

Findings

Arrest Memo Study

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Access to Justice

Section 41B(b)CrPC

41B. Procedure of arrest and duties of officer making arrest.

— Every police officer while making an arrest shall—

(b) prepare a memorandum of arrest which shall be—

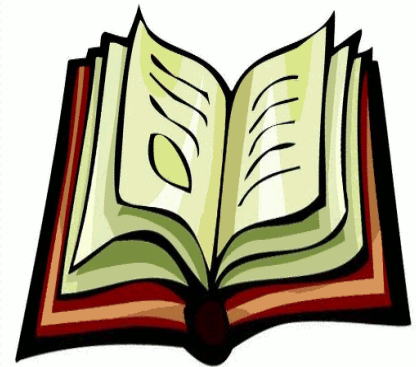
(i) attested by at least one witness, who is a member of the family of the person arrested or a respectable member of the locality where the arrest is made;

(ii) countersigned by the person arrested;

A safeguard against illegal arrest/detention

About the study

- Aim: examine compliance with arrest memos
- Asked for information from four police stations (two each from Rajasthan and West Bengal) and their corresponding Magistrates Courts through RTI.
- Interviewed police personnel and judicial officers.



The Format



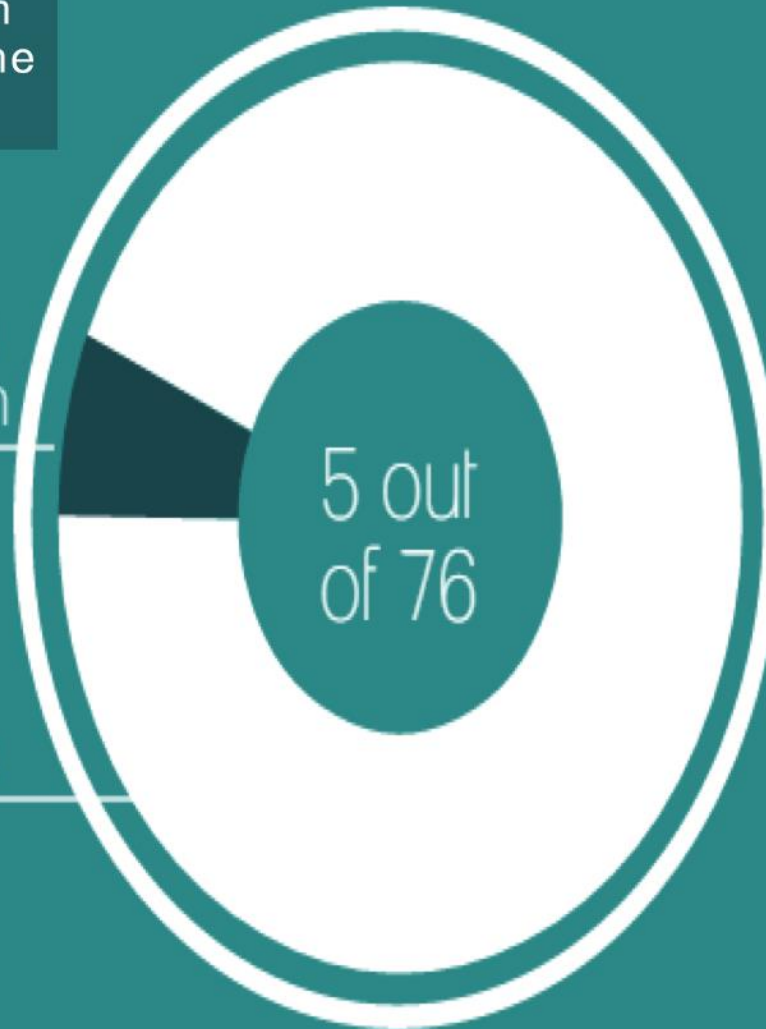
- ❖ Problems with format;
 - Not uniform
 - Unnecessary detailing (Arrest-cum-Surrender Form)
 - Functional problems
- ❖ The ideal format has to follow the statute which means it has to have
 - name of the arrested person
 - date and place of arrest
 - signatures and counter signatures

Time of Court Production

There was no column in the arrest memos from Rajasthan to record time of first production

5 Arrest Memos contain Time of court production

71 Arrest Memos do not contain exact time



Time of Court Production is mentioned in 5 out of 76 Arrest Memos. 4 out of 76 memos do not quote the exact time but only mention that the arrestee was produced during court hours.

This points directly to the fact the importance of this piece of information in the arrest memo is not properly understood. The exact time on which the arrestee was produced in court clarifies as to whether the arrestee was produced within 24 hours. This helps in ascertaining whether there was any illegal detention or not.

Whether arrest memo is filled up at the time and place of arrest

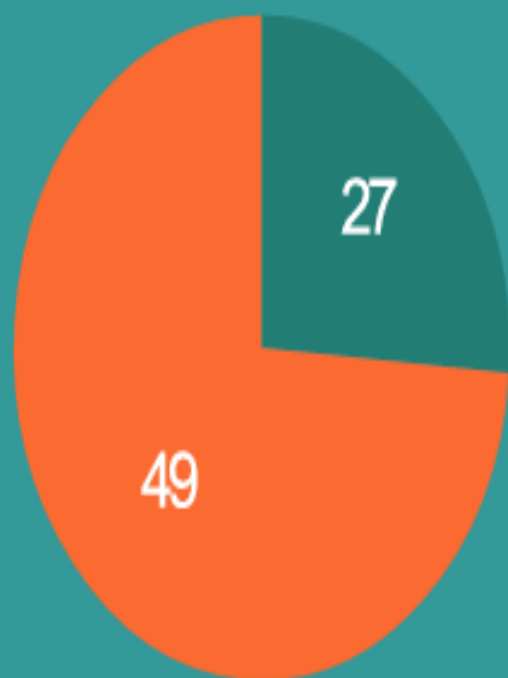
- The law prescribes that arrest memo be filled up at the time and place of arrest. However, filled up arrest memos that were examined do not make any mention of where and when the arrest memo was filled. Some of our interviews done with 6 SHOs in Rajasthan also indicated the same.
- Some interviews with SHOs pointed to the practice of attaching a note in cases where arrest memo was filled up in the police station. CHRI study did not come across any circular pointing to directives in this regard. Nor did it come across any such note.

Independent Witness

- 73 out of 76 memos had signatures of independent witness in them.
- Nothing in the memo indicates identity of the witness
- Illegible; difficult to determine genuineness of signatures.



General Diary Number Present



General Diary Number present in memo: 27 out of 76 arrest memos have recorded the general diary entry number.

This is good practice if done because it makes it easier for the arrestee to trace his own records if need be to verify anything during the trial.

In 49 arrest memos out of 76, although the column is there it has not been filled in. This shows that due care is not taken while filling up the Arrest Memo



The Circular

- To find out if procedural guidance on arrests exists we had sent RTI applications to DGP offices across all 28 states.
- The circular from Rajasthan reproduces the provisions word for word which defeats the purpose of procedural education.
- The ones from Tamil Nadu, Maharashtra and Meghalaya have lucid and succinct language which makes it more practically worthy.

Observations

- Concerns about the format
- Uniformity
- Functionality
- Concerns about record keeping
- Concerns about procedural knowledge and clarity



Thank
You!