

A Practical Approach On Police Investigation In India (Legal Frame Work, Procedure, Techniques, Powers And Duties)

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Abstract:

This research work aims to study and analyse the process of police investigation. Police investigation is a part of criminal procedure which is provided under the Criminal procedure Code 1973 (BNSS 2023). It's said, "a criminal may be very smart but he always leaves behind a clue". Investigation means a search for truth, evidence, and justice. The purpose of this paper is to highlight the importance and effectiveness of investigation in the Criminal Justice System. In this paper, there is discussion on the provisions relating to police investigation and also various techniques.

The present paper aims at to explore the applicability of Forensic science in criminal investigation and what role it plays in keeping law and order in a society. This paper also throws light on how forensic science is acting as a bridge between the medical science and legal science.

The paper also discusses the ground reality of these laws and how it is actually being implemented in the cases. This paper discusses the police powers, duties and also challenges faced by the police officers while investigating. The author will make some recommendations on how to enhance the administration and investigative process.

Keywords: Investigation, Criminal Justice System, Police, Offender, Victim, Judiciary, Crime, Trial, Procedure

1.Introduction

1.1 Meaning and Definition:

The success and the failure of any government is often measured on the basis of the performance of the police in terms of maintaining law and order and effective investigation. As the first responder to the calls of the public, especially the privileged class, the police system needs to be more efficient and effective.

According to Schedule VII of the Constitution, "Police" is a "State subject." It is thus the responsibility of the state to maintain its own police force in order to maintain peace and security.

Police investigation is an applied science that involves the study of facts that are then used to inform criminal trials. A complete criminal investigation can include searching, interviews, interrogations, evidence collection and preservation, and various methods of investigation. Modern-day criminal investigations commonly employ many modern scientific techniques known collectively as forensic science.

A police investigation is a systematic process of inquiry conducted by law enforcement to gather facts and evidence related to a potential crime or suspicious event. Its primary goal is to uncover the truth, identify the perpetrator, and build a case for prosecution. This process involves various steps.

Police Investigation is a systematic, methodical, and scientific inquiry into facts and circumstances surrounding a crime or suspicious event. The primary objective is to establish the truth, uncover the offender, collect and preserve evidence, and ultimately assist in the fair administration of justice.

Police Investigation plays an important role in Criminal Justice System. Police officer in investigation process plays an important role. Investigation is the first stage of a criminal case. The primary object of investigation is to collect material and find out evidence as to commission of an offence. It, therefore, ends with the formation of opinion as to whether on the material collected, there is a case for trial against the accused.

Police accountability is one of the major factor to ensure quality investigation. The police agency touches every aspect of our life including traffic, passport verification, crime investigation and security (during festivals, Fashion Shows, VIP visits, cricket etc. events).

Investigating Officer:

A key component of efficient law enforcement is the employment of specialized investigators. There are no detectives in India in the Indian Police Service, the civil service, or the federal or state governments. State-level officers are the only ones authorized to conduct investigations; for this reason, they are referred to as "investigating officers,"

1.2 Research Objectives:

- i. To study various provisions of criminal investigation.
- ii. To identify the hurdles during police investigation.
- iii. To make clear view of the law of investigation.
- iv. To analysis the quality of criminal investigation in India.
- v. To find out the reasons for the failure of investigation officers.

2. Review Of Literature

Mishra, Anupam (2016), in his book "Powers And Duties of Police Officers" writes that Police is the function of that branch of the administrative machinery of government which is charged with the preservation of public order and tranquility, the promotion of the public health, safety, and morals, and the prevention, detection, and punishment of crimes.

Police deals with number of people, accused and innocent both and use of force by police to a certain extent is necessary to perform their duties but in this process the human rights and Fundamental Rights of the citizens should not be violated. India's Preamble clearly shows that no-one is above the law. Police is a subject governed by states, under the Constitution. Police departments play a key role in maintaining and executing laws, solving offences and providing security for the country's citizens.

There are 13 chapters in this book. There is Police Act 1861 and later on amended Acts also. There is specially discussion in context of The Criminal Process Code 1973, Police Act 1861, Indian Evidence Act 1872 and Indian Penal Code 1860.

Singh, Yashpal (2020) in his book “Criminal Investigation – Clues and Tactics” discussed about various aspects of investigation by police like Preliminary, Deep & Site investigation. He covered in depth the important points as Post Mortem, Legal Interrogation, Cyber Crimes, Electronic Surveillance, Scientific methods of interrogation and legal review.

In criminal proceedings once a Police Officer receives information about the commission of an offence he is entitled to start investigation of the matter. Investigation includes all the proceedings of collection of evidence conducted by a police officer or by any person who is authorized by the Magistrate in his behalf.

There are 17 Chapters and 4 Appendix in this book.

Awasthi, Shailendra Kumar (2017), in his book “*Police Diary (Investigation & Prosecution)*” writes that Under the provision of **Section 172 Cr.P.C.**, every Police Officer conducting the investigation shall maintain a record of investigation done on each day in a Case Diary in the prescribed Form. Case Diaries are important to record the investigation carried out by an Investigating Officer. Any Court may send for the Case Diaries of a case under inquiry or trial in such Court and may use such diaries, not as evidence in the case, but to aid it in such inquiry or trial.

The Case Diary, which is a record of day by day investigation of a case, shall contain details of the time at which the information reached the Investigating Officer, time at which the investigation began and was closed, the place or places visited by him and a statement of the facts and circumstances ascertained through investigation.

There are 40 Chapters in this book. There are relevant provision taken from Crpc and Indian Evidence Act. There is Police detail in first chapter of this book as Indian Police and their duties. This is a good book based on Police Investigation and Prosecution as well as its name.

Babel, Basantilal (2013)³ in his book “Police Guide” discussed about various aspects of Police organisation. There are 21 chapters in this book with appendix of amended acts. He kept the all interlocking points relevant as Indian Constitution, Human Rights, Indian Penal Code, Criminal Procedure Code, Evidence Act\, Jail Administration, Police Administration and different types of crime. He has pointed out the particular aspects of Police System which call for reform. The general view obtaining about the functioning of the system of Police in our country is that the system suffers from deficiencies and is in need of reform. The system of criminal justice, different kinds of responsibilities are assigned to different agencies. For example, the work of investigating into the crimes is entrusted to the Police, the work of presenting the person before the court duly charged with an offence is entrusted to the Prosecution, the work of conducting a trial in a fair and just manner is entrusted to the Courts of law, and the work of condemning a person found guilty of a crime is entrusted to the Prison authorities. The different kinds of powers and the different functions that need to be performed by the relevant officials are laid down in the Criminal Law of the country. The dual objects of this behavior of the Police is, on the one hand it has to secure punishment for

the wrong doer, and on the other hand the function of the police is to protect the victims of crime and save the innocent persons from the scourge of wrongdoing.

Manjaria, Bhagirathsinh N (2014) in his research “An evaluative study on role of police in administration of criminal justice system special reference to state of Gujarat.” discussed that Day-by day, the criminal activity are increasing. Death in police custody is the burning issue of today in society. To maintain balance between weakness and crime is becoming very difficult. So due to this court need to change the objective and way of behaviour against harassment. Due to the misuse of power, poor people are harassed physically and mentally. Due to this type of behaviour, fear is produced and lead to hatred and unsatisfaction. Policemen should be of helping nature but the opposite behaviour is found among the police system. During the custody, intolerable behaviour is done. Corruption also plays a vital role for failure of policemen. It is found unlawful acceptance of gift in government offices but in police system it is at apex. To get money and personal benefit policemen use their power. He did this research work in 9 chapters. Effective law and order must be followed by the policeman is the prime motto of Researcher. Method of research was used: 1. Primary Information. 2. Secondary Information.

The National Police Commission

The National Police Commission (NPC) was appointed by the Government of India in 1977 with wide terms of reference covering the police organisation, its role, functions, accountability, relations with the public, political interference in its work, misuse of powers, evaluation of its performance etc. This was the first Commission appointed at the national level after Independence. The Commission produced eight reports between 1979 and 1981, suggesting wide ranging reforms in the existing police set-up. The Police Act of 1861 should be replaced by a new Police Act, which not only changes the system of superintendence and control over the police but also enlarges the role of the police to make it function as an agency which promotes the rule of law in the country and renders impartial service to the community.

The major recommendations of the NPC have remained unimplemented. There is a deep seated and strong resistance to the idea of police reforms. The existing system is unacceptable. It has resulted in subverting the rule of law and in obstructing the growth of a healthy and professional system of policing. It must change.

The Police Act 1861: The police Act, 1861 is an important statute which highlights the functions and powers of police officers. The preamble to this Act states, “it is expedient to reorganize the police and to make it a more efficient instrument for the prevention and detection of crime”.

It is the main statute and it talks about overall administration of police state wise. According to the Section 2 of the Act, the number of officers or men employed in police shall be decided by the respective state government from time to time and will be enrolled formally. The entire working of police force in the state is in the hands of Director- General of Police whereas as per Section 4 of the Act, the administration throughout the district is in the hands of District Superintendent of Police under the directions of District Magistrate.

There are 47 sections in this act.

National Human Rights Commission, India

The NHRC is the National Human Rights Commission of India. The National Human Rights Commission (NHRC) of India was established on 12 October, 1993. The statute under which it is established is the Protection of Human Rights Act (PHRA), 1993 as amended by the Protection of Human Rights (Amendment) Act, 2006. It is in conformity with the Paris Principles, adopted at the first international workshop on national institutions for the promotion and protection of human rights held in Paris in October 1991, and endorsed by the General Assembly of the United Nations by its Regulations 48/134 of 20 December, 1993. The NHRC is an embodiment of India's concern for the promotion and protection of human rights. Section 2(1)(d) of the PHRA defines Human Rights as the rights relating to life, liberty, equality and dignity of the individual guaranteed by the Constitution or embodied in the International Covenants and enforceable by courts in India.

The Protection of Human Rights Act, 1993

Human rights are standard that allow all people to live with dignity, freedom, equality, justice and peace. Every person has these rights simply because they are human beings. They are guaranteed to everyone without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. Human rights are essential to the full development of individuals and communities. There are 43 sections in this act. Human rights reflect the minimum standards necessary for people to live with dignity. Human rights give people the freedom to choose how they live, how they express themselves and what kind of government they want to support, among many other things. Human rights also guarantee people the means necessary to satisfy their basic needs, such as food, housing and education. So they can take full advantage of all opportunities.

Justice Verma Committee Report : Justice Verma Committee was constituted to recommend amendments to the Criminal Law so as to provide for quicker trial and enhanced punishment for criminals accused of committing sexual assault against women. The Committee submitted its report on January 23, 2013.

On December 23, 2012 a three member Committee headed by Justice J.S. Verma, former Chief Justice of the Supreme Court, was constituted to recommend amendments to the Criminal Law so as to provide for quicker trial and enhanced punishment for criminals accused of committing sexual assault against women. The other members on the Committee were Justice Leila Seth, former judge of the High Court and Gopal Subramaniam, former Solicitor General of India. The Committee submitted its report on January 23, 2013. It made recommendations on laws related to rape, sexual harassment, trafficking, child sexual abuse, medical examination of victims, police, electoral and educational reforms.

3. Discussion

"Truth does not pay homage to any society ancient or modern, but society has to pay homage to truth or perish." - **Swami Vivekananda.**

Investigation Powers of Police

Police:

The term '**Police**' according to the Oxford Dictionary means "a system of regulation for the preservation of order and the enforcement of law". The police is the body of civil servants whose duties are preservation of order, prevention and detection of crime and enforcement of laws.

The Police basically are a backup force of the state administration. Its primary functions form the backbone of administration. The Police are the body responsible for the enforcement of the rules and laws of the land and safeguard its compliance by all. For this reason, the Police can be rightly called as the guardian of the state administration. State administration needs the police to keep people on the right sides of the rules and laws of the administration and make the administration to work. Even for the commoners, administration is mostly Police functions and nothing in state administration holds it's attention as much as what the Police does. The Police are the most visible and the most obvious state functionary and they form the cutting-edge of the statecraft. The Police functions are seen in the enforcement of the country's laws and in the investigation of the crimes.

Investigation:

According to Cambridge Dictionary:

The act or process of examining a crime, problem, statement, etc. carefully, especially to discover the truth.

According to the Oxford English Dictionary:

"The action of investigating; the making of a search or inquiry; systematic examination; [and] careful and minute research."

"Investigation is basically an art of unearthing the truth for the purpose of successful detection and prosecution."

"The investigating officer is the arm of the law and plays pivotal role in the dispensation of criminal justice and maintenance of law and order. The police investigation is, therefore, the foundation stone."

Importance of Investigation:

Police, prosecution, judiciary and jails are supposed to be the pillars upon which the whole edifice of our Criminal Justice System is based. Among these four, police play a crucial role within the Criminal Justice System and its failures may result into breaking down of the Criminal Justice System. The apathetic attitude of the investigating agency towards victim, reluctance to record a proper FIR, non-adherence to law, unscientific and faulty investigations are some of the modalities that may result in slipping away of the offenders from the clutches of the Criminal Justice System. Quite often the agency entrusted with the task of ascertaining the truth sacrifice it (truth) for its own convenience, vested interest and unprofessional attitude thus benefiting the offenders. Manipulation of evidence, false witness, delaying tactics, shoddy investigation, accusation against innocent persons and threatening the real witnesses to keep them away from the case are some of the instances of how police misuses its investigative powers.

Police is the main agency in the law enforcement machinery. Emphasizing the significance of law enforcement agency in any society Charles Reith has observed as under, "More Communities have perished by their inability to enforce laws than have been destroyed by Nature or hostile aggression. In the history of communities, absence or weakness of effective law enforcement machinery can be seen to be very frequently the true call for failure in battle. Investigation is the first essential step in any judicial process. This is the very first stage of judicial process where evidences are collected for the true ascertainment of the facts by the judiciary. Police is entrusted with the task of investigating crimes for collecting evidences. An effective and lawful investigation leads towards punishing the guilty, whereas an

ineffective and unlawfully conducted investigation may at one hand, lead towards punishment of innocent persons and on the other hand result into acquittal of the guilty. Such guilty persons may remain undetected or go unpunished because of such faulty investigations.

Criminal Justice System:

According to Oxford Dictionary: Criminal Justice System means —The system of law enforcement that is directly involved in apprehending, prosecuting, defending, sentencing, and punishing those who are suspected or convicted of criminal offences.

The criminal justice system is the network of government and private agencies intended to manage accused and convicted criminals.

Structural and Functional Analysis:

Community, Law Enforcement, The Prosecution, The Courts and Corrections

Criminal Justice System divided into three parts:

- i. Law enforcement or Police Force.
- ii. Adjudication (Courts)
- iii. Corrections (jail, Prisons,)

But some jurists say that criminal justice system has five pillars:¹

- i. The community.
- ii. The law enforcement.
- iii. The prosecution.
- iv. The courts.
- v. Corrections.

Law Enforcement or Police Force:

It is the first component of Criminal Justice System. In this category the Police Force comes. This component includes all local police department, detectives units, and the units which help in the investigation procedure. The main duties of this enforcement machinery are to enforce laws or maintain the law and order and arrest the person who violates the law. Police follows the rules which have been given in the Cr.P.C. Police has power to arrest the accused in the cognizable offence, but it has no power to arrest the accused in the non-cognizable offence. Section 41 of the Criminal Procedure Code, 1973 gives the authority to police Officer to arrest without warrant in some situations. Police officer has also some preventive power. We can say he can arrest the person, if he has reason to believe he is going to commit offence. After arresting the person, he produces the person before the court. It plays very important role in this System.

The Oxford dictionary defines:

“Police as an official organization whose job is to make people obey the law and to prevent and solve crime.”

The police is a social institution which is a responsibility of the State. The State came into existence to provide peace and security to the individual. To fulfil this purpose, the State created an administrative system, the police being an important part of it. The police is the main agency of the government which is responsible for providing such an atmosphere.

Function of Police : The following are the important functions lawfully vested in the police force :

1. Patrolling and surveillance

2. Prevention and control of offences
3. Arrest and release of accused on finding non-guilty.
4. Investigation and inquiry into offences
5. Frisking and interrogation of offenders or suspects.
6. Search and seizure.
7. Maintenance of inquest registers.
8. Assistance to Public Prosecutors.
9. Identification of criminals and areas prone to crime.
10. Control of juvenile delinquency.
11. Control of roads and traffic.

Police is generally defined as the civil force responsible for maintaining public order. It caters to the three core needs of the society-

- (1) Protection and Preservation;
- (2) Integration and Unity; and
- (3) Development and Progress.

Law Enforcement Agencies : (State and Central)²

Law enforcement in India is imperative to keep law and order in the nation. Indian law is enforced by a number of agencies. India has a multi-layered law enforcement structure with both federal and state/union.

Under the Constitution, police is a subject governed by states. Therefore, each of the 28 states have their own police forces.

- i. CID
- ii. Directorate of Prosecution
- iii. State Legal Service Authority (SALSA)
- iv. State Human Rights Commission
- v. CBI (Central Bureau of Investigation)
- vi. Crime and Criminal Tracking Network and Systems (CCTNS)
- vii. NCRB (National Crime Record Bureau)
- viii. Ministry of Law and Justice
- ix. National Human Rights Commission (NHRC)
- x. Law Commission
- xi. Legal and Justice Department (Central and State Govt Both)
- xii. National Legal Service Authority (NALSA)

The centre is also allowed to maintain its own police forces to assist the states with ensuring law and order. Therefore, it maintains 7 central armed police forces and some other central police organisations for specialised tasks such as intelligence gathering, investigation, research and record-keeping, and training. The Central Government has established a number of Central Police Organisations (CPOs) to fulfill diverse law enforcement and security roles. These CPOs can be broadly categorized into two groups:

- I. Central Armed Police Forces (CAPFs):** These are armed police forces responsible for internal security, counter-insurgency operations, and border guarding. They include organizations such as the Assam Rifles, Central Reserve Police Force (CRPF), Border Security Force (BSF), Central Industrial Security Force (CISF), Indo-Tibetan Border Police (ITBP), and Sashastra Seema Bal (SSB).

- II. **Central Police Organisations (CPOs):** This group comprises organizations that perform specialized functions such as police research and development, criminal investigation, intelligence gathering, police training and forensic science. These include:
- i. Bureau of Police Research and Development (BPR&D): Conducts research and development in police science and technology.
 - ii. Central Bureau of Investigation (CBI): Investigates serious crimes of national importance, corruption and economic crimes.
 - iii. Directorate of Coordination of Police Wireless (DCPW): Coordinates wireless communication among police forces.
 - iv. Intelligence Bureau (IB): Collects intelligence to counter internal security threats.
 - v. National Investigation Agency (NIA): Specialised counter-terrorism law enforcement agency.
 - vi. Narcotics Control Bureau (NCB): Investigation and intelligence of narcotics crimes.
 - vii. National Crime Records Bureau (NCRB): Maintains a national database of crime statistics.
 - viii. National Institute of Criminology and Forensic Science (NICFS): Provides training and research in criminology and forensic science.
 - ix. National Disaster Response Force (NDRF): Responsible for disaster management and emergency services in times of calamities.

CBI (Central Bureau of Investigation):

The Central Bureau of Investigation (CBI) is the domestic crime investigating agency of India. It operates under the jurisdiction of the Ministry of Personnel, Public Grievances and Pensions. Originally set up to investigate bribery and governmental corruption, in 1965 it received expanded jurisdiction to investigate breaches of central laws enforceable by the Government of India, multi-state organised crime, multi-agency or international cases. CBI is exempted from the provisions of the Right to Information Act. CBI is India's officially designated single point of contact to act as the liaison with Interpol. The CBI headquarter is located in CGO Complex, near Jawaharlal Nehru Stadium in New Delhi.

The National Investigation Agency (NIA):

The National Investigation Agency (NIA) is the principal counter-terrorism law enforcement agency in India. Established under the National Investigation Agency Act, 2008, it is tasked with investigating and combating offenses related to terrorism, national security, and other threats affecting the sovereignty and integrity of the country. It operates under the administrative control of the Ministry of Home Affairs, Government of India. The primary mandate of the agency is to investigate and prosecute offences that have national and cross-border implications, specifically focusing on terrorism, insurgency, and other related matters. It is empowered to investigate cases that involve threats to the sovereignty, security, and integrity of India.

Adjudication (Courts):

This is second component of this system. It includes prosecution and defence lawyers, judges and juries. When any accused appears before it, Court considers his case. If prima facie it seems that he has no committed any crime. Court discharged the accused. In India, court procedure is divided into many parts according to offence. If a court thinks that prima facie he has committed the crime, court gives opportunity to plead the guilty. Accused plead guilty then court gives punishment and declare he is the accused. If he does not guilty then hear the

arguments of both (prosecution and defense lawyer). After hearing the arguments he may convict or acquit the accused.

Corrections (jail, Prisons, probation and parole):

The last and final component of the Criminal Justice System is Corrections. It includes jails, prisons, probation and parole officers and borstal institution. After conviction of the accused, the sends to these institutions. In this accused totally lose his liberty. These institution help in the rehabilitation of the accused in the society again.

Criminal Justice Process : Case Flow/Steps

- i. Registration of the FIR
- ii. Investigation : Interrogation, Examination, Arrest and Detention
- iii. Final Report
- iv. Charge Sheet
- v. Trial
- vi. Correction : Bail/Jail/Fine etc.

International Framework for Special Investigating Agencies:

Inquiries, investigations, and evidence gathering are the main activities of special investigating agencies. These organizations are meant to handle high-profile cases or those that need expertise to be handled. Mostly these agencies are independent from the common police departments as they are given extra powers and authority to conduct their research effectively. They are vital in maintaining public faith in the legal system and ensuring justice. Such bodies help reduce crime by ensuring that law and order are maintained.

Role of the Police: Among all the agencies, the first governmental agency which set the criminal law into motion is the police department. The police department is broadly classified into two “Law and Order and Crime (Investigation Department)”

Time to time there were various steps had been taken for reforms in Police Administration.³ These are:

- i. Gore Committee On Police Training (1971-1973)
- ii. Ribeiro Committee on Police Refroms 1998
- iii. Padmanabhaiah Committee on Police Reforms 2000
- iv. Malimath Committee on Reforms of Criminal Justice System (2001-2003)
- v. Police Act Drafting Committee (PADC) (2005)
- vi. Supreme Court Directives on Police Reforms (2006)
- vii. Madhav Menon Committee on Criminal Justice Reforms (Report Submitted 2007)
- viii. Justice Verma Committee on Criminal Justice System (2012)

NCRB (National Crime Record Bureau):

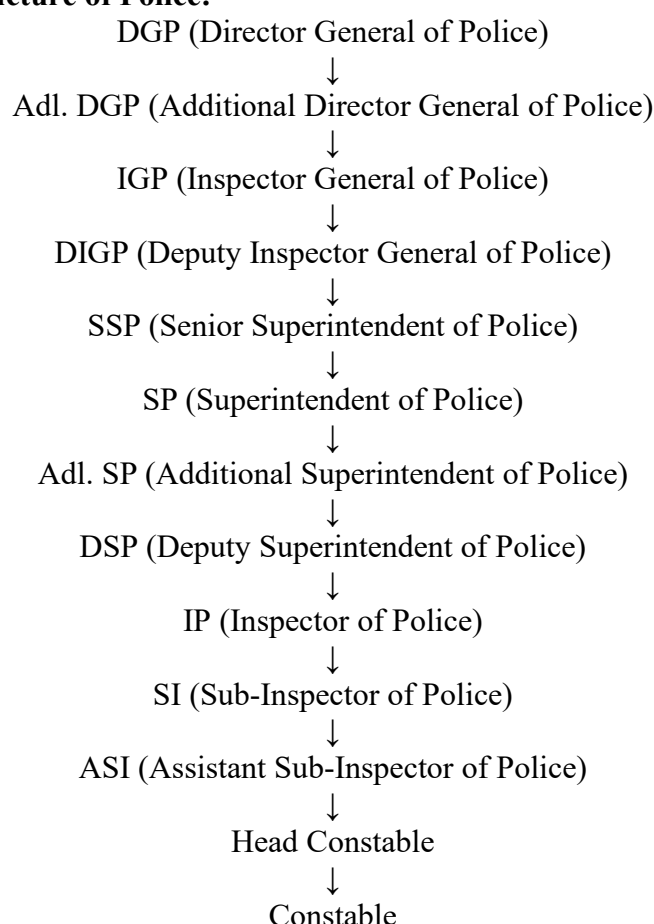
The National Crime Records Bureau (NCRB) is an Indian government agency responsible for collecting and analyzing crime data, as defined by the Indian Penal Code (IPC) and Special and Local Laws (SLL). NCRB is headquartered in New Delhi and is part of the Ministry of Home Affairs (MHA). Vivek Gogia (IPS) is the current director of the NCRB.

NCRB was set up in 1986 to function as a repository of information on crime and criminals, to assist investigators in linking crime to the perpetrators. It was set up based on the recommendation of the Task force 1985 and the National Police Commission 1977, by

merging the Directorate of Coordination and Police Computer (DCPC) with the Inter-State Criminals Data Branch and the Central Fingerprint Bureau of the Central Bureau of Investigation (CBI). The statistical branch of the Bureau of Police Research and Development (BPR&D) was previously also merged with the NCRB, but was later de-merged.

CCTNS: The Crime and Criminal Tracking Networks and Systems (CCTNS) is an Indian government project for creating a comprehensive and integrated system for effective policing through e-Governance. The system includes a nationwide online tracking system by integrating more than 14,000 police stations across the country. The project is implemented by National Crime Records Bureau.

Organizational Structure of Police:



Criminal Investigation Department (CID):

A Criminal Investigation Department (CID) is a Crime Branch of the state police departments of India responsible for the investigation of crime, based on the Criminal Investigation Departments of British police forces. It's the specialised investigation wing of the state police, and headed by an officer of the rank of Director General of Police (DGP) or Additional Director General of Police (ADGP).

Legal Framework:

Justice System is primarily governed by:

- i. Indian Penal Code (IPC), 1860: (BNS 2023) Substantive law : defining offenses and punishments.
- ii. Code of Criminal Procedure (CrPC), 1973: (BNSS 2023) Procedural : law governing investigation, trial, and appeals.
- iii. Indian Evidence Act, 1872: (BSA 2023) Rules for admissibility and : evaluation of evidence.

It follows an adversarial system, where the prosecutor and defence present their cases, and an impartial judge delivers a verdict based on evidence.

CrPC 1973 (BNSS 2023):

Chapter: 12 – Information To The Police And Their Powers To Investigate -

Section 154 – Information in cognizable cases

Section 155 – Information as to non-cognizable cases and investigation of such cases

Section 156 – Police officer's power to investigate cognizable cases

Section 157 – Procedure for investigation

Section 158 – Report how submitted

Section 159 – Power to hold investigation or preliminary inquiry

Section 160 – Police Officer's power to require attendance of witnesses

Section 161 – Examination of witnesses by police

Section 162 – Statements to police not to be signed: Use of statements in evidence

Section 163 – No inducement to be offered

Section 164 – Recording of confessions and statements

Section 164A – Medical examination of the victim of rape

Section 165 – Search by police officer

Section 166 – When officer in charge of police station may require another to issue search-warrant

Section 166A – Letter of request to competent authority for investigation in a country or place outside India

Section 166B – Letter of request from a country or place outside India to a Court or an authority for investigation in India

Section 167 – Procedure when investigation cannot be completed in twenty-four hours

Section 168 – Report of investigation by subordinate police officer

Section 169 – Release of accused when evidence deficient

Section 170 – Cases to be sent to Magistrate when evidence is sufficient

Section 171 – Complainant and witnesses not to be required to accompany police officer and not to be subject to restraint

Section 172 – Diary of proceeding in investigation

Section 173 – Report of police officer on completion of investigation

Section 174 – Police to inquire and report on suicide, etc.

Section 175 – Power to summon persons

Section 176 – Inquiry by Magistrate into cause of death

Importance of Police Investigation and Victim:

Police, prosecution, judiciary and jails are supposed to be the pillars upon which the whole edifice of our Criminal Justice System is based. Among these four, police play a crucial role within the Criminal Justice System and its failures may result into breaking down of the Criminal Justice System.

Police is entrusted with the task of providing protection to victims, to ensure their access to justice delivery system and to collect the best evidence so as to ensure just and fair investigation in the case. Police is the first and foremost agency that comes into contact with the victims of a crime. Victim visualizes the Criminal Justice System through the lenses of police functioning. A proper and positive functioning of police helps in cementing victims' trust upon the Criminal Justice System.

Misuse of Investigation Powers:

But the real picture is quite different from this image. As is clear from the analysis of court cases in this, too often police reaches quite late at the crime scene, where a prompt visit is required. This late arrival is beneficial for the accused in too many ways. Offender may get chances of not only manipulating or destroying evidences but of evading arrest and can also threaten victim-witnesses for not reporting crime or not to depose against them. His faith and trust upon the Criminal Justice System shatters when he is denied registration of his complaint on one ground or other or his version is substantially changed while registering the complaint so as to shield the accused. Sometimes victim is returned on the ground of his complaint not being in writing, sometimes appropriate section is not invoked or sometimes facts of the case are so twisted that convert the nature of the case. All these methods of police functioning results into failure of victims' right to access to justice.

This whole misuse of investigative powers by police make the case of prosecution weak and the benefit of all these irregularities pass on to the accused thus resulting into failure of justice. If after going through all this trauma, victim retains something worthwhile to substantiate the case of his victimization or the prosecution version, he can claim successfully and enjoy his human right to justice peacefully. Such a biased, motivated and inadequate investigation leads towards victims' losing their trust in the Criminal Justice System.

Challenges in the Investigation Process:

Challenges in the Investigation Process in India Investigation is a critical stage in the criminal justice system, as it lays the foundation for a successful prosecution and a fair trial.

The investigation process involves collecting evidence, examining witnesses, and establishing a prima facie case against the accused. It requires precision, impartiality, and adherence to due process. However, despite a robust legal framework, investigations in India are often plagued by systemic, procedural, and operational challenges that compromise the integrity and efficiency of the criminal justice system.

Investigation is the bedrock of Criminal Justice System. It is by means of investigation that the facts and circumstances relating to an offence are proved before the Court of law. If there is lack of certain and reliable evidences on record, then Court has to give benefit of doubt to the accused. It increases the challenge and responsibility of investigation to collect proper evidences so that it leads to its logical conclusion and justice is delivered.

Investigation in India is a critical component of the criminal justice system, governed by a complex legal framework. The process involves systematic evidence collection, forensic analysis, and strict adherence to chain-of-custody protocols to ensure judicial admissibility. Despite advancements in forensic technologies-such as DNA profiling, fingerprint analysis, ballistics, and cyber forensics-India faces significant challenges, including inadequate infrastructure, a shortage of trained experts, evidence contamination, and procedural delays.

Traditional and Scientific Investigation:

Traditional criminal investigation relies on methods like witness interviews and physical evidence collection, while scientific investigation uses forensic science techniques like DNA analysis and fingerprinting for more precise evidence analysis.

In India, forensic investigation relies on a network of Central Forensic Science Laboratories (CFSLS) and State Forensic Science Laboratories (SFSLS). There are seven CFSLS located in Hyderabad, Kolkata, Chandigarh, New Delhi, Guwahati, Bhopal, and Pune. These labs are overseen by the Directorate of Forensic Science Services (DFSS). Additionally, there are numerous SFSLS and Regional Forensic Science Laboratories (RFSLS) across various states and union territories.

In modern state, the state is under primary obligation to maintain peace and order in the society, for this purpose state equipped police officers with arms but in the digitalized society new offences emerging for example cybercrime, voyeurism, pornography, bank fraud, etc. these offences require scientific investigation by the police officers otherwise the prosecution can never prove the guilty of accused person. Because criminal cases are not easy to prove in the court.

New Scientific Techniques:

- i. Polygraph Or Lie Detector Test
- ii. Narco Analysis
- iii. Brain Mapping.

Reasons behind Negative Role of Police:

The present police act of 1861 is inadequate in upholding the rule of law and give due respect to human rights. There must be some change in our police system. Our police system is failures to prevent crime due to some reason these are followings :

- i. Don't follow Basic concept Human Rights or and Indian Constitution.
- ii. Our police system doesn't work independently. Generally it works under political pressure.
- iii. Use of illegal means.
- iv. Inadequate laws.
- v. They do not have sufficient staff.
- vi. They are not treating equally, having partiality.
- vii. Contact with criminals more than good people in society.
- viii. They have not sufficient modern electronic equipments for tracing the criminals.
- ix. Police evade registration of cognizable crime.
- x. Use rough tone or abusive language.
- xi. Police false implicate innocent persons in criminal cases.
- xii. Police gives third degree torture to the criminal.
- xiii. Police is not used modern techniques in the investigation.
- xiv. Misbehaviour with complainants.
- xv. Rough behaviour with complainants
- xvi. Illegal detention.
- xvii. Fabrication of False Evidence.
- xviii. Police behaviour's is not good towards the people.
- xix. Use of more of power crowd control.
- xx. Involve in illegal source of income or anti corruption activity

xxi. Pleasing political Masters & police also indulge in corruption.

Recent years have brought forward significant worries about the criminalization and politicization of Indian police force. The Indian police force has always represented the rule of law in the country. In recent years, however, the force has been severely weakened by corruption and criminal influence. The "politicization of the police force" refers to the involvement of political groups in everyday police work. It's especially frequent during election times, when political parties use the police to push their own objectives. The police are being used as a weapon by the ruling party to silence and intimidate the opposition. People have lost faith in law enforcement and believe that they are biased as a result.

4. Conclusion

Police investigation in India is a critical component of the criminal justice system, governed by the Indian Police Act of 1861 and the Criminal Procedure Code (Cr. PC) (BNSS 2023). It involves gathering evidence, interviewing witnesses, and inspecting crime scenes to establish facts and build a case.

Law needs to be adaptive of the changing times. Inadequate knowledge and awareness about forensic science among investigating officer. Non-availability of adequate forensic science facilities with the police organization and lab scientists.

The selection of officers for Investigation unit is an important task which is to be done by the state government with utmost care. Selection shall be strictly on the basis of their service records, past performance, aptitude and professional integrity.

It is often noticed by the courts dealing with the criminal cases that the investigating officers commit many mistakes and latches in the investigation of crimes and such mistakes and shortcomings continue to be unnoticed and unchecked up to the police officers of the higher level of the police department.

Crime prevention and investigation are the part and parcel of criminal justice system. The Criminal Procedure Code, 1973 and The Police Act, 1861, defined the powers of the police in terms of investigation and law and order. Apart from this, the supreme court also gives guidelines from time to time for strengthening the police functions especially police investigation.

The structure of Indian police within which they are working was established by the British rulers. After the establishment of India, we got a readymade police force and government kept same the previous structure of police. To reform the police structure, the government of India has taken different initiatives several times but no implementation has done for establishing a professional police force in the country. The whole machinery of the government is well aware of the corruption, illegal arrest, torture, manipulation and other malpractice of police.

The criminal justice system was created more than a century ago. The laws relating to the procedure, the evidence, and the institutional framework that were formulated then are not adequate enough to meet the challenges posed by the present crimes committed by criminals making use of science and technology.

There is a need to separate the functions of police in respect of investigation of matters and Law and Order. Need for close coordination between forensic scientists, police officers, judicial officers and medico-legal experts.

- i. Police Reform
- ii. Independent Oversight
- iii. Proper Training : Need to create intensive training program.
- iv. Need to update private and public labs.

In short, there is need to make efforts all the way for true betterment. Reforms in the criminal justice system are urgently needed in India. One can be in category of Accused, Victim, Witness or relevant from society. So there is need to focus on this point that there should be justice fair and easy with everyone and real concept of Human Rights must be followed all the way. Then only we can get true development of Self, Society and Nation.

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Abbreviations:

1. ASI: Assistant Sub-Inspector of Police
2. CAPF: Central Armed Police Forces
3. CBI: Central Bureau of Investigation
4. CCTNS: Crime and Criminal Tracking Network & Systems
5. CCTV: Closed Circuit Television
6. CFSL: Central Forensic Science Laboratory
7. CJS: Criminal Justice System
8. Cr.PC: Code of Criminal Procedure
9. DGP: Director General of Police
10. Dy. SP: Deputy Superintendent of Police
11. EQ: Emotional Quotient
12. FIR: First Information Report
13. FSL: Forensic Science Laboratory
14. HC: High Court
15. IPC: Indian Penal Code
16. IPS: Indian Police Service
17. IT: Information Technology
18. NCRB: National Crime Record Bureau
19. NHRC: National Human Rights Commission
20. NPC: National Police Commission
21. PADC: Police Act Drafting Committee
22. SHO: Station House Officer
23. SP: Superintendent of Police