CHRI 2014

State Security Commissions:
Bringing Little to the Table

A study of police oversight in India

CHRI
Commonwealth Human Rights Initiative
working for the practical realisation of human rights in the countries of the Commonwealth

Commonwealth Human Rights Initiative

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Foreword

Policing in India cannot go on as it is. A major cause of poor policing lies in the blurring of lines between the political executive and the police establishment. The intrusion by elected politicians and bureaucrats into the everyday management and functioning of the police weakens its leadership, creates uncertainty of direction, breaks chains of command, obscures accountability, destroys discipline and divides loyalties all down the line.

Fine policing – policing that is unbiased, responsive and lawful – requires the overall policy and performance parameters to be laid down by the political executive. Meanwhile, operational responsibility to deliver good policing should be left squarely in the hands of the police leadership. State Security Commissions are designed to achieve this separation of power and function. They are intended to be an aid to political authority, the highest levels of which are represented on the Commissions. This body neither derogates from the pre-eminence of the elected representative nor diminishes the political executive's supervision over the police machinery. Instead, its presence is meant to give precise definition to the relationship between the two.

To be true to their functions, State Security Commissions must be pro-active, timely and disciplined in their approach. They must be composed of the constitutional supervisors of the police and be balanced by diverse expertise.

All this has long been understood by policy makers. Several committees and commissions – from the National Police Commission (1979-1981), Julio Ribeiro Committee (1998, 1999), Padmanabhiah Committee (2000) and the Model Police Act of the Soli Sorabjee Committee (2005) – have consistently recommended the creation of a body that insulates everyday policing from political overreach and unwarranted interference. Finally, in 2006 the Supreme Court in the *Prakash Singh* case directed that such bodies be set up in each state and at the Centre within three months. The creation of State Security Commissions was a keystone of the Court's holistic remedy to present day ills.

Eight years on, this report assesses the extent to which the Court's directive has been complied with. It gives a snapshot of the performance and impact of existing State Security Commissions and offers an evidence base for discussion in the hope that future improvements will be built on the lapses of today.

Police reforms are too important to neglect and too urgent to delay. Too much time has been lost in half-hearted attempts, inadequate capacity and limited political will. The time has come for compliance in earnest.

Maja Darawala
Director, CHRI

Executive Summary

This is the second national-level report on State Security Commissions (SSC) in India by the Commonwealth Human Rights Initiative (CHRI). CHRI's first report on SSCs was published in 2011 following the Supreme Court's Prakash Singh judgement in 2006, which ordered their creation. This report provides an update since the first report, and is based largely on data gathered in 2013. The report is divided into two main parts: firstly, to what extent have state governments and the Centre complied with the Supreme Court's directive on paper? Secondly, what have these commissions achieved on the ground in terms of policy-setting and performance evaluation? Ultimately, the report aims to evaluate what State Security Commissions are bringing to the table: Are they proving to be effective mechanisms of police oversight?

Findings

Despite the eight years that have passed, and the various monitoring and compliance efforts by the Supreme Court, the level of compliance with the Supreme Court's directive on SSCs continues to be low.

Based on the information gathered by CHRI, SSCs have been constituted on paper in 26 states and three UTs to date. However, not one complies with the Court's design. The Court envisaged an independent body with significant autonomy and the mandate to chart out policies for a more efficient police organisation. Yet, the balanced composition suggested by the Court has been skewed, and the need for accountability to the legislature and binding powers ignored. The mandate of the Commissions is the only component of the Court's design that was generally adhered to, however, even then, some states have substantially weakened their Commissions' mandates.

While 26 states have established SSCs on paper, only 14 states have seen Commissions move from paper to actually functioning. These Commissions have seldom met. Despite their few meetings, based on minutes of meetings received, they have set some important policies on a range of issues, including practical recommendations to: increase police station personnel; guide deployment; upgrade police stations; improve measures for women's safety; introduce crime mapping; and various guidelines on police service delivery and ensuring lawful arrest and detention. While this provides ample evidence of the body's potential effectiveness as a policy-making institution, the Commissions were less successful when it came to evaluating police performance based on objective indicators. But for a few exceptions, performance evaluation largely remained at the level of superficial assessments based on crime statistics. The Commissions also failed to function at their optimum due to the poor procedure of Commission meetings, and the failure to ensure implementation of policies on the ground.

The cumulative picture that emerges is one of a political executive that is holding on to its firm grip on policing, and perhaps also does not have the capacity to exercise a more guiding role. Rather than ushering in independent, external perspectives to set policing policies and evaluate performance, the insularity of the present SSCs perpetuate the executive's control over policing. Unless this changes, the Commissions will continue to bring little to the table and policing in India will be held back from becoming a responsive, modern, and efficient public service.

Recommendations

CHRI makes the following recommendations to revive the failing mechanisms:

1. Every Security Commission should include the Leader of the Opposition and a member of the judiciary.
2. Commissions should have five independent members, as recommended by the Model Police Act, 2006.
3. "Independent" members should be appointed by an impartial Selection Panel as suggested by Section 43 of the Model Police Act, 2006.
4. Selection Panels should prepare objective selection criteria for the appointment of independent members.
5. Independent members should be appointed with no further delay.
6. All Security Commissions must prepare annual reports to be submitted to legislatures in time for the budget session.
7. All Security Commissions must comply with Section 4 of the Right to Information Act, 2005.
8. All Security Commissions should be given the power to make binding recommendations.
9. All Security Commissions should be vested with the task of laying down policies and actually conducting the performance evaluation of the police. They should not be given any additional functions.
10. The Commissions should consider bringing in external experts to conduct the specialised function of devising performance indicators and conducting a performance evaluation of the police organization, as provided in Section 26 of the Kerala Police Act, 2011.
11. The Commissions must meet at least every three months.
12. Each Commission should formulate a procedure to govern the conduct of business transacted by it.

Aim of the Report

The Commonwealth Human Rights Initiative (CHRI) published its first national-level report on SSCs in India in 2011 following a Supreme Court judgement on police reform in 2006 which ordered their creation.[1] To determine the extent to which the directive was implemented, CHRI filed applications under the Right to Information Act, 2005 in 24 states. While 12 states failed to respond, four were candid enough to admit that their Commissions had not met once since being established. With respect to the remaining eight Commissions, the 2011 report found that their impact had been miniscule and their functioning was far removed from the mandate envisaged for them.[2]

It is now eight years since the Supreme Court's decision. This is CHRI's second national-level report on SSCs. It provides an update on substantial developments since the first report and is based largely on data gathered in 2013. Ultimately, it aims to evaluate what State Security Commissions are bringing to the table: Are they effectively moderating police-executive relations? Are they effectively functioning as policy-setting and performance-evaluation mechanisms?

The first chapter sets the scene, outlining the problematic state of police-executive relations in India and the concept of an SSC as a possible solution. It specifically focuses on the recommendations of the National Police Commission, Supreme Court and the Soli Sorabjee Committee's Model Police Act, 2006. The second chapter explores compliance on paper with the Supreme Court's directive by states and the Centre, identifying trends and gaps in legislation with respect to their composition, mandate and powers. The third chapter assesses the achievements on the ground in terms of the frequency, substance and procedure of meetings. Finally, recommendations are proposed for reforming the Commissions.

Methodology

Beyond what is contained in legislation and media reports, there was virtually no information about the State and Union Territory (UT) Security Commissions in the public domain. As a result, information had to be gathered using the Right to Information Act, 2005 over a six-month period.

On 1 May 2013, Right to Information (RTI) applications were filed in all 28 states and seven UTs. These were addressed to the Public Information Officer (PIO) – the officer designated to respond to RTI applications within public authorities – in the Office of the Director General of Police (DGP) for the states,[3] and the Ministry of Home Affairs (MHA) for the Centre.

The applications sought information regarding:

1. Government orders/notifications creating the Commission;
2. Names, designations and contact details of members currently appointed;

[1]State Security Commissions: Reform Derailed, Commonwealth Human Rights Initiative, 2011, http://www.humanrightsinitiative.org/publications/police/sscrd.pdf.

[2]Arunachal Pradesh, Gujarat, Himachal Pradesh, Kerala, Maharashtra, Meghalaya and Mizoram.

[3]CHRI first sent RTI applications to the Office of the DGP, rather than to state Home Departments, since the DGP is designated as the Secretary of the Security Commissions. It was assumed, therefore, that the requested information would be readily available in the DGP's Office.

3. The number of times the Commission has met since being established and the dates of such meetings;
4. A certified copy of the minutes of each meeting;
5. The criteria for selecting independent members where provision is made for a selection panel;
6. A certified copy of any rules framed for the working of the Commission; and
7. A certified copy of any reports prepared by the Commission.

As most states failed to provide the requested information within the stipulated 30-day time period, fresh RTI requests were sent to the state Home Departments. Where the information was still not received within 30 days, appeals were filed with the respective First Appellate Authorities. This report is based on information received as of 31 October 2013.

Secrecy and Confusion Surrounds State Security Commissions

The information gathering exercise through the RTI Act was a long and drawn out one. It took up to six months to receive information in some cases and in others, no information was received. Ultimately, information was received from all but seven states – Bihar, Haryana, Madhya Pradesh, Manipur, Mizoram, Tripura and West Bengal.

Although the RTI Act stipulates strict time limits, these were not complied with. Except for Arunachal Pradesh, every state failed to provide information within the stipulated time period of 30 days.

In most cases, the applications were transferred from one PIO to the next within both the Office of the DGP and the Home Departments. Under Section 6(3), the RTI Act requires that if a public authority receives a request for information that does not relate to it, it must transfer the application or such part of it to the relevant public authority and inform the applicant immediately about such transfer. It expressly states that the transfer "shall be made as soon as practicable but in no case later than five days from the date of receipt of the application." In reality, these transfers took several weeks.

The recurrent transfers suggest that considerable confusion persists as to where SSC-related information is located, and even what the SSC is. In several instances, the application moved from one PIO to another and then back to the original. For instance, in the case of Andhra Pradesh, after languishing with the PIO in the Office of the DGP for over a month, the application was transferred to the PIO of the Criminal Investigation Department. Almost a month later, it was returned to the original PIO who finally sent a letter stating that the information was not available.

Some states only provided the information after the first appeal was filed. This suggests that the Departments failed to take the issue seriously until the involvement of the Information Commission became a possibility. In five states, namely Bihar, Madhya Pradesh, Manipur, Mizoram and West Bengal, our RTI applications failed to elicit a response altogether.

Our RTI requests were expressly refused in three states – Tripura, Haryana, and Jharkhand. Tripura claimed exemption under the RTI Act (further details below). In Haryana, the

information was refused on the grounds that it was already provided on the police's website, when in fact it was not. Meanwhile, the Home Department of Jharkhand refused to provide the minutes of the SSC's single meeting, stating that it was an internal matter and could not be circulated "due to security reasons".[4]

These refusals are problematic when seen against a guiding principle that determines access to information under the RTI Act: "information which cannot be denied to the Parliament or a State Legislature shall not be denied to any person."[5] In fact, the Supreme Court required that the SSCs prepare annual reports to be laid before the State Legislature precisely so that their functioning could be made public and be discussed by the legislature.[6] Furthermore, Section 8 of the RTI Act provides specific exceptions to the obligation to disclose information. In terms of "security" concerns, these include if disclosure would harm national security, or endanger the life or physical safety of a person. It is only for these "security" reasons that information can be denied.

[4]Section 8 of the RTI Act stipulates specific exceptions to the obligation to disclose information. In terms of "security" concerns, these include if disclosure would harm national security, or endanger the life or physical safety of a person. It is only for these "security" reasons that information can be denied, which is clearly not the case here.

[5]Section 8(1), *Right to Information Act*, 2005.

[6]Unfortunately, while most states have adopted the requirement of annual reporting in their Police Acts, few are actually producing annual reports (details provided below).

Chapter 1

Improving Police-Executive Relations in India

Introduction

The central problem with police-executive relations in India is the high levels of *illegitimate* political interference. This is as true today as it was in 2011, when CHRI first reported on SSCs. Despite nationwide public clamour for better policing since December 2012 – which was met with legal reform aimed at women in particular[7] – the police-politician relationship shows no signs of evolving. The political class continues to resist any tempering of its control over the police through democratic checks and balances.

This interference manifests through policy diktats, legal provisions, and direct and indirect orders,[8] which range from doling out arbitrary transfers as punishment, rewarding pliant officers with plum postings, using the police for private security, and at times dictating who to arrest or how to "investigate" in specific cases. Invariably, these orders are motivated by political expediency and vendetta.

[7]In December 2012, a young woman was gang-raped in a moving bus in Delhi. She did not survive the horrific attack. Nationwide protests ensued calling for women's safety and central to that, better policing. The central government formed a committee of jurists to examine the gaps in law relating to crimes against women, particularly sexual assault. The Committee on Amendments to Criminal Law produced a report in January 2013 with substantial amendments to criminal law, most of which were passed by Parliament. The Committee also laid down recommendations towards police reform.

[8]In both its 4th and 5th reports, the Second Administrative Reforms Commission has recommended that issuing illegal or malafide instructions/directions by any government functionary to any police official should be made an offence. See: Ethics in Governance, Fourth Report, Second Administrative Reforms Commission, January 2007, para 3.2.1.10, p.62 and Public Order, Fifth Report, Second Administrative Reforms Commission, June 2007, para 5.2.18, p.78, http://arc.gov.in/

Diverting Police Resources for VIP Security

In 2011, according to statistics provided by the Union Home Ministry's Bureau of Police Research and Development (BPRD), a total of 47,557 police personnel were deployed across the country to ensure the personal security of 14,842 very important people (VIPs), including ministers, parliamentarians, Members of Legislative Assemblies, judges and bureaucrats.[9] On average, this amounts to three police officers for each VIP. Yet, the police-population ratio across the country is an abysmal 176.2 per lakh of population.[10] This immensely disproportionate diversion of police resources from their core functions needs urgent attention.

One of the most glaring examples of illegitimate political interference, as pointed out in our 2011 report, involves using the police machinery to perpetuate communal violence.[11] Several committees over the years have observed that riots were orchestrated or allowed to simmer for political ends.[12] In September 2013, communal riots broke out in Muzzaffarnagar, in the northern State of Uttar Pradesh. Pre-electoral political considerations played a significant role in fanning the fires.[13] The meagre and impotent role of policing in stemming the riots signalled the breakdown of law and order. The violence that was allowed to continue claimed numerous lives and displaced between twenty-five and fifty thousand people.[14]

In some cases, the police's proclivity to please can lead to ludicrous levels of subservience. In early 2014, for instance, a Cabinet Minister of the Uttar Pradesh government ordered an extensive police operation to find seven of his stolen buffaloes. Dog squads, Crime Branch detectives and police officers from various police stations were activated in the search; this, in a state with some of the highest rates of violent crime in the country. Although the buffaloes were soon recovered, a sub-inspector and two constables were suspended for dereliction of duty. These suspensions seem to have been directly ordered by politicians; the state Tourism Minister defended the decision by publicly declaring, "We are in power, we know whom to suspend or promote."[15] Such remarks illustrate the extent of illegitimate political interference in policing.

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[9]*Data on Police Organisation 2012*, Bureau of Police Research and Development, 2012, http://bprd.nic.in/showfile.asp?lid=1047, p. 112.

[10]Data on Police Organisation 2012, Bureau of Police Research and Development, 2012, http://bprd.nic.in/showfile.asp?lid=1047, p. 112.

[11]*State Security Commissions: Reform Derailed*, Commonwealth Human Rights Initiative, 2011, http://www.humanrightsinitiative.org/publications/police/sscrd.pdf, p. 11.

[12]National Police Commission Reports, 1979-1981; Report of the Justice B. N. Srikrishna Commission of Inquiry, 1998.

[13]Riot For Votes: Did Azam Khan ask cops to go slow in Muzaffarnagar? Officers say, yes, India Today, 17 September 2013, http://indiatoday.intoday.in/story/muzaffarnagar-headlines-today-sting-riots-for-votes-azam-khan-responsible/1/310315.html.

[14]Muzaffarnagar Fact Finding Report: Violence by Political Design, Centre for Policy Analysis, 17 September 2013, http://cpadelhi.org/papersreports.htm.

[15]UP at Azam Khan's call: Policemen suspended for delay in finding minister's buffaloes, *The Economic Times*, 3 February 2014, http://articles.economictimes.indiatimes.com/2014-02-03/news/46963263_1_buffaloes-azam-khan-police-lines.

While some police leaders have attempted to stand up to such muscle-flexing, this has often involved a long fight without a clear victory. For some months in 2013, the DGP of Maharashtra was at loggerheads with the State Home Minister for appropriating the power to transfer and promote the ranks of police inspectors, assistant police inspectors and police sub-inspectors – a critical mass of personnel in charge of police stations and investigation functions. While these powers plainly belong to the police hierarchy, it became a public war between the Minister and his Police Chief. To his credit, the Chief stuck to his guns and the Minister finally returned these powers after a few months.[16] Regrettably, the government has recently taken back many of these powers through an Ordinance promulgated to amend the Maharashtra Police Act, which was stealthily passed as an Act by both Houses of the State Legislature in June 2014.[17]

The denigration of police regulations has undermined the incentive for honest officers to act in conformity with the law and emboldened errant ones to curry favour with those in power.

Regardless of its form, such politicisation of the police has wrought havoc. In addition to shattering the police's internal command structure, it has severely affected the professionalism and integrity of policing as a public service. The arrogation of powers over transfers and postings to the political executive is in total violation of State Police Manuals, which place transfer powers largely in the domain of the supervisory police ranks.[18] The denigration of police regulations has undermined the incentive for honest officers to act in conformity with the law and emboldened errant ones to curry favour with those in power. It bears repeating that policing in a democracy is not supposed to serve a regime; it is supposed to be accountable to the law and responsive to the needs of the community.

A major ambiguity within the Police Act of 1861 – which India inherited from the British – is substantially to blame for this situation. Section 3 of the Act provides that "the superintendence of the police throughout a general police district shall vest in and shall be exercised by the Government". Crucially, the concept of "superintendence" is left undefined. In doing so, the 1861 Act fails to delineate the roles of the police, on the one hand, and the political executive on the other. While the political executive undoubtedly has a crucial role to play in ensuring good governance and security within a state, the failure to precisely define the concept has enabled the political executive to liberally impose its own version of

[16]Patil bows, DGP gets back power to post and transfer, *The Indian Express*, 23 May 2013, http://archive.indianexpress.com/news/patil-bows-dgp-gets-back-power-to-post-and-transfer/1119515/0.

[17]The *Maharashtra Police (Amendment) Ordinance*, 2014 came into effect on 1 February 2014. The *Maharashtra Police (Amendment and Continuance) Ordinance, 2014* was re-promulgated by the Governor on 5 April 2014. The *Maharashtra Police (Amendment and Continuance) Act*, 2014 was passed by both Houses on 14 June 2014 and assented to by the Governor on 25 June 2014.

[18]National Police Commission, Second Report, August 1979, paragraph 15.14.

"superintendence" over the police. Sadly, Police Acts which have been enacted subsequently have not adopted better provisions to carefully define the precise roles of the police and political executive; in fact, many of them codify direct political control.

The National Police Commission

The National Police Commission (NPC), set up by the post-Emergency government, documented the prevailing conditions of policing in India in eight volumes (1979-81) and recommended far-reaching reforms. In its second report, it categorised police tasks into three areas: investigative, preventive and service-oriented.[19] It explained that preventive tasks include preventive arrests, arrangement for beats and patrols, collection of intelligence, maintenance of crime records and handling unlawful assemblies. Service-oriented functions include the rendering of general services during festivals, rescuing lost children in crowds and providing relief during natural disasters. While the executive may provide policy direction to the police on preventive and service-oriented tasks, the NPC stated that the investigative tasks of the police are beyond any kind of intervention by the executive.[20] In other words, decisions on who to investigate, search, question, detain, and arrest are operational decisions for the police alone to make. This is a useful guide to understand the areas in which political direction and intervention are welcome in policing, and those which are in the sole domain of the police.

The NPC was the first to call for the establishment of SSCs to function as a buffer body between the political executive and the police.[21] In the NPC's design, an SSC was to be established in each state to:

(i) Lay down broad policy guidelines and directions for the performance of preventive tasks and service-oriented functions by the police;

(ii) Evaluate the performance of the State Police every year and present a report to the State Legislature;

(iii) Function as a forum of appeal for police officers of the rank of Superintendent of Police and above on being subjected to illegal or irregular orders;

(iv) Function as a forum of appeal for police officers on promotion to the rank of Superintendent of Police and above; and

(v) Generally review the functioning of the police in the State.

This, it asserted, would allow for broad policy control by the executive while simultaneously ensuring that there is no intrusion into the police's operational responsibilities. Illegitimate interference would be kept in check as governmental responsibility for overseeing the police would be regulated through a mechanism representative of both government and non-government members. The NPC

[19]National Police Commission, Second Report, August 1979, paragraph 15.39.

[20]National Police Commission, Second Report, August 1979, paragraph 15.42.

[21]The SSC has been a recurring recommendation of several committees on police reform following the NPC, including the Ribeiro Committee (1998, 1999) and the Padmanabhiah Committee (2000).

recommended that four of the seven members should be retired Judges of the High Court, retired government servants, social scientists or academicians of public standing and eminence.[22] External perspectives would be crucial for the performance-evaluation function of the Commission. In the NPC's words, these "members of known integrity and impartiality drawn from various cross-sections of society would have no temptation not to call a spade a spade."[23]

Evaluating Organisational Police Performance

One of the critical aspects of the NPC's recommendation involved mandating the SSC to evaluate the performance of the police as an organisation. Although there are two existing institutional mechanisms for assessing police performance, their implementation is inadequate. As a result, there has been no proper systemic evaluation of the organisational performance of the police year on year. Well-functioning SSCs would go a long way to plug this gap.

The first existing mechanism of police performance is the Annual Administration Report (AAR). This report attempts to present a picture of the standard of policing within a state during a specific period, usually a calendar year. It is supposed to be compiled by the state police department and submitted to the state government for input and presentation to the Legislative Assembly for discussion. In reality, as the NPC reiterated, these reports are compiled through statistics provided at the police-station level, where the registration of crime is actively suppressed. Moreover, there is a considerable time lag in most states between the date of submission of the AAR to the Legislative Assembly and the period to which it relates.[24]

Secondly, some Police Acts[25] and most Police Manuals call for periodic inspection of police stations by the District Superintendent of Police to scrutinise and review the functioning of police stations. For instance, the Punjab Police Rules, 1934 – applicable to Punjab, Haryana, Himachal Pradesh and Delhi – provide that every police station shall be thoroughly inspected by a gazetted officer twice a year, at least one of which will be carried out by the Superintendent. In addition to examining registers, these inspections are supposed to assess the technical efficiency of investigating staff and the level of cooperation with neighbouring police stations.

The Rules specify that these formal inspections must be supplemented with informal inspections as frequently as the Superintendent may consider necessary. At such inspections, the aim is for the Superintendent to get acquainted with the personnel of the police station and to discuss matters concerning current crime cases with the officer-in-charge. "They shall assist such officer with advice, direction, encouragement or warning as may be required, and shall listen to and deal with any requests he or his subordinates may have to make."[26]

This is the basic template of the periodic inspection, which if done regularly, can be a truly effective supervisory and oversight practice. Anecdotal evidence suggests that in practice these inspections are a rarity. With no reporting or information in the public domain about such inspections, there is nothing to verify that these are actually taking place.

[22]National Police Commission, Second Report, August 1979, paragraph 15.46.

[23]National Police Commission, Eighth Report, May 1981, paragraph 61.13.

[24]National Police Commission, Eighth Report, May 1981, paragraph 61.11.

[25]Section 47, *Himachal Pradesh Police Act, 2007*.

[26]*Punjab Police Rules*, 1934, Volume 2, p. 832.

In the absence of effective performance evaluation mechanisms, the most commonly used parameter to assess police performance is a comparison of crime statistics of the period under review with those of previous years. If the number of offences registered during the period under review is less than those in preceding years, a superficial conclusion is drawn that the police have succeeded in controlling crime. This has given rise to questionable methods employed by police officers to bring down crime figures by not registering crimes or otherwise suppressing them. With governments keen to report that crime is under control, most turn a blind eye to such malpractices, or actively encourage them.[27]

The problem with this prevailing practice is that it does not provide a true assessment of how the police have actually performed in terms of operational efficiency, service delivery and accountability to name a few. This makes it nearly impossible to accurately identify the police's shortcomings.

In its eighth and final report, the NPC identified the following yardsticks for state police organisations to aid their objective evaluation of police performance and discourage extra-legal methods to burk crime. These are very useful and remain relevant today:

(1) Prevention of Crime:
- (i) Sense of security prevailing in the community.
- (ii) People's willing cooperation and participation secured by the police in preventing crime.

(2) Investigation of Crime:
- (i) Correct registration of crime.
- (ii) Prompt visit to the scene of occurrence.
- (iii) Speedy investigation.
- (iv) Honesty and impartiality in investigation.

(3) Law and Order:
- (i) Extent to which law and order is maintained, taking into account the forces that promote lawlessness.
- (ii) The manner in which law and order is maintained. Two factors have to be judged: (a) People's cooperation, (b) Use of force.

(4) Traffic Management:
- (i) Smooth flow of traffic in urban areas and control of fatal and serious accidents by prosecuting persistent offenders.

(5) Service:
- (i) General spirit of service, especially to weaker sections, physically handicapped, women and children.
- (ii) Quality of service rendered in a distress situation such as cyclone-havoc flood-damage, famine etc.
- (iii) Specific instances of service-oriented functions performed by the police, which drew special appreciation and gratitude from the public.

[27]After the *Criminal Law Amendment Act*, 2013 was passed, it is a punishable offence for a police officer not to register a sexual offence under section 166A of the Indian Penal Code. Moreover, the Supreme Court in November 2013 affirmed in *Lalita Kumari vs. Government of Uttar Pradesh & Ors* that any information disclosing a cognizable offence laid before an officer-in-charge of a police station satisfying the requirements of Section 154(1) of the Code of Criminal Procedure must be registered, with slight exceptions in a few limited and specified circumstances.

(6) Reputation of integrity and courtesy:

(i) General reputation.

(ii) Police collusion with criminals organising illicit distillation, gambling, economic crimes, prostitution etc.

(iii) Reputation for courteous behaviour.

(iv) Prompt and satisfactory enquiry into complaints against policemen.[28]

The NPC pointed out that the SSCs' performance-evaluation mandate did not exist in a vacuum. It was to work in tandem with the prevailing system of AARs and police station inspections. In its eighth and final report, it stated that while the AARs of the State Police "will naturally be an important document to aid the State Security Commission in the evaluation of the performance of the State Police... the [AARs] generally project only a quantitative assessment. It is not possible to have an accurate idea of the qualitative satisfaction of people from such reports. We therefore recommend that the State Security Commission be also provided an independent Cell to evaluate police performance, both in quantitative and qualitative terms. This Cell should not be a part of the police and may include experts from other disciplines. The preparation of the final report, to be put up before the Legislature by the State Security Commission itself will lend the report greater acceptability."[29]

The NPC concluded that the system it suggested would bring to the notice of the Home Minister a more reliable and detailed picture of the state's policing. Hopeful for change, it stated that this system would enable the Minister to take the necessary corrective steps to ensure better policing in a state.

Long Road to Reform

After the NPC reports, several other committees and commissions analysed the issue of police reform and echoed the NPC's recommendations regarding SSCs. This included the Julio Ribeiro Committee (1998, 1999); the Padmanabhiah Committee (2000); the Soli Sorabjee Committee (2005); and the Second Administrative Reforms Commission (2007). Ample guidance is available, yet so many decades on, proper implementation is manifestly lacking.

Supreme Court *Prakash Singh* Judgement

After more than two decades of non-compliance with the recommendations of the NPC and subsequent committees, the Supreme Court of India in September 2006 handed down a landmark decision on police reform in *Prakash Singh and Others v. Union of India and Others*.[30]

The Court expressed "hope that all State Governments would rise to the occasion and enact a new Police Act wholly insulating the police from any pressure

[28]National Police Commission, Eighth Report, May 1981, paragraph 61.42.

[29]National Police Commission, Eighth Report, May 1981, paragraph 61.12.

[30]*Prakash Singh and Others v Union of India and Others* (2006) 8 SCC 1.

In order to fulfil its policy-making and performance evaluation mandate, the composition of the SSC needed to offset the powerful interests of the government.

whatsoever, thereby placing in position an important measure for securing the rights of the citizens under the Constitution". However, it was no longer possible or proper to wait for this to happen. The Court ordered that the seven directives were to be made operative until new legislation is enacted by the state governments. The Court also required the Central Government to comply with the directives with respect to the UTs.

In its first directive, the Court gave judicial backing to the NPC's recommendations on the SSC. It directed all state governments to establish an SSC, designed "to ensure that the State Government does not exercise unwarranted influence or pressure on the State police and for laying down the broad policy guidelines so that the State police always acts according to the laws of the land and the Constitution of the country." The function of SSCs would "include laying down the broad policies and giving directions for the performance of the preventive tasks and service-oriented functions of the police, evaluation of the performance of the state police and preparing a report thereon for being placed before the state legislature."

In order to fulfil its policy-making and performance evaluation mandate, the composition of the SSC needed to offset the powerful interests of the government. While it was to be chaired by the Chief / Home Minister and include the DGP as its Secretary, it would include the Leader of the Opposition to ensure bipartisanship. The Court directed that the other members on the Commission were to be chosen such that the body is "able to function independent of government control".

States were given the discretion to choose between the models recommended by the National Human Rights Commission (NHRC), the Ribeiro Committee and the Soli Sorabjee Committee, as set out in the following table:

NHRC	Ribeiro Committee	Soli Sorabjee Committee (Model Police Act)
1. Chief Minister/Home Minister as Chairperson	1. Minister in charge of police as Chairperson	1. Home Minister as Chairperson
2. Leader of Opposition	2. Leader of Opposition	2. Leader of Opposition
3. Chief Secretary	3. Chief Secretary	3. Chief Secretary
		4. Secretary in charge of the Home Department

4. A sitting or retired judge, nominated by the Chief Justice of the High Court	4. A sitting or retired judge, nominated by the Chief Justice of the High Court	5. A retired High Court Judge nominated by the Chief Justice of the High Court
5. Lok Ayukta or, in his absence, a retired Judge of the High Court, nominated by the Chief Justice or a member of the State Human Rights Commission	5. Three non-political citizens of proven merit and integrity, appointed on the recommendation of a Selection Panel	6. Five non-political persons of proven reputation for integrity and competence from the fields of academia, law, public administration, media or NGOs, appointed on the recommendation of a Selection Panel
6. DGP as Secretary	6. DGP as Secretary	7. DGP as Secretary

By including "non-political citizens" or independent members, the models sought to introduce direct civilian oversight into police-executive relations. Democratic governance requires that the very people who will be affected by policies should have a say in their design, crafting and evaluation. Transparent and inclusive policy-making is more likely to reflect the will of the people. The independent members would bring to bear diverse skill-sets and perspectives crucial to the tasks of evolving policing policy and evaluating the performance of the police. Meanwhile, a retired judge would further shield the body from the pulls and pressures of the government of the day.

To protect against government manipulation, two of the models provided for a process of selecting the independent members. Under the Ribeiro Committee's model, the three non-political citizens were to be chosen by a committee set up by the Chairperson of the NHRC.[31] Under the Soli Sorabjee model, the five independent members were to be appointed on the recommendation of a selection panel comprising:

(i) A retired Chief Justice of a High Court as its Chairperson, nominated by the Chief Justice of the High Court;

(ii) The Chairperson of the State Human Rights Commission, or in the absence of such a Commission, a person nominated by the Chairperson of the NHRC; and

(ii) The Chairperson of the State Public Service Commission.[32]

Model Police Act, 2006

One month after the Prakash Singh judgement, the Soli Sorabjee Committee released its Model Police Act, 2006, which provided a legislative model for the states and the Centre to enact new police legislation and implement the Court's directives. Drafted by a Committee appointed by the Central Government under

[31]Ribeiro Committee on Police Reforms, First Report, October 1998.

[32]Section 43, *Model Police Act,* 2006.

the chairmanship of former Attorney General Mr Soli Sorabjee, it was sent to the government in October 2006.

The Model Police Act, 2006 calls for the setting up of a State Police Board (SPB) with a composition as set out in the table above. In order to protect the impartiality of the SPB, it provides for three-year tenure to the non-official members[33] and lays down specified grounds for their premature removal.[34]

Unlike the Prakash Singh judgement, which used general language, the Model Police Act, 2006 spells out the mandate of the body in precise terms. Under Section 48, the functions of the SPB involve:

(a) Framing broad policy guidelines for promoting efficient, effective, responsive and accountable policing, in accordance with the law;

(b) Preparing panels of police officers for the rank of Director General of Police against prescribed criteria;

(c) Identifying performance indicators to evaluate the functioning of the Police Service. These indicators shall, *inter alia*, include: operational efficiency, public satisfaction, victim satisfaction vis-à-vis police investigation and response, accountability, optimum utilisation of resources, and observance of human rights standards; and

(d) Reviewing and evaluating organisational performance of the Police Service in the state as a whole as well as district-wise against (i) the Annual Plan, (ii) performance indicators as identified and laid down, and (iii) resources available with and constraints of the police."[35]

Policing Plans and Empanelling the Rank of DGP

In addition to the mandate suggested by the Court, the Model Police Act, 2006 requires the SPB to prepare Strategic and Annual Plans in consultation with the government[36] and a shortlist for selection of the DGP.

Annual policing plans, which identify targets that the police department will seek to achieve in the upcoming budget year, could provide much-needed policy direction to police organisations. Ideally, these plans should be drafted through a process of consultation, firstly with the public in relation to the type of police service they want, and secondly within the police rank and file for the type of police service they want to be a part of.

To immunise the process of selection from potential improper influence, the Supreme Court in the Prakash Singh case specifically required that the Chief of Police be selected from a panel of three candidates chosen by the Union Public Service Commission (UPSC). The shortlisting process will ensure that the Chief of Police is not appointed on the sole discretion of the state government. However, instead of the UPSC, the Model Police Act, 2006 suggested that the SSC should be the responsible body to empanel potential candidates eligible for the post of DGP.

All of these go to show the myriad policy suggestions in place to temper and limit, but not extinguish, the political executive's role vis à vis the police.

[33]Section 45, *Model Police Act*, 2006.

[34]Section 25, *Model Police Act*, 2006.

[35]Section 48, *Model Police Act*, 2006.

[36]Section 40, *Model Police Act*, 2006.

Seventeen states have passed new police legislation or amended police laws since 2006, ostensibly to implement the *Prakash Singh* directives. Some have adopted the detailed language employed by the Model Police Act, 2006 while others have opted for the language used by the Court. Meanwhile, nine states and three UTs have set up SSCs via government order.

Compliance Efforts

In May 2008, the Supreme Court set up a three-member Monitoring Committee to look into the implementation of the Court's *Prakash Singh* directives. Headed by former Supreme Court Justice, K. T. Thomas, the Committee examined affidavits filed by the Central and state governments and the new Police Acts legislated by some of the states. Unsatisfied with the attempts of the states to comply only on paper, the Committee felt the need to look into ground realities. It visited Maharashtra, Uttar Pradesh, Karnataka and West Bengal, and filed four interim reports between October 2008 and December 2009. It submitted its final report to the Court in August 2010, which painted an abysmal picture of state compliance with the directives.

Based on the report, the Supreme Court on 8 November 2010 took serious note of the lack of compliance and issued notices to the four errant states, asking their Chief Secretaries to appear before the Court. After being summoned, some states hurriedly set up SSCs. Uttar Pradesh constituted an SSC by government order, but it continues to exist on paper only. Madhya Pradesh, responding in haste to a contempt petition, set up an SSC via executive order overnight. West Bengal, which had also come in for criticism by the Court for including the Health Minister of the State as the Chairman of the Commission, replaced the former with the Chief Minister.

In March 2013, a different bench of the Supreme Court headed by Justice Singhvi took *suo moto* notice of two incidents of police brutality and excess use of force in Taran Taran in Punjab and Patna in Bihar. During the course of its hearings, the Court issued notices to the Central and state governments requiring them to file affidavits on the issue of implementation of the directives.

In April 2013, the reconstituted Bench took up the compliance of the first directive on SSCs and began issuing notices to different states. Since many states had simply ignored the Court's directives, the Bench made it clear that the states would not be spared for disobedience. Several states have since hurriedly set up SSCs to avoid censure by the Singhvi Bench, including Andhra Pradesh and Tamil Nadu. Since then, Justice Singhvi has retired and the fate of these proceedings is uncertain.

The Present Situation

It is now eight years since the Supreme Court's decision in the *Prakash Singh* case. Despite the years that have passed, and the various monitoring and compliance efforts by the Supreme Court, the level of compliance with the Court's directive on SSCs continues to be low. Compositions have been modified, mandates diluted and powers limited. As a result, the independence of the Commissions and their

ability to be effective has been incrementally undermined. The fact that most of the Commissions have not been given binding powers renders them, at best, advisory bodies whose recommendations can be ignored by the government when they are inconvenient. It comes as no surprise, then, that the Commissions are failing to gain traction in most states, let alone make a long-lasting impact on policing policy.

The cumulative picture that emerges is one of a political executive that does not wish to let go of its firm grip on policing and perhaps also does not have the *capacity* to exercise a more guiding role. Rather than ensuring legitimate monitoring and guidance by the executive, the present SSCs perpetuate the executive's control over the police. Unless this changes, the police will be held back from becoming a people-oriented police service for the twenty-first century.

2

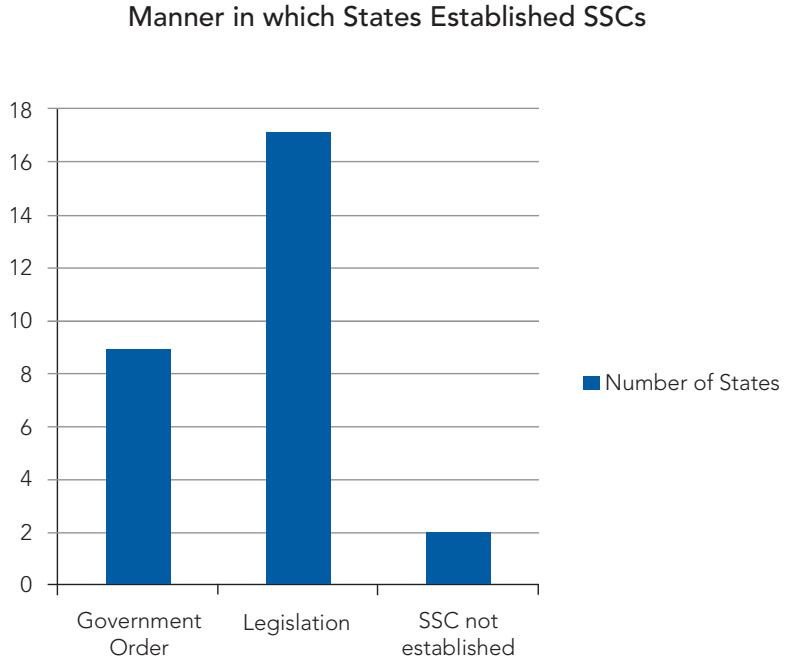
Chapter

State Security Commissions on Paper: Upsetting the Balance Struck by the Supreme Court Directive

Based on the information gathered by CHRI, SSCs have been constituted in 26 states and three UTs since the Supreme Court's *Prakash Singh* judgement. The Annex outlines the establishment, composition, mandate and powers of each SSC. Regrettably, not a single one complies with the Court's design.

Delayed Establishment

To establish SSCs, nine states issued government orders and 17 states passed legislation through new Police Acts or legislative amendments. While most states passed legislation in 2007, others have taken considerably longer. Recently, the trend has been for states to first promulgate an Ordinance and then pass an Act with little debate or public consultation. This is true of Karnataka, Tamil Nadu and now Maharashtra.



Although several states passed legislation establishing SSCs soon after the *Prakash Singh* decision, most SSCs only came into being after government notifications were issued several years later. This was even the case where the legislation prescribed a time limit. In Haryana, for instance, although the Police Act required the State Government to establish the body within three months,[37] it was brought into existence – and then only on paper – via a government notification two years later.

Troubling Inconsistencies

In addition to delaying the establishment of SSCs, state governments have in some instances departed from legislation while issuing notifications. Himachal Pradesh is a stark example in this regard. Although the Himachal Pradesh Police Act, 2007 requires the Director of the State Police Training Academy to be a member of the SPB, the notification bringing the Board into existence omits this member. Clearly, legislation overrides and this is a glaring example of non-compliance. It is all the more damaging given that the Act specifically foresees a role for the Director of the Academy to present an Annual Report on behalf of all training institutions to the SPB.[38] The idea was to ensure that any training needs could be addressed with the presence of this member. Regrettably, this unique and forward-thinking provision has not seen the light of day.

It is worth mentioning that while most states have chosen to call the body an SSC, some have employed the language of the Model Police Act, 2006, which refers to an SPB. Meanwhile, the Police Acts in Chhattisgarh and Rajasthan refer to a State Police Commission (SPC).

[37]Section 25, *Haryana Police Act, 2007*.

[38]Section 18(3), *Himachal Pradesh Police Act, 2007*.

Compromised Compositions

Across the board, the political executive and legislature have methodically upset the carefully balanced composition suggested for the SSCs by the Supreme Court. It is important to note that even seemingly minor modifications are cause for concern. The models were subject to a long process of deliberation before being decided on. They provide for a carefully balanced composition of government and police officials on the one hand, and non-government members on the other (with the exception of the NHRC's model which does not provide for independent members). The independence sought by these models is integral for a commission whose very purpose is to act as a buffer between the police and the political executive. The following section points out trends in how the compositions of SSCs have been compromised.

Across the board, the political executive and legislature have methodically upset the carefully balanced composition suggested for the SSCs by the Supreme Court.

Dominating Political Executive

In many states, there is a discernible trend of overloading SSCs with members from the political executive rather than opening them up to external perspectives. Bihar is one example. Its SPB is a three-member body headed by the Chief Secretary, with the DGP and Home Secretary as members.[39] Haryana and Karnataka, to take other examples, include two additional political actors on their Commissions, namely the Home Minister as Vice-Chairperson and the Home Secretary.[40] Along with the Chief Minister and Chief Secretary, this tilts the numbers in favour of the government and police, upsetting the careful balance suggested by the Court. This kind of insular design defeats the very purpose of the body, which is to usher in external oversight for policing. The remaining states fall somewhere in between, having set up Commissions that vaguely resemble one of the three suggested models, but with modifications to the original structure.

This is not to say that an increased number of civil servants is always amiss. The Himachal Pradesh and Sikkim Police Acts include the Principal Secretaries of the Finance and Social Justice departments. The former also includes the Directors of Prosecution and Forensic Science.[41] While these compositions do not adhere to the Court's suggested models, they can be a valuable asset. Having the Principal Secretaries of the Home and Finance Departments as members may mean that resources and finances for implementing recommendations can be allocated faster. Involving the Principal Secretary of the Social Justice Department in setting

[39]Section 24, *Bihar Police Act, 2007*.

[40]Section 26, *Haryana Police Act, 2007*.

[41]Section 49, *Himachal Pradesh Police Act, 2007; Section 40, Sikkim Police Act, 2008*.

policy and evaluating police performance is forward thinking, considering the importance of just and good policing for that portfolio. Moreover, having the Directors of Prosecution and Forensic Science on the Commission could go a long way to strengthen crime investigation, thereby enhancing police performance. Of course, the other side is that these additional members only skew the Commission's composition toward being bureaucrat-heavy. Principal Secretaries and others can be invited to Commission meetings for their suggestions and assistance, and a system for release of funds can be worked out. Ultimately, whichever approach is adopted, it is most crucial that the independence and efficiency of SSCs are prioritised.

Undermining Impartiality

The Supreme Court provided specific safeguards to ensure impartiality in the Commissions' overall outlook. It insisted that all Commissions include the Leader of the Opposition and a retired judge. Furthermore, the Ribeiro and Sorabjee models suggested by the Court require independent members to be chosen by a selection panel. These three components are crucial for the independence and credibility of a body like an SSC and introduce bipartisanship, judicial evenhandedness and civil society perspectives. In many ways, these are non-negotiable features if a state government is vested in establishing a truly impartial Security Commission. Unfortunately, as the following table demonstrates, these necessary components have not been consistently adopted, and in some states, were completely disregarded.

Three Components of Impartiality

State / Union Territory	Leader of Opposition	Retired Judge	Number of independent members and their Selection Process
Andhra Pradesh State Security Commission	Yes	No	5. Nominated by the Government
Arunachal Pradesh State Security Commission	Yes	No	5. Nominated by Selection Panel from a shortlist provided by the Government
Assam State Security Commission	No	Yes	3. Nominated by the Government
Bihar State Police Board	No	No	0
Chhattisgarh State Police Commission	No	No	2. Nominated by the Government
Goa State Security Commission	Yes	Yes	0
Gujarat State Security Commission	No	No	2. Nominated by the Government
Haryana State Police Board	Yes	No	3. Nominated by the Government

State / Union Territory	Leader of Opposition	Retired Judge	Number of independent members and their Selection Process
Himachal Pradesh State Police Board	Yes	No	3. Nominated by Selection Panel from a shortlist provided by the Government
Jharkhand State Security Commission	Yes	No	5. Nominated by the Government
Jammu & Kashmir	Not constituted. State has requested exemption from the Directive		
Karnataka State Security Commission	Yes	Yes	0
Kerala State Security Commission	Yes	Yes	3. Nominated by the Governor
Madhya Pradesh State Security Commission	Yes	No	5. Nominated by the Government
Maharashtra State Security Commission	Yes	No	5. Nominated by the Government
Manipur State Security Commission	Yes	No	5. Nominated by the Government
Meghalaya Security Commission	Yes	No	2. Nominated by Selection Panel
Mizoram State Security Commission	Yes	Yes	2. Nominated by the Government
Nagaland State Security Commission	Yes	Yes	3. Nominated by the Government
Odisha	Not constituted.		
Punjab State Police Board	No	No	0
Rajasthan State Police Commission	Yes	No	3. Nominated by Selection Committee
Sikkim State Police Board	Yes	Yes	3. Nominated by Selection Panel
Tamil Nadu State Security Commission	Yes	No	0
Tripura State Police Board	No	Yes	2. Nominated by the Government
Uttarakhand State Police Board	Yes	No	3. Nominated by Selection Panel
Uttar Pradesh Security Commission	Yes	No	2. Nominated by the Government
West Bengal	Yes	Yes	0

(i) Leader of the Opposition and a Retired Judge

The glaring absence of the Leader of the Opposition and a retired judge from many Commissions is discouraging. All three of the Court's suggested models required these members.

Six states fail to include the Leader of the Opposition,[42] while as many as 17 states make no provision for a retired High Court Judge. Four states – Bihar, Chhattisgarh, Gujarat and Punjab – fail on both counts.

Two noteworthy trends emerge in the way states have implemented the requirement to include a retired judge. Firstly, the Advocate General has been put in the place of a retired judge in three states.[43] Although part of the judiciary, the Advocate General is appointed by the Governor of each State and holds office during his "pleasure".[44] This could impact his or her impartiality.

Secondly, the retired judges that were appointed to the SSCs in the States of Goa, Kerala, and Tripura happen to be the Chairs of the respective State Police Complaints Authorities (PCA). Tasked with handling complaints of misconduct made against the police, the PCAs were the second accountability mechanism recommended by the Supreme Court in the *Prakash Singh* case, and were to be chaired by retired High Court Judges. From the notifications in these states, it is unclear whether these individuals were appointed in their personal capacities as retired judges, or in their capacities as PCA Chairs. There is good reason for an institutional relationship between the two bodies; the knowledge gained by a PCA of systemic flaws in policing through its inquiries into police misconduct must be shared with the SSC if the latter is to accurately evaluate the police's performance. It would be well advised for explicit provision to be made requiring SSCs and PCAs to interact regularly.

(ii) Independent Members

The importance of having independent members on the Security Commissions lies in their ability to provide diverse perspectives from outside government and public office, adding voices, skill sets, and experiences that represent a wider cross section of society. The inclusion of qualified, transparently chosen non-government members may also begin to build public trust in the police and shape policies that are more likely to enjoy widespread consensus. Unfortunately, looking at the numbers, profiles and selection processes of the "independent" members on the SSCs, it becomes clear that there is no such intent.

While 20 states have made provision for independent members, their numbers have been reduced from the maximum (and ideal) prescribed in the suggested models. Commissions that otherwise resemble the Sorabjee model are composed with three, instead of five, independent members. In other states – Chhattisgarh, Gujarat, Meghalaya, Mizoram, Tripura and Uttar Pradesh – the number of

[42]Assam, Bihar, Chhattisgarh, Gujarat, Punjab and Tripura.

[43]Haryana, Jharkhand and Punjab.

[44]Article 165, Constitution of India.

independent members is lowered to two. States like Bihar, Goa, Karnataka and Punjab have gone to the other extreme and have no independent members on their Commissions.

To protect against arbitrary removal of independent members by the government, the Model Police Act, 2006 recommends three-year tenure and specific grounds for removal. Furthermore, to ensure a dynamic turnover of views, it insists that, "the same person shall not be appointed for more than two consecutive terms."[45] It is rewarding to note that most states grant three-year tenure to the independent members.[46] Kerala provides for five-year tenure for all its members including the non-official ones,[47] while the Police Acts of Chhattisgarh,[48] Uttarakhand[49] and Maharashtra[50] provide for two-year tenure.

Making provision for independent members is one issue. Appointing such members is entirely another. According to the information received, while 55 independent members were appointed across the country (including the UTs), independent members exist solely on paper in seven states. These are Andhra Pradesh, Chhattisgarh, Himachal Pradesh, Maharashtra, Rajasthan, Tripura and Uttar Pradesh.

Some of these Commissions were established years ago and even hold meetings without these appointments. In Himachal Pradesh, although the SPB was established in 2008, the DGP indicated in its third meeting in February 2012 that independent members would be nominated "very soon".[51] This is discouraging. If independent members continue to exist on paper, the balanced composition envisaged by the Court fails to take effect and the Commissions are at risk of simply acting as an instrument of the executive. The delay in appointing independent members intimates that states are not interested in building independent Commissions.

The profiles and backgrounds of the 55 individuals appointed as independent members are also revealing. Their profiles are depicted in the chart over the page.

Seven states have appointed a retired Indian Police Service (IPS) officer and/or a retired Indian Administrative Service (IAS) officer as an "independent" member.[52] There is no denying that retired officers have critical policing and administrative expertise. However, the Court's directive required balance and sufficient representation of varied skillsets and backgrounds. The need for former IAS officers is therefore questionable considering the already heavyweight representation of the political executive through the Chief / Home Minister and Chief Secretary.

More disturbingly, the states of Madhya Pradesh, Mizoram and Nagaland have included serving and/or former Members of Parliament (MP) and Members of the

[45]Section 46, *Model Police Act 2006.*

[46]Assam, Guajarat, Haryana, Himachal Pradesh, Meghalaya, Rajasthan, Sikkim, Tripura.

[47]Section 24(4), *Kerala Police Act 2011.*

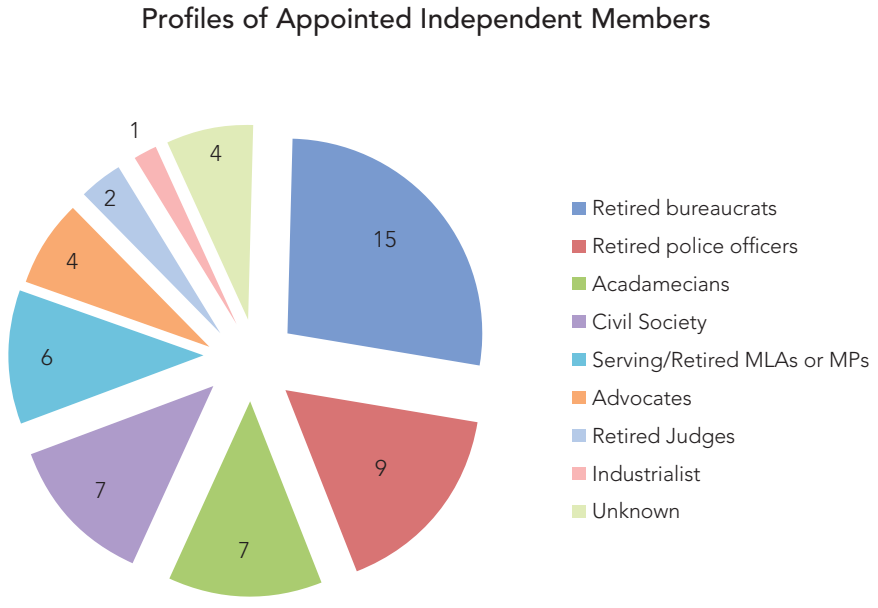
[48]Section 18(1), *Chhattisgarh Police Act 2007.*

[49]Section 33, *Uttarakhand Police Act 2007.*

[50]Section 22B(7), *Maharashtra Police (Amendment and Continuance) Act, 2014.*

[51]Himachal Pradesh SPB, Meeting Minutes, 3 February 2012.

[52]Assam, Haryana, Jharkhand, Kerala, Madhya Pradesh, Mizoram and Uttarakhand.



Legislative Assembly (MLA) on their Commissions as independent members. The inclusion of serving legislators blatantly contradicts the notion of an independent member. Section 45 of the Model Police Act, 2006 expressly provides that the holding of an elected office, including that of MP or MLA, makes one ineligible to be a member.

On the other hand, it is encouraging that some states have independent members with diverse profiles, including advocates[53] and Vice Chancellors of universities, as in Gujarat, Jharkhand and Manipur (which has three such members).

An Innovation Gone Wrong?

In Tamil Nadu, the Police Act includes the Chairs of various state commissions, including the Public Service Commission, State Women's Commission, State Human Rights Commission and State Minorities Commission as ex-officio members.[54] Presumably, these posts fill the role of "independent" members as no other independent members are included. It is unrealistic to expect Chairpersons of full-time bodies to have the time to properly fulfil their role on the SSC. This is not a judicious way of building the SSC as a sustainable institution in its own right.

(iii) Selection of Independent Members

Equally important as the profiles of independent members, is the process of their selection. Have they been rigorously selected through an independent panel and process? As mentioned above, the Model Police Act, 2006 lays down the following selection panel to shortlist candidates for the posts of independent members: a

[53]Haryana, Meghalaya and Kerala.

[54]Section 5(2), *Tamil Nadu (Reforms) Act, 2013.*

retired Chief Justice of the High Court, the Chairperson of the State Human Rights Commission and the Chairperson of the State Public Service Commission.[55]

In almost all states, the government has the power to unilaterally select the independent members. There is no arms-length process of selection. Only six states provide for a selection panel.[56]

This is also true of ostensibly progressive states such as Kerala. While the Act provides for three non-official members, they are to be nominated by the Governor rather than through an independent selection panel. Considering the care and effort taken in drafting the Kerala Police Act, it is disappointing that such an important safeguard for the independence of a body like the SSC is not in legislation. Maharashtra also sets a bad example. In its July 2013 Government Order setting up an SSC, provision was made for a panel to shortlist candidates as independent members in line with the Model Police Act, 2006.[57] However the 2014 Act makes no such provision and instead, the state government is to nominate the five independent members. In effect, the government has diluted its own Order. This is an unfortunate and regressive move.

Circular Selection Process

In Arunachal Pradesh and Himachal Pradesh, independent shortlisting has been scrapped. While selection panels have been established, they are to choose independent members from a shortlist provided by the government. The Security Commission for Delhi suffers from the same circularity despite the provision for a Search Committee. These provisions run the risk of generating political appointees.[58]

The composition of existing selection panels is varied. While some are more independent than others, there is not a single panel that conforms fully to the Model Police Act, 2006. The chart over the page sets out the selection panels provided for in legislation.

The selection panels constituted in Arunachal Pradesh, Himachal Pradesh and Sikkim come closest to the impartiality required by the Model Police Act, 2006, though as mentioned above, in Arunachal Pradesh and Himachal Pradesh, the panels do not have the power to shortlist candidates. In Rajasthan and Uttarakhand, the Home Minister, who is the Chairperson of the SSC in each state, is included on the selection panel. Having the Chairperson of the SSC select the very members who are supposed to bring balance and neutrality is counterproductive. Meghalaya's selection panel is the least independent, with three members of the Commission itself on the panel – the Chief Secretary, Home Secretary and DGP.[59]

[55]Section 43, *Model Police Act, 2006.*

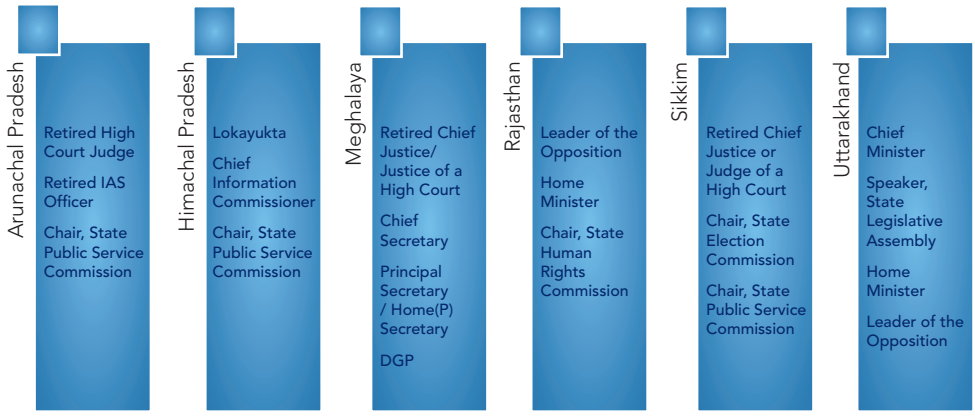
[56]Arunachal Pradesh, Himachal Pradesh, Meghalaya, Rajasthan, Sikkim and Uttarakhand.

[57]Maharashtra Government, Home Department Resolution No. SSC-1013/CR-108/Pol-3, 10 July 2013.

[58]The Meghalaya selection panel consists of a retired Chief Justice/ Justice of a High Court as Chairperson, to be nominated by the Chief Justice of the High Court; Chief Secretary; Principal Secretary/Secretary Home; and DGP.In the case of Rajasthan, it consists of the Leader of the Opposition, the Home Minister and the Chairman of the State Human Rights Commission.

[59]Section 38, *Meghalaya Police Act, 2010.*

Selection Panels for Independent Members



Having a suitably composed selection panel is all well and good. However, that is of no consequence in the absence of proper selection criteria. A wide knowledge of policing and the skills to conduct a systematic performance evaluation are some of the specific attributes that are required. Selection criteria aimed at such attributes ensures that independent members are selected according to objective factors, rather than on the basis of personal connections or vested interests.

Yet, most Police Acts remain vague on this issue. The most guidance provided is a requirement to the effect that independent members have integrity and be appointed from certain fields. Assam is one of the better examples. Its Police Act calls for: "Three non-political persons of high integrity, expertise and competence in administration, law enforcement and security related matters, to be nominated by the State Government, including a police offer not below the rank of DGP, a retired civil service officer not below the rank of Commissioner and Secretary, and a member from the fields of public service, legal profession or social organization with at least 15 years expertise in the field."[60]

The Model Police Act, 2006, required the Selection Panel to "evolve its own procedure to select independent members through a transparent process."[61] Only the Himachal Pradesh,[62] Meghalaya, and Sikkim Police Acts include such a provision. However, a selection procedure remains to be seen on the ground.

Our RTI requests for the selection criteria used to choose independent members garnered little information. They were either met with no response, or with reference to a legislative provision outlining the grounds of ineligibility for independent members, based on Section 45 of the *Model Police Act 2006:*

No person shall be appointed as an Independent Member if he:

(a) Is not a citizen of India; or

[60]Section 35(f), *Assam Police Act, 2007.*

[61]Section 44, *Model Police Act, 2006.*

[62]Section 50(3), *Himachal Pradesh Police Act, 2007.*

(b) Has been convicted by a court of law or against whom charges have been framed in a court of law; or

(c) Has been dismissed or removed from service or compulsorily retired on the grounds of corruptions or misconduct; or

(d) Holds an elected office, including that of Member of Parliament or State Legislature or a local body, or is an office-bearer or member of any political party or any organisation connected with a political party; or

(e) Is of unsound mind.

Grounds for ineligibility are not grounds for selection; in fact, they are quite the opposite.

Weakened Mandates

Most Commissions have been given the basic mandate suggested by the Court: to set policing standards and conduct an evaluation of police performance. A few states go further, adopting the language of the Model Police Act, 2006 and vest their Commissions with the task of also identifying performance indicators, drafting strategic plans in consultation with the state government and preparing a shortlist of officers for the rank of DGP. While the Supreme Court assigned this latter function to the UPSC, it was assigned to the SPB in the Model Police Act, 2006, with which CHRI is in full agreement.

Ensuring that the police service is adequately provisioned in terms of staff strength and infrastructure is crucial for better policing in a state. It is welcoming, then, that the Punjab and Himachal Pradesh Commissions are mandated to respectively "identify shortcomings regarding infrastructure and equipment in police"[63] and "approve from time to time the sanctioned strength of the various ranks of the Non-Gazetted Police Officers and Gazetted State Police Service Officers".[64] While the Supreme Court directive did not expressly provide for these functions, they accord with its spirit.

Rajasthan's Police Act also contains progressive provisions. Section 26 provides that the State Police Commission may "analyse crimes in the State and suggest preventative measures"[65] and "prepare a training policy for police officers of different ranks and categories".[66] These functions aim to ensure that the police are well-trained and focused on crime prevention; they are very appropriate for SSCs.

Unfortunately, the mandates and stature of other SSCs are significantly weakened through mitigating language and additional tasks that tend to divert them from their main focus. In some states, SSCs are reduced to merely advisory bodies in law. For instance, the Chhattisgarh and Rajasthan Police Acts task their Commissions

[63]Section 28, *Punjab Police Act, 2007*.

[64]Section 53(ii), *Himachal Pradesh Police Act, 2007*.

[65]Section 26(e), *Rajasthan Police Act, 2007*.

[66]Section 26(g), *Rajasthan Police Act, 2007*.

> Unfortunately, the mandates and stature of other SSCs are significantly weakened through mitigating language and additional tasks that tend to divert them from their main focus.

to "advise the State Government on policy guidelines", "*assist* the state government in identifying performance indicators" and "*communicate* [their] views periodically on the performance of the police".[67] The mere offering of advice and assistance departs from the active role envisioned by the Supreme Court of laying down policies and conducting a performance evaluation. Similarly, in Assam, the SSC is mandated to only *identify* performance indicators, rather than actually *conduct* the evaluation of the state police itself.[68] This weakening of language, and thereby the very foundation of the SSCs, is a matter of grave concern.

Secondly, it is discouraging that a catchall clause was included in Gujarat, Karnataka, Rajasthan and Tamil Nadu requiring the Commissions to perform such other functions as may be required by the state government from time to time. The suggested mandate of the Commissions is in itself wide enough. The time and resources involved in laying down policies, identifying indicators and evaluating the performance of the police – both district and state-wise – are intensive. To add a clause that requires it to perform an indeterminate range of additional tasks not only adds uncertainty to the law, it seems an onerous and unnecessary burden. Worse still, it has the potential to detract from the Commissions' sharp focus of insulating the police from unwarranted interference.

In a few states, Security Commissions are given additional roles which are not always appropriate. Sikkim's Police Act requires the SPB to function as the State Vigilance Commission "until such time as an appropriate law is made on the subject".[69] It is unwise to vest a body such as the SSC with dual functions, particularly when the second function requires a separate, equally independent body.

In Meghalaya and Tripura, the Police Acts require the SSC to "function as a forum of appeal for disposing of representations from officers of the rank of Additional Superintendent of Police and above, regarding their promotion, or their being subjected to illegal or irregular orders".[70] While the NPC included this as a function for an SSC,[71] the Supreme Court and the Model Police Act, 2006 mandated another body – the Police Establishment Board (PEB) – to perform this function, largely with the aim of returning management matters of the police into the hands of the police leadership. Police legislation in both states establish PEBs, which are better placed to address illegal or irregular orders, rather than the SSCs.

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[67]Section 20, *Chhattisgarh Police Act, 2007; Section 26, Rajasthan Police Act, 2007.*

[68]Section 40, *Assam Police Act, 2007.*

[69]Section 46(2), *Sikkim Police Act, 2008.*

[70]Section 44(h), *Meghalaya Police Act, 2010; Section 25(d), Tripura Police Act, 2007.*

[71]National Police Commission, Second Report paragraph 15.48(iii).

Accountability to the Legislature Denied

The Supreme Court required that the SSCs prepare annual reports for the State Legislature so their functioning is made public and subject to debate. Legislators can provide valuable inputs that should be taken into consideration by the government and the SSC to improve the performance of the police. Despite this, Assam, Bihar, Haryana, Nagaland and Tripura fail to have reporting requirements in their legislation/government orders altogether. These provisions go against the spirit of transparency required by the Supreme Court.

The effort to draft and publish an annual report is undermined if the report is not tabled for debate and discussion in the legislature, and thereby made easily accessible to the public. Several Police Acts are deficient in this respect. Instead of requiring annual reports to be placed before the State Legislature, legislation in Chhattisgarh and Gujarat requires them to be submitted to the state government. The Bombay Police (Gujarat Amendment) Act, 2007, for instance, requires submission "to the State Government for consideration and appropriate action".[72] This leeway allows the government to cast annual reports into cold storage.

In contrast, the specificity of the Rajasthan Police Act is welcome. Although it requires the Commission to submit its annual report to the State Government, it adds that the State Government is to "cause the annual report to be laid before the House of the State Legislature in the Budget Session".[73]

In practice, despite the legislative requirement to prepare an annual report, it appears that the Commissions by and large fail to do so. Only two states provided copies of their annual reports in response to our RTI applications, namely Kerala and Himachal Pradesh. This failure eradicates accountability both to the legislature and to the people.

Public Information on State Security Commissions

The Supreme Court specifically required the SSCs to prepare annual reports for the State Legislature so that their functioning was made public and subject to debate. Yet there is virtually no information about the Commissions in the public domain. The only information that is publicly available is contained in legislation, and in media reports.

As detailed in Chapter 1, obtaining even the most basic information through the RTI Act was a long, drawn out process, with many states failing to respond or refusing to disclose any information. It should not be necessary to resort to the RTI Act to obtain this information. Under Section 4(1)(b) of the RTI Act, all public authorities are required to disclose baseline information, including the particulars of their organisation, functions and duties, the powers and duties of officers and employees, and the norms set for the discharge of their functions.

Section 4(2) of the Act requires public authorities to proactively provide as much information to the public at regular intervals through various means of communication, including the Internet, so that the public has minimum need to resort to the Act to obtain information. Needless to say, the state and UT Security Commissions fail profoundly on this front.

[72]Section 32C, *Bombay Police (Gujarat Amendment) Act, 2007*.

[73]Section 27(2), *Rajasthan Police Act, 2007*.

Binding Powers Frustrated

One of the greatest causes for concern is the failure of state governments to vest their Commissions with binding powers, despite being clearly required by the Supreme Court. Andhra Pradesh and Karnataka are the only states that have done this. At the other extreme, the Maharashtra Act expressly confers "advisory" powers.[74]

In a few states, financial concerns can affect the extent to which recommendations by Commissions can be implemented. In Meghalaya, the recommendations are binding on the Government to the extent *feasible*.[75] In Himachal Pradesh, the recommendations are *normally* binding, however, if the Government is of the opinion that a recommendation is not feasible in the public interest, it shall communicate the reasons thereof.[76] It would help if the statutes clearly stated that 'feasible' here refers to financial feasibility so there is no misunderstanding.

In Kerala, while the directions of the SSC are binding on the Police Department, this does not extend to the Government, which "may, for reasons to be recorded in writing, fully or partially, reject or modify any recommendation or direction of the Commission".[77] Although it is hard to imagine how decisions of the SSC would interfere with an emergency situation, the Act also provides that, "notwithstanding any guidelines or directions issued by the Commission, the Government may lawfully issue such directions as it deems necessary on any matter, if the situation so warrants, to meet any emergency".[78] These provisions mitigate the authority of the Commission.

The legislation and government orders creating the remaining Commissions are silent on the issue of binding powers. This renders them merely advisory bodies. As with countless other Commissions in the country, this has a disastrous effect on their impact.

Security Commissions for the Union Territories

The Supreme Court's *Prakash Singh* directives were to be complied with not only by the State Governments, but also by the Central Government with respect to the seven UTs (Andaman & Nicobar Islands, Chandigarh, Daman & Diu, Dadra & Nagar Haveli, National Capital Territory of Delhi, Lakshadweep and Puducherry). Instead of simply creating a Security Commission for each UT from the outset, the Centre delayed and confused the issue through several revisions.

On 3 March 2010, the MHA announced the establishment of a single UT Security Commission with jurisdiction over all UTs.[79] Almost a year later, in a memorandum dated 10 January 2011, it modified its initial position and constituted a separate Security Commission for the

[74]Section 22B(10), *Maharashtra Police (Amendment) Act, 2014*

[75]Section 35, *Meghalaya Police Act, 2010.*

[76]Section 53(2), *Himachal Pradesh Police Act, 2007.*

[77]Section 25(5), *Kerala Police Act, 2011.*

[78]Section 25(4), *Kerala Police Act, 2011.*

[79]Government of India, Ministry of Home Affairs Memorandum No. 14040/45/2009-UTP, 3 March 2010.

National Capital Territory (NCT) of Delhi and a separate Commission for the remaining UTs.[80]

The composition suggested for the Security Commission for all UTs except Delhi included the Chief Minister and Leader of the Opposition of the Puducherry Legislative Assembly as members. Puducherry, like Delhi, is the only other Union Territory which has its own elected legislative assembly. Perhaps this was an inadvertent mistake, but the result was a Commission that was strangely skewed towards Puducherry. On 17 July 2012,[81] this composition was revised to include representatives from other UTs.[82]

Finally, on 18 January 2013, at the outset of the first meeting of the Security Commission for all Union Territories except Delhi, the Union Home Secretary stated that since each UT had its own requirements, it would be appropriate for them to have separate Security Commissions, with independent members appointed from the respective regions.[83]

This is a positive development as the one-size-fits-all approach failed to recognise the widely differing population sizes, police strengths, population mixes, urban and rural characteristics, crime profiles and the wide geographical distances between the UTs. However, the lack of consultation and convoluted process by which this eventual decision was reached is discouraging.

Composition

At this stage, we can only comment on the composition for the Commissions established in Delhi and Lakshadweep. These were the only UT Commissions for which we received information. However, media reports suggest that a meeting of the Security Commission for Chandigarh was held on 12 September 2013 in Delhi.[84]

On 10 January 2011, the Central Government constituted a separate Security Commission for the NCT of Delhi as follows:

1. Lieutenant Governor (LG), Delhi – Chair
2. Chief Minister
3. Leader of Opposition in the Delhi Legislative Assembly
4. Joint Secretary in charge of the UT Division, MHA
5. Commissioner of Police – Secretary / Convenor
6. Five Independent Members selected by the Administrator from a panel prepared by the Search Committee constituted for the purpose by the Administrator.

[80]Government of India, Ministry of Home Affairs Memorandum No. 14040/127/2010-UTP, 10 January 2011.

[81]Government of India, Ministry of Home Affairs Memorandum No. 14040/127/2010-UTP, 17 July 2012.

[82]The composition provided for in the 17 July 2012 notification is as follows:

1. Union Home Minister – Chair
2. Chief Secretary, Andaman &Nicobar Islands
3. Chief Secretary, Puducherry
4. Representatives of other UTs (according to the requirements of the agenda of each meeting)
5. Five independent members to be nominated by the Central Government.
6. Joint Secretary (UT), MHA – Convenor

The following four independent members were nominated on 1 January 2013 via government order (Government of India, Ministry of Home Affairs Memorandum No. 14040/127/2010-UTP, 1 January 2013):

(i) Dr Vidya Ram Kumar, Puducherry
(ii) Mr B. Sayed Mohammed, Lakshadweep
(iii) Mr K. M. Sahani, Daman & Diu and Dadra & Nagar Haveli
(iv) Mr Kanwar Sandhu, Chandigarh

[83]Security Commission for all Union Territories except Delhi, Meeting Minutes, 18 January 2013, Port Blair.

[84]MHA calls UT security panel meeting, *Daily Post*, 9 September 2013, http://www.dailypost.in/chandigarh/3358-mha-calls-ut-security-panel-meeting.

There are several weaknesses in the composition of this Commission, which will impact its ability to operate as a robustly autonomous body. While the Leader of the Opposition has been included, a judicial member has not. Moreover, the selection process for independent members is flawed as it vests too much power in the hands of the "Administrator".[85] The independent members are to be selected by the LG from a panel prepared by the Search Committee. However, the Committee is in the first place constituted by the LG. It is further concerning that the MHA notification of 10 January 2011 unqualifiedly allows the Central Government to remove an independent member for reasons to be recorded in writing.[86] This departs from the Model Police Act, 2006, which sets only very specific reasons for their removal.

On a positive note, the following independent members who were appointed to the Security Commission seem particularly varied:[87]

- Ms. Renana Jhabwala, Self Employed Women's Association (SEWA);
- Professor Shyam B. Menon, Vice Chancellor, Bharat Ratna Dr B. R. Ambedkar University;
- Retired Justice C. K. Mahajan;
- Professor Najeeb Jung, Vice Chancellor, Jamia Millia Islamia University;[88] and
- Mr Praveen Swami, Deputy Editor, The Hindu.

Having a National Coordinator of an NGO, a vice chancellor of a university, a retired judge and a senior journalist ensures a mix of experiences that is so fundamental to the success of such a body.

By contrast, the Security Commission for Lakshadweep is heavily laden with government and police members, and only has one external member:

1. Mr R. K. Singh, Union Home Secretary – Chair
2. Mr K. K. Pathak, Joint Secretary (UT)
3. Mr Rajesh Prasad, Administrator
4. Mr B. Sayed Mohammed – Independent Member
5. Dr N. Vasanthakumar, Collector
6. Mr Paramadditya, Superintendent of Police
7. Mr V. C. Pandey, MD LDCL
8. Mr Hanchinal, NOIC Lakshadweep
9. Mr Krishna Kumar, Commandant, Coast Guard

Mandate and Powers

It is promising that the mandate of the UT Commissions, as provided for under the MHA notification of 3 March 2010, accords with that suggested by the Model Police Act, 2006. Once again, however, some vital components are disregarded. The notification does not explicitly state that the recommendations of the UT Commissions will be binding. Nor does it insist on accountability to Parliament through the preparation and tabling of an annual report.

[85]The "Administrator" of Delhi is the LG according to Article 239AA(1) of the Constitution of India.

[86]Ministry of Home Affairs, Office Memorandum No. 14040/127/2010-UTP dated 10 January 2011, paragraph 5.

[87]These independent members were mentioned in the minutes of the five meetings of the Security Commission for the NCT of Delhi.

[88]Najeeb Jung was subsequently appointed the Lieutenant Governor of Delhi in 2013. It is unclear whether the vacant post of independent member has been filled.

Conclusion

This chapter reveals that effective and empowered Security Commissions are not being established, and are far from being the norm. The Court designed an independent body with significant autonomy and the mandate to chart out policies for a more efficient police organisation. Yet, the balanced composition suggested by the Court has been skewed, its mandate weakened and the requirement to have accountability to the legislature and binding powers ignored.

The mandate of the Commissions is the only component of the Court's design that was generally adhered to. However, with flawed compositions, diminished accountability to the legislature and no binding powers, the Security Commissions face formidable challenges to realising of the mandates ascribed to them.

3

Chapter

State Security Commissions on the Ground: An Unsatisfactory Record of Implementation

On paper, 26 states have established SSCs, but only in 14 states have the Commissions moved from paper to actually functioning. Our research reveals that even in these states, the Commissions do not operate to their optimum. Their failure to meet regularly has crippled them the most. When meetings have been convened, the Commissions have set important policies on a range of issues. However, they were less successful when it came to evaluating the police's performance based on objective indicators.

This chapter provides a view of SSC deliberations and functioning on the ground, pieced together from the information we were able to gather.

Frequency of Meetings: Few and Far Between

The Annex sets out the number of times each functioning SSC has met. While the Maharashtra Commission has met six times and those in Assam, Delhi, Kerala and Meghalaya five times, the remaining Commissions have met only once or twice in their few years of functioning. Needless to say, this is far too infrequent for an institution designed to make a long-lasting impact on policing.

The dearth of meetings violates statutory provisions and government orders. The Himachal Pradesh SPB has only met three times since its establishment in 2008,

even though the Police Act requires that it meet "as often as deemed necessary, but at least once in three months".[89] Likewise, in Arunachal Pradesh, the government order requires the SSC to meet thrice a year, yet this is clearly not happening. In our 2011 report, it was observed that the SSC had met on two occasions – on 11 June 2007 and 14 May 2010.[90] According to information received, there have been no subsequent meetings. Finally, in Meghalaya, the Act provides that the Commission will meet for an "initial three years at least once a month and later every 3 months or more often if required by the exigencies of the situation".[91] Yet again, this is not happening in reality, with the Commission having met five times since it was established in 2011.

The Commissions have even failed to convene meetings after previously deciding to do so. During the first meeting of the Goa SSC, it decided that, "the next meeting of the Commission may be held in January 2008." According to the information provided, this did not happen. Similarly, the Punjab SPB decided that the second meeting would be held on 29 April 2013; it was re-scheduled to 10 May 2013 and eventually cancelled. The failure to convene regular meetings spells trouble for an institution with such an important mandate.

Substance of Meetings: Strong Policy-Making, Weak Performance Evaluation

Ten states provided minutes of their Commission meetings: Assam, Chhattisgarh, Goa, Gujarat, Himachal Pradesh, Kerala, Meghalaya, Punjab, Sikkim and Tamil Nadu. Minutes were also received from the Security Commission for the NCT of Delhi, the Commission for all UTs except Delhi (essentially the Commission for A&NI) and the Commission for Lakshadweep. The following section briefly summarises the policies laid down by these Commissions, as deduced from the minutes provided. The composition of each Commission is included to contextualise the analysis.

(i) Policy-making

The minutes reveal that the Commissions discuss a wide range of issues, mainly falling under the rubric of broad policy change. The most discussed initiatives related to police strength, modernisation of infrastructure, welfare of police personnel, separation of law and order from investigation duties, community policing, training and counter-terrorism.

Andaman & Nicobar Islands

The first meeting of the Security Commission for all UTs except Delhi was held on 18 January 2013 in Port Blair. This essentially became a meeting of the Security Commission for Andaman & Nicobar Islands after it was decided that each UT was to have its own separate Security Commission. The Commission set a number of

[89]Section 48, *Himachal Pradesh Police Act, 2007.*

[90]State Security Commissions: Reform Derailed, Commonwealth Human Rights Initiative, 2011, page 34, available at: http://www.humanrightsinitiative.org/publications/police/sscrd.pdf

[91]Section 41, *Meghalaya Police Act, 2010.*

broad policy guidelines, as follows:

- *Registration of complaints*: The Home Secretary emphasised that complaints from the public should be registered immediately. To this end, the telephone numbers of the Deputy Commissioner, Superintendent of Police and Deputy Superintendent should be publicised so that citizens may post their complaints to these senior officers in case they are not registered. He also directed that every complaint should be entered in the Daily Diary of the police station and the decision on the complaint being cognisable or non-cognisable be taken subsequently.

> The minutes reveal that the Commissions discuss a wide range of issues, mainly falling under the rubric of broad policy change.

- *Separation of law and order from investigation functions*: The Home Secretary directed that there should be a separate cadre for investigation at the thana level for all heinous crimes carrying punishment of three years or more. At the district level, there should be a District Crime Branch, which shall have wings specialising in various categories of crimes. A Forensic Unit may also be set up at the district level attached with the District Crime Branch. At the UT level, a Crime Branch may also be created to provide specialist assistance in individual cases and to take up other important cases having ramifications for the entire UT.
- *Thana Committees*: Highlighting the importance of police-public relations, the Home Secretary recommended setting up Thana Committees on the pattern of those in the Delhi Police.

The infrastructure requirements of the A&NI police in terms of sanctioning were also brought to the Commission's attention by the DGP, including the need for sanction of 430 posts for implementation of the Coastal Security Scheme and the proposal for sanction of 68 posts of Upper Subordinate level police personnel. The Union Home Secretary in both instances desired that the proposal be processed expeditiously by the MHA.

Assam

1. Chief Minister – Chair
2. Retired High Court Judge
3. Chief Secretary
4. Principal Secretary, Home & Political Department
4. DGP – Secretary
5. Three non-political persons of high integrity, expertise and competence in administration, law enforcement and security-related matters, to be nominated by the State Government,

including a police offer not below the rank of DGP, a retired civil service officer not below the rank of Commissioner and Secretary, and a member from the fields of public service, legal profession or social organization with at least 15 years expertise in the field

(i) Mr Jatin Hazarika, IAS (Retired), Former Commissioner and Secretary

(ii) Mr S. B. Kakati, IPS (Retired), Former DGP, Meghalaya

(iii) Dr Md. Taher, Eminent Educationist

The Assam SSC has held five meetings since its establishment: on 22 February 2008, 29 May 2008, 30 March 2010, 8 October 2010, and 28 December 2011. In its first meeting, it emphasised three broad points: motivating police personnel through improved housing and working conditions; conducting regular inspections and monitoring; and making investigation techniques more effective.[92] However, there was little detail provided as to how such policies would be implemented.

The SSC was more specific in subsequent meetings. To address concerns over instances of rude behaviour of the police against the public, it decided that the Assam Administrative Staff College would conduct 12 training courses for police officers in the rank of Sub-Inspectors, Inspectors, Deputy Superintendents of Police (SP) and Additional SPs.[93] It also decided that: a training college should be set up to train officers on security issues; promotion should be expedited across various non-gazetted ranks; a law to control road and rail blockades by agitating mobs should be considered; and the establishment of Guwahati as a police commissionerate should be expedited.[94]

The separation of law and order from investigation functions in Guwahati city was a recurring issue. In 2008, the SSC deliberated on the problems faced in implementing this separation, particularly, the shortage of officers and staff. It was felt that the total number of Circle Inspectors needed to be increased throughout the state for proper supervision of criminal cases. The Chief Minister requested the DGP to prepare an action plan to make the separation operational.[95] This matter arose again in 2010. The SSC decided that police stations need to be smaller, beat systems need to be re-introduced (four beats in rural police stations and six in urban police stations), police outposts need to be upgraded to police stations, and a reserve Law and Order force was needed immediately under officers-in-charge of police stations.[96]

It is clear that the SSC is raising and recommending some significant policy issues. The extent to which these policies have been implemented is unknown. Despite mention in the second meeting of an Action Taken Report, this practice was not referred to in subsequent meetings. It is therefore unclear whether the State

[92]Assam SSC, Meeting Minutes, 22 February 2008.

[93]Assam SSC, Meeting Minutes, 29 May 2008.

[94]Assam SSC, Meeting Minutes, 8 October 2010.

[95]Assam SSC, Meeting Minutes, 29 May 2008.

[96]Assam SSC, Meeting Minutes, 8 October 2010.

Government has followed through on the SSC's decisions. That the SSC seems to have stopped meeting since 2011 suggests it has failed to sustain a lasting impact.

Chhattisgarh

1. Home Minister – Chair
2. Chief Secretary
3. Secretary in charge of Home Department
4. DGP – Secretary
5. State Human Rights Commission Member, to be nominated by State Government
6. Two independent members: persons of proven reputation for integrity and competence from any field such as academia, law, public administration, media or any other field, to be appointed by the State Government

The Chhattisgarh SPC held one meeting on 17 April 2013. Based on the minutes, the SPC dealt with one policy issue: the decreased quality of criminal investigation following the separation of the prosecution from the police department. To address the difficulty faced by the police in obtaining timely and correct legal advice during investigations, it recommended that one legal officer be posted at every police sub-division and SP / Inspector General of Police (IGP) office, two in each branch of Headquarters and at least four at the Secretariat.

The members of the SPC decided that meetings would be held on a "regular basis for the purpose of making police more efficient and professionally competent and to review police performance consistently."[97] No further information was provided.

Delhi

1. Lieutenant Governor (LG), Delhi – Chair
2. Chief Minister
3. Leader of Opposition in the Delhi Legislative Assembly
4. Joint Secretary in charge of the UT Division, MHA
5. Commissioner of Police – Secretary / Convenor
6. Five Independent Members selected by the Administrator from a panel prepared by the Search Committee constituted for the purpose by the Administrator. According to the minutes of the meetings, the following independent members were present during the meetings:
   - (i) Ms Renana Jhabwala, Self Employed Women's Association (SEWA)
   - (ii) Professor Shyam B. Menon, Vice Chancellor, Bharat Ratna Dr B. R. Ambedkar University
   - (iii) Retired Justice C. K. Mahajan
   - (iv) Professor Najeeb Jung, Vice Chancellor, Jamia Millia Islamia University[98]
   - (v) Mr Praveen Swami, Deputy Editor, The Hindu

[97] Chhattisgarh SPC, Meeting Minutes, 17 April 2013.

[98] Najeeb Jung was subsequently appointed the Lieutenant Governor of Delhi in 2013. It is unclear whether the vacant post of independent member has been filled.

The Security Commission for the NCT of Delhi has met five times: on 19 March 2012, 11 May 2012, 14 September 2012, 17 January 2013 and 6 September 2013. The Office of the Commissioner of Police only provided the minutes of the first four meetings, stating that the minutes of the final meeting had not yet been received by the Chairperson of the Commission.[99]

Each meeting began with a presentation by the Commissioner of Police on various initiatives taken by the Delhi Police since the previous meeting, for instance: initiatives to control street crime, make the city safe for women/children and senior citizens, community policing, anti-terrorism measures, measures for traffic management, the pro-active use of technology in crime control, and public outreach. Following this presentation, the members were invited to share their ideas to improve police functioning. Some of the most important policy suggestions were put forth by the independent members and the Leader of the Opposition:

- *Sporting activities to prevent crime*: An independent member suggested that sporting activities for youth belonging to slums and resettlement colonies be launched so that they can be dissuaded from taking to crime.100 In view of the increasing involvement of juveniles in crime, the Leader of the Opposition suggested that amendment to the existing Juvenile Justice Act is needed.[101]

- *Safety of women*: An independent member suggested that concerted action should be taken to control the harassment of young girls. Affected areas and trouble spots should be identified where anti-social elements gather and indulge in eve teasing. More police should be deployed near girls' schools and colleges.[102]

- *Mapping of crime*: An independent member suggested that mapping of crime should be done regularly and policing should be intensified by posting more police personnel in areas that register a spurt in crime during a particular period.[103]

- *CCTV cameras*: The Leader of the Opposition volunteered that MLA/MP funds could be used for installation of CCTVs and the police should monitor the content being captured. An independent member agreed that CCTV acted as a major deterrent and ought to be installed in as many public places as possible.

- *Advocates to assist rape victims*: The Leader of the Opposition suggested that there should at least be three to four advocates earmarked for each

[99]Letter from the PIO, Office of the DGP, Police Headquarters, New Delhi, 17 April 2013.

[100]Security Commission for NCT of Delhi, Meeting Minutes, 19 March 2013.

[101]Security Commission for NCT of Delhi, Meeting Minutes,11 May 2012.

[102]Minutes of Meeting, Security Commission for NCT of Delhi dated 19 March 2013.

[103]In March 2014, the Delhi High Court directed the Delhi Police to provide a status report on "crime mapping" of the capital, especially on crimes against women. See for instance: Do crime-mapping of offences against women: HC to Delhi Police, Business Standard, 12 March 2014, http://www.business-standard.com/article/pti-stories/do-crime-mapping-of-offences-against-women-hc-to-delhi-police-114031201069_1.html.

police station so that their help could be taken to provide assistance to rape victims. He also suggested that thana-level committees be reorganised to include members from women NGOs and principals of girls' schools and colleges.

The fourth meeting, held on 17 January 2013, focused on the issue of safety and security of women in light of the gang-rape incident of 16 December 2012. The Commissioner of Police briefed the members on the measures being taken by the Delhi Police to improve women's safety. One of the independent members stated that the gang rape incident should be taken as an opportunity to fulfil all the requirements of Delhi Police in terms of manpower and a clear five-year timeline could be drawn up in this regard. The member expressed the need for an independent crime survey so that crime could be better understood. He noted that cases registered by the police were not indicative of the factual position on the ground. He also asserted that police stations do not have the requisite investigative competence to investigate crimes against women and there was a need to strengthen the crimes against women cells of each district.

The Chief Minister noted that there was a lack of coordination between NGOs working with Rape Crisis Intervention Centres[104] and the police, and that immediate steps were required to build stronger relationships between the two. She also suggested that the help of women NGOs could be taken to bridge the gap between the police station and woman complainants.

Goa

1. Chief Minister – Chair
2. Leader of the Opposition
3. Chief Secretary
4. Retired Justice Dr E. S. Da Silva
5. DGP – Secretary

The Goa SSC has met once on 12 October 2007. To address the lack of an independent Vigilance Branch within the Goa Police and the resultant failure to adequately investigate incidents of corruption, it authorised the Chairperson of the Police Complaints Authority and the DGP to avail the services of the State Vigilance Department to investigate serious complaints of corruption involving police officers on a needs basis.

The Commission highlighted the importance of preventive steps to deal with the serious threat of extremism. It stated that the police ought to seek the cooperation and active participation of the people, emphasising the invocation of Section 144 of the Code of Criminal Procedure – the power to issue an order in urgent cases of nuisance or apprehended danger – to curb terrorism. The SSC should

[104]These centres are a joint initiative between the Delhi Police, the Delhi Commission for Women, and NGOs to provide legal, medical, psychological and financial support to rape victims.

have exercised some restraint in its recommendation here; there is still a need for reasonable cause/suspicion in order to invoke Section 144.

In addition to these specific recommendations, the SSC made some broad statements. It recommended: discipline to be instilled amongst all ranks; steps to be taken to improve the image of the police; total transparency in the internal administration of the police; and the need for the police department to constantly focus on the welfare of personnel. While these are commendable ideas, it is unclear how they are to be implemented. Left in such vague terms, these statements provide little direction and make it very difficult to hold the Government accountable for their fulfilment.

That the Commission has only met once suggests that it lacks currency in the State. According to the minutes, "the next meeting of the Commission may be held in January 2008." According to the information provided, this did not happen.

Gujarat

Chief Minister – Chair

Home Minister

Chief Secretary

Additional Chief Secretary, Home

DGP and IGP – Secretary

Two non-official members to be appointed by the State Government having reputation for integrity and competence in the field of academia, law, public administration or media:

(i) Justice K. R. Vyas, Former Chief Justice of the Bombay High Court

(ii) Dr Kamlesh Joshipura, Vice Chancellor, Indian Institute of Teachers Education

The Gujarat Commission held one meeting on 11 July 2013. It is encouraging that the non-official members were particularly vocal and made substantial policy suggestions. An independent member highlighted the achievements of the Gujarat police in forensic science, prevention of human trafficking and investigation of cyber crime, and crimes against women and children. He suggested that the police now focus on new areas of crime, especially economic offences. The other independent member suggested that apart from the Supreme Court directives, there were several recommendations of other committees and commissions which should also be considered. The Commission decided that these recommendations should be studied to identify those that could be implemented as soon as possible.

Himachal Pradesh

1. Chief Minister – Chair
2. Minister in Charge of Home
3. Leader of the Opposition

4. Chief Secretary
5. Principal Secretary, Home
6. Principal Secretary, Social Justice & Empowerment
7. Principal Secretary, Finance
8. Director of Prosecution
9. Director of Forensic Science
10. DGP – Secretary
11. Three persons of proven reputation for integrity and competence out of whom at least one shall be a women member, to be appointed from the fields of academia, law and public administration, on the recommendations of the Selection Panel.

The Himachal Pradesh SPB has met three times since its formation: on 3 January 2011, 26 July 2011 and 3 February 2012. The meetings were largely used to discuss sanctioning and budget issues. For instance, the following proposals were adopted in the first meeting: a proposal for an additional 266 posts; a proposal to upgrade 14 police posts as full-fledged police stations and to open six new police stations; and sanction for the purchase of 7 dogs for better crime detection.

Its other proposals focused on legal reforms. These included: amending the Motor Vehicle Act to provide a minimum fine of Rs. 2,000 for use of a mobile phone while driving; re-structuring urban policing – particularly Shimla and Baddi, Barotiwala and Nalagarh – as commissionerates; enhancing the punishment under Section 304A of the Indian Penal Code from two to seven years in view of the increase in fatal road accidents and making the offence non-bailable; and providing financial assistance to victims of heinous crimes as in the case of victims of natural disaster and road accidents as per Section 357A of the Code of Criminal Procedure.

Kerala

1. Minister in Charge of Home Department – Chair
2. Minister in Charge of Law
3. Leader of Opposition
4. Retired High Court Judge, Justice K. P. Balachandran, High Court of Kerala
5. Chief Secretary
6. Home Secretary
7. State Police Chief – Secretary
8. Three non-official members who shall be persons of eminence in public life with wide knowledge and experience in maintenance of law and order, administration, human rights, law, social service, management of public administration, nominated by the Governor of whom one shall be a woman:
   (i) Advocate M. P. Govindan Nair (Ex. Minister)
   (ii) Advocate Celine Wilfred
   (iii) Hormis Tharakan, IPS (Retired)

The SSC constituted under the Kerala Police Act, 2011 held two meetings, on 15 February 2012 and 1 November 2012. It decided on several important issues that have the potential to make an impact on the ground, provided that the Government implements them:

- *Police strength*: It deliberated on the need to increase the strength of the police to gradually bring the police population ratio to the All India Average of 1:500. To achieve the target, it agreed that posts for 2000 police personnel had to be created each year, that is, 5 per cent of the existing force.[105]
- *Separation of law and order and investigation functions*: In order to bifurcate the functions of law and order and crime investigation where an average of 500 to 600 cases are registered each year, it was agreed that a proposal would be submitted to the Government to implement the separation in 200 police stations in the state, on an experimental basis.[106]
- *Financial fraud*: To deal with the rising menace of financial fraud, it put forth a proposal to frame a new law on the lines of the Tamil Nadu Protection of Depositor Act.[107]
- *Janamaithri Scheme*: It decided to extend the successful Janamaithri Community Policing Scheme launched in 148 police stations to 100 more police stations and to provide a budgetary allotment of Rs. 3 crores exclusively for the project in the next financial year.[108]
- *State Investigation Bureau*: With respect to the setting up of a new State Investigation Bureau, it decided to form a Special Wing with a dedicated and trained staff to be entrusted with very serious and selected crimes.[109]
- *Special Security Force*: It decided on the creation of a State Special Security Force and a State Level Monitoring and Control Station to provide physical security to large industrial establishments, vital installations including dams, power plants and financial institutions, which are vital for national development and economic progress.[110]

Lakshadweep

1. Mr R. K. Singh, Union Home Secretary – Chair
2. Mr K. K. Pathak, Joint Secretary (UT)
3. Mr Rajesh Prasad, Administrator
4. Mr B. Sayed Mohammed – Independent Member
5. Dr N. Vasanthakumar, Collector

[105]Kerala SSC, Meeting Minutes, 15 February 2012.

[106]Kerala SSC, Meeting Minutes, 15 February 2012.

[107]Kerala SSC, Meeting Minutes, 15 February 2012.

[108]Kerala SSC, Meeting Minutes, 15 February 2012.

[109]Kerala SSC, Meeting Minutes, 15 February 2012.

[110]Kerala SSC, Meeting Minutes, 1 November 2012.

6. Mr Paramadditya, Superintendent of Police
7. Mr V. C. Pandey, MD LDCL
8. Mr Hanchinal, NOIC Lakshadweep
9. Mr Krishna Kumar, Commandant, Coast Guard

The Lakshadweep Security Commission held a meeting on 13 February 2013. A presentation was made on security issues faced in the UT. In terms of policy decisions, the Commission decided that: no police officers will be posted in native islands except Capital Island (Kavaratti) where the number of posts would be increased; all vacancies in the police, IRBn, Fire and Coastal Police shall be filled within three months; and there was no need to separate law and order duties from crime investigation as there are few crime issues.

Meghalaya

1. Chief Minister – Chair
2. Minister in charge, Home Department – Vice Chair
3. Leader of the Opposition
4. Chief Secretary
5. Principal Secretary, Home (Police) Department
6. DGP and IGP – Secretary
7. Two non-political persons of proven reputation for integrity and competence from the fields of academia, law, public administration, media or NGOs appointed by a selection panel
   (i) Mr P. J. Bazeley, IAS (Retired)
   (ii) Mr V. G. K. Kynta, Senior Advocate, Guwahati High Court, Shillong Bench

The Meghalaya SSC held five meetings since it was set up: on 11 August 2011, 5 December 2011, 18 October 2012, 2 March 2013 and 18 July 2013. It made several important policy recommendations:

- *Strengthening of police units in Garo Hills*: In order to address the insurgency problem in the Garo Hills region, it was decided that the police needed to be strengthened both in terms of personnel and the number of police stations and outposts with financial assistance from the Central Government. In order to increase the number of police stations and outposts, actions were to be initiated in the Garo Hills Districts to acquire land for the purpose of setting up the police stations and other infrastructure.[111]
- *Amendment of the Meghalaya Police Act, 2010*: The SSC took note of the fact that for the last five years, the rate of failure in matriculation examinations had been consistently high, especially in the rural areas of the State. Asserting that the State must intervene by providing employment

[111]Meghalaya SSC, Meeting Minutes, 5 December 2011.

opportunities to unemployed youth, it decided that the educational qualification for recruitment for armed branch constables should be lowered from the existing provision of matriculation to Class IX from a recognised school. In order to implement this change, it suggested that an Ordinance be promulgated to amend the relevant section of the Meghalaya Police Act, 2010, noting that the educational qualification will be raised once the success rate in matriculation examinations improve.[112]

- *Training*: Recognising that police training is a priority area, the SSC recommended that the police need to carry out a Training Needs Analysis and critically review the existing training syllabus.[113]

- *Community Policing*: The SSC emphasised the importance of community policing, and decided to galvanise citizen committees formed at the district, sub-division and police station level,[114] as well as programmes aimed at constructive police-public relations on various issues such as human trafficking, crime prevention and detection, child labour, crimes against women and drug abuse.[115] The Commission decided that the DGP should make a presentation on this issue in a subsequent meeting, with recommendations to introduce appropriate mechanisms that can make it more effective.[116] Unfortunately, the subsequent meeting on 18 October 2012 made no mention of this and the agenda solely focused on preparing a panel of police officers for appointment as DGP.

- *Prosecution efficiency*: The SSC noted that the efficiency of public prosecutors leaves much to be desired. It stated that there is a need for better cooperation between investigating officers and Public Prosecutors, suggesting that police officers may engage the services of experienced advocates. It recommended the Home (Police) Department to take immediate steps to set up the Directorate of Prosecution in the State.[117]

- *Backlog of pending cases*: The SSC urged the Law Department to immediately introduce measures to clear the huge backlog of pending cases in the District Council Courts.[118] The DGP referred to a sample study conducted by the Criminal Investigation Department of ten heinous cases pending in the courts in Jowai. The study indicated that chargesheets were submitted by the police nine to ten years ago in these cases, yet charges have not been framed by the courts in nine of the ten cases. The SSC decided that the Law Department will frame modalities for the appointment of professional advocates and will also look into the issue of court inspections.

[112]Meghalaya SSC, Meeting Minutes, 18 July 2012.

[113]Meghalaya SSC, Meeting Minutes, 2 March 2012.

[114]Section of the *Meghalaya Police Act, 2010* establishes a Community Liaison Group for each police station.

[115]Meghalaya SSC, Meeting Minutes, 2 March 2012.

[116]Meghalaya SSC, Meeting Minutes, 18 July 2002.

[117]Meghalaya SSC, Meeting Minutes, 2 March 2012.

[118]Meghalaya SSC, Meeting Minutes, 2 March 2012.

Punjab

1. Chief Minister – Chair
2. Home Minister – Vice Chair
3. Chief Secretary
4. Principal Secretary, Department of Home Affairs and Justice
5. Advocate General
6. DGP – Secretary

The Punjab SPB has held one meeting, on 1 January 2009, during which three issues were discussed. The first related to the SPB's equipment review function, in particular, a proposal to provide mobile phone facilities to field police officers. The second agenda item concerned the institution of three state level medals in recognition of services to the public and outstanding devotion to duty in order to boost morale. Finally, the Board discussed the need to restructure the police organisation to better utilise manpower. The DGP explained that nearly 20 per cent of the force (Constables and Head Constables) was presently stationed in the Border Range in excess of what was required, whereas other districts were deficient in manpower. He clarified that the proposal was not to physically move men from their present districts, but for existing vacancies in the Border Range to be transferred to other districts of the State. The Board approved all three proposals in principle.

The second meeting was to be held on 29 April 2013 however, after being re-scheduled to 10 May 2013, it was eventually cancelled.

Sikkim

1. Chief Minister – Chair
2. Leader of the Opposition
3. Retired High Court Judge
4. Chief Secretary
5. Secretary in Charge of the Home Department
6. Secretary in Charge of the Finance Department
7. Secretary in Charge of the Social Welfare & Empowerment Department
8. DGP – Secretary
9. Three non-political persons of proven reputation for integrity and competence to be appointed on the recommendation of the Selection Panel constituted under Section 41.
   - (i) Mr G. K. Gurung, former Secretary to the Government of Sikkim
   - (ii) Ms Bharti Sharma, former State Other Backward Classes Board Chairperson
   - (iii) Mr S. D. Basi, IAS (Retired)

The SPB in Sikkim has convened three meetings: on 28 August 2009, 27 October 2010 and 25 June 2011. The sanctioning of posts and budgetary needs, including for the State Forensic Science Lab and the Crime and Criminal Tracking Network System (CCTNS)[119] were recurring issues. The SPB also discussed several important policy changes:

- *Common entry system*: The DGP stated that there was a case for merging the recruitment processes in respect of the three streams: Sikkim Police, SAP and IRBn as the minimum educational qualifications prescribed and other standards were the same and the training needs were similar. The Chief Minister declared that the IRBn should be the single entry point for all future recruitments. He outlined that after a mandatory ten-year tenure in the IRBn, movement towards SAP and Sikkim Police would take place at ten-year intervals. He clarified that the policy relating to recruitment of women constables would remain unchanged.[120]

- *Police welfare*: The DGP pointed out that the maintenance of buildings was a major problem due to the non-availability of required funds as part of the Modernization of Police Forces Scheme. Expressing the view that addressing the health concerns of police personnel and their families helps in significantly reducing stress and anxiety levels, the DGP revealed that a new Sikkim Police Health Scheme was under active consideration. The Board approved these proposals in principle and directed that they be referred to the Government for examination.[121]

- *Screening for promotion*: Referring to the provision made in the Sikkim Police Act, 2008 to introduce a screening examination for promotional posts from the rank of Head Constable to Sub-Inspector, the Chief Minister noted that the measure has large implications and needs a detailed examination. He stated that there are concerns among certain sections of the force with the new procedure, including anxiety on competing with the more educated sections of the force. It was suggested that a capacity-building programme be conceived to equip personnel with the skills to face the screening.[122]

What emerges from these discussions is that, instead of deciding upon corrective action to be taken, in most cases, the SPB referred the matter to the Government for examination. This defeats the purpose of an oversight body, which the Supreme Court envisaged would lay down policies rather than effectively leave them to the government to decide. Some liaison with the Government will undoubtedly be necessary, but the intention was that when members from the government are on the SSC, the decision-making process would be faster, more coordinated and geared towards better implementation.

[119]CCTNS is a nation-wide system aimed at facilitating the collection, storage, retrieval, analysis, transfer and sharing of data and information between police stations, State Headquarters and the Central Police Organisations.

[120]Sikkim SPB, Meeting Minutes, 28 August 2009.

[121]Sikkim SPB, Meeting Minutes, 28 August 2009.

[122]Sikkim SPB, Meeting Minutes, 25 June 2011.

Tamil Nadu

1. Home Minister – Chair
2. Leader of the Opposition
3. Chairperson, Public Service Commission
4. Chairperson, State Human Rights Commission
5. Chairperson, State Women's Commission
6. Chairperson, State Minorities Commission
7. Chief Secretary
8. Secretary in Charge of the Home Department
9. DGP – Secretary

The Tamil Nadu Police Board held one meeting on 3 May 2013. The minutes elaborate on the following three issues:

- *Crimes against women*: The Board noted that after the brutal incident involving a young woman in Delhi in December 2012, the Tamil Nadu Government was the first in the country to develop a comprehensive plan of action to curb crimes against women. It noted that the reduction in the incidence of dowry-related offences in the State consequent to the establishment of All Women Police Stations stands as an example to be emulated across the country.
- *Police Modernisation*: The Board noted that while assistance from the Government of India for the Police Modernisation Scheme has declined sharply in 2012-2013, this was amply compensated by the State Government. It stated that better mobility, communication, arms and infrastructure will greatly contribute towards enhancing the effectiveness of the police.
- *Police welfare*: The wide range of welfare measures provided to police personnel was praised. The Board specifically welcomed the provision of all essential household items required for day-to-day living in newly started police canteens and the plan to expand the network of canteens to various parts of the State. The Board also noted its appreciation for the Chief Minister's novel scheme aimed at providing houses for police personnel at a reasonable cost, and felt this should be held up as an example for the entire country.

While all this is commendable, the SPB's listing of achievements fails to live up to the mandate ascribed to it. Rather than focusing on past or present achievements, the SPB is supposed to assess the state of policing and frame policies to better the situation in the future.

Tripura

1. Home Minister – Chair
2. Retired High Court Judge

3. Chief Secretary
4. Secretary in Charge of the Home Department
5. DGP – Secretary
6. Two independent members who shall be non-political persons of proven reputation and integrity to be appointed by the State Government

It is unclear whether the Tripura SPB meets as the Office of the DGP claimed exemption under the RTI Act.

State Security Commission: A Security or Intelligence Organisation?

The Office of the DGP in Tripura refused to provide information in response to our RTI application, claiming that Government Notification F.3(5)-GA{AR}/2005/VI dated 27 September 2005 limits the application of the RTI Act vis-à-vis the Home (Police) Department to allegations of corruption and human rights violations only.[123]

While we were unable to obtain a copy of this government notification, presumably, it invokes section 24(4) of the RTI Act:

"Nothing contained in this Act shall apply to such intelligence and security organisation being organisations established by the State Government, as that Government may, from time to time, by notification in the Official Gazette, specify:

Provided that the information pertaining to the allegations of corruption and human rights violations shall not be excluded under this sub-section…"

This response indicates a complete lack of understanding of the Board's standing and mandate, even when the DGP is the Member-Secretary of the Board. CHRI immediately appealed this response on three grounds. First, the SPB is not a security or intelligence organisation. Under Section 25 of the Tripura Police Act, 2007, it is mandated to frame broad policy guidelines, identify performance indicators, evaluate the organisational performance of the police, and examine certain complaints. The Board neither provides security to the people of the State nor collects intelligence.

Second, the Government Notification could not extend to the SPB since the latter is an autonomous organisation, separate from the Home Department. There is no suggestion in the Act that the SPB is a subordinate office of the Home Department or that the latter exercises control over the former. Four of the seven members of the SPB are not associated with the Home Department. Its functions not only imply that it is autonomous, they require it.

Finally, the Government Notification could not logically extend to the SPB as the latter did not exist at that time. The Government Notification was dated 27 September 2005. Yet, the SPB was only created two years later when the Tripura Police Act, 2007 came into force.

We have received no response to our appeal from the Office of the DGP. We have therefore not been able to verify through RTI whether the Board has convened meetings.

Although it is unclear whether the Tripura SPB is meeting, it has publicly issued the following ten general guidelines to promote efficient, effective, responsive and accountable policing:[124]

[123]Letter No. 31935/F.RV.(171-B)/PHQ/13 from the Office of the DGP, Government of Tripura, 27 July 2013.

[124]Available on the website of the Tripura Police Accountability Commission, http://tpac.nic.in/Notifications/guide.pdf.

1. *Arrest:* No arrest should be made without reaching reasonable satisfaction after some investigation about the genuineness and bona fides of a complaint and a reasonable belief, both as to a person's complicity and the need to effect arrest.

2. *Non-Registration of Cases:* The police should discard a purely statistical approach to assess crime situations and evaluate police performance. Socio-economic factors, decline in respect for law, criminalisation of politics, failure of the criminal justice system to punish offenders are also responsible for a rise in criminal activity.

3. *Illegal Detention:* If detention of a person is necessary, this must be done strictly by following the legal procedure. For arbitrary and illegal detention, the responsible police officer should be proceeded against.

4. *Custodial Violence:* There is no justification for custodial violence. All efforts should be made to use scientific and sophisticated methods of gathering evidence. Being serious misconduct, the Tripura Police shall in appropriate cases have the Police Accountability Commission inquire into such incidents.

5. *Police-public relations:* The Tripura Police should constantly endeavor to understand and develop police-public relationships at all levels.

6. To usher in such attitudinal change, the police should (i) aid individuals in danger of physical harm; (ii) create and maintain a feeling of security in the community; (iii) facilitate orderly movement of people and vehicles; (iv) counsel and resolve conflicts and promote amity; and (v) provide other appropriate services and afford relief to people in distress.

7. *Community Policing:* The Tripura Police must strive for people's participation in areas of limited policing for a short period in a year. A spirit of voluntary social service needs to be inculcated in every citizen. The State Police shall strive to put in place a suitable scheme for community policing.

8. *Professional Freedom:* The police shall resist and ignore all sorts of interference in police functions.

9. *Victim Compensation:* In light of Section 70(2) of the Tripura Police Act, which provides the Police Accountability Commission the power to recommend payment of monetary compensation by the government to victims of serious misconduct by police, efforts shall be made to devise suitable schemes of compensation.

10. *Legal Education Training:* It is the duty of the police to put in place a permanent mechanism to update and upgrade legal knowledge in relation to police functions by introducing training in legal education.

The foregoing analysis reveals that the SSCs have made important proposals in their meetings. However, it seems that only a few of these proposals have

been approved by state governments. Himachal Pradesh is a good example. In the Board's first meeting, out of 18 proposals, four were decided upon by the Government. The rest were pending decision. Meanwhile, of the 16 proposals that were approved by the Board during the second meeting, two were rejected, three accepted and the rest were still pending decision by the Government. This is disappointing. State and UT Security Commissions serve little purpose as policy-making bodies if the changes they propose are never acted on by the government. The idea was that with members from the government sitting on the SSC, the decision-making process would be faster, more coordinated and geared towards better implementation. That does not appear to be the case, reaffirming the need for SSCs to have binding powers.

The Commissions are also partly to blame for this situation. Most failed to review what action, if any, the government took on their previous decisions. This is all the more frustrating considering the highest political leadership sits on the Commissions. The Security Commission for Delhi was the only one to consistently review implementation. Each set of minutes was followed by a comprehensive Action Taken Report setting out the compliance of the actionable points raised during the meeting. At times, these reports seem to list initiatives already undertaken by the police. It is crucial that Action Taken Reports focus on new initiatives taken by the police and government in response to the Commissions' recommendations.

Crossing the Line: Policy-Making within Limits

In its deliberations on the nature of the policy-directing role of an SSC, the NPC made clear that policy direction should be limited to overall guidance. It stated that there should "be no instructions in regard to actual operations in the field. The discretion of the police officer to deal with the situation, within the four corners of the overall guidance and broad policies, should be unfettered."[125] For the most part, the Commissions respected this operational autonomy and seemed aware of the importance of keeping their own functioning strictly within the purview of the Supreme Court's ruling.

In one instance, a previous independent member on the Delhi Security Commission mentioned an incident involving the portrayal of the Prophet Mohammed on YouTube. He opined that the matter had not attracted the attention of the Government of India even after a lapse of 24 hours and wanted due precautions taken to prevent any untoward clashes in the city. He suggested that young Muslim youth should be recruited for intelligence collection in areas such as Jamia.[126] While these suggestions are positive, all members outside the police on a Security Commission must keep in mind that there can be no interference in the police's operational matters.

Although not infringing upon police operations, the Himachal Pradesh and Meghalaya Commissions suggested legal reforms that appear to fall outside their remit. In Himachal Pradesh, the SPB recommended changes to the Indian Penal Code; in view of the increase in fatal road accidents, it recommended that the punishment of two years under Section 304A

[125]National Police Commission, Second Report, paragraph 15.42.

[126]Security Commission for NCT of Delhi, Meeting Minutes, 14 September 2012.

be increased to seven years and the offence be made non-bailable. Meanwhile, the Meghalaya Commission urged the Law Department to take immediate steps to introduce measures to clear the huge backlog of pending cases in the District Council Courts.[127] It decided that the Law Department will frame modalities for the appointment of professional advocates and look into the issue of court inspections.

(ii) Performance Evaluation

While the Commissions have made significant headway with respect to policy making, they were less successful on the performance-evaluation front. One very encouraging trend from the minutes of the Commission meetings is a recurring acknowledgement that performance evaluation should go beyond crime statistics to a more holistic one based on objective indicators. This is a shift in thinking and seems to involve leaving behind the outdated mode of judging performance on the basis of crime statistics.

Two Commissions identified performance indicators. Firstly, the Andaman & Nicobar Islands' Commission stated as follows:[128]

i. Mere increase in registration of crime should not be considered as a performance indicator as this could also be due to more honest registration of crime rather than an increase in crime per se. There must be an analysis before coming to a conclusion.

ii. Non-registration of crime should be viewed seriously and the concerned officer should be suspended.

iii. Detection of crime and conviction should be taken as a performance indicator.

iv. Where the case has failed in Court, the Investigation Officer (IO) should be called to explain the failure. Comments of the Court, if any, should be taken into account.

v. Every acquittal will be scrutinised by the Public Prosecutor. He or she will identify reasons for the acquittal and whether there were any lacunae in the investigation. However, the parameters for finding lacunae in investigation, if any, should not be set too high keeping in view that the level of investigation is not fully scientific and IOs are not professionally trained in investigation. The accountability is to be fixed in cases of extreme carelessness / malafide.[129]

[127]Meghalaya SSC, Meeting Minutes, 2 March 2012.

[128]Andaman & Nicobar Islands Security Commission, Meeting Minutes, 18 January 2013.

[129]On 7 January 2014, in *State of Gujarat vs. Kishanbhai* the Supreme Court directed, inter alia, that every state Home Department shall set up a standing committee of senior officers of the police and prosecution departments to examine all orders of acquittal and record reasons for the failure of the case, including mistakes committed during investigation and/or prosecution. A finding should be recorded in each instance as to whether the lapse was innocent or blameworthy.

Secondly, the Himachal Pradesh SPB proposed the following indicators:

i. Sense of security prevailing within the community.
ii. Level of willingness of the people to cooperate with the police.
iii. Honesty and impartiality in investigation.
iv. Extent of lawlessness.
v. "Service delivery" functions such as treatment of weaker sections, services rendered in cases of natural disasters, etc.

The Himachal Pradesh Board also devised an Annual Policing Performance Quotient (APPQ), to be computed by giving weighted average scores to Community Policing, Policing Efforts and Policing Results.

Objective Evaluation of Police Stations: Towards a Democratic Policing Index

Mr. Jacob Punnoose, a former DGP of Kerala, has proposed a numerical system to evaluate the performance of police stations. Since policing consists of performing certain tasks, including registration, investigation, detection, patrolling, surveillance and so on, the proposed "democratic policing index" aims to measure the successes achieved in these tasks against the failures.

Whilst the index is still in the process of development and is yet to be put into practice, the proposal is offered as an idea to improve the measurement of police performance and, in so doing, increase police accountability.

The index is calculated according to the formula: (P-N)/S, where P is the total number of positive marks, N is the total number of negative marks, and S is the total sanctioned strength of the police station. In all cases, the measures can be found from information that is available in police station records and crime statistics.

Factors that attract positive marks include crimes registered on complaints lodged by others, non-cognisable complaints recorded in the general diary / register and crimes under the Indian Penal Code charge-sheeted in 60 days. On the other hand, factors that draw negative marks include the non-registration of a case which merits an FIR, complaints against the police found to be prima facie true by any authority and missing persons untraced after six months.

After the positive and negative marks are tallied, the index is moderated in order to ensure a reliable basis for comparison. For instance, in areas where State Human Rights Commissions and Police Complaints Authorities exist, scores are increased by a small percentage since the number of complaints against the police in such areas is likely to be higher, owing to the presence of these redressal mechanisms.

It is heartening that efforts are being made to judge police performance objectively through the identification of a wide set of parameters which include impartial investigation and some aspects of service delivery.

With respect to actually conducting the evaluation, the Sikkim SPB stands out. In its third meeting, the "DGP stated that the period since the last meeting had been by and large peaceful on the law and order front, but for a few stray incidents. Reviewing the performance on the front of management of crime and disposal of cases over a three-year period, the DGP noted that the conviction rate had dipped

in 2009 and the subsequent year had seen an upward trend.[130] Measuring performance against the disposal of cases, management of crime and conviction rates are a welcome change from crime statistics alone.

With most Commissions, however, performance evaluation remained at the level of superficial assessments based on crime statistics.

With most Commissions, however, performance evaluation remained at the level of superficial assessments based on crime statistics. The following remarks, made by the Chhattisgarh Police Commission, typified the approach taken: "Law & Order and crime situation in Chhattisgarh in 2012-2013 has been reviewed. In 2012-2013, no big Law & Order incident has happened… the number of registered criminal offences has been decreased… there has been 23 percent decline in naxalite related offences."

It may be that Commissions require specific expertise to conduct the sort of comprehensive performance evaluation envisaged by the Model Police Act, 2006. When the NPC first recommended the SSC, it made clear that the SSC should be provided an independent Cell comprised of experts in order to evaluate police performance both in quantitative and qualitative terms.[131] Recognising this, the Kerala Police Act, 2011 calls for the appointment of three experts familiar with the functioning of the police, public administration or sociological / criminological studies, in order to evaluate police performance in the previous financial year and suggest performance standards for the succeeding financial year.[132] This is a progressive provision that should be considered by all Commissions.

The Kerala SSC appears to have made some headway in implementing this provision. In its first meeting, the SSC authorised the Chief of Police to prepare a panel of experts and to prepare, by the end of March, a draft report on standards for the various branches of the Kerala Police for the next financial year (2012-13). As to fixing performance criteria, it entrusted one of the independent members to study the matter and prepare a report. During the second meeting of the SSC, it was decided that an elaborate discussion on fixing criteria should be made with the general public and police officers at the district level. The Home Minister stated that a questionnaire should be prepared and published in the daily newspapers, which could be followed by visits if required.

(iii) Policing Plans

The Model Police Act, 2006 suggests that the Commissions should assist state governments in preparing policing plans to clearly define policing objectives and

[130]Sikkim SPB, Meeting Minutes, 25 June 2011.

[131]National Police Commission, Eighth Report, May 1981, paragraph 61.12.

[132]Section 26(1) of the *Kerala Police Act, 2011*.

targets.[133] Only Sikkim and Himachal Pradesh provided a copy of their Strategic Policing Plans. However, it is unclear what role, if any, they played in drafting these documents.

Procedure of Meetings

The minutes of meetings reveal that Commissions fail to function according to any clear process. Many Commissions did not have a set agenda. As a result, the discussions lacked focus and at times repeated earlier remarks. The manner in which decisions were reached was also disorderly. With the exception of Meghalaya, where the Leader of the Opposition made substantial contributions, and Delhi, where the independent members were ostensibly given the opportunity to voice their opinions, discussion by and large seemed to be dominated by one or two members, usually the Chairperson and the DGP. In Andaman & Nicobar Islands, rather than adopting a consultative process, the Union Home Secretary appeared to decide on all issues. By contrast, the minutes of the Kerala Security Commission note that certain decisions, for instance on community policing, were made unanimously.

The precise decision reached and the action to be taken going forward was often not clear from the minutes. This can be attributed partially to the imprecise nature of minute taking. The minutes of the Tamil Nadu SPB's meeting, for instance, mention a number of agenda items but only elaborate on three. In relation to the other agenda items – maintenance of law and order, women in the police force, police training, protection of human rights, sensitisation of police force, highway patrols and road safety – the minutes merely state that, "the information furnished was noted by the Committee."

The Sikkim SPB's minutes are a notable exception and evince a clear meeting structure and format. The meetings began with a presentation by the DGP on the developments in the police department since the last meeting. The discussion then focused on each agenda point. Crucially, the minutes stated precisely the decision that was reached and the action to be taken going forward. For instance, some decisions were to be subsequently decided upon by the Board. In other cases, the proposal was to be put to the Government for appropriate action. In another circumstance, the Board referred the matter to a high-powered committee chaired by the Chief Secretary.[134] The meetings ended with an address by the Chief Minister who expounded upon and clarified the decisions made.

While most Commission meetings were well attended, there were some notable absentees. For instance, despite the composition of the Chhattisgarh Commission, only three members were present during its first meeting: the Chief Secretary, the Principal Home Secretary and the DGP.

All this underscores the need to frame precise rules for the functioning of the Commissions. The Police Acts of Sikkim and Himachal Pradesh explicitly empower

[133]Section 40, *Model Police Act, 2006.*

[134]In relation to the delegation of more financial powers to the police department.

their Commissions to issue a Transaction of Business. Section 54 of the *Himachal Pradesh* Police Act 2007 is illustrative:

i. Notice for meetings of the Board shall be issued by the Member-Secretary at least 15 days before each meeting. Members wishing to raise an item shall send notice so as to reach the Member-Secretary at least 7 days in advance and items shall be taken up with the approval of the Chairman of the Board.

ii. All meetings shall be held in Shimla unless the Board decides otherwise. A record of proceedings of the Board shall be maintained by the Member-Secretary who shall cause them to be circulated, with the approval of the Chairman, within 15 days of each meeting.

iii. The quorum for a meeting of the Board shall be one-third of the total membership of the Board. In the absence of quorum, the meeting of the Board shall be adjourned to the same time on the next working day and no quorum shall be required for such adjourned meeting.

iv. The Board may devise its own procedure for transaction of business in accordance with provisions of this Act.

The Kerala Police Act, 2011 also provides that the Commission shall regulate its own procedure and conduct of business transacted by it.[135] During its first meeting on 23 January 2008, the Commission decided upon the following procedure, which lays down a process to be followed on all aspects of the Commission's functioning, from the preparation of an agenda, the drafting of minutes, the formal communication of decisions / recommendations to the government, and the preparation of action taken reports. This process was to be approved during the subsequent meeting and issued as Rules/Regulations through a formal government order.[136]

i. The Notice of all future meetings of the Commission should be sent to all the Members well in advance, and, in any case, at least 7 working days before the scheduled Meeting. The DGP should also make arrangements to ensure that proper acknowledgement is obtained in respect of the Notices, and the same should be properly filed.

ii. The Secretary of the Commission, i.e. DGP, should circulate the Agenda Points and Agenda Notes in respect of each proposed Meeting, in advance, to all the Members, after obtaining the approval of the Chairman. The Agenda Points should normally be sent along with the Notice convening the Meeting, and, in any case, at least 7 days before the date of the Meeting. The Agenda Notes may be circulated at least 3 days prior to the commencement of the Meeting.

iii. The Secretary, i.e. DGP, will initiate the discussion on each Agenda Point with the permission of the Chair, in the Meeting. The Secretary is authorised to prepare the draft Minutes of the Meeting, and, after securing the approval

[135]Section 24(8) of the *Kerala Police Act, 2011*.

[136]There is no information available to indicate that Rules of Procedure have been notified.

of the Chairman, he will send copies of the Minutes to all the Members, under acknowledgement.

iv. The Minutes of all Meetings will be pasted in a Register to be known as the "Minutes Book of the Commission". This 'Minutes Book' will be maintained in the Office of the Secretary, i.e. DGP.

v. The Minutes of each Meeting will be formally approved during the next Meeting, and, in case of any dissent by any Member in respect of the Minutes, the same can be pointed out and discussed in such next Meeting.

vi. Once the Minutes of any Meeting are approved by the Chairman, the same will be forwarded by the DGP to the Government (Chief Secretary to the Government) for processing as a File. The Government will process the decisions / recommendations of the Commission as recorded in the Minutes, for acceptance or otherwise, and thereafter, the decisions of the Government in the matter will be communicated to the DGP for compliance.

vii. In case any decision or recommendation of the Commission requires any action by any Department of the Government, including Police Department, the Government will communicate the concerned decisions/ recommendations to the concerned Secretaries for compliance.

viii. It was decided that no 'Quorum' needs to be specified for the conduct of any Meeting of the Commission. However, if the Chairman is unable to be present for any Meeting, the same shall be postponed.

ix. The Secretary (DGP) should take steps to see that the decisions / recommendations of the Commission are recorded in the Minutes, as done during Cabinet Meetings, i.e. with the background of the same also stated in the Minutes.

x. Once Government accepts the decisions/recommendations of the Commission and directs the DGP to comply with the same, the DGP shall duly comply and put up an 'Action Taken Report' before the Commission, in due course, after compliance, for information of the Commission.

xi. It was decided that the Secretary (DGP) be permitted to bring 2 Senior Staff Officers along with him for all the Meetings of the Commission, one to assist him in recording the Minutes, and the other Officer to assist him with necessary background materials for the Meeting.

xii. It was also decided that the Agenda Points can be discussed one after the other among the Members, as in other High Level Meetings. The Chairman would then sum up the discussions. The Secretary should record the decisions taken, which are to be read during the Meeting.

Conclusion

This chapter has revealed that the Security Commissions existing on the ground have managed to set important policies on a range of issues. These include practical recommendations to increase police station personnel; guide deployment; upgrade police stations; improve measures for women's safety; introduce crime mapping; and various guidelines on police service delivery and ensuring lawful arrest and detention. Although in a few instances, the recommendations were overly broad and went beyond the SSC's remit, there is ample evidence of the potential effectiveness of the body as a policy-making institution.

Unfortunately, that potential has in large measure been eroded by the infrequency and poor procedure of Commission meetings and the failure of the Commissions and state governments to ensure implementation of policies on the ground. This is reinforced by the dearth of public information available on the structure of SSCs, the substance of their meetings, their recommendations and actions taken on these. Unless these failings are addressed, the Commissions will struggle to induce far-reaching systemic change in policing.

4

Chapter

Recommendations

In the eight years since *Prakash Singh* was decided, Security Commissions were established on paper in all but two states. This has happened after considerable delay. Unfortunately, the Supreme Court's safeguards of impartiality have been incrementally undermined. With some exceptions, the balanced composition suggested by the Court was skewed, its mandate weakened and the requirements to be accountable to the legislature and have binding powers ignored. Without an impartial outlook, no accountability to the legislature and no binding powers, it is hard to imagine how these bodies will function as effective police oversight mechanisms. The state and Central governments' intention therefore seems to be to retain singular control of the police, rather than to legitimately monitor it.

In terms of their implementation on the ground, too many Commissions exist on paper alone. The 14 Commissions that have moved from paper to actually functioning have seldom met. Despite their few meetings, they have managed to make strides in the policy-making domain, and several important policies have been laid down. However, not one Commission has evaluated the organisational performance of the police in the manner envisaged by the Supreme Court. That would involve going beyond crime statistics towards a variety of objective indicators.

If the Commissions are to have a meaningful impact on the state of policing in India, their structural and procedural weaknesses need urgent attention. CHRI makes the following recommendations to revive the failing mechanisms:

Composition

1. **Every Security Commission should include the Leader of the Opposition and a member of the judiciary.** This will ensure they are well placed to act

independently of the ruling government. Six states have failed to include the Leader of the Opposition on the Commission, while 17 states make no provision for a retired High Court Judge. Four states – Bihar, Chhattisgarh, Gujarat and Punjab – fail on both counts.

2. **Commissions should have five independent members, as recommended by the Model Police Act, 2006.** Five is the maximum number of independent members in the official suggestions, and provides the best balance between government and non-government members. This will ensure SSCs are inclusive of expertise and interests beyond those of the political executive. While 20 states have made provision for independent members, their numbers are less than those prescribed in the suggested models. Meanwhile, four states do not have any independent members whatsoever.

3. **"Independent" members should be appointed by an impartial Selection Panel as suggested by Section 43 of the Model Police Act, 2006.** In almost all states, the government directly selects the independent members. Only six states provide for a selection panel,[137] however in most cases these panels are not sufficiently independent and need to be made so.

4. **Selection Panels should prepare objective selection criteria for the appointment of independent members.** The independent members should be selected on the basis of laid down selection criteria focused on expertise on policy-making and organisational performance evaluation. This should be from a range of different fields – civil society, lawyers, academics, rights activists, trade unions and community groups.

5. **Independent members should be appointed with no further delay.** Although 55 independent members have been appointed across the country, they exist solely on paper in seven states: Andhra Pradesh, Chhattisgarh, Himachal Pradesh, Maharashtra, Rajasthan, Tripura and Uttar Pradesh.

Annual Reports

6. **All Security Commissions must prepare annual reports to be submitted to legislatures in time for the budget session.** Assam, Bihar, Haryana, Nagaland and Tripura fail to have reporting requirements in their legislation/ government orders. In practice, despite the legislative requirement to prepare an annual report, it appears that the Commissions by and large fail to do so. Only two states provided copies of their annual reports in response to our RTI applications.

Public Information

7. All Security Commissions must comply with Section 4 of the Right to Information Act, 2005. To be effective, information on the Commissions

[137]Arunachal Pradesh, Himachal Pradesh, Meghalaya, Rajasthan, Sikkim and Uttarakhand.

must be widely publicised. Yet there is virtually no information about them in the public domain. Under Section 4(1)(b) of the RTI Act, all public authorities are required to disclose baseline information, including: the particulars of their organisation, functions and duties; the powers and duties of officers and employees; and norms set for the discharge of functions. Section 4(2) of the Act requires public authorities to proactively provide as much information to the public at regular intervals through various means of communication, including the Internet. The Commissions' current members, powers, meeting minutes, annual reports and rules, if any, should be published on a webpage linked to the Central / state governments' websites, or Commissions can make efforts to create their own websites.

Binding Powers

8. **All Security Commissions should be given the power to make binding recommendations.** This is vitally important in the present scenario where lack of political will is proving to be a major impediment in initiating change in police functioning. Only two states have provided for binding powers.

Mandate

9. **All Security Commissions should be vested with the task of laying down policies and actually conducting the performance evaluation of the police.** They should not be given any additional functions. In some states, SSCs have been reduced merely to advisory bodies in law. For instance, the Chhattisgarh and Rajasthan Police Acts task their Commissions to "advise the State Government on policy guidelines", "assist the state government in identifying performance indicators" and "communicate [their] views periodically on the performance of the police". Likewise, in Assam, the SSC is only mandated to identify performance indicators, rather than actually conduct the evaluation of the state police.

10. **The Commissions should consider bringing in external experts to conduct the specialised function of devising performance indicators and conducting a performance evaluation of the police organization, as provided in Section 26 of the Kerala Police Act, 2011.**

Frequency of meetings

11. **The Commissions must meet at least every three months.** While the Assam, Delhi, Kerala and Meghalaya Commissions have met most frequently, the remaining Commissions have met only once in their two or three years of functioning. This is too infrequent for an institution designed to make a long-lasting impact on policing, and which is mandated to systematically evaluate the performance of the police. The Himachal Pradesh Police Act, 2007 requires the State Police Board to meet "as often as deemed necessary, but at least once in three months". Meanwhile, the Meghalaya

Police Act, 2010 provides that the Commission shall meet for the "initial three years at least once a month and later every 3 months or more often if required by the exigencies of the situation".

Meeting Procedures

12. **Each Commission should formulate a procedure to govern the conduct of business transacted by it.** The minutes of meetings reveal that the Commissions fail to function according to any clear process. Any procedure should include the process to be followed while convening meetings, preparing an agenda, drafting minutes, communicating decisions/recommendations to the government, and preparing Action Taken Reports.

Annex: National Overview of Compliance

State	Establishment	Composition	Mandate	Nature of Powers	Frequency of Meetings
Andhra Pradesh State Security Commission	Established by Home Department Order No. 189, 8 August 2013. The Andhra Pradesh Government initially created an SSC in the aftermath of the Dilsuknagar twin blasts via Government Order No. 110 on 4 May 2013. Two days later, the Supreme Court observed that the composition and functions of the SSC did not conform to its directive. As a result, on 8 August 2013, the government re-constituted the SSC, "keeping in view the directions/orders of the Supreme Court".	1. Home Minister - Chair 2.Leader of Opposition 3. Chief Secretary 4. DGP - Secretary 5.Five independent members to be nominated by the Government	(a) Laying down broad policies and giving directions for the performance of the preventive tasks and service oriented functions of the police; and (b) Evaluation of the performance of the State Police and preparing a report on evaluation of the performance of the police to be placed before the State Legislature.	Binding.	0
Arunachal Pradesh State Security Commission	Established by Home Department Order No. HMB(A)-23/06 on 27 February 2007.	1. Chief Minister / Minister-In-charge, Home – Chair 2. Leader of Opposition 3. Chief Secretary 4. Commissioner, Home 5. DGP 6. Inspector General of Police (IGP) – Secretary 7. Five independent members: (i) Mr .Lod Kojee (APCS Retired) (ii) Mr. Tsering Lumden (Former District Information and Public Relations Officer) (iii) Pratik Potom (Ex-DPI) (iv) Ms .Mamang Dai, Journalist (v) Ms. Renu Mungrey, Secretary, Women's Welfare Society	(a) Lay down broad policy guidelines so that the State Police always acts according to the laws of the land and the constitution of the country thereby ensuring that it gives appropriate direction to the Police for performance of their preventive tasks and service oriented functioning; and (b) Evaluate the performance of the State Police and prepare a report thereon annually which shall be placed before the State Legislature.	Silent.	2

State	Establishment	Composition	Mandate	Nature of Powers	Frequency of Meetings
Assam State Security Commission	Established by *Assam Police Act 2007*. It was first established by government order on 30 March 2007 with the Chief Minister, Leader of the Opposition, Chief Secretary, DGP and five independent members. A new composition was later provided under the Act.	1. Chief Minister - Chair 2. Retired High Court Judge 3. Chief Secretary 4. Principal Secretary, Home & Political Department 5. DGP - Secretary 5. Three non-political persons of high integrity, expertise and competence in administration, law enforcement and security related matters, to be nominated by the State Government, including a police offer not below the rank of DGP, a retired civil service officer not below the rank of Commissioner and Secretary, and a member from the fields of public service, legal profession or social organization with at least 15 years expertise in the field (i) Mr .Jatin Hazarika, IAS (Retired), Former Commissioner and Secretary (ii) Mr. S. B. Kakati, IPS (Retired), Former DGP, Meghalaya (iii) Dr. Md. Taher, Eminent Educationist	(a) Frame broad policy guidelines for promoting efficient, effective, responsive and accountable policing, in accordance with the law; (b) Prepare panel of five police officers for the rank of Director General of Police against prescribed criteria in accordance with the provisions of Section 6 of Chapter II; and (c) Identify performance indicators to evaluate the functioning of the Police Service. These indicators shall, inter alia, include: operational efficiency, public satisfaction, victim satisfaction vis-a-vis police investigation and response, accountability, optimum utilization of resources, and observance of human rights standards.	Silent.	5
Bihar State Police Board	Established by *Bihar Police Act 2007*.	1. Chief Secretary - Chair 2. DGP 3. Secretary-in-charge of Home Department - Secretary	a) Formation of comprehensive Policy Guidelines, for making police administration efficient, affective, sensitive and accountable according to the law; b) Identification of Performance Indicator for Assessment of the working of police service, The Performance Indicator inter alia, shall contain the following:- Police Research and Response, accountability, maximum utilisation of amendments, operative efficiency, public satisfaction, and satisfaction of the victims in comparison to the compliance of norms of human rights; and c) Review and assessment of organisational work of district wise police service in the state in comparison to the Performance Indicator identified and determined and the resources available to and under the control of the police.	Silent.	Info. not provided

State	Establishment	Composition	Mandate	Nature of Powers	Frequency of Meetings
Chhattisgarh State Police Commission	Established by *Chhattisgarh Police Act 2007*. The State Government brought it into existence 3 years later via Home Department Notification No. F-11-353/Home/2007 on 16 April 2010.	1. Home Minister - Chair 2. Chief Secretary 3. Secretary in charge of Home Department 4. DGP - Secretary 5. State Human Rights Commission Member, to be nominated by State Government; 6. Two independent members: persons of proven reputation for integrity and competence from any field such as academia, law, public administration, media or any other field, to be appointed by the State Government	(1) To advise the State Government on policy guidelines for promoting efficient, effective, responsive and accountable policing; (2) To assist the state Government in identifying performance indicators to evaluate the functioning of the Police Force; (3) To communicate to the State Government its views on the performance of the Police; and (4) To formulate perspective plans for policing and submit them to the State Government.	Silent.	1
Goa State Security Commission	Established by Home Department Order No. 2/51/2006-HD(G) on 3 April 2007.	1. Chief Minister – Chair 2. Leader of the Opposition 3. Chief Secretary 4. Retired Justice Dr. E. S. Da Silva 5. DGP - Secretary	(i) Lay down the broad policies and give directions for the performance of the preventive tasks and service oriented functions of the police; and (ii) Evaluate the performance of the State police and prepare a report thereon for being placed before the State Legislature.	Silent.	1
Gujarat State Security Commission	Established by *Bombay Police (Gujarat Amendment) Act 2007*. The State Government brought it into existence via Home Department Order No.: GG/ 56/ NPC/ 102007/1141- V on 21 November 2008.	1.Chief Minister – Chair 2. Home Minister 3. Chief Secretary 4. Additional Chief Secretary, Home 5. DGP and IGP - Secretary 6. Two non-official members to be appointed by the State Government having reputation for integrity and competence in the field of academia, law, public administration or media: (i) Justice K.R. Vyas, Former Chief Justice of the Bombay High Court (ii) Dr. Kamlesh Joshipura, Vice Chancellor, Indian Institute of Teachers Education	(1) To advise the State Government on policy guidelines for promoting efficient, effective, responsive and accountable policing of police force in the State; (2) To assist the State Government in identifying performance indicators to evaluate the functioning of the Police Force. These indicators shall, inter alia, include the operational efficiency, public satisfaction, victim satisfaction vis-a-vis police investigation and response, accountability, optimum utilization of resources and observance of human rights standards; (3) To review periodically, the performance of the Police Force; (4) To suggest for the performance of the preventive tasks and service oriented functions of the police;	Silent.	1

State	Establishment	Composition	Mandate	Nature of Powers	Frequency of Meetings
			(5) To review and evaluate organizational performance of the police against (i) the performance indicators as identified and laid down by the Commission itself; (ii) the resources available with, and constraints of the Police; (6) To suggest policy guidelines for gathering information and statistics related to police work; (7) To suggest ways and means to improve the efficiency, effectiveness, accountability and responsiveness of the police; and (8) Such other functions as may be assigned to it by the State Government.		
Haryana State Police Board	Established by *Haryana Police Act 2007*. The State Government brought it into existence via Home Department Notification No.S.O.123/ H.A.25/2008/Ss.25,26 and 31/2009 on 24 December 2009.	1. Chief Minister - Chair 2. Home Minister - Vice-Chair; 3. Leader of the Opposition 4. Advocate General 5. Chief Secretary 6. Secretary in charge of the Home Department 7. DGP - Secretary 8. Three non-political persons to be nominated by the State Government. One shall be a retired IAS officer, another a retired IPS Officer and the third from the field of public service, legal profession or social organizations with at least 15 years experience in that field: (i) N.C. Wadhwa, IAS (Retired) (ii) R.C. Sharma, IPS (Retired) (iii) Hukam Chand Khokhar, Advocate	(a) Aid and advise the State Government in discharge of its functions and responsibilities under this Act; (b) Frame broad policy guidelines for promoting efficient, effective, responsive and accountable policing in accordance with the law; and (c) Review and evaluate organizational performance of the service in the State.	Silent.	Info. not provided

State	Establishment	Composition	Mandate	Nature of Powers	Frequency of Meetings
Himachal Pradesh State Police Board	Established by *Himachal Pradesh Police Act 2007*. The State Government brought it into existence via Home Department Notification No. (A)B(14)-69/96 on 2 February 2008. Initially established by Home Department Notification No. (A) B(14)69/06 on 4 June 2007 but was later replaced by the Act.	1. Chief Minister - Chair 2. Minister in charge of Home 3. Leader of the Opposition 4. Chief Secretary 5. Principal Secretary, Home 6. Principal Secretary, Social Justice & Empowerment 7. Principal Secretary, Finance 8. Director of Prosecution 9. Director of Forensic Science 10. DGP - Secretary 11. Three persons of proven reputation for integrity and competence out of whom at least one shall be a women member, to be appointed from the fields of academia, law and public administration, on the recommendations of the Selection Panel constituted under section 50.	(i) Approve broad policy guidelines , including five-years strategic policing plans and annual policing Sub- Plans, for promoting efficient, effective, responsive and accountable policing, in accordance with the law; (ii) Approve from time to time the sanctioned strength of the various ranks of the Non-Gazetted Police Officers and Gazetted State Police Service Officers; (iii) Identify performance indicators to evaluate the functioning of the police service and these indicators shall, inter alia, include operational efficiency, public satisfaction and proper utilization of resources; and (iv) Review and evaluate organizational performance of the State Police against the five-year strategic Policing Plan and annual policing Sub-Plans and performance indicators as identified and laid down by the State Police Board.	Section 53(2) of the Act provides that the Board shall make recommendations to the State Government "which shall normally be binding on the State Government". However, "if the Government is of the opinion that it is not feasible in the public interest to give effect to any recommendation of the Board, it shall communicate the reasons thereof which shall be placed before the Board in its next meeting."	3
Jharkhand State Security Commission	Established by Home Department Government Order No. 8/YA0-4003/2006 on 31 December 2006. The five non-political members were appointed via Home Department Government Order No. 8/YA0-4003/2006-4925 on 15 December 2007.	1. Chief Minister - Chair 2. Leader of the Opposition 3. Chief Secretary 4. Home Secretary 5. Advocate General 6. DGP and IGP - Secretary 7. Five non-political members (i) C. Madhurmud, Managing Director, Tata Iron Steel Company; (ii) Professor A. H Khan, Chancellor Ranchi University (iii) Krishna Sirka; (iv) Swami Shankanand, Secretary, Ramakrishna Mission; (v) R.R. Prasad, Retired Director General of Police.	Lay down policy guidelines and evaluate the police in terms of their functioning in accordance with the law and the Constitution.	Silent.	1

State	Establishment	Composition	Mandate	Nature of Powers	Frequency of Meetings
Jammu & Kashmir	Not constituted. State has requested exemption from directive. The draft Jammu and Kashmir Police Bill 2013, made public on 15 February 2013, called for the establishment of an SSC. After the initial two-week deadline for feedback was extended, there has been no further progress with respect to the Bill.				
Karnataka State Security Commission	Established by the *Karnataka Police Act, 1963* which was amended by the *Karnataka Police (Amendment)* Act 2012 to include provisions requiring the Government to establish an SSC. The State Government complied with this through Home Department Notification No. HD/207/POSAE/2012 on 18 August 2012. The State Government initially constituted an SSC via Home Department Order No. HD/61/POSAEE/2009 on 14 July 2009 however this was replaced with the Act three years later.	1. Chief Minister - Chair 2. Home Minister - Vice Chair 3. Leader of the Opposition 4. A Retired High Court Judge nominated by the Chief Justice 5. Chief Secretary 6. Additional Chief Secretary/ Principal Secretary 7. DGP and IGP - Secretary	(a) Laying down the broad policy guidelines for ensuring that the State Police always acts according to the laws of the land and the constitution of India; (b) Laying down the broad principles and giving directions for the performance of the preventive tasks and service oriented functions of the police; (c) Evaluation of the performance of the State Police and submission of report thereon to the Government for placing before the State Legislature; and (d) Any other functions as may be prescribed.	Binding.	0
Kerala State Security Commission	Established by *Kerala Police Act 2011*. The State Government brought it into existence via Home Department Notification No. 263/2011/Home on 26 November 2011. The State Government initially created an SSC following the passage of the *Kerala Police (Amendment) Act 2007* which met 4 times[138] and prepared annual reports.[139]	1. Minister in charge of Home Department - Chair 2. Minister in charge of Law 3. Leader of Opposition 4. Retired High Court Judge-Justice K.P. Balachandran, High Court of Kerala 5. Chief Secretary 6. Home Secretary 7. State Police Chief 8. Three non-official members who shall be persons of eminence in public life with wide knowledge and experience in maintenance of law and order, administration, human rights, law, social service, management of public administration, nominated by the Governor of whom one shall be a woman: Advocate M. P. Govindan Nair (Ex. Minister) Advocate Celine Wilfred HormisTharakan, IPS (Retired)	(a) Frame general policy guidelines for the functioning of the Police in the State; (b) Issue directions for the implementation of crime prevention tasks and service oriented activities of the Police; (c) Evaluate, from time to time, the performance of the Police in the State in general; (d) Prepare an annual report of the activities of the Commission and submit it to the Government; and (e) Prepare the guidelines for the changes to be carried out, from time to time, in the state police; (f) Discharge such other functions as may be assigned to it by the Government	While the directions of the SSC are binding on the Police Department, this does not extend to the Government, which under section 25(5), "may, for reasons to be recorded in writing, fully or partially, reject or modify any recommendation or direction of the Commission."	5

[138]On 23 January 2008, 15 January 2009, 8 September 2009 and 15 December 2010. See State Security Commissions: Reform Derailed, Commonwealth Human Rights Initiative, 2011, http://www.humanrightsinitiative.org/publications/police/sscrd.pdf, page 40.

[139]The Kerala Home Department provided annual reports of the previous SSC for 2007-2008, 2008-2009 and 2009-2010.

State	Establishment	Composition	Mandate	Nature of Powers	Frequency of Meetings
Madhya Pradesh State Security Commission	Established by Home Department Order No. F.1-7/2010/B-2 on 13 December 2011.	1. Chief Minister - Chair 2. Home Minister 3. Leader of Opposition 4. Chief Secretary 5. Principal Secretary, Home 6. DGP - Secretary 7. Five non-official members: (i) Dilip Singh Bhuria, former LokSabha Member (ii) Maya Singh, RajyaSabha Member (iii) Lal Singh Arya, former Member of the Legislative Assembly (iv) AnshuVaishya, Retired IAS Officer (v) D. G. Kapdev, Retired IPS Officer	(a) Lay down policy guidelines; (b) Identify performance indicators; (c) Evaluate the performance of the police against these indicators; and (d) Prepare an annual report that should be easily accessible to the public.	Silent.	Info. not provided
Maharashtra State Security Commission	Established by *Maharashtra Police (Amendment and Continuance)* Act, 2014 which was passed by both Houses of the State Legislature on 14 June 2014. The Maharashtra Government initially created an SSC via Home Department Resolution No. NPC-1008/2/CR-6/POL-3 on 25 July 2008. Following criticism that the five non-official members[140] on the commission were appointed arbitrarily,[141] the Government constituted a fresh SSC via Home Department Resolution No. SSC-1013/CR-108/Pol-3 on 10 July 2013, providing for a selection panel for the non-official members.	1. Minister in Charge of Home Department -Chair 2. Leader of the Opposition 3. Chief Secretary 4. Additional Chief Secretary, Home Department 5. DGP and IGP - Secretary 6. Five non-official members (to be nominated by the State Government)	(a) Lay down the broad policy guidelines for the functioning of the Police Force in the State including for ensuring that the Police Force always act according to the laws of the land and the Constitution of India; (b) Formulating broad principles for the performance of the preventive tasks and service oriented functions of the Police Force; and (c) Evaluation of the performance of the Police Force.	Advisory.	6

[140]According to Maharashtra Government Resolution No. NPC 1008/2/cR-6/POL-3, 14 April 2010, the previous Commission included 5 non-official members, including P.S. Pasricha, ex- IAS officer Pratima Umarji, Retired Justice Ashutosh Kumbhkoni, activist Farida Lambe and industralialist Vijay Kalantri.

[141]*State orders constitution of new security commission*, The Indian Express, 13 July 2013, http://archive.indianexpress.com/news/state-orders-constitution-of-new-security-commission/1141338/.

State	Establishment	Composition	Mandate	Nature of Powers	Frequency of Meetings
Manipur State Security Commission	Established by Home Department Order No. 2/8(32)/2006-H on 31 March 2007. This replaced the earlier Home Department Order No. 2/8(32)/2006-H dated 28 December 2006.	1. Home Minister- Chair 2. Leader of Opposition 3. Chief Secretary 5. DGP - Secretary 4. Five Independent Members (i) Dr. I.S. Khaidem, Retired Vice Chancellor, Manipur University, ex-Chairman, Manipur Public Service Commission (ii) L. Sadananda Singh, Retired, Principal Manipur College (iii) Riazuddin Chowdhury, Retired, College Lecturer, Hafiz Hatta (iv) L. Sinate, Retired, CSS, ex-Joint Secretary to Government of India (v) ShaiRaleng, Retired, Registrar, Gawahati High Court, Kohima Bench	(a) Make recommendations/directions for the performance of the preventive tasks and service oriented functions of the police; (b) Evaluate the performance of the State police; and (c) Prepare a report thereon for being placed before the State Legislature.	Silent.	Info. not provided
Meghalaya Security Commission	Established by Meghalaya Police Act 2010. The State Government brought it into existence via Home Department Notification No. HPL.180/94/Pt/28 on 2 August 2011. Initially, the State Government had established an SSC via Home Department Notification No. HPL 122/96/516 on 19 December 2006. It then reconstituted it via Home Department Notification No. HPL.180/94/Pt.2 on 18 March 2009.	1. Chief Minister - Chair 2. Minister in charge, Home Department - Vice Chair 3. Leader of the Opposition 4. Chief Secretary 5. Principal Secretary, Home (Police) Department 6. DGP and IGP - Secretary 7. Two non-political persons of proven reputation for integrity and competence from the fields of academia, law, public administration, media or NGOs appointed by a selection panel Mr. P.J. Bazeley, IAS (Retired) Mr. V.G.K. Kynta, Senior Advocate, Gauhati High Court, Shillong Bench	(a) Frame broad policy guidelines for promoting efficient, effective, responsive, accountable, impartial, honest, professional and citizen-friendly policing, in accordance with the law; (b) Prepare a panel of five police Officers for the rank of Director General of Police against prescribed criteria in accordance with the provisions of Section 6 of chapter II; (c) Lay down broad policy guidelines so that the State police always acts according to the laws of the land and the Constitution of the country; (d) Give directions for performance of preventive tasks and service-oriented functions of the police; (e) Ensure that the State police is not subjected to any unwarranted pressure or influence;	Section 35 states that the recommendations of the Commission "shall be to the extent feasible binding on the State Government."	5

State	Establishment	Composition	Mandate	Nature of Powers	Frequency of Meetings
			(f) Identify performance indicators to evaluate the functioning of the Police Service. These indicators shall, inter alia, include: operational efficiency, public satisfaction, victim satisfaction vis-à-vis police investigation and response, accountability, impartiality, honest policing, courteous behaviour, optimum utilisation of resources, and observance of human rights standards;(g) Evaluate organizational performance of the Police Service in the state as a whole as well as district-wise against (i) the Annual Plan, (ii) performance indicators as identified and laid down, and (iii) resources available with and constraints of the police; (h) The Commission shall also function as a forum of appeal for disposing of representations from officers of the rank of Addl. Superintendent of Police and above, regarding their promotion, or their being subjected to illegal or irregular orders.		
Mizoram State Security Commission	Established by the Mizoram Police Act, 2011. Previously, the State Government established an SSC via Home Department Notification No. C.18018/12/90-HMP(SC)/Vol-III on 30 May 2011 and via Home Department Notification No. C18018/ 12/90-HMP (SC) on 9 November 2006.	1. Home Minister - Chair 2. Leader of the Opposition 3. Retired District Judge, nominated by the Chief Justice 4. Chief Secretary 5. Home Secretary 6. DGP - Secretary 7. Two non-political persons of proven reputation for integrity, to be appointed by the State Government Under the 2011 Notification, the four independent members were: Lt. Col. (Retired) Z.S. Zuala, MLA Mr. C. Ramhluna, MLA F. Lalremsiama, IPS (Retired), Ex-MLA Mr. LalnghetaSailo, IPS (Retired)	(a) frame broad policy guidelines for promoting efficient, effective, responsive and accountable policing, in accordance with the law; (b) prepare panels of police officers for the rank of Director General of Police against prescribed criteria with the provisions of Section 6 of Chapter II; (c) identify performance indicators to evaluate the functioning of the Police Service. These indicators shall, inter alia, include: operational efficiency, public satisfaction, victim satisfaction vis-à-vis police investigation and response, accountability, optimum utilization of resources, and observance of human rights standards; and (d) review and evaluate organizational performance of the Police Service in the state as a whole as well as district-wise against (i) the Annual Plan, (ii) performance indicators as identified and laid down, and (iii) resources available with and constraints of the police	Silent.	Info. not provided

State	Establishment	Composition	Mandate	Nature of Powers	Frequency of Meetings
Nagaland State Security Commission	Established by Home Department Notification No.POL-9/SF/20/2000 on 30 March 2007	1. Minister of Home in charge of Police - Chair 2. Leader of the Opposition, 3. Judge (sitting or retired) nominated by the Chief Justice of the Guwahati High Court- Justice ZeireAngami 4. Chief Secretary 5. DGP - Secretary 6. Three non-political citizens of proven merit[142] Imchalemba, former MP Yisonu, former CPO President Rev. Dr. PonsingKonyak, former State Information Commissioner	Lay down broad policy guidelines to ensure that the State Police always acts according to the laws of the land and the Constitution of the country.	Silent.	1
Odisha	The Odisha Government has not constituted an SSC to date. In its latest affidavit before the Supreme Court in April 2007, it asserted that the Government is examining the most suitable model and "appropriate decision in this regard will be *taken up shortly* on broad based consultation".[143] The same argument was then made in the 2008 affidavit. The *Odisha Police Bill*, 2013 provides for an SSC, however, at the time of writing, this Bill had not yet been tabled.				
Punjab State Police Board	Established by *Punjab Police Act 2007*. The State Government brought it into existence via Home Deparment Notification No. 16/41/2005-3G3/1018 on 28 April 2008.	1. Chief Minister - Chair 2. Home Minister- Vice Chair 3. Chief Secretary 4. Principal Secretary, Department of Home Affairs and Justice 5. Advocate General 6. DGP - Secretary	(a) Aid and advise the State Government in discharge of its functions and responsibilities under this Act; (b) Frame broad policy guidelines for promoting efficient, effective, responsive and accountable policing in accordance with the law; (c) Review and evaluate organizational performance of Police Service in the State; and (d) Identify shortcomings regarding infrastructure and equipment in police.	Silent.	1

[142] *State security commission constituted*, Nagaland Post, 26 July 2013, http://www.nagalandpost.com/channelnews/state/StateNews.aspx?news=TkVXUzEwMDA0MTk1Nw%3D%3D-dZYU1XyACQY%3D.

[143] Affidavit of Compliance on behalf of State of Orissa, filed by Mr. Bansidhar Behera, 10 April 2007.

State	Establishment	Composition	Mandate	Nature of Powers	Frequency of Meetings
Rajasthan State Police Commission	Established by *Rajasthan Police Act 2007*. Brought it into existence on via Home Department Notification No. P. 18(15)Home-1/2013 on 5 May 2013	1. Minister in charge of Home Department - Chair 2. Leader of the Opposition 3. Chief Secretary 4. Secretary in charge of the Home Department 5. DGP 6. Three persons of eminence from any walk of life to be appointed by the State Government on the recommendation of a Selection Committee. 7. A police officer not below the rank of Additional Director General to be nominated by the Government as Secretary- Mr. Suresh Chaudhary, Additional Director General, Railways via Home Department Notification No. P. 18(15)Home-1/2013 on 8 May 2013.	Advise the State Government on Policy guidelines for promoting efficient and accountable policing. Assist the State Government in identifying performance indicators to evaluate the functioning of the Police Force. Communicate its views periodically on the performance of the Police Force. Formulate perspective plans for policing and submit them to the State Government. Analyse crimes in the State and suggest preventive measures. Draw up a strategic plan for a five year period, duly identifying the objectives of policing sought to be achieved during the period and setting out an action plan for their implementation. Prepare training policy for police officers of different ranks and categories; and Perform such other functions as specified by the State Government from time to time.	Silent.	0
Sikkim State Police Board	Established by *Sikkim Police Act 2008*. State Government brought it into existence via Home Department Notification No 89/ Home/2008 on 5 September 2008.	1. Chief Minister - Chair 2. Leader of the Opposition 3. Retired High Court Judge 4. Chief Secretary; 5. Secretary in charge of the Home Department 6. Secretary in charge of the Finance Department; 7. Secretary in charge of the Social Welfare & Empowerment Department; 8. DGP - Secretary 9. Three non-political persons of proven reputation for integrity and competence to be appointed on the recommendation of the Selection Panel constituted under Section 41. (i) Mr. G.K. Gurung, former Secretary to Government of Sikkim (ii) Ms.Bharti Sharma, former State OBC Board Chairperson (iii) Mr. S.D. Basi, IAS (Retired)	(a) Frame broad policy guidelines for promoting efficient, effective, responsive and accountable policing in accordance with the law (b) Approve the five years Strategic Policing Plan and Annual Policing SubPlan (c) Identify performance indicators to evaluate the functioning of the Police Service. These indicators shall, inter alia, include operational efficiency, public satisfaction, victim satisfaction visavis Police investigation and response, accountability, optimum utilization of resources, and observance of human rights standards and (d) review and evaluate organizational performance of the Police Service in the state as a whole as well as districtwise against (i) the Annual Plan,	Silent.	3

State	Establishment	Composition	Mandate	Nature of Powers	Frequency of Meetings
			(ii) performance indicators as identified and laid down, and (iii)resources available with and constraints of the police.		
Tamil Nadu State Security Commission	Established by *Tamil Nadu Police (Reforms) Act 2013*. The composition of the SSC is the same as the Board established via Home Department Order No. 388 on 22 April 2010.[144]	1. Home Minister - Chair 2. Leader of the Opposition 3. Chairperson, Public Service Commission 4. Chairperson, State Human Rights Commission 5. Chairperson, State Women's Commission 6. Chairperson, State Minorities Commission 7. Chief Secretary 8. Secretary in charge of the Home Department 9. DGP - Secretary	(a) Frame broad policy guidelines for promoting efficient, effective, responsive and accountable policing, in accordance with the law; (b) Identify performance indicators to evaluate the functioning of the Police Force, which shall include operational efficiency, public satisfaction, victim satisfaction in respect of Police investigation and response, accountability, optimum utilisation of resources and observance of human rights standards; (c) Review and evaluate organisational performance of the Police Force; and (d) Such other functions that may be entrusted by the Government	Silent.	1
Tripura State Police Board	Established by *Tripura Police Act 2007*.	1. Home Minister - Chair 2. Retired High Court Judge 3. Chief Secretary 4. Secretary in charge of the Home Department 5. DGP - Secretary 6. Two independent members who shall be non-political persons of proven reputation and integrity to be appointed by the State Government	(a) Frame broad policy guidelines for promoting efficient, effective, responsive and accountable policing; (b) Identify performance indicators to evaluate the functioning of the police force. These indicators shall, inter alia, include : operational efficiency, public satisfaction, victim satisfaction vis-à-vis police investigation and response, accountability, optimum utilisation of resource, and observance of human rights standards; (c) Review and evaluate organizational performance of the Police service in the State as a whole as well in the districts against (i) the Annual Plan (ii) performance indicators as identified and laid down, and (iii) resources available with and constraints of the Police; and (d) Examine complaints received from members of the Police Establishment Committee about being subjected to illegal orders and make appropriate recommendations.	Silent.	Info. not provided

[144]Tamil Nadu Government, , dated 22 April 2010

State	Establishment	Composition	Mandate	Nature of Powers	Frequency of Meetings
Uttarakhand Police Board	Established by *Uttarakhand Police Act 2007*. Brought into existence via Home Department Notification No. 1077/XX(1)-48/Writ/2006 on 10 September 2008. Previously, the State had formed a SSC via Uttarakhand Government, Home Department Order No. 469/XX(1)/48/Writ/2006 on 31 March 2007.	1. Home Minister - Chair 2. Leader of the Opposition 3. Chief Secretary 4. Principal Secretary, Home Department 5. DGP - Secretary 5.Three independent members: (i) Mr. A. K. Dobhal, IPS (Retired) (ii) Air Marshal (Retired) G.C.S. Rajwar (iii) J.S. Pandey, Retired DGP	(1) Suggest and advise the State Government on policy guidelines for promoting efficient, effective, responsive and accountable policing; (2) Suggest the State Government in identifying performance indicators, which shall, inter alia, include operational efficiency, public satisfaction, victim satisfaction vis-à-vis police investigation and response, accountability, optimum utilization of resources, and observances of human rights standards; (3) Suggest measures to enhance the performance of the Police Force periodically as per the performance indicators, identified in sub section (2) above; (4) Suggest towards evaluating organizational performance of the police against – (i) performance indicators, as identified and laid down by the State Police Board itself; (ii) resources available with, and constraints of the police; (5) Suggest policy guidelines for gathering information and statistics related to police work; and (6) Suggest ways and means to improve the efficiency, effectiveness, accountability, and responsiveness of the police.	Silent.	0

State	Establishment	Composition	Mandate	Nature of Powers	Frequency of Meetings
Uttar Pradesh Security Commission	The SSC in Uttar Pradesh has been repeatedly modified. After originally constituting an SSC on 12 March 2008 with two independent members,[145] the Government reconstituted it on 2 December 2010[146] to include five independent members. On 17 February 2011,[147] it re-organised it to include a retired High Court Judge, to be nominated by the Chief Justice of the High Court of Allahabad. Although we were unable to obtain a copy of the order, according to media reports, the Government in July 2013 has reconstituted it once again.[148]	1. Chief Minister - Chair 2. Leader of the Opposition 3. Chief Secretary 4. Principal Secretary, Home 5. Principal Secretary, Law and Justice 6. DGP - Secretary 7. Two independent members to be nominated by the Government	Unable to obtain a copy of the order reconstituting the SSC and therefore cannot comment on its mandate	Unable to obtain a copy of the order reconstituting the SSC and therefore cannot comment on its mandate	Info. not provided.
West Bengal	Established by: Home Department Order No. 2161-PL/PE-16S-36/05 on 2 June 2010. This was reconstituted after Supreme Court in December 2010 summoned the Chief Secretary and reprimanded the state for not complying in "letter and spirit" with its orders.	1. Chief Minister - Chair 2. Leader of the Opposition 3. Chief Secretary 4. Retired Judge nominated by the Chief Justice of the High Court 5. Member of the State Human Rights Commission 6. DGP - - Secretary	Unable to obtain a copy of the order reconstituting the SSC and therefore cannot comment on its mandate	Unable to obtain a copy of the order reconstituting the SSC and therefore cannot comment on its mandate	Info. not provided

[145]Government Office Memorandum No. 615/6-pu-10-2008, dated 12 March 2008.

[146]Government Office Memorandum No. 2791/6-pu-10-201-27(45)/2006 dated 2 December 2010.

[147]Government Office Memorandum No. 569/6-pu-10-2011-27(45)/2006 dated 17 February 2011.

[148]Indian Express, Govt reconstitutes state security commission, 13 July 2013, available at: http://www.indianexpress.com/news/govt-reconstitutes-state-security-commission/1141260/; Global Governance News, UP govt to restructure State Security Commission, 13 July 2013, available at: http://www.globalgovernancenews.com/2013/7/13/UP-govt-to-restructure-State-Security-Commission-NEWS-20130713125303953.html.

State Security Commissions:

Bringing Little to the Table

A study of police oversight in India

The problem of political interference in policing in India is perennial and pervasive. Politically motivated transfers, political agendas imposed on policing during communal riots, and lack of scientifically defined policing goals, are well recognised facts. To mix politics and policing is treading a dangerous path. There is a gulf of difference between accountability to the law and accountability to politicians. This is often lost on governments which aggregate greater powers to interfere in the functional autonomy and professional discretion of the police.

The State Security Commission is a mechanism recommended by the Supreme Court in the landmark Prakash Singh judgement, and forms part of a package of seven directives aimed at systemic police reform. The Commission was to act as a buffer between the political executive and the police, providing a legitimate paradigm for political interaction with, and control over, the police force. It was to represent a wide constituency – not just the political leaders but also ordinary citizens – and was aimed at making the police accountable to the people and transforming the "force" to a "service".

After the eight years since Prakash Singh was decided, what are State Security Commissions bringing to the table? This is CHRI's second national-level report on State Security Commissions. It provides a detailed analysis of the composition, mandate and powers of the Commissions that have been established on paper. It then examines those that are functioning on the ground, taking a critical look at whether they have achieved their stated objectives. It is hoped that this effort will engender a more detailed inquiry into the functioning of the Commissions in each state, and will serve as a guide to those who wish to work for accountable governance in the country.

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