

POLICE & YOU: KNOW YOUR RIGHTS

First Information Report [F.I.R]



**Police reforms too important to neglect,
too urgent to delay...**

This booklet has been developed by the **Commonwealth Human Rights Initiative (CHRI)** for the **Ministry of Home Affairs** as a part of a series called Police & You: Know Your Rights.

CHRI is an international, independent, non-profit, non-governmental organization headquartered in New Delhi. Its objectives are to promote the practical realization of human rights in the countries of the Commonwealth. CHRI educates on human rights issues and advocates for greater adherence to human rights standards. For more details please visit <http://www.humanrightsinitiative.org>.

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Mary was walking to Neeta's house in Kamla Nagar one day, when suddenly a man stopped her and demanded her wallet. Mary refused and the man pulled out a knife. He threatened to kill her if she didn't give him her money. Fearing for her life, Mary handed her wallet over to the man, who took it and ran away.



A COGNIZABLE OFFENCE

When Mary reached Neeta's house, she told her what happened. After listening to her friend, Neeta said, "we should go to the police station at once, and file an FIR. Come on!" "Wait", said Mary, "I don't understand...**what is an FIR?**"

"FIR stands for First Information Report", explained Neeta, **"It is the document that the police write out and file, when they receive a complaint that a cognizable offence has been committed."**

"Cognizable offence? What does that mean?", interrupted Mary.

"See, we classify people in different ways, don't we? For example, if we look at people's height, we can say that there are tall people and short people. If we look at people's occupation, we can say that there are doctors and journalists and soldiers and so on. In the same way, there are different ways of classifying offences." Neeta continued, "one such classification distinguishes between cognizable and non-cognizable offences. **Serious crimes like murder, rape, theft, are cognizable offences where the police can arrest a person without a warrant i.e., an order from the court**", explained Neeta.

"So then what are non-cognizable offences?" asked Mary.

"Non-cognizable offences are offences where the police can't make arrests without warrants. They can't start investigating such cases on their own - they have to wait for the court's permission to do so. These offences are less serious like public nuisance, simple hurt, mischief etc. So, have you understood the difference between a cognizable and non-cognizable offence?" asked Neeta.

"Yes, I have. Thank you for explaining it to me", replied Mary. "That's alright. I'm glad you know the difference now - **remember, you can only file an FIR if a cognizable offence has been committed**", said Neeta.

"Is there anything else I should know about FIRs?" asked Mary. "I'll explain as we go along. Now lets go!" answered Neeta.

As the girls walked to the police station, Mary said, "Neeta, I was wondering...**who can file an FIR? Because my purse is stolen, so that is the reason why only I can file an FIR? Or can someone do this for me?**"

Neeta explained that "an FIR doesn't have to be filed by the victim. Anyone who knows of the offence can. An FIR may even be filed by a police officer who comes to know of a cognizable offence. So basically, **a person can file an FIR if:**

1. She is the person against whom the offence has been committed - that's you, because your wallet was taken - or
2. **She knows about an offence that has been committed -** that's me or anyone that you told about the offence, because I know that your wallet was taken - or

3. **She has seen the offence being committed** - that's anyone who might have seen your wallet stolen."

"Okay, I understand that Neeta, but I have another question. See, my neighbours Mr. Sharma and Mr. Khanna once had a big fight over who got to park their car in front of the house." Mary went on, "Mr. Khanna complained to the police, but they refused to conduct an investigation. So I wanted to know whether the police investigate each and every complaint that people make to them or do they only look into the very serious ones?" Neeta said, "Mary why don't we go to Dadaji before we go to the police station to understand the full details of the FIR and its use. He will explain it all so clearly that when we go to the police station we will know the full law regarding this.



A NON-COGNIZABLE OFFENCE

Saying this the two girls moved quickly to Dadaji's house where Dadaji was reading the newspaper. Neeta said, "Dadaji, Dadaji, please tell us something about how the police decides which cases they should investigate? Do they investigate all cases?"

Dadaji, folded his newspaper and said, "Beta, the answer to this would be no - **the police do not investigate all complaints that people put before them.** Think about it, the other day Vineet, the PCO booth

operator and Ramu Kaka were quarreling over the water tap near their shop. Now,

do you think we can really compare the petty squabble between them with a case of murder or demand for dowry or your wallet being taken from you? Murder, rape, theft are all very serious and in these cases there must be investigation. **The police don't have to investigate a complaint, even if an FIR is**



filed, if:

1. **The case is not serious in nature** - like the fight between Mr. Sharma and Mr. Khanna - or Vineet or Ramu kaka
2. **They feel that there isn't enough ground to investigate** - like if there just isn't enough evidence like a knife or bloody clothes that a person has been engaged in some illegal activity like a murder.

But in both cases, the **police must record the reasons why they are not beginning an investigation. And if there isn't enough ground to investigate, then they must inform you.**" explained Dadaji.

"You used the word 'must'. Does that mean there is something that tells the police what they are supposed to do and not do?" said Neeta. **"Of course there is, Neeta. There is a document called the Criminal Procedure Code, 1973 or in short, the CrPC. The CrPC's different sections list out the duties of the police and the steps that have to be taken when a crime occurs and a complaint is made. And, the CrPC is the law, so it must be obeyed"**, answered Dadaji.

"Alright, I understand - the CrPC protects our rights as citizens, in case we are involved in a crime, whether as the victim or the suspect. Ok, Dadaji, should we go to the police

station to file Mary's case?" said Mary.

Dadaji, said, "ok Beta, first remember to go to the officer at the front desk and ask him for an FIR form and the process starts from there. Once you have completed the formality, do come back and let me know."

The girls walked to the police station and went up to a desk that stood in the front of the room, behind which Inspector Khan was sitting, bent over some files. "Good afternoon, Sir. My wallet was stolen from me earlier this afternoon. I wanted to file an FIR", began Mary.

Inspector Khan looked up and said, "Good afternoon. Do you want to file the FIR orally or in writing?" "In writing Sir", replied Mary.

Inspector Khan opened a desk drawer and pulled out a sheet of paper. "You can sit on those chairs there and fill out the details of the incident", he said, indicating towards some chairs in the corner of the room. The girls went over to the chairs, sat down and Mary began to write. After a few minutes she said, "Neeta, I've never done this type of thing before...I don't want to make a mistake. Will you tell me **what are the important things to mention in a written FIR?**"

Neeta said "Dadaji says that there are six things that you must mention in a written FIR, and these are:

1. **Your name and address.**
2. **What happened - in other words the facts of the incident.**
3. **When did it happen - the date and time of the incident.**
4. **Where did it happen - the location of the incident.**
5. **Who did it - the description of the person who committed the offence and his name if you know it.**
6. **Witnesses - the description of any person who saw what took place and their names if you know them."**

"Neeta, I have one more problem. I told you that the thief just threatened me with the knife. In the FIR, could I write that he also slapped me and twisted my arm? He didn't actually do that, but maybe if I write this, I'll have a stronger case against him...I really want him caught." said Mary.

"No, you can't do that Mary!" exclaimed Neeta. "**You must never file a false complaint or give wrong information to the police. Doing that is also a crime.** I know you want the offender to be brought to justice, but **misleading the police with blown up facts or wrong information is also a criminal offence and you could be prosecuted under law for doing that.**"

"I never knew that. I didn't think it would be wrong to make the incident look more serious than it is! Don't worry Neeta, I won't put in anything extra", said Mary, beginning to fill up the sheet of paper. "That's good. Now, if you have completed the FIR and signed it, let's hand it over to Inspector Khan", replied Neeta. "I've finished, let's go." said Mary.

"Remember to ask for a copy of the FIR, when you submit it", said Neeta. **"It's your right to get it, free of cost."** She added as they made their way back to Inspector Khan's desk. As Mary handed him the FIR, he said, "I'm busy right now with these case files. I'll speak to you and finish up the formalities in about 10 minutes, okay?" Mary and Neeta nodded and went back to the chairs in the corner of the room.

Havildar Bhan who was off duty was resting on a bench. He recognized Neeta and said, "Neeta didi, what are you doing here?" Neeta smiled and said, "Havildar Sahib, my friend Mary's purse was stolen today and Inspector



Sahib said that we have to wait to complete the full formalities for filing an FIR". Neeta said, "Havildar Sahib, can you please explain the difference between an FIR filed orally and one in writing?"

"Yes, why not?" answered Havildar Bhan.

"How do you file an FIR orally? What would have happened if I had chosen to file my FIR that way?" said Mary. "Well, **firstly, you would explain all the information as to how the crime took place to the duty officer and he would write it down**", said Havildar Bhan. "But what if he makes a mistake while noting it down, or he doesn't copy out exactly what I'm saying?" asked Mary. Just in case that happens, **you must check whether the information recorded by the duty officer is the same as the information you have given. You have the right to have what is written down, read out to you**", explained Havildar Bhan.

"What happens then?" said Mary. **"The last thing to do is to sign the paper where the information has been recorded, after being satisfied that it is correct record of facts. And for those who are illiterate, they must put their left thumb impression on the document."** said Havildar Bhan.



Just then, Neeta saw that Inspector Khan was calling them. The girls went to the front desk, where Inspector Khan gestured for them to sit down. He took the FIR and went over it quickly. He seemed satisfied with it.

He quickly stamped it and told Mary, that the police would contact her as soon as they made some progress with the case. Mary and Neeta thanked him and left with a copy of the FIR.

The girls walked back to their mohalla and they went straight to Dadaji to tell him that the case had been taken up by the police. Mary asked, "but Dadaji there have been so many times when I have read in the newspaper, that the police refuses to register an FIR or that they are biased in their enforcement of the law or that



they are corrupt. What do you do in such situations? **What should you do if the police refuse to register your FIR?"**

Dadaji rubbed his chin and said "there are mainly three things that you can do in such a situation. **You could:**

1. **Meet and write to the Superintendent of Police or other higher officers, like the Deputy Inspector General of Police and the Inspector General of Police in charge of the district and bring your complaint to their notice. You can also send a letter by registered post to the SP; or**
2. **You can file a private complaint before the court that has jurisdiction over the area; or**
3. **Send a written complaint by registered post or by fax to the State Human Rights Commission if the State has one or the National Human Rights Commission", said Dadaji.**

"So there's always a law or established procedure to turn to - I understand" said Neeta "thank you so much for answering all my questions and showing me how to file an FIR. I really couldn't have done it without you", said Mary.

"No problem", said Dadaji, "you can call me if the police call you for more information or if they make any progress with your case." "I'll do that", Mary said, "thanks again."

The Series **“Police & You: Know Your Rights”** includes:

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- n Legal Aid Services
- n SC/ST Atrocities Act
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