of body-worn camera video (BWC) as a vital instrument for evaluating whether the acts of a police officer were justified, increasing openness, and improving accountability in the field of policing. Concerns such as access to and preservation of BWC footage, in addition to the discretion granted to police in terms of turning on the cameras, continue to be a source of ongoing challenges.

In spite of efforts to improve police accountability, difficulties and debates continue to surround situations that involve the use of force by law enforcement agents. These occurrences frequently provoke public scrutiny and raise problems regarding the application of the reasonableness criterion, the continuum of the use of force, training and supervision, as well as the impact of latent bias. When it comes to incidents like these, judicial rulings play an extremely important part in establishing whether or not constitutional rights have been violated, analysing the circumstances surrounding each occurrence, and determining whether or not the officer's conduct was reasonable.

We can obtain useful insights into the growing legal landscape, and the measures courts are taking to promote responsible and constitutional law enforcement activities if we closely examine judicial trends in the use of force and police accountability. This will allow us to acquire valuable insights into the evolving legal landscape. These patterns help to form the expectations that are placed on law enforcement agencies,

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<sup>79</sup><https://www.ojp.gov/ncjrs/virtual-library/abstracts/tennessee-v-garner-fleeing-felon-rule>

hold those agencies accountable for their actions, and contribute to the ongoing efforts that are being made to develop trust between the police and the communities that they serve.

#### **4.4. PERSPECTIVES FROM AROUND THE WORLD AND A LOOK AT THE BIG PICTURE**

It is vital to consider international viewpoints and undertake a comparative examination of the approaches adopted by various jurisdictions when investigating judicial trends in the administration of police work. In the subject of police administration, gaining a better understanding of how various legal systems tackle comparable problems can lead to the development of cross-cultural learning and provide significant insights.

The comparative research of judicial trends enables us to find common difficulties, best practices, and creative ways, all of which can inform the creation of legislation and promote the efficiency of law enforcement procedures. By gaining a better understanding of the complexity involved in striking a balance between the protection of the public and the rights of individuals, we can obtain a broader perspective on the experiences of other countries.<sup>80</sup>

- ***Important Principles and Guidelines for International Human Rights:***

International human rights norms significantly influence the global administration of law enforcement, which play a vital part in determining current judicial trends. Conventions and treaties, such as the International Covenant on Civil and Political Rights and the Universal Declaration of Human Rights, are responsible for laying out the basic concepts and rights that regulate how law enforcement agencies function. These treaties and conventions include the International Covenant on Civil and Political Rights (ICCPR) and the Universal Declaration of Human Rights (UDHR).

International organizations such as the United Nations and various regional human rights organizations are some examples of organizations that not only give guidance but also monitor whether or not these standards are being adhered to. Their interpretations and recommendations help to build judicial trends in different jurisdictions, which in turn helps to ensure that law enforcement authorities respect human rights while carrying out their responsibilities.

- ***Extradition as well as International Cooperation in Criminal Investigation:***

In a world that is becoming more interconnected, law enforcement agencies have little choice but to work together and cooperate with one another across borders in order to successfully combat transnational crime.

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<sup>80</sup><https://www.entrepreneur.com/leadership/the-importance-of-seeing-the-big-picture/349368>

The procedure of transferring someone from one jurisdiction to another to prosecute or imprison them is referred to as extradition. Extradition is a vital tool for international cooperation in law enforcement.

The evolving approaches that courts have adopted to strike a balance between the objectives of justice, human rights, and international cooperation are reflected in the decisions that courts have made regarding extradition. Treaties on extradition, bilateral agreements, and the interpretation of international law all play a significant part in the development of judicial trends in this area. This helps to ensure that those who attempt to evade responsibility for their actions are brought to book and that justice is carried out.

- ***Concerns Regarding International Borders in the Context of Cybercrime and Terrorism:***

Because illegal activities frequently cross-national boundaries, law enforcement faces new obstacles as a direct result of the proliferation of cybercrime and terrorism. When it comes to investigating and prosecuting those who commit crimes online and terrorist acts, the current judicial developments in this area require wrestling with concerns of jurisdiction, data sharing, and international cooperation.

The interpretation of laws and treaties that are related to cybercrime and terrorism falls mostly on the shoulders of the judicial system. This requires the courts to answer questions regarding the admission of electronic evidence, the extradition of suspects, and the striking of a balance between national security concerns and civil freedoms. The formation of new judicial trends in this field is absolutely necessary in order to guarantee efficient cooperation across international borders and to safeguard society from new and emerging dangers.

- ***International Efforts to Fight Organized Crime and Trafficking in Human Beings:***

Both the trafficking of humans and organized crime are worldwide issues that, in order to be effectively combatted, require international collaboration and coordinated efforts. The judicial developments in these areas require tackling difficult legal challenges, such as the prosecution of criminal networks, the seizure of assets, the protection of witnesses, and global investigations, among other things.

The interpretation and application of national and international laws pertaining to human trafficking and organized crime are primarily the responsibilities of the judicial system. The legal framework is shaped by judicial decisions, which also provide law enforcement agencies with direction as they try to dismantle criminal networks, protect victims, and hold perpetrators accountable for their actions.

We are able to gain valuable insights into the complex challenges that are faced by law enforcement agencies on a global scale if we investigate the judicial trends in various jurisdictions and take into account international human rights standards, extradition and international cooperation, cross-border issues in cybercrime and terrorism, as well as global efforts to combat human trafficking and organized crime. Through comparative study, it is possible to identify commonalities, best practices, and creative ideas; this encourages collaboration and learning across borders to improve police administration everywhere in the globe.

#### **4.5. PERSPECTIVES ON THE FUTURE AND NEWLY EMERGING PROBLEMS**

The field of police administration is always changing as a result of the ongoing development of society. The judicial system plays an essential part in the process of adjusting to new problems and in the establishment of legal norms that direct the activities of law enforcement. There are a few significant areas that are determining the future orientations of police administration, and each of these areas deserves careful investigation.<sup>81</sup>

- ***Emerging Technologies and the Implications That They Have Legally:***

The advancement of technology has a significant impact on law enforcement, and this impact presents opportunities as well as obstacles. Important legal and ethical problems are raised by rapidly developing technology such as facial recognition and predictive analytics, as well as surveillance systems. It is up to the courts to decide whether or not these technologies violate the law and the constitution, whether or not they have the potential to violate an individual's right to privacy, and what the parameters are for the use of these technologies by law enforcement authorities.

Issues such as the admissibility of evidence gathered through new technologies, the bounds of surveillance activities, and the necessity to strike a balance between the benefits of technology and the protection of human liberties all need to be addressed by the judicial system. Because new problems are always emerging as a result of technological progress, the existing legal structure needs to be revised.

- ***Movements to Reform the Police and Their Influence on the Judicial System***

issues regarding police wrongdoing, racial bias, and the requirement for better responsibility have fuelled widespread calls for police reform in recent years. These issues have been motivated by the need for increased accountability. These movements have triggered judicial scrutiny of the methods of law enforcement, which has led to landmark rulings that are reshaping the legal landscape.

The constitutionality of policies, tactics, and training relating to concerns such as the use of force, stop-and-frisk procedures, and racial profiling is being brought into question in an increasing number of court cases. A growing emphasis on ensuring accountability, openness, and equitable policing is reflected in the changes seen in the judicial system in this area. As efforts to reform the police force continue to gain steam, the judicial system will play an increasingly important part in ensuring that law enforcement policies and procedures align with the requirements of the Constitution and the norms of society.

- ***The Importance of Artificial Intelligence in the Criminal Justice System:***

The use of artificial intelligence (AI) in law enforcement has several possible applications, ranging from predictive policing to data analysis and crime prevention. AI has a substantial amount of untapped potential in this sector. However, the utilisation of AI does give rise to problems around discrimination, privacy, and accountability.<sup>82</sup>

<sup>81</sup>[https://www.oecd.org/education/2030/E2030%20Position%20Paper%20\(05.04.2018\).pdf](https://www.oecd.org/education/2030/E2030%20Position%20Paper%20(05.04.2018).pdf)

<sup>82</sup><https://www.ojp.gov/pdffiles1/nij/252038.pdf>

The use of AI algorithms in decision-making processes, the admissibility of evidence gathered by AI-driven technology, and the potential for disparate impact on marginalised communities are all legal problems that will need to be addressed by the courts. The legal framework for the use of artificial intelligence in law enforcement will be shaped by judicial trends in this field, which will ensure the implementation of AI responsibly and ethically.

Reforms to the Legislative Process and the Potential Consequences of These Changes:

Legislative improvements heavily influence the direction that the future of police administration will take. It is possible for efforts to update the laws, rules, and policies that surround the practices of law enforcement to have a considerable impact on the landscape of the court system.<sup>83</sup>

The courts will be asked to interpret and apply new legislation, as well as to determine whether or not it is constitutional and to shed light on its potential repercussions in practice. The effects of legislative reforms on topics such as the use of force, accountability mechanisms, data privacy, and community engagement will be reflected in future developments in the judicial system. In the years to come, the path that will be taken by police administration will be heavily influenced by how the interplay between shifting legislative priorities and shifting judicial priorities plays out.<sup>84</sup>

● ***Finding a Middle Ground Between Concerns for Public Safety and Individual Liberties:***

The delicate balancing act that must be performed in order to protect civil liberties while also ensuring public safety is one of the most difficult challenges faced by police administration. This equilibrium becomes more difficult to maintain in the face of new dangers, such as acts of terrorism and cybercrime, as well as sudden outbreaks of public health crises.

The breadth of police authorities, the basis for invasive investigative techniques, and the safeguarding of individual rights will continue to be contentious issues before the courts. The direction that the law takes in the future will be a reflection of current efforts to strike the optimal balance between preserving civil liberties and addressing legitimate concerns about public safety.

We can obtain insights into the changing legal landscape and the problems that lie ahead by carefully evaluating future directions and developing issues in police administration. The role played by the court in interpreting laws, providing answers to unique legal questions, and protecting constitutional rights will significantly impact the future of law enforcement. It will contribute to the continuous efforts to create confidence, transparency, and accountability within our societies.

**4.6. IN THE REALM OF POLICE ADMINISTRATION, THE FOLLOWING ARE SOME OTHER POTENTIAL FUTURE DIRECTIONS AND RISING ISSUES:**

Protection of Personal Data and Privacy Rights With the proliferation of data-driven technology and the acquisition of massive amounts of information by law enforcement agencies, the protection of personal

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<sup>83</sup><https://jgu.edu.in/blog/jgls/new-technology-and-artificial-intelligence-in-crime-investigations-and-career-prospects-in-the-field-of-criminology-and-criminal-justice/>

<sup>84</sup><https://www.ibanet.org/dec-21-ai-criminal-justice>

data and the right to privacy have emerged as two of the most pressing issues of our time.<sup>85</sup> It will be necessary for the courts to address problems concerning the legality of data collection methods, storage and retention procedures, as well as the risk of sensitive information being misused or accessed without authorisation.

**Intervention in Cases of Mental Health Crises** Police officers are frequently called to scenes of accidents involving people who are experiencing mental health crises. When working with people in the midst of a crisis, the judicial system will play a part in formulating legal norms and protocols for training, methods of de-escalation, and the appropriate use of force. In addition, the courts may be involved in the process of evaluating the liability and accountability of law enforcement authorities in situations involving the improper management of occurrences connected to mental health.<sup>86</sup>

**Establishing Trust and Community Policing** Establishing trust and fostering positive relationships between law enforcement agencies and the communities they serve is an essential component of efficient policing. Community policing also plays an important role in this. The evaluation of the efficacy of community policing efforts, the resolving of issues regarding racial and ethnic inequities in policing, and the development of legal frameworks that encourage openness, accountability, and meaningful community engagement may be trends in the judicial system.<sup>87</sup>

**Intersectionality and Equity** As the conversation surrounding social justice and equity continues to develop, the judicial system may need to investigate the ways in which characteristics such as race, gender, socioeconomic class, and other types of intersectionality influence law enforcement procedures.<sup>88</sup> The influence of biased policing, discriminatory tactics, and the necessity for equal treatment and protection of all individuals within the criminal justice system may be investigated by current developments in the judicial system.

The judicial system will most likely play a role in the process of formulating legal norms and regulations for crisis response scenarios, such as those involving natural catastrophes, mass shootings, or terrorist attacks. This will ensure that the public is kept safe. Courts may address concerns about emergency powers, the balance between public safety and civil liberties during times of crisis, and the legal frameworks for coordinating the responses of several agencies in order to guarantee that crisis management is carried out efficiently and effectively.

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<sup>85</sup><https://www.ojp.gov/pdffiles1/Digitization/147822NCJRS.pdf>

<sup>86</sup><https://www.ojp.gov/pdffiles1/nij/grants/251140.pdf>

<sup>87</sup><https://www.unodc.org/e4j/zh/crime-prevention-criminal-justice/module-2/key-issues/2a--detailed-explanation-of-tonry-and-farringtons-typology.html>

<sup>88</sup><https://www2.deloitte.com/us/en/insights/focus/defense-national-security/future-of-law-enforcement-ecosystem-of-policing.html>

## CHAPTER 5

### CONCLUSION AND SUGGESTION

#### 5.1. CONCLUSION

Police hold a specific place in the criminal justice system. Not merely do the tasks of police officers impact the businesses of the criminal justice system, and police are actually believed to be the “gatekeepers” of the device. They’re typically the first person to make contact with accused offenders and are actually in a place to make some really important decisions about what’ll happen to those people. Probably the most typical choice that a police officer makes is actually initiating an alleged offender’s journey with the maze of Indian criminal justice. The police attempt in a criminal case ends with filing a fee sheet/final report. If the police have finished the exploration and compiled satisfactory components to proceed with the trial of the accused, they file a charge sheet. They file a last resort if they complete the investigation and do not find adequate content to proceed against the accused. After filing the charge sheet, police no longer conduct the improvement of a criminal case. The Public Prosecutor actually takes up the function. Police hold a specific place in the criminal justice system. Not merely do the tasks of police officers impact the businesses of the criminal justice system, and police are actually believed to be the “gatekeepers” of the device. They’re typically the first person to make contact with accused offenders and are actually in a place to make some really important decisions about what’ll happen to those people. Probably the most typical choice that a police officer makes is actually initiating an alleged offender’s journey with the maze of Indian criminal justice. The police attempt in a criminal case ends with filing a fee sheet/final report. In case the police have finished the exploration and also have compiled satisfactory components to proceed with the trial of the accused, they file a charge sheet. They file a last report if they complete the investigation and do not find adequate content to proceed against the accused. After filing a charge sheet, police no longer conduct the improvement of a criminal case. The Public Prosecutor actually takes up the function. In the Criminal Justice System, the police check out the situation in the original stage.

The most crucial feature of the police is investigating some criticism reported in their station. The investigation has recorded statements of witnesses and collected all of the pieces of evidence connected to the case. On the foundation of the investigation, the police file a charge sheet in the court in case they’re confident of the guilt of the accused man or woman. The police don’t have the authority to find out if an individual is innocent or guilty. Police investigations must be conducted according to law and with total respect for human rights. The Supreme Court has laid down guidelines that the police should follow during arrest, interrogation, and detention. The police are not permitted to torture or even defeat and shoot everyone throughout the investigation. They can’t inflict some punishment on an individual for petty offences. This infers that the job of the police is vital, and they must exercise their power of theirs sparingly and never arbitrarily. Just in the case of *Kalpna Kutty v. State of Maharashtra*<sup>89</sup>, it was held

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<sup>89</sup> 109 BOMLR 2341 [2007]



that “if info of cognisable offence is actually 201 obtained by the officer, he ought to register FIR as per S. 154(1) Cr. PC. Police eventually protect the rights of persons and keep order and law for the state. Administration of justice in India is actually controlled by 3 statutes, namely The Indian Penal Code 1860, the Code of Criminal Procedure 1973 as well as the Indian Evidence Act 1972. It’s discovered that police frequently act in contradiction to the standards talked about in different criminal laws.

The Indian Penal Code defines offences & prescribes punishment. The Indian Penal Code is actually about “what” has been completed and not “why” it’s been carried out as a consequence of which the police bother to determine the “what” of an offence which puts the whole task of the commission of a crime on the accused. As an investigating bureau, the police thus get the single task of locating the accused’s culpability. To be able to do it the police style and devise these kinds of approaches, an accused is fixed in every crime by hook or perhaps by crook. For instance, the Indian Penal Code divides the offences into non-cognizable offences and cognisable, and frequently It is been observed that the police it’s just the police that determine the way to classify a certain offence that the police are able to create a cognisable offence into a non-cognizable offence as well as vice versa. In such a system in which the police are actually endowed with great discretion, however, many circumstances contradict the law as the interpretation of different provisions of the Indian Penal Code depends upon the way the police officer acts in a certain situation views it. The Code of Criminal Procedure manuals the police process though the police, more frequently than not, act contrary to the provisions of the code. The police, as it’s been observed out of the evaluation of the responses, frequently resort to methods such as, for instance, non-registration of F.I Rs, turning up late at the scene of the crime, carrying out unlawful arrests, forcing or tutoring witnesses, obtaining forceful confessions by torturing suspects etc.

The Code of Criminal Procedure allows for a mechanism for the therapy of offenders as well as offences. The provisions in the code are obligatory and not just directory. The code casts a duty on the police to not use abusive language, not to register phoney F.I. Rs, resort to illegal detention, not to torture or even coerce suspects etc. Though the police have been employing these kinds of unwanted and reprehensible methods each time, everywhere as well as to everyone, no matter the reality of whether they’re involved with the commission of the offence or not. 202 The Indian Evidence Act is appropriate for both civil and criminal cases. It is actually intended to aid the courts of law in the ascertainment of facts submitted for their decision of theirs. The police are aware of the fashion in which the courts value the evidence in case of criminal cases & hence handle as well as manipulate the evidence appropriately. The primary reason behind doing so is to make sure that the culpability is established and the accused is convicted and the case isn’t thrown out of the court. The fundamental case is actually the tutoring of the witnesses by the police as well as much more the police frequently existing inventory witnesses before the courts and harassing and maltreating the sincere victims. The transformative reforms in the Indian Police are actually possible through adequate interventions in attitudinal education and skill building, through reforms that are both practical and bold, and through collective activity of all stakeholders to operate a nationwide campaign for change, keeping in mind the hard conditions under which the police operate of ours. The need for police reforms is more than a hundred years of age, with the first attempt made by the Indian Police Commission

of 1902 three under British rule. Since then, 5 declare commissions and 6 national level commissions have with all their reports collecting dust. Nevertheless, it's vital that more must be carried out than simple structural changes to the system. It's crucial to today look at the police as being a service business meeting those requirements of the society that are important for safety, security, quality of peace and living. Community involvement, issue-oriented policing and proactive policing techniques have to be used in the changing scenario of society.

## **5.2. SUGGESTIONS OF THE STUDY**

For ease of understanding, the ideas on the foundation of the questionnaire are actually classified into the following heads: -

- Presence,
- Arrest,
- F.I. Rs,
- Scene of Crime, 203
- Torture and use of force,
- Witnesses,
- Favouritism, and;
- Public Cooperation. /Police and Public relationship
- Strikes/Protests/demonstrations, Preventive Arrests, Behaviour towards people These are discussed as follows.

1. Presence Among the fundamental goals of the state is maintaining order in the society for the sleek continuation of any state activity and the tranquillity existing in the society. Constant disorder in the State is going to lead to a state of chaos which would warrant more everyday actions. Hence maintenance of order is actually of key importance. Often, it is observed that the police fail to register their existence of theirs at different locations throughout various durations across the clock. This so occurs because the police are interested in many works that can be classified as non-police capabilities, including Sentry duties, VIP duties, deployment at processions as well as festivals, duties at private functions, and Personal protection officers, orderlies, etc. The researcher implies that police personnel shouldn't be used for duties that are aforementioned and the like. Different private agencies must handle the very same under the directions of the police. Also, the police must act just as a supervisory authority and engage itself in circumstances that are truly serious and not in daily affairs so that the police devote the optimum materials of its, whether it is males or time in essence, the policing performs. This can cut back on the burden on the police, and much more personnel will be available, fulfilling the absence of workforce to a particular degree.
2. The Code of Criminal Procedure divides the offences into non-cognizable as well as cognisable offences. The genuine power of arrest lies in cognisable as well as non-bailable offences; it's in these kinds of offences that the strength of arrest is normally misused. The police are actually empowered to stop the suspects with no warrant in cognisable offences. It's been observed that the arrested individual

suffers a lot of inconveniences as well as a loss of picture of society. Even if he's discovered innocent, the harm done to the arrested individual can't be undone. Additionally, in some instances, it's been observed that the police carry out casual arrests. The law doesn't create a distinction between informal and formal arrests, i.e., arresting without making data or even purely in accordance with the provisions of the law in making arrests. The casual arrest is actually nothing, though, which normally is abduction or kidnapping, but the police make use of the phrase casual arrest to mitigate the seriousness of the illegal act. The Code of Criminal Procedure prescribes the process for coping with the arrested persons with or perhaps without having a warrant. Once a person is informally arrested. Suppose the police are confident of his involvement in the crime. In that case, the police detain the arrestee until all of the evidence is recovered, and confession is obtained. Additionally, if third-degree strategies are actually utilised for interrogation, then the provisions of the law turn into instruments of torture. The problem will be worst if the individual turns out to be innocent. It's found that the police work with extreme force while carrying out arrests for different reasons like to satisfy their ego of theirs and humiliate the accused, to shock and awe the suspect, to develop a good example in front of other individuals so that other suspects might not flee etc. It's additionally seen that the police use the power to stop like a tool to humiliate the arrestee by way of publicly parading him, beating him in public areas, handcuffing him and thus on. The researcher implies that methods like illegal arrests, torture in police custody and obtaining forcible confessions must be condemned, and the responsible officers must be penalised in an exemplary manner. The researcher implies that the individual or the police making the arrest shouldn't use excessive force while arresting unless as well as until it's exceptionally necessary and there's no submission to the custody by activity or word as it will be violative of CrPC. The researcher also implies that arrests shouldn't be made in instances where the offences are punishable by fine or any other petty offences.

3. F.I.Rs are Probably the most frequent grudge of the general public against the police would be that the police do not purchase the F.I.Rs. Some causes are for the police for not registering the F.I. Rs, several of which are actually; the greater the selection of F.I. Rs 205, the more it shows the failure of police, it shows the increase in crime statistics, and quite often there's the stress coming from politicians and outstanding officers of the police. It's likewise been observed that, at times, the individuals themselves don't report the offences to the police due to different reasons like fear of becoming involved with the police due to the picture of the police that the individuals behold in the eyes theirs, often folks believe that the police will not take some activity or perhaps there may be a nexus between the police as well as criminals also as there's an overall opinion that the police takes bribes to register F.I.Rs. Another grievance of the general public would be that the police don't instantly register the F.I.R. if the crime is actually noted, when the police finally do register the F.I.R., the police more frequently than not record the F.I.R. as it deems fit.<sup>1059</sup> The researcher implies that on no account the police must refuse an FIR to be registered. Whether or not the complaint pertains to a diverse Police Station, the same needs to be registered as well as passed on to the appropriate police station. In the present times, the police must be internet savvy at the police station amounts to ensure the whole police stations of the nation (at the headquarter level) or, at best, the state concerned are actually interlinked at the police station level for

the quicker dissemination of info to various police headquarters/stations which would finally result in much faster solving of crimes, and this ultimately has a deterrent effect and can lead to the decrease of crimes. Additionally, the researcher suggests that the registration of F.I. Rs must be done on the Internet by keeping the sites for every district of the state in which the whole police stations falling within the districts must be noted. The researcher implies that the police must purchase the F.I. R the moment the offence is actually described and shouldn't result in some delays for the registration of F.I. Rs. Of course, if the police don't do so next rigid action against the erring officers must be considered when the police officer in charge of a police station is actually certain to register every info oral or even written relating to the commission of a cognisable offence. The researcher additionally implies that the police should not register the FIR as it deems fit quiet. It must be registered by means of invoking appropriate sections of the law, unmindful of the gravity of the offence. The researcher implies that the F.I.Rs shouldn't be an exaggerated version of the offence as well as the police officer, while registering the same, should make sure the exact same at the same time, the police to make certain convictions shouldn't manipulate the F.I.Rs what so actually the reason might be and this must be registered just as the edition of the complainant or maybe the informant as the situation might be. The researcher additionally 206 implies that the registration of F.I.Rs must be permitted at the police Chowki level, and thereafter if needed, the situation might be transferred to the correct police station. This will add to the comfort of the individuals living in the nearby areas & rather than travelling all the right way to a police station, they might get the F.I.R. registered at probably the nearest police chowki. The researcher recommends that the F.I.R. be made to be counter-signed by the complainant, or maybe the informant after reading out the contents of the F.I.R. to them along with a message of the same must be provided to them once it's registered.

4. Scene of Crime Throughout the course of the investigation, crime scene visitation is the central stage,<sup>1061</sup> usually it is observed that the police are actually missing in this particular part as the common tendency is they achieve the scene of crime as per their convenience triggering lapse of time during which essential pieces of evidence get damaged or even lost. Additionally, the senior officers rarely go to the crime scene, so when they do extremely mainly, it's not completed at the correct time. It should be due to several things like preoccupation with order and law and other miscellaneous features with which they're entrusted. The researcher implies that the police must dispatch an officer right away to the crime scene to protect the evidence, inspect it, prepare the site plan, etc., and after the witnesses might be quizzed. The researcher implies that the investigating officer should protect the crime scene so that the inmates or even onlookers eliminate no evidence. The researcher implies that the investigating officer should prepare the site plan or maybe a chart of the scene of the criminal himself or perhaps get it accomplished by an expert. For this, the researcher suggests that the law and the order wing must be separated from the Investigation wing so these only trained experts inspect and gather the shreds of evidence from the crime scene. As soon as the component's evidence is lost and tampered with, the evidentiary worth of it is lost consequently, preferably, the scene of crime must be visited by industry experts and specially trained individuals. The researcher implies that the investigating officer should get the scene of the crime photographed or maybe video graphed from all possible angles by an

experienced photographer or maybe an expert. The researcher suggests that police investigators must be provided regular instruction. The researcher implies that forensic professionals must examine the crime scene. Further, there ought to be a forensic lab for the researcher, and each 207 state also hints that there must be movable forensic labs or maybe vans of each district that have trained officers who could proceed straight to the crime scene to collect evidence.

5. Witnesses the CrPc works with an examination of witnesses by police throughout investigations and offers that statements of witnesses captured by the police shan't be asked to be signed by the witnesses and further that such statement can be utilised by the accused along with the authorisation of the court just for the objective of contradicting the witness in accordance with the evidence act. Put simply, this kind of statement can't be utilised as a prior statement to corroborate the maker. The Indian Evidence Act additionally offers that confessions made to police officers aren't to be proved. However, it's been observed that police obtain confessions forcefully from an accused while they're in their custody of theirs frequently by torturing them<sup>1068</sup>. This can lead to distrust of the police about the credibility of theirs. To get rid of this distrust the researcher suggests that the law as well as order wing must be separated from the exploration wing insulating it from other and political pressures. The researcher implies that section 161 must be amended to really make it obligatory to capture statements made by the witnesses during the investigation, and this must be got signed as a result of the witnesses after looking at it more than to them as well as a message of the same must be supplied to them instantly. Typically, the public doesn't cooperate with the police to be witnesses as the police, rather than showing decency and respect towards them, are usually discovered to be indifferent and quite treat them shabbily; consequently, the police procure witnesses by threatening, making or forcing individuals to witness against the desires of theirs, this's the primary reason behind the witnesses turning aggressive in the court. Occasionally the witnesses whom the police procure are actually possibly the police officers themselves, informants or maybe inventory witnesses of the police. This kind of technique defeats the objective of criminal investigation and prosecution. Hence the researcher suggests that the police must accord due regard to the witnesses as they'll be helping them achieve their goals. The researcher suggests that rigid actions must be taken against those police officers that attempt to control as well as manipulate witnesses. The CrPC provides the discretion to the police officer to minimise the statement of the witness into writing. The researcher implies that this provision must be made mandatory. Researcher additionally implies that the statements made by the witnesses must be video captured. The witnesses, in order to come to the court to provide their testimony of theirs, usually have to bear the expenses themselves as the allowances offered to them are actually too meagre. The researcher implies that the witnesses must be provided sufficient travelling and dearness allowance per the prevailing situation. The researcher also implies that the witnesses shouldn't be made to come again and again to provide evidence of theirs and much more. They should be provided appealing allowances to motivate the witnesses to come forward. The researcher implies that there ought to be a standalone wing for the goal of witness protection to ensure that they ought to fearlessly appear in the courts to shoot their statements of theirs.

6. Public Cooperation Police believe public cooperation with the police is much from positive. The witnesses, in common, adopt a staying away from, indifferent, non-cooperative and, in a number of instances, much hostile attitude towards police exploration. Just a minuscule number of individuals come forward to volunteer themselves as witnesses. People who volunteer are either enthusiastic about the accused or, perhaps, the victim. The police, more frequently than not, threaten and force and, at times, make them witness against their wishes. The gulf is actually further widened when there's no or even little interaction between the police as well as the public. Public trust needs to be attained through continuous work as well as persistence on the part of the police. The researcher implies that to be able to get far more cooperation from the public, and the police are required to conduct meetings that are public or maybe contact plans for the goal of obtaining feedback so that the police are able to get rid of the distrust between themselves as well as the public. However, some reasons are for the public not cooperating with the police; several of the causes are actually fear of becoming involved with the police, time-intensive police as well as court procedures, fear of the accused, and nexus between the police as well as criminals. The researcher implies that the police should be respectful, decent, and courteous towards the public. The researcher additionally implies that the police and court methods should be made simple so that the public doesn't face harassment. The users' public if at all have to be summoned, should be summoned only if needed and not again and again. The researcher additionally implies that the police, to be able to find the suspects, should act on info that is credible after verifying it instead of acting on simple suspicion. Often, it's been observed that police show favouritism to a specific party. The reasons differ from exertion of stress on them to religion, allurements, and caste of wealth. As corruption and favouritism are actually antitheses of the concepts of fair treatment and equality, the researcher suggests that the police must perform their duty of it's with no favour or fear within rigid adherence to the principles enshrined in the Constitution of India and also the police as well should have a solid vigilance mechanism and need to take exemplary activity at the departmental level and under many other criminal laws that are in force at the moment. The police must secure to every person an effortless and natural feeling of freedom, regardless of the confidence of his or maybe political persuasion, for without it, the procedure of national integration can't be attained. To be able to bridge the gap between what's and what ought to be, the current study tries to go over the rights as well as duties of police in criminal justice system and provide a persuasive call to each of the members of the police force for carrying out the duties of theirs in accordance with the concepts of other laws and the Constitution.

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