

CHRI 2015

# 101 Things You Wanted To Know About The Police But Were Too Afraid To Ask



# CHRI

Commonwealth Human Rights Initiative

working for the practical realisation of human rights in the countries of the Commonwealth

# Commonwealth Human Rights Initiative

The Commonwealth Human Rights Initiative (CHRI) is an independent, non-partisan, international non-governmental organisation, mandated to ensure the *practical* realisation of human rights in the countries of the Commonwealth. In 1987, several Commonwealth professional associations founded CHRI. They believed that while the Commonwealth provided member countries a shared set of values and legal principles from which to work and provided a forum within which to promote human rights, there was little focus on the issues of human rights within the Commonwealth.

The objectives of CHRI are to promote awareness of and adherence to the Commonwealth Harare Principles, the Universal Declaration of Human Rights and other internationally recognised human rights instruments, as well as domestic instruments supporting human rights in Commonwealth member states.

Through its reports and periodic investigations, CHRI continually draws attention to progress and setbacks to human rights in Commonwealth countries. In advocating for approaches and measures to prevent human rights abuses, CHRI addresses the Commonwealth Secretariat, member governments and civil society associations. Through its public education programmes, policy dialogues, comparative research, advocacy and networking, CHRI's approach throughout is to act as a catalyst around its priority issues.

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# 101 Things You Wanted To Know About The Police But Were Too Afraid To Ask



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## Foreword

Everyday we come in contact with the police. We see them busy with their many duties regulating traffic, guarding VIPs, controlling crowds, escorting people to court, giving evidence, filing complaints at the police station or taking on criminals and militants in the field. We also *hear* a lot about the police - through the papers and TV and by word of mouth. Everyone has an opinion about the police and often it is not at all flattering. But in reality, most people know very little about them.

In our democracy, the police are not agents of the government in power put in uniform to suppress the people and keep them under control. Rather, they are, much like the fire brigade or revenue services, an essential service which by law has the duty to protect and safeguard every one of us. Like the bureaucrats, the police are public servants paid for by citizens and in their service.

Just as the police have a duty towards us, the people have a duty towards the police. As responsible citizens it is not enough to fear and dislike them or to go to them only when in difficulties. People and police have to work together to uphold the law. It is important to understand their work and challenges, what they do and how they do it, what their organisation looks like and the limits of their powers and duties. It is also important for us to know our own rights and duties so that no one - neither police nor civilians - can break the law and get away with it. This is what the rule of law means.

This little book is an easy guide to knowing your police. It is only when we know that we can speak up with confidence, and it is only when we speak out against wrong, that things will change. This book is brought out in this hope - that people knowing all about their police and their own rights - will use this knowledge to demand the better police service that we all deserve.

## 1. Why do we have a police force?

We have a police force to provide citizens with a sense of safety and security. The police are there to maintain peace and order in society as well as prevent and detect crime. They are there as the law enforcers - to make sure that everyone, including the police force itself, follows the law at every step.



## 2. What are the police supposed to do?

The police force has several duties: it must prevent and control crime, and detect and investigate it properly whenever it happens. It must also prepare an honest evidence-based case for the prosecutor to present at court. The police force has a responsibility for maintaining overall law and order and, for this purpose, also gathers information about what is happening in and around the community it serves.



## 3. What is meant by police powers?

The police have all sorts of different powers, all of which are given by law, and must use them only according to the procedure laid down in the law. They can make arrests, carry out search and seizures, investigate offences, question witnesses, interrogate suspects, disperse unruly crowds and maintain order in society, but they have to do it strictly in the way the law lays down and not in any other way. They cannot act as they wish or want to. Any abuse of power or negligence of duty will amount to a breach of discipline, civil wrong or a crime and the police officer is liable to be punished.



## 4. Is there just one police force in India?

No. Each state has its own police force under the control of the government of that state. So there are many police



forces in the country. Police that work in parts of India that are directly under the control of the central government like the capital Delhi, Chandigarh, Pondicherry, Daman and Diu, Lakshwadeep Islands, Dadra and Nagar Haveli and Andaman and Nicobar Islands come under the control of the central government.

### 5. What are the para-military forces?

Paramilitary forces, like the central reserve police force (CRPF), the Border Security Force (BSF), the Assam Rifles, the Indo Tibetan Border Police (ITBP) and the National Security Guard (NSG), are armed policing organisations established by the central government and meant for special duties. They are structured along the lines of the army and thus called para-military. They help the police in counter insurgency operations, anti-terrorist activities or in moments of civil unrest.



### 6. Can anyone become a police officer?

Yes, anyone can become a police officer. However, you have to fulfil the conditions and standards laid down for that particular rank. For example, to join as a constable you need to have at least passed high school.

To join as a Sub Inspector you need to be a graduate.

### 7. How can I become a police officer?

There are three levels at which you can join the force. At the state level you can join either as a constable and go up to Deputy Superintendent of Police or you can join at Sub-Inspector level and get promoted all the way up to Superintendent of Police in charge of a district.

Constables and sub-inspectors have to take a written entrance test. If you pass you have to go for a physical test. If you pass the physical test then you are called for an interview. After the interview, you are expected to undergo a medical check in order to determine whether you are fit. Only after all this is completed are final selections made.

IPS officers on the other hand are recruited at the central level and its ranks begin as either an additional/assistant superintendent or superintendent of Police.

## 8. What is the IPS?

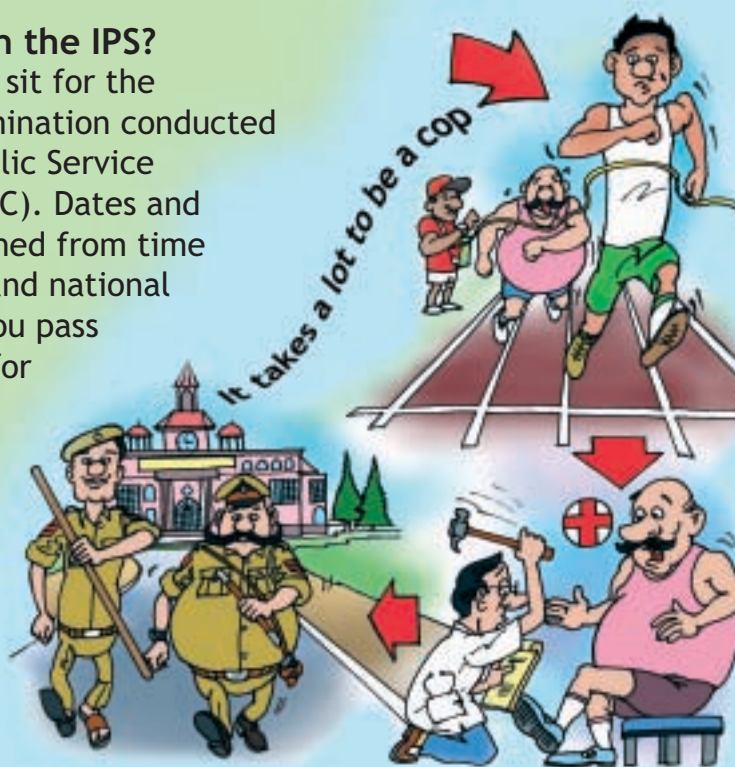
IPS is short for the Indian Police Service and is one of the three all India services of the Government of India (the other two being the Indian Administrative Service and the Indian Forest Service). It is a general pool from which police officers are drawn and sent out to serve in senior posts all over the country.

## 9. How do I join the IPS?

First you have to sit for the preliminary examination conducted by the Union Public Service Commission (UPSC). Dates and venue are published from time to time in local and national newspapers. If you pass that you can sit for the main written examination.

If you clear the written examination you are interviewed by an interview board. When

you are selected you are asked to indicate which central service you would like to join - the Foreign, Administrative, Police, Forest or Revenue. Since allotments to different civil services are merit-based, you will get your choice of service only if you score very high marks.



## 10. What training will I get as an IPS officer?

In the IPS you go for a foundation training course at the Lal Bahadur Shastri Academy of Administration at Mussorie. This is followed by a basic training course at the National Police Academy at Hyderabad. Later, there is also in-service training given from time to time.

## 11. What kind of training do other ranks get?

They get outdoor physical training, and receive training in the use of weapons, first aid, riot control and unarmed combat. They also get classroom training on criminal laws and procedure, investigative techniques, crowd control and how to deal with the many situations they will come across in the line of duty.

## 12. How many police stations are there in the country?

As of January 2013, there were 14,360 police stations in the country, including 502 women police stations.

## 13. Do we have enough police officers?

No. According to United Nations standards, there should be about 230 police for every 100,000 people. But in India there are only 136 police officers for every 100,000 population. This is one of the lowest police to population ratios in the world. There are many vacancies which are not filled up. Though 22 lacs police personnel is the sanctioned strength there are in fact only 16.6 lacs in service. That means there is a shortage of about 24.8%. But even that doesn't give the whole picture, because there are more police in big cities than in smaller ones. In addition, many police officers are used to guard a very small number of very important people. Moreover, administrative and traffic duties occupy the time of many police personnel. As a result, there are large short falls in the numbers left for crime prevention, detection, and overall maintenance of law and order.

## 14. Are there women in the police force?

Yes, but they constitute only 5% of the total police force. Maharashtra has the highest number of women in the police force among all these States.





### 15. Do women police officers have different duties?

No. So far as rules and laws are concerned police women will do the same duties as police men. But only women are posted at all-women police stations.

### 16. Are there any special reservations or quotas in the police force?

Yes. There are special quotas for recruiting schedule castes (which made up 10.66% of the total police force as on January 2013) scheduled tribes (8.53%), and other backward classes in every state (16.94%). The central and state governments have their own rules about how many people may be recruited from these communities. However, there is no special reservation for minorities or for women. Muslim make up only 4% of all IPS officers and about 6% of constables<sup>1</sup>.



DGP

### 17. Why is it necessary to have dalits, women, Muslims, Christians, tribals and others in the police force?

It is important that a police force has a good mix of men and women and people from every religion, class, caste and tribe. This increases understanding of the behaviour and attitudes of different communities, their culture and helps to remove prejudices.



IGP

### 18. How can I tell if a person is a police officer and not some other official?

Police officers have a distinct khaki or blue uniform with a cap, belt, and shoulder epaulettes that show his rank and which force he belongs to. The police officer should also have a name tag displayed on his chest.



DyIGP

### 19. What are the different ranks in the police?

The constable is at the lowest rung of the ladder. From here the ranks move up to the Head Constable (HC), Assistant Sub-Inspector (ASI), Sub-Inspector (SI), Inspector (IP), Assistant/Deputy Superintendent of Police (ASP/DySP), Additional Superintendent of Police (Addl SP), Superintendent of Police (SP), Senior Superintendent of Police (SSP), Deputy Inspector General of Police (DIG), Inspector General of Police (IGP), Assistant Director General of Police (ADG) and finally the Director General of Police (DGP).



SSP

### 20. What is a beat constable?

No, it is not a constable who beats you! Just so you know, no policeman is allowed to use force with anyone except if

<sup>1</sup>Sachar Committee Report, November 2006

they are resisting arrest or trying to escape. A beat police officer is called that because he has a regular specific area or route which he patrols - sometimes with another police officer - to check if everything is in order and nothing suspicious is going on. On night patrols the police will sometimes call out or bang their lathis to indicate that he is on his rounds.

## 21. Do all police officers do all duties?

No. Specific duties are assigned to every police officer from the level of a constable right up to the level of the DGP. These duties are listed in the police manuals of every state. A junior officer cannot perform those duties assigned to his senior. For example an SI cannot do a duty assigned to an SP. However anything that can be done by a lower ranking officer can be done by a senior ranking officer as well.

## 22. Can a traffic police officer arrest me for offences other than a traffic crime?

Yes. A traffic cop is simply a police officer who has been assigned traffic duties. If he sees you committing any crime he can arrest you just like any other policeman can or like any private citizen can.



### **23. What is the CID?**

CID means the Criminal Investigation Department. This is sometimes called the special branch or the investigative branch. They are the investigative agency of the state police. They are called to investigate serious crimes like fraud, cheating, gang wars and crimes that have interstate implications.

### **24. Is the CID different from the police?**

No. CID personnel are selected from within the police officers themselves.

### **25. Who is in charge of the police force?**

There is one chief of all the police in each state. He is called the Director General of Police or DGP for short. He is the top man. But even the DGP has to report to the government. His boss is the Home Minister in charge of the Home Department in the state or at the Centre.

### **26. Why should the DGP have to report to any minister?**

Every government has a duty to make sure that each one of us feels safe and secure and does not have to worry about his life, the well-being of his family or his property. The government gives this duty to police. So, the police have to report to the government about how they are doing their job. In turn, the government also has a duty to the public to make sure that the police are honest, fair, and efficient and do their work only according to the law and not according to what they feel they want to do.



### **27. Who gives money for policing?**

The police are paid by the taxpayer to provide a service. Salaries come out of the state government budget and the budget of the central government. But in the end it all comes out from the pocket of the tax payer.

### **28. Where do the police get its money from?**

Every state has a budget that is allocated exclusively for providing police services. The police get the money from this budget.

### **29. Who approves the budget and what does most of it get spent on?**

The budget is decided by the state legislature. In the case of union territories the budget is approved by Parliament.



The first draft is prepared by the DG of the Administrative section. This draft is then sent to the DGP for approval. From there it goes to the Home Department. Then the finance ministry approves it and sends it for cabinet approval as part of the state budget and then it goes to the legislature for discussion. After discussion in the legislature the police budget for the year is finally approved. In the state budget the biggest portion of all money given for policing is spent on salaries. Other items of expenditure are on training, investigation, infrastructure, housing etc.

### 30. How do we know that the money the police get is properly spent?

There is an annual audit of accounts and monies spent by the police conducted by the Comptroller and Auditor General (CAG). These accounts are given in the Parliament and state legislatures. Once examined, the reports are sometimes available on the website of the home/police department or in the Parliamentary library. You can also use



the Right to Information Act to ask for annual police spending. Since policing is done using taxpayer's money, which means your money, you should take interest to see that this money is properly spent.

### 31. What laws govern the police?

The Police Act of 1861 governs the police in most states. A few states have their own police act, but all police acts are essentially modelled on the 1861 Act.

Very recently some states have revised their acts and created new police laws. There are also other criminal laws like the Code of Criminal Procedure (CrPC) and the Indian Penal Code (IPC), as well as local laws, which govern the work and functioning of the police.

### 32. What does the Police Act say?

The Police Act talks about what the police can and cannot do; how the police force will be organised; what ranks there will be; who will supervise the force; who will make appointments; what punishment and disciplinary actions the police will face for any wrongdoing. It also lays down some rules for the public to follow.

### 33. Why does the Police Act have offences by the public in it?

These few offences are put in to make sure that everyone keeps roads and public spaces clean, uncluttered, safe, decent and free from disease. For instance, the police can immediately arrest a person for letting animals roam around on the road, slaughtering them, or being cruel to them. People who obstruct the road, or dirty it, put goods out for sale on the road without a licence, are indecent, drunk or riotous, or neglect to make sure that dangerous places like wells were kept safe by fencing etc can also be arrested immediately.

### Upholding the law



### 34. What does 'rule of law' mean?

It means that we - all of us, high or low, rich or poor, man or woman, and even the government and public servants like the police - have to obey the law and must live according to the laws that are laid down in our country under our Constitution. No one is above the law. It also means that every action by the police has to be according to the law and, if not, the police will be accountable before the law. It also means that the laws that are made must be reasonable, just and apply to all of us in a fair way.

### 35. Can a police officer be punished if he has done wrong?

Yes. A police officer, just like anyone else can be punished if he breaks the law. In fact, because he is a person entrusted with upholding the law he should be punished more severely for breaking it. There are many means of punishing a police officer who has done wrong. If he has committed a crime then he can be brought before the courts and tried just like anyone else.





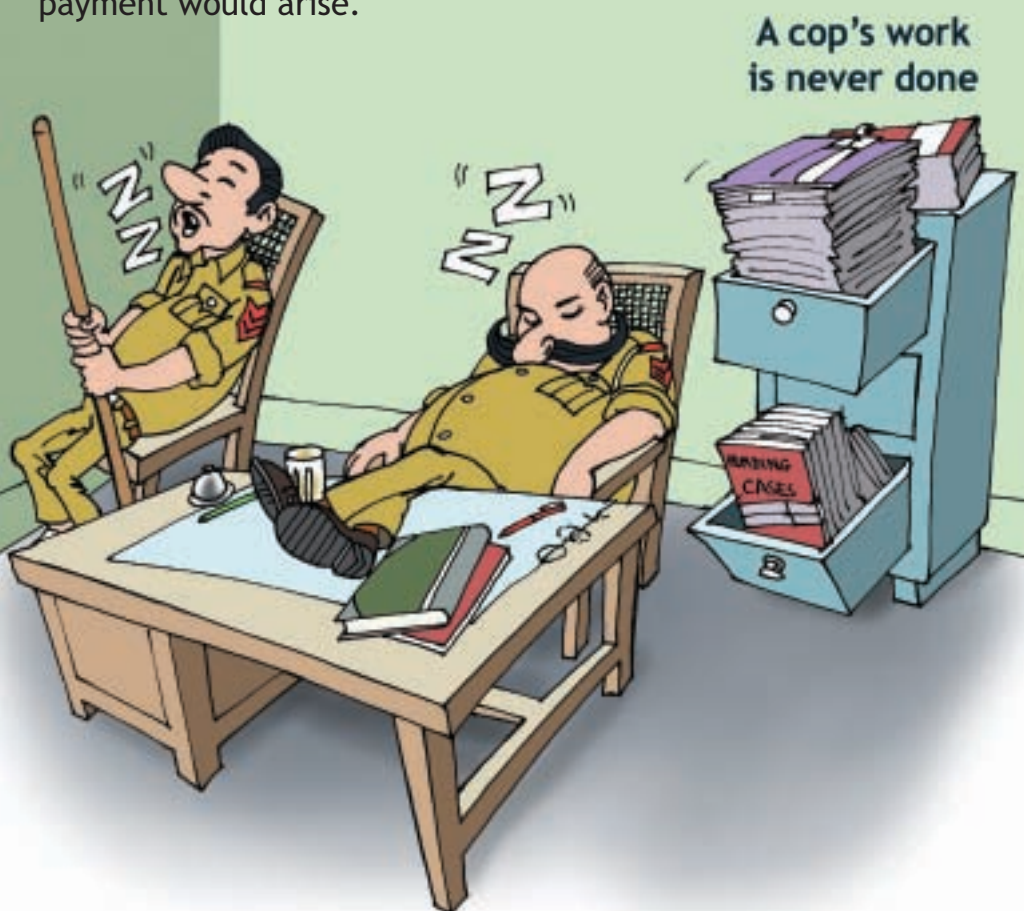
If he has been rude, behaved badly or not done his duty as he should, then his senior officers can punish him by giving him a warning, cutting his pay, reducing his rank, suspending him or transferring him.

### 36. Police officers do dangerous work. Are they insured?

Yes, police officers are insured. All police personnel have to pay towards their group insurance cover. This is taken from their salary. Families of police officers, who die in the line of duty, are also paid an ex-gratia lump sum. Police officers do work in dangerous environments. Many get killed or wounded. In fact, over 800 police officers have been killed in the line of duty this year. Last decade was worse with the average standing at over 1000 per year. Most of those who die on duty are constables.

### 37. Can I hire a police officer for my own security?

Actually, you can if there is a grave threat to you. Sometimes the state will arrange security and at other times the security has to be paid for by you. According to the 1861 Police Act if you need extra police persons deployed to an area, and the authorities agree to it, you can pay for the additional police arrangements for a limited period of time. For example, for a large marriage or private occasion the police may agree to provide a few extra hands in that area at your cost. But if an area is crime prone or there is a public event taking place, it would be the duty of the police to provide extra people and no question of payment would arise.



### 38. Is a police officer always on duty?

Yes. The 1861 Police Act makes it clear that a police officer is "considered to be always on duty". But that does not mean that he is never allowed to rest. It just means that wherever he is, in or out of uniform, he must act to uphold the law. He cannot say "I am not on duty" if he witnesses a crime taking place or hears a call for help.

### 39. Does a police officer have to obey any and all orders given to him by his senior or by any other person who is competent to give that order like a district collector or minister?

No. A police officer must obey orders only when they are lawful. He will be held responsible for any wrong thing he does even if he has been ordered to do it. He can never excuse his behaviour by saying that someone in authority told him to do something which was wrong and unlawful. That will not protect him.

### 40. Are the police automatically allowed to take free rides on public transport or take things from the market people without paying?

In some places police officers are given passes to take rides on public transport when they are on duty.





But otherwise no police officer is allowed to take free rides. Likewise for market places; no police officer is allowed to take goods from a market stall just because he is a police officer. Like all citizens, he too has to pay for his purchases.

#### **41. Do I have to listen to every order of the police officer?**

Yes, if it is a lawful order that is related to his duties. In fact everyone has a duty to assist a police officer in doing his duty, especially if the police officer is trying to stop a fight or prevent a crime or trying to stop someone from escaping his custody. In fact, if you have information about a crime it is your duty to pass that information on to the police. It is also a duty not to shelter or harbour any proclaimed offender. You also have a duty to give evidence in a court of law if you know or have seen something in a case.

#### **42. Do I have to go with a police officer if he asks me to come with him somewhere?**

No. However, if the police officer is asking you to come along to be a witness to something he is doing as part of his duty i.e. arresting a person, seizing property, or examining a crime scene, then you must go along and help.





Traditionally, that is called being a pancha- a person who can tell the court independently what he saw at that moment.

**43. Suppose a police officer asks me to come to the police station, do I have to go?**

No. It is good to cooperate with the police but it is not necessary to go to the station unless the police officer is formally arresting you. Otherwise if he just wants to question you or is making inquiries about a crime he has to summon you in writing. Until that is done you cannot be forced to go to the station. Where any woman is concerned, or a child below 15 is involved, the police can question them only in their homes.

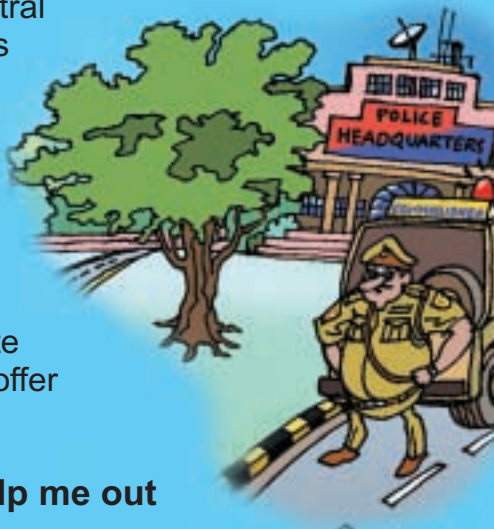
**44. Do I have to answer all the questions the police officer asks?**

Yes. It is always better to answer questions honestly in a straightforward manner and inform the police of any facts you may know. If you do not know something then he cannot force you to make any statement, or put words in your mouth. It is always better to make sure that someone else is there with you when you are being questioned.



#### **45. Does the police officer have a duty to help me when I am in distress?**

Yes. In 1985, guidelines for the code of conduct for the police were issued by the ministry of home affairs and communicated to all chief secretaries of all states/ union territories and heads of central police organizations. This requires the police to give any assistance to all without regard to wealth and social standing. According to the code their general duty to provide security to all without fear or favour includes keeping the welfare of people in mind, being sympathetic and considerate toward them, and being ready to offer individual service and friendship.



#### **46. Can I ask the police to help me out with family problems?**

It depends on the problem. If what is happening is a crime, like violence in the family, badly beating a woman or child abuse, incest, or trespass, of course the police must help you and cannot turn you away and say it is a private affair. But if adult children are disobedient, say they run away to get married, then it is no business of the police to chase after them or force them to return. That is purely a family matter.

#### **47. If a police officer will not help, or there is no police officer around, can the public catch a thief or wrongdoer and punish him there and then?**

Yes and no. You can make what is called a "citizen's arrest" and catch the wrongdoer and take him to the nearest police station. That is all. But you cannot beat up the wrongdoer or join a crowd that is doing that. Members of the public only have a right to protect themselves, which is called the right to private defence or self defence. But that too has to be reasonably used and cannot turn into a one sided beating or horrible humiliation. A police officer who allows such abuse, or joins in such an assault, is likely to face disciplinary or criminal charges.

#### **48. What can I do if the police officer does not help me?**

Wilful breach or neglect of duty by a police officer is punishable with imprisonment. If the police officer is not helpful, and you have been harmed, then you can complain about it to his senior. In such a case he may be found guilty for dereliction of duty.

#### **49. Can the police do anything they want?**

No. They can only do what is lawful. In fact they are very strictly governed by many rules. These include their own regulations, the procedures laid down by the criminal codes, the orders given by the Supreme Court and the guidelines of the human rights commissions.

#### **50. But supposing police officers do not obey them?**

You can complain to his senior or to the magistrate depending on how serious the matter is. It is always better to complain in writing and get a receipt.

#### **51. What can I complain of?**

You can complain of any wrong doing by a police officer because he is a public servant bound to do his duty at all times. He cannot neglect his duty or delay doing it.



#### **52. But suppose the police officer is rude and insulting to me?**

Again, you can complain to his senior if it is a matter of breach of duty or discipline. But if it is anything more serious than that, or amounts to a crime, then you can file a complaint against him at a police station or go straight to the local judicial magistrate and file a complaint.

#### **53. But if I file a complaint with the local police station they may refuse to take it against their own officer?**

Yes, that does happen too often. But it need not be the end of the matter. You can take a complaint about rude/discourteous behaviour, neglect of duty or abuse of police power to the chief of police. If it amounts to a crime you can take it to the nearest magistrate.

#### **54. But it is so difficult to take matters to court and it also takes very long!**

To make it easier to bring complaints against the police some states have set up a police complaints authority. These are special bodies that only look at complaints about police from the public. In addition, anyone who has a complaint against the police can take it to the many other commissions that have been set up at the national level and in the states.



These include: the National Human Rights Commission and State Human Rights Commissions; the Scheduled Tribes and Schedule Castes Commissions, the National Commission for Women and similar state commissions, and the Commission for Children. For issues related to corruption there is the Central Bureau of Investigation, the Central Vigilance Commission, LokAyuktas and the State Vigilance Departments. These commissions will look into your complaint, make inquiries and according to their powers can direct an FIR to be registered against the policeman or order compensation to be given to the victim.

### **55. Suppose I want to tell the police about a crime, what do I do?**

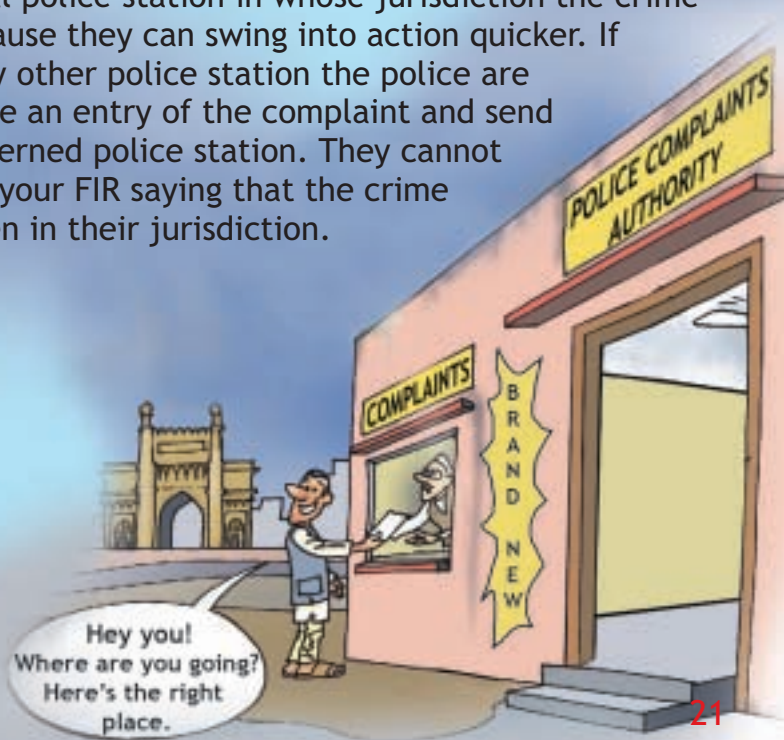
If it is a serious crime like theft, housebreaking, eve-teasing, assault, molesting a child, rape, kidnapping, trafficking, and rioting, you can immediately file an FIR directly with the head of the local police station and they are bound to take it down in writing and give you a copy. You can even go to the magistrate with your complaint and he will register it.

### **56. What is an FIR?**

That is just short form for First Information Report. A victim, witness or any other person knowing about a 'cognisable' offence can file an FIR. What you say in the FIR will start the process whereby the police make inquiries about the matter and gather facts to see if there is a case that can be made out.

### **57. Do I have to go only to the local police station or can I file my FIR with any police station?**

You can file an FIR in any police station. But it is better to go to the local police station in whose jurisdiction the crime occurred because they can swing into action quicker. If you file in any other police station the police are bound to make an entry of the complaint and send it to the concerned police station. They cannot refuse to file your FIR saying that the crime did not happen in their jurisdiction.





### **58. Can the police refuse to file my complaint?**

Yes and no. Crimes in India are divided into those that are 'cognisable' and 'non cognisable'. Examples of a 'cognisable' crime include murder, rape, rioting, and dacoity. These are offences where the police can take notice of them directly, register an FIR and begin to make inquiries. Examples of a 'non cognisable' crime include cheating,

fraud, forgery, bigamy, and creating a public nuisance. These are offences where the investigation will start only when a magistrate has taken the complaint on record and directs the police to investigate. The way of understanding this rough division is that crimes that need a more urgent response can be complained of directly to the police and others go to the magistrate. So, even if the police cannot take your complaint on board they should at the very least listen to you, enter your matter in the daily diary, give you a signed copy of the entry free of cost and direct you to take it to the magistrate.

### **59. Suppose my complaint is about a 'cognisable' offence but the station house officer refuses to register it. What can I do?**

You can still get it registered by taking the complaint to a senior officer/head of district police or to the nearest judicial magistrate and they will order it to be registered. To make sure that your complaint is on record and will be followed up, hand deliver the complaint or if you send it by post, register AD it. In any case, always get a receipt that proves that it has been received and keep that safely. That will show that the complaint has been actually received by the concerned officer. That takes care of your complaint but you should also complain about the difficulty you have had in registering your matter in the first place. That way the officer is less likely to do it again.

### **60. What all must be put down in an FIR?**

The FIR is your version of the facts as you know them or they have been told to you. It is always better if you know the facts first hand but it is not necessary that you yourself have seen the offence. Whichever it is, you must only give correct information. Never exaggerate the facts or make assumptions or implications.

Give the place, date and time of the occurrence. Carefully, describe the role of every person involved: where they were, what they were doing, the sequence of what was done by each person, any kind of injury or damage to property that has been done. Do not forget to mention the kinds of weapons involved. It is best to get all these facts and circumstances recorded as soon as possible. If there is some delay in recording a complaint, make sure the reason for delay is also written down.

### **61. How can I be sure that the police have correctly written what I told them?**

Remember the FIR is your version of what you know. It is not the police's version of anything. The police are just there to take it down accurately without adding anything or taking out anything. To make sure of this, the law actually requires the police officer to read the FIR out to you and it is only once you agree with what is written that you need to sign it. The police must also give you a true copy of it free of cost. The FIR is recorded in the FIR register and a copy goes to a senior and to the magistrate.

### **62. Are there special procedures for recording FIRs of women?**

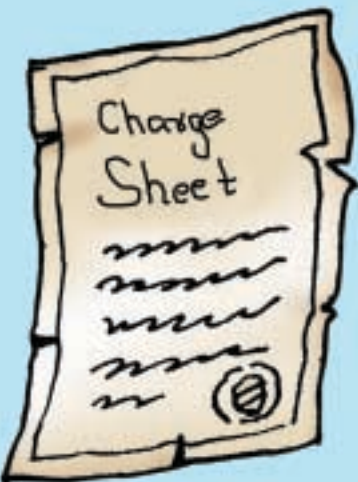
Yes, in cases of specific crimes against women. Recognising that it is not easy for a woman to go to a police station and register an FIR, the law now requires that when a woman complains about rape, gang rape, stalking, voyeurism, sexual harassment, intent to outrage modesty and/or acid attack, her FIR will be registered only by a woman police officer or any other woman officer. If the woman victim is mentally or physically disabled, she does not even have to go to the police station to record her complaint. The police instead will have to visit her at her home or any place of her choice to record the complaint. The police must also arrange for a special educator or counsellor as per the woman's needs. The statement of such a woman must also be videographed.

### **63. What will happen if the police officer refuses to register such an FIR?**

The police officer who does not register an FIR of a woman complaining of any sexual offence will now, if found guilty, be punished with imprisonment of six months to two years and will also have to pay a fine.







#### **64. What about children who are victims of sexual abuse? Are there special procedures for the police to follow in these cases?**

Yes, absolutely. The Protection of Children from Sexual Offences Act, 2012 (POCSO) includes all those child friendly procedures for reporting, recording of evidence, investigation and trial of offences against children. As soon as a complaint is made, the juvenile police unit

or the local police must record the statement of the child at his or her home or at a place of choice. The complaint must be recorded, preferably by a woman police officer not below the rank of sub-inspector. The police officer must not be in uniform while recording the statement of the child. The child can under no circumstances be detained in the police station in the night for any reason. The statement of the child must be recorded in a language that is understood by the child. If required the police must seek the assistance of an interpreter or translator or an expert as per the needs of the child.

If the juvenile police unit or the local police feel that the child is in need of care or protection they must immediately arrange to send the child to a shelter home or a hospital. Before doing so the police must record reasons in writing.

If taken to a hospital the medical examination of the child must be conducted in the presence of the child's parent or any other person who the child has trust or confidence in. If the victim is a girl child, the medical examination must be conducted by a woman doctor.

#### **65. What happens once my FIR is filed?**

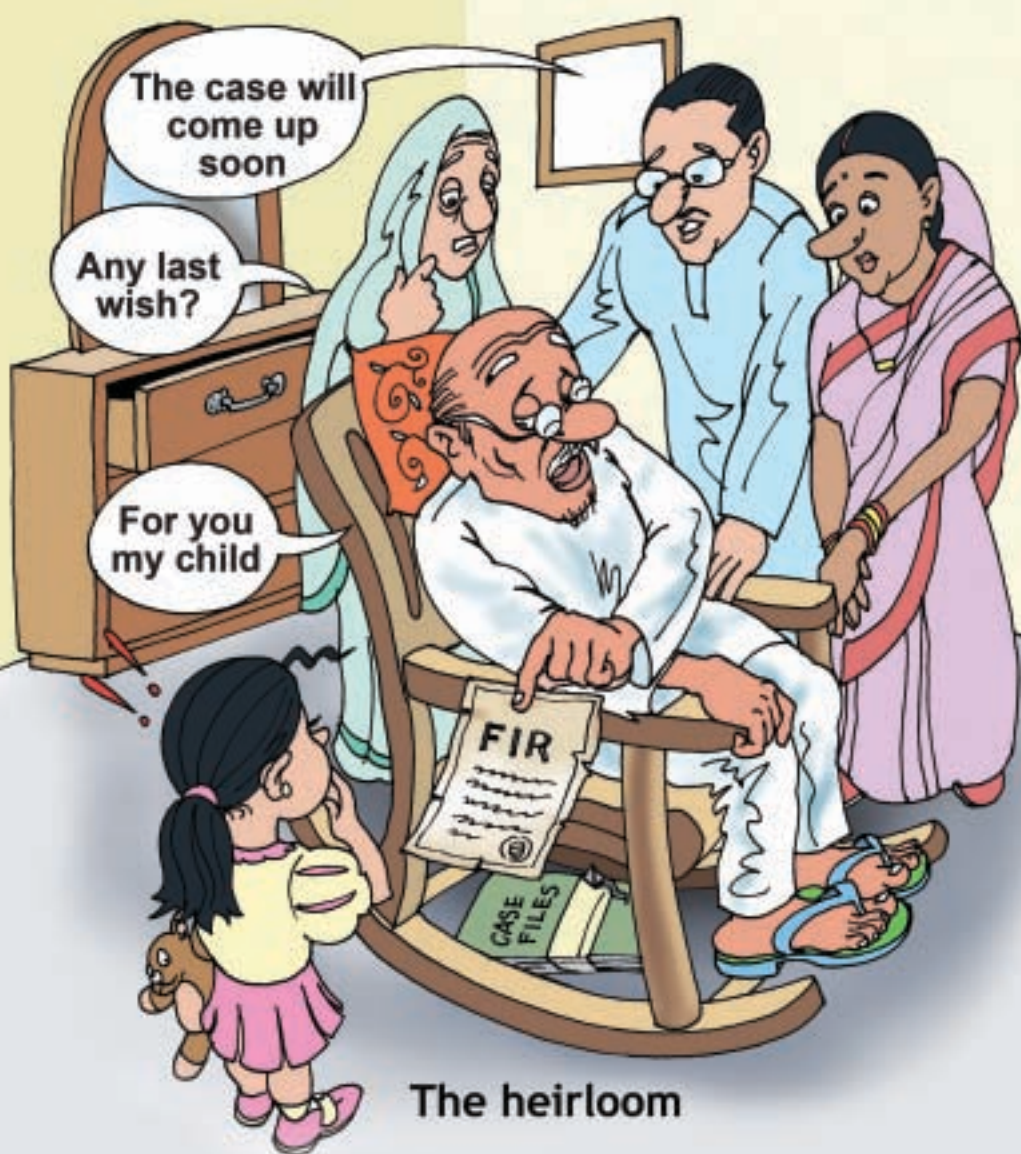
The FIR sets the police investigation in motion. As part of that the police may speak to victims and witnesses, record statements including dying declarations, check out the crime scene, send articles for forensic examination, send bodies for post-mortem, question several people and with each lead make further investigations. Once investigations are complete the officer in charge must make a full record of it. This is called a challan or chargesheet.

#### **66. What is a challan or chargesheet?**

After all his investigations are completed the officer in charge will look at all the facts and decide whether there is enough evidence to show that a crime has been committed and put that down in the charge sheet for the prosecution and the court. If all the elements of a crime have not been made out it will be a waste of time to bring the accused to court. Once the charge sheet goes to the prosecution and court they should examine it independently to see if the facts and circumstances mentioned really make out a possible crime.

### 67. Can the police close my complaint and not take further action?

Yes. If after making their own inquiries the police decide that there are no facts that support the idea that a crime was committed or there is not enough evidence to support allegations, or acknowledge that a crime has been committed but the people who did it are not known - then they can close the case. But they must inform you of their decision. At that point you have a chance of opposing the closure before the court.



### 68. Will I be kept informed of the progress of my case?

There is nothing specific in the law which requires the police officer to keep you informed about the progress of a case. But it is good practice to tell a complainant how the case is going, provided it does not compromise the investigation.



**69. What can I do if the police are not investigating the matter or are doing so very slowly or are refusing to examine the most obvious lines of inquiry?**

There is an important principle in law that no one can interfere with a police investigation. That said, if the police refuse to move forward or do it excessively slowly or wilfully disregard obvious lines of inquiry, you can certainly complain to senior officers or to the nearest magistrate who can order the police officer to investigate and he can as well call for the record of investigation. Again, it is important for you to ensure that everything is done in writing and a record of receipt kept with you.

**70. Can I call a police officer whenever I want?**

Yes and no. The police are overworked and their numbers are few so the public cannot constantly call them up with frivolous complaints and unsubstantiated information. However, of course you can call the police if you are in trouble, if a crime has occurred or is occurring, if there is likelihood of some riot, if some people are fighting and there is likelihood of disorder, or if you have serious information to give them. But you cannot call the police for things that are not connected to their job.





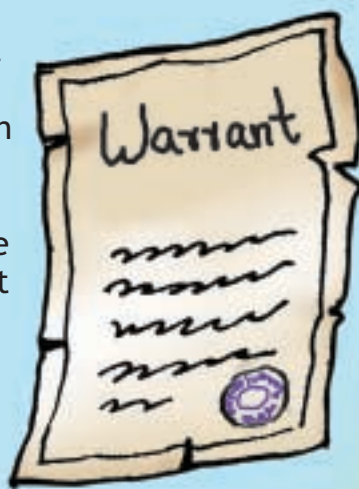
Sometimes people play mischief and call the police even if nothing has happened. You can be punished for such pranks.

**71. Can a police officer come into my home, unasked, and search my home and take things away?**

Only in certain very limited circumstances. If the police come to your house for questioning they may enter only at your invitation. However, even if the police have reasonable grounds for believing that you are hiding a suspect or criminal, or you have stolen property or possess an illegal weapon in your home, they can only enter your house with a search warrant from a magistrate. But if the suspect, criminal or object needs to be obtained without any delay and there is fear it will be lost without seizure then they can enter your house without a warrant.

**72. You mean the police can just enter my house and take away anything?**

No. It is only when there is real urgency - for example there is a real possibility that a suspect will run away or if evidence is likely to be destroyed - that the police can enter your house without a warrant.



With or without a warrant there is a whole procedure to be followed. The police must have at least two independent local witnesses with them. The search must be made in the presence of the owner. The owner cannot be told to leave. The police must list what they are taking.

The witnesses, police and owner must sign that they verify what is being taken. A copy must be left with the owner. If there are purdah women in the house, a woman officer must be part of the search party and they must conduct the search with strict regard to decency.

**73. What is a search warrant?**

People's homes and offices are private places and cannot be open to searches and entry from any authority without some really good reason. So the law requires anyone wanting to enter to explain why they find it necessary to disturb that right. The police therefore have to go before a magistrate and explain the reasons for their thinking belief that there are goods, papers or people that are hidden in the premises which will help them solve a crime. If the magistrate is convinced that the police officer is not on a 'fishing inquiry' he will give the authority. The authority is very limited and gives the name and rank of the particular officer allowed to enter that particular place and is issued under the sign and seal of the court.

**74. If I am walking down the street, can a police officer stop me and ask me anything he likes?**

No. In general the police are not supposed to interfere with people going about their lawful business. But if they think that someone is loitering in a place, especially after dark, he is entitled to stop and ask your name and what you are doing. If there is something suspicious or fishy about the whole thing then you can be arrested. Police use this power often as a means of rounding up suspected persons and habitual offenders. The abuse of this power has often been discussed by reform committees and condemned.

**75. Can the police stop me from being part of a procession or street meeting?**

No one can stop you from taking part in a peaceful procession. But ideally a procession must have prior permission from the local police. If they feel that a procession is likely to become disorderly or violent then they can refuse permission to hold it in the first place. If the procession later becomes disorderly then the police can stop it, ask the people to leave and take action if they do not disperse.





On the one hand the police have a duty to make sure that things remain peaceful. On the other hand they have a duty to facilitate citizens in exercising their fundamental right to hold peaceful public meetings.

### **76. Can the police use force in breaking up a street meeting or procession?**

Yes. However whatever the police do has to be reasonable. They are not there to punish people. They are there to ensure public safety and that law and order are not breached. So the rule is that the police must only use force as a last resort in controlling a crowd. If it must be used at all, it must be minimal, proportionate to the situation and discontinued at the earliest possible moment. In fact, only an executive magistrate, or an officer in charge of a police station, or in the absence of the officer in charge, a police officer not below the rank of Sub-Inspector, can give the order to use force in these circumstances.

### **77. Can the police fire at will?**

No. Deadly force is meant to be used in only the very rarest of instances when all other means of control have been tried and exhausted. Again, only a magistrate or officer in charge can approve such action.





## **78. So what can the police do if the crowd is unruly and throwing stones or damaging property?**

The police have a duty to protect life and property but there is a sequence to how they must go about their actions. First, plenty of warnings to the crowd to disperse must be given with time for the crowd to obey. Then teargas may be used, or a lathi charge resorted to, after another warning. Lathis cannot rain down blows on head and shoulders but must be aimed below the waist. If the police are going to have to resort to firing there has to be clear and distinct warning that firing will be effective. Here too the rule is to use minimal force. So firing must aim low and at the most threatening part of the crowd with a view not to cause fatalities but merely to disperse the crowd. As soon as the crowd show signs of breaking up the firing must stop. The injured must be assisted to the hospital immediately. Of course every individual officer has to, for the record, make a report of his role in the incident.

## **79. Can the police hold me in a secret place or not tell anyone that they have got me?**

No. The police is known to do this often but it is against the law. As soon as the police take you into their custody your physical well-being and the protection of your rights becomes their responsibility. If you come to any harm, or your rights are not respected in any way, the police are responsible. This is an important legal point to keep in mind.

Next, the fact that the police are duty bound to make a record of all those who come to the station in their station's general diary will indicate what time you were brought in for questioning and when the arrest was made. This will also be in the case diary of the investigating officer. The police control room must also display an updated list of all those arrested in the last 12 hours.

Finally, the fact that you are entitled to a lawyer during your interrogation means, at a minimum, that the place of custody must be known and accessible to friends or relatives.

## **80. Can the police officer hold me at the police station or can I leave when I want to?**

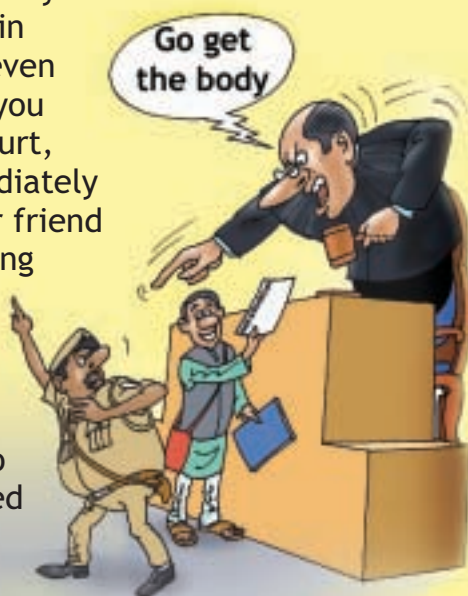
Unless you have been formally arrested, you cannot be held in custody against your will. If the



police have summoned you for questioning you have a duty to cooperate with them and help them with their inquiries. But the questioning has to be prompt and efficient and cannot go on and on. The police cannot make you wait endlessly at the police station. In such circumstances you can leave when you want.

### **81. Suppose the police officer does not let me go, what can I do?**

If you are not under formal arrest, keeping you in custody against your will even for a moment is a serious offence. It is called illegal detention and either you or your family/friends can complain about the officer to his senior or even the magistrate. Most importantly you can immediately go to the high court, or even the Supreme Court, immediately and through your lawyer, family or friend file a habeas corpus petition seeking your immediate release.



### **82. What does habeas corpus mean?**

This is a very old remedy meant to protect people against being picked up by agents of powerful rulers. It literally means 'produce the body.' It is a most practical remedy against wrongful detention. The courts - either the High Court or the Supreme Court deal with it on an urgent basis. Once the court gets an application indicating a disappearance that shows that the victim was last seen in the custody of the police, the court will ask the police to produce the person before it immediately and release him if the detention cannot be justified. If the detention has been illegal then the court can even grant compensation to the victim.

### **83. Is there any other way of finding out about a person who has been arrested illegally and I don't know where he is kept?**

Yes. You can file an RTI application at the police station asking for the whereabouts of the person. Since the information is relating to the life and liberty of a person the police are bound to give you the information within 48 hours.

### **84. Can a police officer arrest me without proper reasons?**

No. Police can make arrests only if there are good grounds for the arrest. Say if a person is caught red handed in the middle of some wrong doing. There has to be a "good reason" for making an arrest. Just because someone has

named someone else in an FIR, that cannot be a reason for arrest. There has to be something more in the form of evidence in order for you to be arrested.

Secondly, if a person is suspected to have committed a crime which carries a punishment of up to seven years then the police officer cannot make an arrest unless he is satisfied that the person needs to be arrested to prevent him from committing further crimes or to prevent him from tampering with the evidence. Whether the officer decides to arrest or not to arrest the person he has to give reasons in writing for doing so.

### **85. If the police suspect me of committing a crime, can they also arrest my family members?**

No. There is no guilt by association. Each person's guilt or innocence has to be judged by their own individual actions and not because they are close to or related to someone else who is a suspect. No one's freedom can be taken away except for a specific lawful reason.

The police cannot threaten family members or friends or take them into custody as bargaining tools. This kind of hostage taking would amount to the serious crimes of illegal detention or kidnapping at a minimum.

No matter how difficult the case is that the police are trying to solve, they cannot resort to illegal practices in order to put pressure on the suspect to give

himself up or make a confession. The only people who can be arrested are those against whom there is a reasonable ground for thinking they have committed a crime.



### **86. Are there special rules for arrest and treatment of women in custody?**

Absolutely yes! No woman can be arrested between sunset and sunrise unless there are very special reasons for doing so. Even then, special permission must be got in writing from a magistrate after the magistrate is satisfied there are reasons for allowing this. A woman police officer has to be present when the arrest is made. The woman has to be kept in a separate lock up in the police station and any examination or body search has to be done by a woman officer or doctor. It is in the best interests of the police officers themselves

to make sure that all procedures relating to women are carefully followed and records are meticulously kept. For instance, the law says that if a woman in custody complains of rape it will be accepted unless the police officer can show that it did not happen.



### **87. What about children? Are there some special procedures for them?**

Under the general law, children under the age of 7 years cannot be accused of a crime. Thus, they cannot be taken into police custody. However, the procedure for questioning, apprehension, custody, release and bail of children up to the age of 18 is all governed by the Juvenile Justice (Care and Protection of Children) Act, 2002.

Each police station must have a juvenile police unit with specially trained officers. They are responsible for the care and well-being of the child who must not be kept in the lockup at all. Instead, the child must immediately be handed back to the parents on bail and their assurances. If the parents are not available, or it is felt that the child is at risk of falling into bad company then the child must be sent to the local observation home till he is brought before the juvenile court. The main principle that governs the treatment of a child in conflict with the law is that all processes must have a child friendly approach "in the best interest of the child for their ultimate rehabilitation."



### **88. If the police arrest me, can they keep me for as long as they like?**

Absolutely not. The longest time anyone can be kept in custody in a police station is for 24 hours. That is the maximum. The police must produce anyone in their custody before the magistrate with all the necessary papers that justify the arrest before the 24 hours is up and not later than that.

### **89. How then, are people arrested on Friday evening and kept in custody until the following Monday?**

The excuse for continuing with this illegal practice is for the police to say that there is no magistrate available over the weekend. But in reality there is always a magistrate on duty who is available every day and at all times. A person in custody whose 24 hour time limit is ending after regular court hours, can always be produced before the magistrate at his home. The magistrate cannot refuse to see the suspect.

### **90. How will anyone know where I am?**

The law has lots of safeguards against you getting lost in the system. As soon as the police have arrested you they have to do several things. They must prepare what is called a 'memo of arrest' and send that to the local magistrate. They must make sure you know you can immediately get a lawyer - your own or from the legal aid system.



They must inform a family member or friend of your choosing about where you are. All these things have been fixed by law to reduce the chances of abuse of power by the police. If the police don't follow these rules they will have to answer to the courts.

Additionally the police also have to display on a notice board outside the district police control room the names and addresses of all arrested persons and the name and designation of the arresting officers. The control room of Police Headquarters in every state have to keep a database of arrested persons and the offences they are charged with, for the general public.

### **91. What use is a 'memo of arrest' to me?**

It is a safeguard against illegal detention. The memo of arrest must have your name, time, date and place of arrest, along with reasons for the arrest and what the suspected offence is. It has to be signed by the police, two witnesses and you in order to ensure that the record gives a truthful account of the facts. It is given to the magistrate and when the magistrate meets you for the first time he will double check if what has been said is correct. The police also have to make up an 'inspection memo'.

### **92. What is an inspection memo?**

It is a short description of your physical condition when you were taken into custody. It is expected to record your general physical condition and note major and minor injuries. Again, it has to be signed by you and the arresting officer and a copy is given to you. But the difference between this memo and the memo of arrest is that you have to request it. If you do not request it, then it need not be done. This procedure is meant to ensure that there is no beating or torture in custody.

But it is not clear who has to examine you. If the arresting officer himself is examining you there is little protection that a piece of paper can give. However, since an approved doctor's certificate also has to be given to the magistrate with all the other papers at the first appearance, a doctor must examine you and make a statement about your physical condition before you are first produced before a magistrate.

### **93. How am I supposed to know all this?**

By law, at the time of arrest the police are supposed to inform you of all your rights. In addition, the guidelines

mentioned above, which are sometimes called the D K Basu guidelines after the Supreme Court case that shaped them, have to be displayed on boards in all police stations, chowkis and thanas.

#### **94. Can the police officer beat me in custody?**

No. He cannot beat you, slap you, threaten or intimidate you in custody. It is against the law and the police officer can be punished for it.

#### **95. Can the police officer force me to make a confession?**

No. The police officer has a right to question you but he cannot force you to say anything you have no information about or to confess to some crime that you have not committed. In any case, a confession made to a police officer will not be admissible in court.



#### **96. Can the police do their jobs of arresting the guilty with so many restrictions?**

First of all, it is not the job of the police to decide who is guilty or who is not. The police are only to apprehend suspects and accused people. But they cannot behave as if the person is already guilty and they have the right to punish them. That is a job for the courts. Meanwhile, people in custody must be given every protection from false accusations and mistreatment. That is why the 'restrictions' are there. Actually they are not restrictions at all but proper and just procedures designed to make sure that everyone has a fair chance before the courts.

#### **97. But aren't there too many rights for the accused person? What about the victims?**

A lot of people think that no one is looking after the victim. But actually the whole might of the state is behind the victim. It is on behalf of victims that the state goes about looking for the criminal. It is on behalf of the victims that the state appoints a prosecutor to argue before the court. It is on behalf of the victim that the state punishes the guilty. But the accused stands alone. He may not be guilty at all. So to balance out the power of the state against one individual who has to defend himself the law has created safeguards and given facilities like free legal aid to those who cannot afford it.



**98. Can I get bail from the police?**

It depends. If you have been arrested for a bailable offence then you can get bail from the police. If you are arrested for a non-bailable offence, there are only some offences for which an officer in charge of a police station can release you on bail.

**99. Is it important to know what a 'bailable' offence is and what a 'non-bailable' offence is?**

Yes. Bailable offences are less serious offences in which bail is a right. In such cases you must get bail immediately from the police. Non-bailable offences are serious offences where bail is a privilege. For most of these offences, only the courts can grant bail save a few exceptions where even the police can grant bail.

**100. Is it impossible to get bail if I am accused of a non-bailable offence?**

No, not necessarily. You can get bail even for non-bailable offences. You have to make an application for bail before the court. The court will look at the seriousness of the offence, whether you will run away if released on bail or whether you will threaten witnesses or tamper with the evidence. If the court feels that you will not do any of the above then it will grant you bail.

**101. Does that mean I am now free?**

No. You will still have to face a trial, during which time the court will decide whether you are guilty or innocent.



# Police Ensignia



**Director  
General of  
Police (DGP)**



**Inspector  
General of  
Police (IGP)**



**Deputy  
Inspector  
General of  
Police (DIG)**



**Senior  
Superintendent  
of Police (SSP)**



**Superintendent  
of Police (SP)**



**Additional  
Superintendent of  
Police (Addl. SP)**

# Police Ensignia



Assistant/  
Deputy  
Superintendent  
of Police (ASP/  
DySP)



Inspector (IP)



Sub-Inspector  
(SI)



Assistant  
Sub-Inspector  
(ASI)



Head  
Constable  
(HC)



# CHRI Programmes

CHRI's work is based on the belief that for human rights, genuine democracy and development to become a reality in people's lives, there must be high standards and functional mechanisms for accountability and participation within the Commonwealth and its member countries. Accordingly, in addition to a broad human rights advocacy programme, CHRI advocates access to information and access to justice. It does this through research, publications, workshops, information dissemination and advocacy.

## Human Rights Advocacy:

CHRI makes regular submissions to official Commonwealth bodies and member governments. From time to time CHRI conducts fact-finding missions and since 1995, has sent missions to Nigeria, Zambia, Fiji Islands and Sierra Leone. CHRI also coordinates the Commonwealth Human Rights Network, which brings together diverse groups to build their collective power to advocate for human rights. CHRI's Media Unit also ensures that human rights issues are in the public consciousness.

## Access to Information:

CHRI catalyses civil society and governments to take action, acts as a hub of technical expertise in support of strong legislation, and assists partners with implementation of good practice. CHRI works collaboratively with local groups and officials, building government and civil society capacity as well as advocating with policy-makers. CHRI is active in South Asia, most recently supporting the successful campaign for a national law in India; provides legal drafting support and inputs in Africa; and in the Pacific, works with regional and national organisations to catalyse interest in access legislation.

## Access to Justice:

**Police Reforms:** In too many countries the police are seen as oppressive instruments of state rather than as protectors of citizens' rights, leading to widespread rights violations and denial of justice. CHRI promotes systemic reform so that police act as upholders of the rule of law rather than as instruments of the current regime. In India, CHRI's programme aims at mobilising public support for police reform. In East Africa and Ghana, CHRI is examining police accountability issues and political interference.

**Prison Reforms:** CHRI's work is focused on increasing transparency of a traditionally closed system and exposing malpractice. A major area is focused on highlighting failures of the legal system that result in terrible overcrowding and unconscionably long pre-trial detention and prison overstay, and engaging in interventions to ease this. Another area of concentration is aimed at reviving the prison oversight systems that have completely failed. We believe that attention to these areas will bring improvements to the administration of prisons as well as have a knock-on effect on the administration of justice overall.

# A children's book for adults to learn from

Friedrich Naumann  
STIFTUNG

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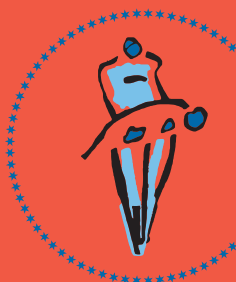
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*The contents of this report are the sole responsibility of CHRI and can under no circumstances be regarded as reflecting the position of the European Union.*



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