CHAPTER II

HISTORICAL AND CONTEMPORARY PERSPECTIVE

Justice will not be served until those who are unaffected are as outraged as those who are.

– Benjamin Franklin

India is a complex society. When the basic rights and interests of individuals or groups are transgressed, conflicts and tensions are created. There is thus a need for an institution which could preserve peace and protect the fundamental rights and interest of everybody. It is in this way that, apart from the Army, the institution of Civil Police came in Law and Order cannot be maintained without the active involvement and help of the Civil Force maintained by the State. The traditional functions of the Police are the most important even today with the criminal in action. These functions require detection and investigation of Crime, Arrest of offenders and Collection of Evidence. How far the Police in India are capable and adequate to meet such stupendous challenge? To answer these and other related questions, it is important to understand the present structure of the Indian Police with reference to its roots in the past since many of the present day problems may be understood better in the historical perspective.

The word ‘Police’ is derived from Latin Word ‘Politia’ which stands for State, Civil Government or Civilization. In the past few centuries, this word had an omnibus meaning bringing into its fold varied range of functions. The word ‘Police’, however, recently has come to mean an organized body of civil servants engaged by the

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1 A Writer, a Philosopher, a Scientist, a Politician, a Patriot, a Founding Father, an Inventor, and Publisher. His writings such as Poor Richards Almanac have provided wisdom for 17 years to the colonies.


Government for the enforcement of laws to regulate different aspects of Public Life and Order. This does not, however, mean that earlier there was no Government Machinery to execute the laws and regulations framed by the Government. Police force of some kind or the other has always been present in all civilized societies from dates back to very Ancient times. Even in old epic like Ramayana and Mahabharata, there are references to the existence of Police Organization in various forms dates back to very ancient times. Hence, the great lawgiver of India, deal with the subject of Police at length and recommended that the Police force should be entrusted to those persons only who had knowledge of local people and the region for the efficient enforcement of Law and Order, a proposition held to be valid even in the contemporary period. In India, throughout its recorded history, there have been two distinct Police System for rural and urban areas. The duality was there during the periods of Maurya, Gupta and Mughal empires and persists to some extent even today. The imperial powers did not assume the dried responsibility of maintaining Law and order for the rural areas.

The indigenous system of Police in India was organized on the basis of land tenure and collective responsibility of Village Community. It was very similar to that of Saxon England. Just as the Thane in the time of King Alfred was required to produce the offender or to satisfy the claim, so in India also, the Zamindar was bound to apprehend all disturbers of the Public Peace and to restore the stolen property or make good its value. The joint responsibility of the villagers, which could only be transferred, if they succeeded in tracking the offender to the limits of another village.

A serious attempt has still to be made to trace a detailed account of the Police Administration from the Mauryan times to the times of Mughal rulers but it seems that, during this period, there were self-governing villages with only a few urban centres. Each

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6 The Expanding Role of the Police, Seminare held on 6th & 7th Nov,1968,National Police Academy, Abu.
village was responsible for maintaining peace and ensuring protection to life and property of the villagers. SherShah, the Afghan ruler, made the village Headman responsible for controlling crimes and criminals, and restoring the stolen property, failing which he had to undergo the punishment. During the Mughal period, the empire was divided into Subas, under the charge of Subedars (Governors), Subas into Sarkars (Rural districts), under the charge of Faujdas. Sarkars were divided into Parnas (sub-divisions), which were under the charge of Siqdars. Parganas were further divided into Thana’s (police stations) under the charge of Thanedars (Station House Officers) who were assisted by a small body of Burkundazes (armed guards). The Faujdar, head of the Sarkar was the chief representative of the emperor in area under his command and worked under the control and direction of the Subedar (Governor). In times of emergency, the Faujdar was authorized to report direct to the Central Government to seek their help for maintaining peace in the country. The Faujdar and his subordinates were assisted by the Zamindars. In the cities and the large towns, the Kotwal had the responsibility for maintaining law and order and for arranging night patrolling. Thus, this system was well suited to the needs of a simple homogeneous and an agrarian community, but it could not bear the stresses and strains of political instability which followed in the wake of disintegration of the central authority of Mughal Empire.

2.1 Police system during East India Company

It was under these circumstances that East India Company acquired the Dewani in Bengal, Bihar and Orissa in 1765. The whole of civil administration was taken over by

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13 Sharad Chandra Misra, Police Administration in India, National Police Academy, Abu, 1970, p.10.
the Company. The main interest of the Company was limited to the assessment and collection of revenue.\textsuperscript{15} On May, 1772, a general proclamation was issued by \textit{Lord Warran Hastings} and his council at Fort William. Three days later, the supervisors were nominated as Collectors. Thus, on 14 May, 1772, for the first time, the office of the Collector was created by the Government of \textit{Lord Warran Hastings}. The Collector was entrusted with the task of Administration of Justice. Two sets of courts - the Diwani Adalat (the civil) and the Faujdari Adalat (the criminal) - were established for each of the fourteen districts of Bengal.

The Collector, however, was entrusted with more functions than his Mughal counterpart, the Amalgulzar. There was reaction against the appointment of the Collectors, authorised agents of the Government, to make settlement with anybody on such terms as the Government itself dictated\textsuperscript{16}. The Collector tyrannical and the interest especially of the Seminar were adversely affected by it because of the super-imposition of the Control over them. On the other hand, the main motive of the Company was commercial, but in actual operation the expenditure increased because of the highly paid collectors.

In 1773, the recall of the Collectors from districts was ordered by the Court of Directors. In 1781, the collections were centralised in Calcutta by a Committee on Revenue which in 1786 was reorganized as the Board of Revenue. The revenue administration was dislocated with the recall of the Collectors and they had to be brought back with reduced authority. \textit{John Shore} came out openly in support of combining powers in the office of the collector. On 13 January, 1882, \textit{Shore} recommended that the system of 1772 should be restored and covenanted servant of the Company should be appointed to each district as Collector exercising both revenue and judicial powers\textsuperscript{17}. \textit{Shore} was guided by administrative and political considerations while making recommendations.

\textsuperscript{16} Sudesh Kumar Sharma, Deputy Commissioner in Punjab, New Delhi, p.15.
Administratively, Shore did not have confidence in the capability and integrity of the indigenous agency. Politically the fortification of the territories of the Company, especially in the outlying parts of the country, was of great importance. It was incumbent on a government to provide protection against all contingencies. Thus, the Collector was entrusted with duties and powers similar to the ones exercised by the Amalgulzar, the Faujdar and officers of the justice taken together under the Mughals. In 1786-87, the collector was entrusted with powers of the Civil Judge and the Magistrate. The Court of Directors justified this union of powers on the ground of Simplicity, Efficiency and Speed. In 1792, the Company realized that they could no longer afford to overlook the incidence of crime, brigandage and the unrest in Bengal, Bombay and Madras. They became conscious of the fact that the Village System was inadequate by itself and the Imperial Authority had to assume some role in regard to the maintenance of law and Order\textsuperscript{18}.

**Lord Cornwallis** being a Wig, opposed the union of powers in one office, yet in practice the collector was independent. The main aim of Lord Cornwallis was to protect the interests of the Indians from Oppression and Authoritarianism. Accordingly, the Judicial and Magisterial functions of the collector were taken away and were vested in the newly appointed Judge - Magistrate - who became a mere fiscal agent which kept him tied to his office with neither any Political nor Magisterial Authority. Under the Cornwallis System, there were normally two heads of the District Administration, the Judge-Magistrate and the Collector. It was an important point of weakness in the administration because none of these officers had overall responsibility for the control of Governmental Business and for the policy to be followed within the district. Cases and files on the table of the Judges accumulated. The arrears were as much as would amount to a denial of Justice and the people were content to submit to fraud and injustice. In 1792, Lord Cornwallis established a Police Force responsible to the agents of the Company and took the Police Administration from the hands of the Zamindars\textsuperscript{19}. The


Districts were divided into parts and were placed under the charge of a Police Official called Darogha. The Darogha was responsible for rising and directing of men called Burkundazes. The Darogha was answerable to the District Judge and the Village Headmen were put under the supervision of the Darogha.

In the towns, the Kotwal remained in charge of Police Administration. The Darogha system did not find favour with the Government and the main reason of its failure was that he could not exercise control over the Village Police. The Darogha and his men were the creation of the Imperial Power, so they could not win the cooperation of local castes and local leaders so much as the hereditary Zamindar could. Besides, the Darogha system was undermanned. The Darogha became arrogant and tyrannical and was entirely blamed for the deteriorating conditions of Law and Order in the countryside.

In 1814, the Company abolished the Darogha System and traditional method of village Policing was restored. The British, however, discovered that they could not abandon completely the new but discredited the Darogha system. The Company’s order was that the Darogha and his force were to be disbanded; the village police was to be supervised by the Collector who could remain in touch with Law and Order conditions through the subordinate officers of his own department without the Daroghas. Bengal, however, provided a peculiar predicament for the Collector. As a result of Lord Cornwallis’s “Permanent Settlement” in 1789, there was no subordinate revenue establishment. In order to supervise Village Police, the collector had no recourse but to work through the Darogha. So in Bengal also, the Draught was, as a matter of necessity, retained and somewhat reformed.

The Collectors got maximum powers under Regulation IV of the Bengal Code of 1821. The combination of magisterial and revenue functions became compulsory, as land disputes were mostly connected with serious breaches of peace. Lord Bentick found weaknesses with Cornwallis system as the provincial courts of justice in his opinion were

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not accessible and cheap. He supported *the Munro system* as the Collectors and the Sub-Collectors who were in existence in Madras, Bombay and North western Frontier Provinces. *The Munro system* did not find favour to divest the authority of the District Officers and openly came out to support the Paternal or the Patriarchal System of the District Administration which helped the District Officer to enjoy powers comprehensive enough to make him active, alert and dynamic. The resolution of 1829 gave effect to the new system of Commissioners of Revenue and Circuit. In 1830, the department of Thagi and Dacoity was set up to suppress the crime of Thagi\(^2\).

In June 1834, *Lord Macaulay* came to India as a law member, who did not favour the concentration of Police Duties and the Judicial Powers in one hand. He was in support of depriving the Collector of the office of the Magistrate and disbanding the post of the Commissioner. In 1837, *Lord Auckland* got authority from the Court of Directors to use his discretion gradually to separate the offices of the Collector and the Magistracy in Bengal as and when necessary. Except the three districts of Orissa, the separation was complete in all the Districts of Bengal by 1845. In 1838, the Police Committee Report, by a majority vote, also favoured the separation. In 1843, *Sir Charles Napier*, who had come to India in 1841, organized the Police System in Sind on the model of Royal Irish Constabulary. *The Sind Scheme* was followed by other parts of India during the next few years.

### 2.2 Police system in Punjab during British Rule

In Punjab, even during the rule of *Maharaja Ranjit Singh*, no attempt was made to put the Police System on an organized basis. After his death, the entire empire tumbled down culminating in its annexation by the British in 1849. After Annexation, the Administration of Punjab was given to a group of pioneers. With the advent of the British Rule in Punjab, a Board of Administration was established to Control and Supervise Civil, Military and Revenue Departments. *Lawrence Brothers* could not pull together for long and the Board of Administration was abolished in 1853. The offices of Chief

\(^2\) Report of the Indian Police Commission ,1902-03.
Commissioner, Judicial Commissioner and Financial Commissioner were created in place of the Board of Administration. The Judicial commissioner was appointed as a Head of the Civil Police.

The Punjab was divided into Divisions and Districts, each under a commissioner and a Deputy Commissioner respectively. Smaller districts were carved out to enable the District Magistrate to get a true and complete picture of the area and its people. There was no separate Judiciary and in the Deputy Commissioner combined the powers of a Collector, a Magistrate and a Judge. He used these powers independently and his actions were not subject to any appeal to a separate Judiciary in the district. After the annexation of Punjab by the British in 1849, it became necessary to create a Police Force. This was formed upon a dual basis - Military Preventive Police and the Civil Detective Police. The Military Preventive Police was split in two sections the Infantry and the Cavalry. The strength of the police reached at one stage to a maximum of ten battalions. The disbanded old soldiers of the Sikh Army who remained faithful to the British in the Second Sikh War were enlisted in the first four battalions. Each battalion had a complete Indian complement of Officers from the Commanding Officer downward, the whole Police Force being under the supervision of four British Officers styled Police Captains. In addition to escort work for Civil Officers and treasure, and duty at the Jails and other places, they were also assisted in garrison duty at the frontier places as Kohat, Bannu and Hazara. Three of the battalions were usually absorbed in the Leah division being stationed in the Derajat. The fifth battalion was raised to the original four at Rawalpindi by Lieutenant Miller and did consistently good work. The sixth battalion raised by Lieutenant Young Husband equally shared the military duties on the frontier along with the Punjab Corps. In 1850, Captain R. Lawrence raised the seventh battalion at Amritsar and it comprised a splendid body of young lords, Sons of the best yeomen of the Maujha.

The city of Delhi was recaptured on 20 September, 1857 and as a sequel the Delhi territory was formally transferred to Punjab in February 1858. It remained an integral part of this province until the constitution of the present Delhi province. But continued
unrest called for an increase in the police force. As such, the eighth battalion was raised by Lieutenant T. Staples at Lahore which was dispatched to Delhi territory for duty. However, the strength of the police was not considered sufficient and the ninth battalion was consequently formed by Lieutenant Hailey early in 1858. This was raised from a corps of Burkundaze.

In addition to the Military Preventive Police, the Civil Detective Police were subjected to a number of changes. At first, it formed an independent Section in three different grades. These were the regular establishment paid by the state- the city at Watchmen and the Rural Constabulary paid by the people. The whole territory under the British control in Punjab was divided into seventy five divisions and these divisions were further subdivided into two hundred and twenty eight subordinate divisions. Each subordinate subdivision was put under the charge of a Police Officer aided by one or two deputies and about thirty men. The Tehsildars were vested with the police powers within their own territorial jurisdiction and worked under the control and direction of the District Magistrates, controlled by the Divisional Commissioners. In the interior of the Sub-Divisions, second-grade Police Posts were established at strategic places. The Civil Detective Police was responsible for reporting crimes and arresting criminals. They also guarded ferries and often escorted prisoners. A complete system of Diaries and Records was maintained. In the year 1859-60, the increasing tranquility of the province led to a policy of reduction in both the Frontier Force and the Military Police. Each battalion was reduced to the number of soldiers enough to preserve Peace and Order. However, the figure for that year showed an increase rather than a decrease owing to the formation of the tenth battalions for duties in Hissar and adjacent territory where waves of disorder were surging high.

Though the efficiency of the old Military Police Force was recognized, it was realized that there were two main objections to the present system due to which the Military and the Civil Police had their own separate heads. There was also lack of co-ordination between the Military Preventive Police and the Civil Detective Police. The system of

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vesting functions of a Magistrate and a Superintendent of Police in one and the same individual was not looked upon favourably. Another objection was that it proved extremely expensive. In 1857, the Sepoy Mutiny broke out, and it led the British into serious rethinking of the responsibilities of the Imperial Authority for introducing an effective institution for the restoration of law and order in India. In 1858, the Government of India Act was passed, transferring the governance of India to the Queen in Parliament by abolishing the Company’s Rule. The legal Code of Civil Procedure in 1859, Indian Penal Code in 1860, and the Code of Criminal Procedure in 1861 were enacted. Finally, the question of Police Reform in the whole of British India was taken up by the Government of India and accordingly a Commission was appointed, to inquire exhaustively the police needs of the Country.

The Commission recommended that Policing was to be entrusted to a Civil Constabulary and the Military Police was to be eliminated. In each province, the general management of Police Force was entrusted to an Inspector-General of Police to secure unity of action and identity of system. At the district level, the Police was to function under the control of the Superintendent of Police which is in large districts was to be aided by an Assistant Superintendent of Police. Both of them used to be Europeans. The subordinate police force comprised Constables, Sergeants, Head Constables and Inspectors. On the ticklish question of relationship between the Magistracy and the Police, the Commission recommended that no Magistrate of lower grade than that of the District Magistrate should have any Police Functions. In the case of the District Magistrate, they thought it inexpedient to deprive the police and the public of his valuable aid and supervision in the general management of the police matters police, the Commission remarked that Village Watchman was not very efficient and in some parts of the country, he was definitely inefficient and degraded. The Commission recommended its organization on a proper footing and suggested that it was most desirable on the one hand to run the Rural Police Efficiently and, on the other, to preserve their intimate connection and association with

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the People. The system of cash payment instead of a grant of land and payment in kind was advocated for the Village Police. As a result of the commission’s recommendations, the Police Act (V of 1861) was passed and it still continues to govern the basic structure of the Police Organization in India. The Police Organization suggested by the Commission was not a novel idea. It was an extension of the arrangement already found in several parts of the British India. For example, the office of the Darogha did not disappear. He became the Sub-Inspector of Police.

The new organization was applied only to the British India. The rest of India had old system as it had for ages. Though the Police Commission was opposed to the Military Preventive Police, yet its need was universally felt. In fact, the Military Force was never eliminated. A clear cut distinction was made between the Military Force and an armed reserve of the Police Force. The Military Police went out of existence and an armed reserve of the Police Force continued.

On 7 May 1860, the Government of India urged on the Government of Punjab the necessity for a general reorganization of the Police as also for reducing the cost of the seine. The question was accordingly taken up by Sir Robert Montgomery, who had in the previous year carried out reform of the Police of Oudh. But a need to bring reforms in the Police Organization was not only confined to Punjab alone. The conditions in other parts of India were also deteriorating. In Punjab, Mr. Temple on 7 May 1959 put forward a scheme for reorganizing the Police which was intended to increase the efficiency of the force and to curtail expenses. Early in 1860, Mr. Forsyth came forward with his scheme for appointing a Lieutenant of Police in each district purely for Police Functions under the supervision of a Divisional Inspector. Both were to be Europeans. Only European Superintendents and Inspectors were to be appointed in the cities. The scheme had hardly been deliberated upon when the Government of India strongly urged the Government of Punjab to accept the scheme.

26 Puran Chand Dogra, “Public Participation in Policing”, Need for change in the basic structure of police, Sardaar vallabhai patel national police academy, Hydrabad, p.45.
Punjab either to reduce the Military Police or to introduce the Oudh system of Police. The Lieutenant Governor of Punjab favoured the Oudh System of Police. But he was hesitant to introduce it because of the vigorous opposition by Civil Officers from the beginning.

Eventually, the principles underlying Forsyth’s scheme and the Oudh System of Police were blended and a new scheme was prepared. The new scheme was split into two parts. The first part related to the Military Organization for the District Police. A Lieutenant of Police in each district was appointed purely for Police Functions. Above him was a Divisional Commissioner or Captain of the Police who supervised the work of all the Lieutenants of Police in his division. He was independent of the District Magistrate and corresponded directly with the Commissioner of the division and the Military Secretary to the Punjab Government. The second part dealt with the reorganization of the city police on the model of the Lucknow Police. A European Superintendent and Inspectors, Mohurrars, Jamadars, Duffadars, policemen, Detectives, Trackers and Orderlies were appointed in place of the Kotwal, Thanedars, Burkundazes and Chowkidars. In October 1860, a Draft Bill of the Police Act of 1861 relating to the reorganisation of the entire Police in the British India was sent to the Punjab Government for their opinion after having accepted the Police Commission’s work in a manner described in the proceeding pages, the Punjab Government decided to remodel the Police Force.

In Punjab, steps were taken by the then Lieutenant Governor to reform the Police Organization early in 1861. He made provisional appointment of an Inspector-General of Police, four Deputy Inspectors-General of Police, 17 District Superintendents of Police and 11 Assistant Superintendents of Police. The Judicial Commissioner who had hitherto acted as head of the civil police was directed to hand over his charge to the Inspector General of Police in Punjab. A Superintendent of Police was appointed in each district, and aided by an Assistant Superintendent of Police in bigger districts. The city Watchmen and the Thana Policemen were united into a regular Constabulary. In Punjab

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the Village Police was also remodeled on the recommendation of the Police Commission and in each village, one or more watchmen were appointed. A Dafedar was also appointed to supervise five or six Watchmen. The Lambardar or the village Headman was responsible for the conduct of the village Watchmen. The Zaildars and the Inarndars were also deputed for supervision over the Lambardars. Punjab was divided into four Police circles. Each circle was placed under a Deputy-Inspector-General of Police. Captain J.W. Young Husband was placed in charge of the Ambala circle, which consisted of Ambala, Thanesar, Ludhiana, Simla, Ferozepore, Delhi, Gurgaon, Karnal, Hissar and Rohtak. Its area was 17,358 square miles. The second circle was under Captain George McAndrew and comprised the districts of Lahore, Amritsar, Gurdaspur, Hoshiarpur, Jullundur and Kangra. It covered an area of 14,058 square miles. Rawalpindi was the third circle, Captain J.N. Miller being placed in charge of it. He had under him the districts of Rawalpindi, Shahpur, Jhelum, Gujrat, Sialkot and Gujranwala which included an area of 21,067 square miles. Multan was the fourth and the last of such circles. It was under Captain R.N.T. Thronson. It consisted of Multan, Muzaffargarh, Jhang, Gugaira and Sirsa, and covered an area of 22,569 square miles.

In 1899, in Punjab, a Committee was set up under the presidency of Mr. C.L. Tupper to examine a number of questions relating to the efficiency of the police and especially the organization of the investigating agencies, increase in pay and prosecution of cases. The Committee suggested better pay scales for the subordinate ranks and increase in strength of various ranks. It also recommended the provincialisation of Municipal and Cantonment Police. This attempt was, however, only tinkering with the problems because the hopes and expectations of the Police Act of 1861 had been belied. The main reasons for the failure were, the Village Police was not associated in the right direction and the whole work was done through the officers of the department. Besides this, untrained officers with a little education in the lower ranks were entrusted with the Police Functions. The Superior Officers remained out of touch with their own subordinates and the Public and their sense of responsibility was marred by a degree of interference from many corners. This was not only confined to Punjab alone. There was an outcry against the Police throughout the British India. Keeping in view the immediate need for
improvement in the working of police, Lord Curzon set up another Police Commission to examine the present set up of Police Organization and its Strength, Recruitment and Scales, etc. Some of the main recommendations of the Police Commission are:\(^29\):

The recruitment to the Indian Police service to be made entirely in England by a system of the competitive examination and for the Provincial Police Service in India by direct nomination and promotion from the ranks creation of a grade of Deputy Superintendents of Police was also recommended.

An Officer of the rank of the Superintendent of Police should be placed in charge of the Police of a District. A few posts of the District Superintendents of Police were suggested to be reserved for members of the Provincial Police Service.

The Head constables should be debarred from investigating any crime independently and the duties of the Constables should be of mechanical character such as to provide escort, guards, patrolling and the like.

The Commission expressed itself against the maintenance of separate forces for Municipalities and Cantonments.

In respect of the Village Police, the Commission strongly advocated its retention in the existing form and counseled against undue Police Interference with it.

A Central Department of Criminal Investigation was to be established under the Government of India to collect and communicate information obtained from the Provincial Criminal Investigation Departments or otherwise, and to secure full information regarding the Commission of Crime from the Police of the native states.

The Government of India accepted the recommendations of Police Commission (1902-03) with some modifications and gradually introduced them in each province according to their necessity. The recommendations made by the Police Commission were by no

\(^{29}\) Report of the Indian Police Commission, 1902-03.
means revolutionary\textsuperscript{30}, but with the adoption of some of these recommendations, Punjab Police Force had again been reformed. \textsuperscript{31} The opening of the higher ranks to Indians attracted the best people to this service. All round improvements considerably enhanced the efficiency of the Police and made it more popular than before.

In Punjab, the strength of Head constables was considerably decreased in the reorganized Police Force and this led to paucity of policemen in this rank in the Districts. In 1911, the difficulty so created, was overcome by creating the rank of Lance Head constable who was expected to discharge the duties of the Head Constable against the pay of a Constable. There were two important defects in the reorganized Police. Firstly, the majority of the circle Inspectors did not prove good enough to act as supervisory officers and secondly, the method of direct recruitment to certain grades of Police Force, particularly to the rank of Sub-Inspector created difficulties. The new entrants did not come up to the expectations and lacked practical experience of the working of Police. In addition, twenty percent vacancies in that rank reserved for promotion of Head Constables provided very small outlet to that class of officers and this caused discontentment amongst them. However, the British Government did not take immediate steps to overcome these difficulties.

In Punjab, Mr. S.B. Wallace, the then Deputy Inspector-General of Police was deputed by the Punjab Governor to examine thoroughly the organization of Police in the province in 1914. The growth of few towns and decay of old ones, improvements in the means of communications, fluctuation of population and the changed economic conditions, necessitated a change in the organization of the Police. In pursuance of the report of Mr. S.B. Wallace, the Government sanctioned 117 Head Constables with the corresponding decrease of 34 Inspectors, 42 Sub-Inspectors and 842 Constables. Perhaps this decrease was required because the government was in a mood to revise the pay scales of Constabulary without incurring extra expenditure. The Government Railway police,


formerly a part of the Criminal Investigation Department was separated from it and reorganized in 1917. A whole-time Assistant Inspector-General of Police aided by an Assistant superintendent of police and other subordinates was made in charge of the same.

The decrease in the strength of the police affected in 1916 caused many difficulties. And, men from the police reserve had to be re-employed to overcome these. This reduction coupled with the aftermath of the World War and the prevailing disturbed conditions in the province tended to cause a partial break-down of the Law and Order machinery. In 1923, a provisional increase of 816 men was sanctioned to cope with the situation. However, the strength of the Police Force did not increase in proportion to the growth of large cities, colony districts and cantonments. Many of the Police Stations for which only 10 Constables were sanctioned were also facing difficulties in the conduct of their work and there was also acute shortage of investigating staff in every Police Station. Furthermore, in view of the prevailing economic conditions, the subordinate ranks of the police were also paid low salaries. All this led to the appointment of Lumsden Committee in 1925. The Committee made a comprehensive survey of the needs and requirements of the Police Force and its proper distribution that the Lumsden Committee made. The recommendations made were adopted and their implementation was carried on well until the commencement of the Second World War. After the First World War period, there was tremendous growth in the scientific methods of investigation. In the thirties, Criminal Investigation Agencies were established, in all the districts, to deal with the criminals scientifically. The ‘Modus Operandi’ system was developed and emphasis was laid on the practical training in the scientific tools of investigation. An attempt was made to modernize the means of communication and mobility of the force. The scientific laboratory at Phillaur was also equipped with modern tools of investigation and efforts were made to inculcate interest in the study of Forensic Sciences.

The out-breakoff World War Second necessitated the reorganization and augmentation of the Punjab Additional Police Force was employed to escort vulnerable points. The regional reserves were also kept at important places in the province to assist the regular
police force in restoring internal security. In Punjab, the system of detective constables was evolved by Mr. Durrant and of special staff by Mr. Scott. The Criminal Investigation Agency was formally organized during the war in 1943 for specialized detective and investigative work in all the districts of the state. Unfortunately, the Criminal Investigation Agency systems had not been fully exploited or extended in their scope.

2.3 Police system after independence

After partition of the country, Punjab received the share of the Punjab Additional Police which formed the nucleus of Punjab Armed Police of today. After independence in 1947, there was mass violence and anti-authority bias generated everywhere. In this critical situation, the Police had to face a task of tremendous magnitude in restoring Law and Order. In the United Punjab, the Muslims constituted roughly seventy percent of the police force. After the departure of the Muslim police, thirty percent of the effective strength of the Punjab Police was called upon to deal with a situation unknown to the history but somehow the difficulties were surmounted. The truncated Punjab (India) consisting of thirteen districts was divided into two ranges for the purpose of Police Administration. The strength of the Provincial Armed Police was increased to guard the Indo-Pakistan border.

The erstwhile Pepsu state was merged with Punjab in 1956. All the districts of erstwhile Pepsu comprised a separate range, i.e., Patiala. Later on, the Jullundur Range. The three border districts of Border Range were put under the charge of Deputy Inspector-General of Police (Border Range) with corresponding charge of Punjab Armed Police. The whole complexion of the state of Punjab had undergone radical changes. The urban population had also increased, but the strength of the police force had not increased proportionately. The same had happened with the Rural Police. There was, thus, a need to reorganize the Police Organization to cope with the changing Social, Political and Economic Environment of the State. Again, the Constitution of India lists police as a state subject and this has aroused a political consciousness that Police being a State subject, the Government of India has nothing to do with it. As a consequence, most of the States
started appointing their own Police Commissions. Keeping this in view, the Punjab Government appointed a Police Commission in 1961 to report on the various problems connected with the organization and working of Police in the State.

The list is not an exhaustive one but only a pointer that the recommendations made by different Police Commissions in different states could not have been uniform. What inevitably followed was that whatever uniformity was achieved by the Police Administration of the country because of the implementation of recommendations of the Indian Police Commission of (1902-03), started waning slowly. An important factor which has a direct bearing on the Law and Order situation, at the district level is the relationship of the Judiciary with the Executive. Ever since its inception, the Judiciary in Punjab was completely under the control of Executive in the matters of appointment, dismissal, suspension and other conditions of service. There was gradual separation of the Judiciary and the Executive branches in the highest six or seven grades of extra Commissioner. In both the branches, the conditions of service of each grade were identical. The members of the Judicial Branch were known as Judicial Assistant Commissioners and those of the executive branch were styled Extra Assistant Commissioner. In the first week of June in 1964 the conference of Commissioners and Deputy Commissioners was held at Simla which was unanimously recommended the separation of Judiciary from the Executive. The Kairon Cabinet accepted the recommendations and the decision were implemented by Ram Krishna Ministry with the enactment of the Punjab Separation of Judicial and Executive Functions Act, 1964, on the lines of a similar Bombay Act.

The Government of India set up a Committee under the chairmanship of Professor M.S. Gore, to undertake a review of the existing police training programme in the country and to suggest ways so that the country may have a well-equipped and capable police force. The Committee suggested reorganization of the training programmes of the police with a view to equipping them with the knowledge, skills and attitudes required to understand and meet the demands of their new role in a country committed to the establishment of a secular, socialist and democratic society.
After accepting the path of land development, we have been witnessing a rapid growth in the number of economic and social projects undertaken for execution by the Government as also in the number of Government Departments. As a result of increase in the expenditure of all sorts of allegations of Corruption, real and imaginary, are being leveled. Consequently, on the acceptance of the recommendations of the Santhanam Committee, the Vigilance Commissioners for the states and a Central Vigilance Commissioner for the Union of India were appointed. In conformity with the recommendations of the Administrative Reforms Commission, Iokayukts have also been appointed in Maharashtra, Rajasthan, etc. Towards the end of 1977, the Union Home Ministry announced the setting up of a National Police Commission. The reasons advanced were Far-reaching changes have taken place in the country after the enactment of the Indian Police Act, 1861 and the setting up of the Second Police Commission of 1902, particularly during the last thirty years of Independence. Though a number of states have been appointed, Police Commissions after independence study the problems of the Police in their respective states, radical changes in the Political, Social and Economic situation in the Country. The Police Commission is to examine all the major issues of an All-India character pertaining to Police Administration in the Country and Suggest measures for implementation as would not only enhance its functional efficiency but would also transform it into an instrument of Public Service.

The coverage is very comprehensive and the report is awaited with interest by all those who are concerned in making the Police System effective and efficient. Some of the controversial issues which have been engaged the attention of the earlier Commissions are being discussed at various seminars and meetings. It is true that the Commission has to present the consensus that would emerge and in that sense would reflect the present thinking on the vital service. The commission would make recommendations taking an All-India perspective. There is a lot of thinking would be necessary at the state level. Some of the recommendations would have to be adopted to suit the local conditions.

State Police Acts passed after independence is mostly modeled on the 1861 Police Act and there is little to distinguish them from Colonial Legislation. Since Independence,
various committees and commissions submitted reports and recommended police reforms and need to foster healthy Police-Public Relations but not implemented as it ought to be. Though, newly made Police Act of 2007 made tremendous changes in the Police Working. But unfortunately the reports of the various State bodies, Commissions, verdicts of the courts on the deaths in the Police Custody, illegal arrests and detentions, false implications soured the Police-Public Relations to a great extent. As a result, the need for a healthier constructive Police Community Interaction has also been felt and the citizen and a new functional nexus must remove the mists of misunderstanding.

Many developed countries felt the need to reconsider the Police Public Relations much before. In the late 1960s, Police Leaders, Governmental Officials, the Academic Community and the Society began to question whether the Police were performing their job in the most effective ways possible. As a result, the idea of Community Policing has become popular during the past two decades or so in many democratic societies like U.S.A., U.K., Canada, Japan and Singapore as a promising alternative and often repressive, rendering the police ineffective and alienated from the public. However, the emergence of the concept of policing can be traced through series of studies and field experiments carried out mainly in the U.S.A. during three decades commencing with 1960’s which tested the utility and efficacy of existing police strategies to deal with Crime and disorder which played United States cities during their eventful years.

The Central Government of India shall also set up a National Security Commission at the Union level to prepare a panel for being placed before the appropriate appointing Authority, for selection and placement of chiefs of Central Police Organizations (CPO), who should also be given a minimum tenure of two years. The commission would also review from time to time measures to upgrade the effectiveness of these forces, improve the service conditions of its personnel, ensure that there is proper condonation between them and the forces are generally utilized for the purposes they were raised and make recommendations in that behalf.

However, the “Community Policing” has not been defined in the Punjab Police Act, 2007. On the other hand, the Act has defined “the Community Police Resource Centre”. It means
a body, registered with the Societies Registration Act, 1860 with a view to provide for public-police interface. In the new drafted legislation, the state legislation has included provisions regarding setup of Community Policing Resource Centre, which means body registered with the Societies Registration Act, 1860 with a view to provide for public-police interface”. The centre would also establish women and children helplines and in addition, improve the Police-Public Relations. According to the newly formed Right to Services Act, The SAANJH Kendra’s will provide all the services from a single window. Deputy Chief Minister Sukhbir Singh Badal launched the Community Policing initiative with the inauguration of the State-of-the-art SAANJH Kendra’s. The initiative marks a new beginning in making the Police-Citizen Friendly. It marked the opening of 115 Saanjh Kendras all over the State and 116 more under construction. The concept of Saanjh Kendra’s has its genesis in the fact that the common man is hesitant to step into a police station. These Kendra’s provide “Dignified Access Point”.

The state may choose any of the models recommended by the National Human Rights Commission, the Ribero Committee or the Sorabjee Committee, which shall be binding on the State Government for effective Police-Public interface.

"The police –public attitude, of the olden days are changing."

– Mahmood Bin Muhammed

While summoning up the discussion, it would not be out of the time to say that an effective police set-up existed in India in the ancient times, yet it suffered a setback during medieval due to the foreign invasions, subjugation and communal overtones. The advent of the company in trying to consolidate the administration destroy the moral and social set up of the Indian society and it was only under the british crown that any sincere attempt was made to give a proper police set-up. Independence saw the transformation of the police system from an oppressive force to be a force which is more rational and understanding and begin to the people’s problems. The coordination of the international police organisation and various countries help to control the increasing rate of crime. The new initiatives measures and sound understanding are needed for the creation of the
efficient Law and Order at the international front. No doubt, it is not up to the common man perception or expectation. It has been succeeding in protecting the society still its public image continues to be tainted.

2.4 Contemporary Role and Responsibilities of The Police In The Present Era

To Policemen of ideas new life is sweet but Service is Sweeter.

– Mahmood Bin Muhammed

The Responsibility for maintenance of Peace and Order, protection of Life and Property, Prevention and Detection of Crime lies with the Police. India is marching ahead a variety of complexities and challenges arising out of Regional Security Environment, Internal Security, Political, Social and Economic issues, the natural Indian are: what will be the Role of Security and Law enforcement agencies in the Present Century? Invariably, the people might have different answers depending upon their mental outlook or the overall assessment of the situation. One who is orthodox in his approach and analysis of the whole scenario, purely from traditional point of view of Crime or Criminal Offences may forces Police Organization of the future as a well knit professional body of sophisticated crime fighters, who are destined to fight against master Criminals and organized gangs for ensuring the security and safety of people. On the other hand, one who is dominated by Liberal and Egalitarian views might visualize Police Organization as the most widespread Government sponsored social service agency. Another may see Police Officers in future acting as ‘Ombudsman’, representative of the Government who responds to the weaker and exploited in the society. Yet another may find them as ‘Public Agents’ who are accountable only to the Society. Whatever different and diverse be the views and perception of the People on the future role of polices, one need not gaze into a crystal ball to understand the reality that “Police Service of today extends beyond the more routine investigations and disposition of complaints, it has its objective for the welfare of the individual and society.
The Police Act, 1861, provided for control over the Police force but not for its accountability oriented functions. The Janta Party also appointed the National Police Commission (NPC) headed by Dharamvira on November 15, 1977 with window terms of reference covering the Police Organization, its Role, Functions, Accountability, Relations with the Public, and Political Interference in its work, Misuse of Powers, Evaluation of its performance etc. The Commission made recommendations on two important issues.

- Role of police
- Political Interference in Police Work.

The traditional functions of the Police remain as important as they ever were, the fact is that the overall Role of the Police in modern society has become enlarge due to new economic policy in 1991 and revolutionary technology has added new dimensions to this change. The transaction has technological, social and economic dimensions as in the rest of the world. When a plural society like ours, with an increasing accent on Individualization, undergoes this dynamic process of change with in the constitutional framework of a Democratic, Secular and Welfare State, a certain amount of ferment in the situation becomes inevitable. There would arise confides between high expectations of effective reconstruction and substantial shortfalls in actual performance in these fields. This would naturally arise problems for the administration in general and police in particular, and the handling of these problems calls for a broader perceptions and deeper insight of the development as well as their causes and consequences.

“It would be remembered that the first duty of the Police is to obtain the goodwill of the People through their Service and Integrity. They occupy a position of great responsibility. They can only discharge their duties well if they had the spirit of Service to the Country and the People” by Pandit Jawahar lal Nehru.

There is another problem which the police are facing while discharging their duties is that, like India, a land of sub continental proportion, with regional, religious, cultural,
linguistic, ethnic differences and diversities which have created a mosaic of Law and Order problems, unique for each Region and State. For example, urban India especially our mega cities like Mumbai, Delhi, Kolkata, Bangalore, Hyderabad, Ghaziabad etc. which are characterized by new values and ways of life, can be categorized as the major centres of Organized Crimes such as Economic, Cyber Offences, Drug-menace, Trafficking in persons, ‘Supari killings”, kidnapping for Ransom etc. On the other hand, such offences may be unheard of in many parts of Rural India, where caste conflicts and killings, Atrocities against Women and other weaker sections, social exploitation etc. dominate the Crime Scenario. Thus, instead of importing and implementing any uniform policing model or strategy to deal with such complex and diverse situation in our pluralistic society, the Endeavour of Police Leadership should be to work out different strategies in relation to different types of crimes or to formulate common strategy to combat these offences of same nature or interlinking dimensions.

Two aspects are important in this regard. The first one is Proper Pilot or Project Studies in different locations, especially in areas where society has been highly fractured due to Violence and Crimes so that practical difficulties involved can be fully understood before a concept or strategy is institutionalized. The best technique available now is “crime analysis” or crime mapping which identifies trends and patterns within crime data in an attempt to solve crime or prevent their repeat occurrence. It also equals police management with information on economic, geographical and law enforcement aspects for launching long-term projects.

**Changing Role of the Police**

The Second aspect is redefining the Role and Functions of the Police in accordance with changes in Society. We should come out of the traditional approach that Prevention and Detection of Crimes are the only areas of concern of Police.

With the advent of Modernity, Technological Advancement, Urbanization, Economic Reforms and Liberalization and growth of Market Economy, the demands upon policing have undergone major changes. The Police in the present Century have to play a major
role in plethora of tasks and functions, which are closely, interlinked with the concept of Welfare State of the masses. They are concerned with the dealing of fear of Crime, Rights and Privileges of all sections of People, especially weaker sections, physically handicapped women and children, distress situations like earthquake, cyclone havoc, flood damage, famine, rail accidents, collapse of buildings, maintainence of order in general and during huge congregations in particular, which are more of service-oriented objectives than core-policing tasks. Punjab is divided into divisions for better performance. The list of divisions is as under:

**Detail of Sanctioned Sub-divisions, Police Stations & Police Posts in Punjab**

(As on 29.03.2013)

<table>
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<tr>
<th>Name of Range</th>
<th>Name of the District</th>
<th>No. of Sub Divisions</th>
<th>No. of Police Stations</th>
<th>No. of Police Posts</th>
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<td><strong>19</strong></td>
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32 [www.punjabpolice.com.in](http://www.punjabpolice.com.in)
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**GRAND TOTAL**

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**Strength of Punjab Police**

The State has 24 districts, each district is headed by the senior superintendent of police and depending upon the size of the district line or more superintendent of police made available at district headquater to assist the Senior Suprintendent of police. Each subdivision is divided into two or more police stations and each police station is under the charge of a Station House Officer of the rank of Inspector/Sub-Inspector.

Presently there are 359 police stations and 122 police posts in the state. It has strength of 52205 police [civil] personnel. The strength of women police in the state stands at 1562. There are 6130 NGOS in the department [Assistant Sub-Inspectors to Inspector] 8263 Head Constables, and 37365 Constables. There are 142.8 policemen per 100 sq.km. In Punjab as compared to 44.4 policemen in India. There are 272 policemen per lakh population in Punjab, whereas in India it is 126 District Police Set Up.

*The Major Functions of the Police in the field of Law and Order can be discussed as under:*

### 2.5 Prevention of Crime

The primary duty of the Police is to prevent the Commission of a Crime and to control the dangerous Criminals. The preamble of the Police Act of 1861 and now 2007 Act, states that it is expedient to reorganize the police and make it more efficient
instruments for the Prevention and Detection of Crime. An effective measure to search and catch the proclaimed offenders shall be put in place. Their movement shall be closely monitored. A special cell shall be constituted for this purpose. History sheeters will be scrutinized and updated periodically to continuously monitor their activities.

Mr. O.W. Wilson is of the opinion that:

“The failure of Society to diminish Criminality imposes great handicaps on her people. It impairs somewhat the joy of living. Lives and Property are rendered insecure, the peace is frequently disturbed and People are subjected to degrading and terrifying criminal acts”.

The economic cost of Crime reaches staggering proportions, although, it cannot be accurately computed. If it could be directed into Industrial Production, the wealth of the nation of its individual members would be immeasurably increased. Direct Economic losses to Criminals amount to tremendous sums, but these represent only a part of the total cost of Crime to this cost must be added that of Criminal Courts, the probation and parole system, and the penal and correctional institutions, which are all heavy drains on the public exchequer, their cost seems to grow out of proportion to the increased cost of their Government Function.

**Crime Control and Disposal of Cases**

Crime prevention and control is one of the basic functions of the police. With transforming socio-economic milieu and fast modernizing and developing society, the type of crimes and criminals is also changing. There is need to control ever increasing Crime. Apart from control and prevention of Crime, there shall be paramount stress on disposal of cases as speedy redressal in terms of chargesheeting or case cancellation ensures the justice and relief to victim or person falsely accused.
In addition, unproductive lives wasted in Criminal activities and a penal institution represents a great loss to the relatives and friends of the unfortunate criminals and of their victims in assaults, rapes and murders, the sorrow and anguish is even more important than the money cost of Crime. All must participate of desirable results are to be achieved. The Police, however, find themselves in the firing line in the battle against Crime. It seems unlikely in the foreseeable future that criminality will be so diminished that agencies presently engaged in the administration of Criminal Justice may be disbanded. So long as, there are Criminals, Society must be protected from their depredations. The Police Function is the protection of Life and Property against Criminal attack and Presentation of Peace. Some of the areas in the field of Prevention of Crime which requires discussion are:

2.5.1 Patrol

It is an effective mean to prevent Crime. The Punjab Police Commission observed that patrol is an indispensable service that plays a leading role to accomplish Police purpose. It is the only form of Police Service that directly attempts to eliminate opportunity for misconduct. It also checks the desire for misconduct by influencing individual and group attitude. In urban areas also mobile patrols with wireless tele-communication are arranged.

The success of patrolling depends on the efficient and effective functioning of the beat system. The size of the beat should be such as can be easily patrolled by the policemen. In Punjab, PCR’s working is appreciable. It is doing surveillance in the night to combat the Crime. It provides help door to door at all places. Criminals and Thieves are apprehending because of PCR. The Chandigarh police have the logo on their mobile vans and Jeep. It predicts that it is People Oriented Organization for the Service of People. They have the service of Police as well as ambulance on the highways to help the victims of accident. They provide them timely help which is praiseworthy. In rural sectors also, patrolling work is done by the Village Men in the age-group of 18-24 are also utilized on honorary bases. But in insurgency prone areas, Armed Police and go about in roving Commissions, generally in an unplanned manner. In the Rural Police
Station, Station House Officer is held responsible for Maintenance of Law and Deployment.

2.5.2 Crime Records

One of the traditional methods of preventing Crime is the maintenance of record of the professional and habitual offenders. During interview with the Inspector-General of Police, it was gathered that the present arrangement for building up crime records at the Criminal Record Office at the District Headquarters and the Criminal Investigation Department at Chandigarh were generally inadequate and insufficient. The lack of knowledge or unwillingness or inability of an investigating officers to make use of whatever records were available also hampered detective work to trace Criminals. The omnibus character of the duties of Police Station Staff (Chart of Police Station given in Annexure No.1) during the last thirty six years has not shown a change for the better in the system of using criminal records in tracing criminals. Is deficiency could be made up by a functional change in the creation of a specialist class of Officers in the Detective and Investigation Department. The Detective Department has the following specialized units for operations of investigations. These are Homicide squads, Kidnapping, Abduction and Rape cases squad, Fraud squad, Interrogation Squad, Scientific Aid Squad, Flying Squad, Police Dog Squads, Scientific laboratory (Chandigarh), Criminal Intelligence, Absconders and Proclaimed Offenders Staff, Robbery and Society, wood-cutting, Burglary and Theft of Bicycle, Cars, Scooters, Motor Cycles, Computer and Laptop etc.

2.5.3 Public Co-operation

Another method to prevent Crime is to get the Public Co-operation by educating the people about the nature and types of Crime that are most prevalent and the steps necessary to prevent them adequate publicity should be given to certain types of Offences especially the White Collar ones. Periodical police exhibitions and press conferences should be arranged. Posters and pamphlets should be printed and distributed. Police Officials should be given periodical-links in the educational institutions and over
the radio. Under sections 154, 155, 156, 157 and 187\textsuperscript{33} of the Code, people, have certain
Duties and Responsibilities with respect to the Prevention of Crime. In addition, Public
Participation is possible in either of the following ways:

- The Law imposes a duty upon every person to assist a Magistrate or Police
  Officer in preventing the escape of a person whom they want to arrest or to help
  in preventing breach of peace.
- People are required to inform the nearest Magistrate or Police Officer about the
  Commission of an Offence or about the intention of a person to commit certain
  Offences.
- Every Officer employed in connection with the affairs of a Village or residing in
  a village is under a Duty to report certain Offences or matters relating to
  Maintenance of Peace, Order and safety of person or Property.
- There is a provision in the Code of Criminal Procedure Code which empowers a
  duty on private individual to arrest a person who in his presence commits a Non-
  Bailable and Cognizable Offence, and to hand over such arrested person to Police
  without unnecessary delay.

Lack of Public Co-operation makes it difficult for efficient working of Police. It is
genernally seen that to a Law abiding Citizens have greater fear of Police than actual
offenders. The reason behind that hard core Criminal takes it as a routine way of life to
come into control with police. On the other hand, the normal citizen, avoid contact with
Police and prefer to keep away from Law-Courts even at the cost of slight suffering or
loss of legitimate clammy rather than reporting the matter to the Police for action. It is
the need of the hour to develop a close liaison between the police and the public. This
can be obtained through radio talks, lectures and giving intensive publicity to this
comparing through the medium of press and courtesy by the police. Even Police Officers
are fully aware of these useful legal provisions. These can be used to seek Co-operation
of the public in the maintenance of Law and Order and Prevention of Crime.

\textsuperscript{33} The Indian Penal Code, 1860.
2.5.4 Registration of Cases

According to the Criminal Procedures Code, the cases are to be registered at the Police Station in which the concerned place of Crime falls. Section 154\textsuperscript{34} deals with the procedure for the Registration of First Information Report in case of Commission of Cognizable Offences and Section 155\textsuperscript{35} of the Code lays down the procedures under which the Police are supposed to act when a complainant approaches the Police with a complaint. Section 154 of the code lays down “Every information relating to the Commission of a Cognizable Offence, if given orally to an officer in charge of a Police Station, shall be reduced to writing by him or under his direction and be read over to the informant and every such information, whether given in writing or reduced to writing, shall be signed by the person giving it, and the substance thereof shall be entered in a book to be kept by such office in such a form as the State Government may prescribe in this behalf. This is called a First Information Report and it plays a vital role in subsequent investigation and trial. The significance of this report for prosecution depends upon the position of the informant of the Crime.

It is the subsequent criminal trial, the complainant mentioned in the First Information Report becomes an important witness who is examined and cross examined to find out the veracity of the charges laid down against the accused in Court. This document describes the nature of the complaint of the citizen, the initial details of the alleged Crime, and the suspects, if any. It is on the basis of this document that the Police initiate the investigation into the alleged offence, lead to the areas of the accused and subsequent filing of the charge sheet in the Criminal Court.

The Supreme Court has given some duties to be followed while registration of First Information Report based on the case \textit{State of West Bengal v. Swapan Kumar Guhe \& others.}\textsuperscript{36} It has been laid down that the facts mentioned in the FIR should disclose all the elements that go to make up a Cognizable Offence and the Courts have a duty to

\textsuperscript{34} Criminal Procedure Code,1973.
\textsuperscript{36} 1982AIR949SCR(3)121
intervene in the investigation process to prevent harassment of individuals, if their rights are violated and correct procedure is not being followed held in *Gopalachari v. State of Kerala*. The case of the apex Court issued directives issued for appropriate use of Section 110 of the Code. In the *T.T. Anthony v. State of Kerala*, case the Supreme Court issued detailed guidelines regarding registration of F.I.R.s. The study showed that those working in the police were aware of the procedures involved. The Police Personnel interviewed knew in detail about the Section 154 of the Code and the six guidelines given in the Basu case. The nature of the document, types of F.I.R.s (i.e. A classified, B classified and C classified.), the requirement of giving a free copy to the complainant and the requirement to read it out in the language understood by the complainant in case he/she is illiterate.

There are some basic procedures like giving the copy of F.I.R. to the complainant, zero number complaint, the requirement of a women police during the arrest of a Women, use of appropriate sections while framing of the charges, need to read out the complaint to the complainant, possibility of approaching the higher authorities if the complaint is not lodged, preventive measures, and Indian Penal Code Sections related to Women (especially activists working with Women in the Community). The interaction with community members revealed that the knowledge about the procedures involved is comparatively less. Most of them were not aware of the D.K. Basu guidelines. Thus, one can see that those working regularly with the Police have awareness of the Procedures, whereas the Community is not aware of the basic steps to be followed. It is, therefore, *Suggested* that the Complainants should not be harassed by refusing to register an offence on the ground that was committed outside the jurisdiction of the particular police station. Later on, the case may be transferred to the concerned Police Station if it is discovered during investigation that the case actually belongs to the other Police Station. Every Complainant should be dealt promptly and a person should not be made to wait for an unduly long period or sent from one person to another, thus making him feel that the

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37 AIR1972MAD365  
38 Criminal Procedure Code, 1973  
39 SLP 1522 of 2000  
40 Criminal Procedure Code, 1973
Police are not indifferent towards him. A case should not be referred to the medical jurist unless registered. The preliminary investigation of the Complaint, even though they may seem to be mala fide on the face of it. The First Information Report should not be a detailed document as it is sometimes tampered by the officer recording it. The tendency to delay the First Information Report till more facts of the case are determined should be stopped. It is the duty of everyone concerned to assist the Police in their work.

2.5.5 Preliminary Investigation

When someone comes to the Police Station with the information that a Crime has been committed then Preliminary Investigation begins. Upon receipt of such information, the Station House Officer of the Police Station or the detective officer available at the Police Station proceed to the scene of crime till he is relieved by the detective officers. Similarly, the Deputy Superintendent of Police in charge of the Sub-Division under whom the concerned Police Station lies has to proceed to the spot. In most serious crimes like Murder, Culpable Homicide not amounting to murder and Dacoity etc., the Gazetted Officer or the senior most detective officer assigned to that area in the sub-division as well as the Superintendent of police incharge detective department along with the specialist units have to proceed to the spot.

For Investigation, the police can question any person supposed to be acquainted with the facts and circumstances of the case and any such person shall be bound to answer truly all questions relating to such case. A witness may, however avoid to give those answers which will expose him to any Criminal Charge. The Police may write down the answers orally given by the witness. The witness has neither to give answers in writing nor sign those recorded by the Police. In Investigation, a Police Officer can call in writing a person to be a witness who appears to have some knowledge of the Crime being investigated and who is within the jurisdiction of such Police Officer or in an adjoining Police Station. The witness so called has to appear before the Police Officer, but a Woman or a Child below fifteen years of age cannot be required by the Police Officer for such an investigation to go to any place other than their own residence. A witness
appearing in Police Investigation may take help of a lawyer in answering written question put to him/her. There is Political Interference in the investigative process. This invariably happens at the stage of submission of charge-sheet under the said Section. In order to eradicate this evil, the Law Commission in its 14th Report (1958) had from the Law and Order staff to enable the investigating officer to devote undivided attention to the investigation work. That apart, “separation of an investigating police” from “Law Police” will also result in speedier investigation and overall quick disposal of investigation cases. The Preliminary investigation should comprise a) Interviewing the victim and witnesses present at the scene (b) Transmitting information about the identity of the criminal or a description of the criminal and of stolen property to the headquarter to expedite the pursuits and capture of the criminal, the recovery of the property and the preparation of the necessary records (c) Searching for and interviewing witnesses not at the scene (d) Investigating leads uncovered upto the point that delay would not jeopardise the success of the investigation and (e) Discovering and interrogating suspects and arresting them when there is evidence of guilt. The continuation of investigation when the detective investigating officers take over should include (a) review, consolidation and analysis of the reports of officers relating to their action and discoveries in the first steps, (b) further interview of the victim and of the witnesses (c) Identification of crime through modus operandi, (d) Search of stolen property from suspected recoveries or recovery of weapons used in crimes (e) Investigation of the activities of the likely suspects. (f) Planning organized police action directed at.

2.5.6 Interrogation of Suspects and Offenders

Another important function that devotes on police is to “frisk” and interrogate the criminals or suspects. Frisking implies searching the pockets and clothing’s of the suspect as a measure of safety and security while enforcing law against him. It is different from a search which is a legal process meant for collecting evidence against the offender. The police power to frisk the suspects are contained in Section 5 the code. The police also have the power to interrogate and question the person suspected of
having committed a non-cognizable offence. But the police power to interrogate the suspect is subject to certain limitations contained in the code. The Police should not extract Admission or Confession by Coercive or Third Degree methods. It is significant to note that the suspect is under no obligation to speak or answer questions and anything done or said by the Police Officials to make him feel that he is under an obligation, will be transgression of the legal limits of the power to interrogate by the Police.

The restriction as to inadmissibility of Confession made to a Police Officers intended to protect the accused against inhuman treatment or torture. However, if any fact is discovered as a result of confession made to a Police Officer by the accused for e.g.-If weapon is found as a result of Confession, that is admissible under Section 27 of the Act\textsuperscript{41}.

### 2.5.7 Use of Records

The assistance which can be obtained from Police Records in the investigation of Crime falls into four well-defined stages.

(a) The local records kept by the Police Stations in the form of Village, Crime Registers, history sheets, bad character rolls and information sheet.

(b) The Criminal record office at the District Headquarters.

(c) The records of the finger print bureau, phillaur, which maintains classified finger prints of convicted criminals and also single digit prints of criminals founds at the scene of Crime.

(d) The crime record maintained at the headquarters of the Punjab Criminal Investigation Department at Chandigarh. Under the Superintendent of Police, Crime Records can be of great help in the Criminal Investigation

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\textsuperscript{41} The Indian Evidence Act, 1872.
2.5.8 Case Diaries

Section 172 of the Act\textsuperscript{42} related to case diaries. It is not legally necessary for those deposing before the Police to make a correct statement. The Police cannot get the statement made to them signed by the persons concerned. The Law of Evidence also requires the collected materials to be presented in a particular mode through which the guilt of the accused has to be fully proved or else he gets the benefit of doubt. This has, perhaps led to the employment of padding of cases. The investigation seems to have become more and more unreliable. In the contentious cases, and particularly of riots involving claim over land, it is a practice not unknown in the countryside for both the factions to outbid each other to win the approbation of the investigation. No doubt, a system of page numbering the case diaries has been introduced and the copies of the record go to the inspecting staff to obviating possible interpolation. But this has been found to be a one way check as it is possible to record vague details in the diaries which could be used by a clever lawyer and acquitted on a benefit of doubt could then accrue.

An important aspect is the recording of details in the case diaries. These are so time consuming that the investigator finds it difficult to get on with this work. It is thus causes the problem of delay in investigation. Therefore, the twin problems of Delay and Case Diary writing and filling up the collide forms like Bail Bonds, Seizure-List have plagued Police Investigations and for this, no remedy has been found so far. Perhaps the amendment in the Criminal Procedure Code is called for laying down limits to the period of detection in intermediate custody without submission of a charge sheet and prohibition of arrest unless a gist of the charge is given in a coherent manner, when the arrest is effected. Even searches should be allowed after obtaining proper authority based on a scrutiny of the available material may be through a justice of peace who may be a non-stipendiary Government Functionary. It is also generally alleged, that case diaries are not written at the spot, with the result that subsequently when the investigating officers write

\textsuperscript{42} The Indian Evidence Act, 1872.
the case diaries, they have to depend on their memory or on the loose notes they may have made on the spot and such a record cannot be accurate.

The provisions of the Criminal Procedure Code are very clear on this subject and make it incumbent on every Police Officer, making an investigation to enter day by day his proceedings in the investigation in the case diary. The provisions of the law appear to have been interpreted to mean that while he is doing investigation work, he must enter everything in his case diary then and there. All that the law requires is that all the proceedings in the investigation should be recorded in the case diary day by day, that means he must do so before he ends up investigation for that day. The Delhi Police Commission has also observed that Case Diaries form a very important part of the investigation done by the Police. It is not only in the interest of the Investigation but also in the interest of the Officer Investigating the case, that as soon as he has completed the day’s work he should write a diary, otherwise since other cases may be interested to him, and he may be engaged in them, the facts ascertained by him, and he may be engaged in them, in the first case, it will get mixed up with those of other cases and he may start distorting that record unconsciously. It is, therefore, necessary that compliance with the provision of Law should be strictly insisted upon and the supervising officers should also ensure that all Case Diaries are dispatched to them within twenty four hour of the day’s completion of the investigation.

2.5.9 Arrests

Power of arrest that has been given to the Police to deprive an individual of his liberty by affecting his arrest has to be exercised with due care and caution. Arrest means apprehension of a person by legal authority resulting in deprivation of his liberty. It means, every compulsion or physical restrain is not arrest but when the restrain is total and deprivation of liberty is complete that would amount to Arrest. These are for securing attendance of an accused. As a preventive or precautionary measure, the police can arrest for obtaining correct name and address and for removing obstruction to the Police.
The arrest is effected only when there is sufficient evidence to indicate that a person was concern in the Commission of Crime and not otherwise. Following are the directives of the Supreme Court given in the said case. The High Court of Calcutta laid down stipulations to be followed by the State Government of West Bengal in order to prevent, check and monitor custodial violence. In *Saheli v. Commissioner of Police*, 43 a writ petition was filed by the women Civil Rights Organization, called “SAHELI” under Article 32 on behalf of the deceased’s mother for recovery of compensation consequent to the death of her nine years old child caused in custody of Anand Prabhat Police Station in Delhi. The Court awarded compensation of Rs 75,000/- to the mother. The humiliation caused to suspects or accused persons due to being paraded in handcuffs while being taken to the Court or Jail had been repugnant to Article 21 in the light of personal liberty as held by the Supreme Court in the present case.

The Supreme Court has expressed its concern for Custodial Commission of Crimes during investigation and interrogation and laid down certain principles to be followed by the concerned police officers in its historic decision in *D.K. Basu v. State of West Bengal*. 44 The basic requirements to be followed in all cases of arrest or detention till legal provisions are made in that behalf to prevent Custodial Violence are as follows:

1) The Police Personnal carrying out the arrest and handling the interrogation of the arrestee should bear accurate, visible and clear identification and name tags with their designations. The particulars of all such Police Personnel who handle interrogation of the arrestee must be recorded in a register.

2) The Police Officer carrying out the arrest shall prepare a memo of arrest at the time of arrest and such memo shall be attested by at least one witness who may either be a member of the family of the arrestee or a respectable person of the arrestee or a respectable person of the locality from where the arrest is made. It shall also be countersigned by the arrestee and contain time and date of arrest.

3) A person who has been arrested or detained and being held in custody in a Police Station or interrogation or lock-up, shall be initiated to inform his friend/relati

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43 1990 AIR 513  
44 AIR1997 SC 610
or a person having interest in his welfare, as soon as practicable, that he has been arrested and is being detained at a particular place, unless the attesting witness of the memo of arrest is himself such and venue of any of an arrestee must be notified.

4) The person assessed must be made aware of his right to have someone informed of his arrest or detention as soon as he is put under arrest or is detained.

5) An entry must be made in the diary at the place of detention giving all details, about the friend/relative or person informed.

6) The arrestee should, where he so requests, be also examined at the time of arrest and minor injuries, of any present on his/her body, must be recorded at that time. The inspection Memo should be signed both by the arrester and the police officer effecting arrest.

7) The arrestee should be subjected to medical examination by a trained doctor after every forty eight hours during his detention in custody.

8) Copies of all documents including memo of arrest, should be sent to the Illaqa Magistrate for his record.

9) The arrestee may be permitted to meet his lawyer during interrogation, though not throughout the interrogation.

10) A Police Control Room should be provided at all district and State Headquarters, where information regarding the arrest and the place of custody of the arrestee shall be communicated by the officer causing the arrest within jurisdiction.

2.5.10 **Medico-Legal Examination**

Another provision that examination of arrested person by medical practitioner at the request of the arrested person of arrested according to the Supreme Court, the arrested person must be informed by the Magistrate about his right to be medically examined. The Supreme Court has also cautioned the lower courts not to adopt a casual approach to Custodial Torture. There is provision that a medical examination will be done at the request of a Police Officer not below the rank of a Sub-Inspector. However, Superior Officers of the Police or the Court are not barred from exercising the said power if it is necessary for doing Justice. Therefore, the Police should perform their mandatory duties.
The Government should take up this matter with the Medical Department and see that the hospitals which undertake the examination of person sent by the Police to send the injury statement of the Post-Mortem Report immediately and without delay.

2.5.11 Examination of Witnesses

Normally, no investigation can be completed without the active co-operation of witnesses. Rather they offered an opportunity to the investigating officer to channel his enquiries in the right directions. It is revealed that some Police Officers abuse their power of calling witnesses to the Police Station. It was suggested that the harassment of witnesses by making them come repeatedly to the Police Station should be avoided as it will discourage the required form of witnesses. The Police Officer should go to him to obtain the same.

2.5.12 Prosecution of cases

It has been a subject of much debate and also the Law Commission recommended complete separation of the prosecution agency from the Police and the creation of a separate department in each district under the director of Public Prosecutions. The Bihar Police Commission also supported a similar scheme. The Police Commissions of Uttar Pradesh and West Bengal, however, thought that the present arrangement of prosecutions working in Magisterial Courts under the control of the Police should continue. It was also strongly urged at the Inspector General’s conference in 1964 that ‘Reconstitution of the prose cutting agency as recommended by the Law Commission would mitigate against the present responsibility of the Superintendent of Police to ensure that all police cases are properly conducted in the Courts and would vest that responsibility solely in the district director of Public Prosecutions. It would introduce a quality of control over police cases conducive neither to efficiency nor to good and effective criminal administration in the district. If both the investigation and prosecution agencies are co-ordinated under the guidance of one officer, it would achieve a greater degree of efficiency in Criminal Administration. The unanimous conclusion of the Inspector General’s Conference was that the prosecuting agency in
the district should remain under the control of the Police Department.

With the enactment of the new Criminal Procedure Code, some states like Punjab, Haryana, Himachal Pradesh, etc., have completely transferred the control of the prosecution branch which was with the Police, to the law department. It was gathered during the study that there is lack of close co-operation between the Investigation and Prosecution Agencies. There should be close co-operation and co-ordination between them. After carefully examining the various aspects of the re-organization of the prosecution branches, the Administrative Reforms Commission recommended that while the prosecuting agencies may be functionally separate from the Investigating Agency at present, a common measure of co-ordination at the District Level by the Superintendent of Police may be ensured.

2.5.13 Maintenance of Order

Article 19(1)(b)\(^{45}\) lies down that all the Citizens shall have the right to assemble peaceably and without arms. It also includes the right to hold meetings and take out processions. But this is not an absolute right and imposes two restrictions, e.g. (a) the assembly should be peaceful and (b) it should be without arms. When these restrictions are by-passed, those who form assembly cannot claim the protection of the Constitution to the right of Assembly.

There are other related issues which have a bearing with due to the extent and multiplicity of social tensions in which Urbanization and Modernization bring in their wake Police tasks more challenging. The overcentralized Police System, nurtured and conditioned in the colonial style appears to be at variance with the spirit of local Democracy and Autonomy. Additionally, there is the problem of the right use of authority by those in power. There have been instances where Governments have been accused of using the Police machinery for political ends as well as of individual Politician interfering with administration in the work of the Police. The manner in which

\(^{45}\) The Constitution of India, 1950.
Political Control has been exercised over the police in the Country has led to gross abuses, resulting in erosion of Rule of Law and of Police Credibility as a Professional Organization. The threat of transfer or suspension is the most potent weapon in the hands of the Politicians to bend the Police to their well. Hence, it would be better to take some functions more seriously than frittering away energies in multiple channels. *The Supreme Court Judgment aims to achieve functional autonomy for the Police and accountability for conduct and performance as under:-*

**Selection and minimum tenure of Chief of Police**

State Governments will appoint the Director General of police from the three Senior Officers of the Department who have been selected for the promotion to the rank by the Union Public Service Commission. The Union Public Service Commission should select candidates based on Length of service, Very good record and Range of experience for heading the police force.

Once an officer has been appointed as the Director General of Police, he or she must be provided with a minimum tenure of two years regardless, of his or her date of retirement. In case of mis-handling of his duty, he can be prosecuted by a disciplinary action against the Director General under the All India Services (Discipline and Appeal) Rules.

**Minimum tenure of other police officers**

Police officers on operational duties in the field will have a minimum tenure of two years. These officers include:

(i) The Inspector General of Police in-charge of a zone.
(iii) The Superintendent of Police in-charge of a police station.
(iv) Tenure is subject to promotion and retirement of the officers.
These officers may be removed before the completion of their tenure if disciplinary proceedings are initiated against them. If they are convicted for a criminal offence or in case of corruption or incapacitated and cannot discharge their responsibilities.

*Separation of investigation law and other functions*

There must be full coordination between the two wings as there may be separation of law and investigation functions. Separation of functions may begin in towns and urban areas that have a population of ten lakhs or more. Public Servants and Officers must do their work in an impartial and efficient way for the benefit of the entire Community. It means Police require Functional Autonomy within the framework of Law and Accountability Mechanisms, Officers must have control over their day to day operational actions and decisions.

*Functional Autonomy*

It is ensuring that the Police is free from illegitimate Political Interference and are not in a position to abuse their power. In India, today illegitimate Political Interference in Police Operations is a routine. This imbalance must be redressed and there should be proper check. Functional Autonomy must in turn be balanced with Accountability. The Police must be accountable as an organization and officers must be accountable as individuals for their actions.

There is expanding Role of Police which distracts their attention from the basic traditional functions of Prevention and detection of Crime and Maintenance of Order.

1. Some of the social laws are not readily acceptable to all which bring the police in conflict with the Public and makes them unpopular.
2. There are certain non-police functions which are not new but of late, have grown considerably in magnitude, e.g. the service of summons. The police have to devote a considerable portion of their time to this work which does not require any specialized skill or training.
In spite of the above, it should not be lost sight of that the Police played a positive role in the enforcement of social legislation but also in social defence. It has been a common experience that while framing legislation, the difficulties which are later encountered in enforcement are seldom taken note of. Police, being the model agency to perform a number of enforcement duties, has to perform unpleasant tasks. It may be a useful if the law makers take the enforcement machinery into confidence and take adequate precautions to plug the gaps. The Police will also have to develop a sociological approach to the problems they have to face. Criminal tendencies must be analyzed and prevention of Crime must also be given a top priority. As it is said,

“Prevention is Better than Cure”.

2.6 Conclusion

Any analysis of the adequacy or inadequacy of the Police Force in the context of changing role requires us to examine the System under which the Police Function. Apart from other diversities, nobody can deny that we have chosen to adopt the most difficult form of Government which only a few countries in the world are able to uphold. We have also adapted social change as a deliberate national objective of Public Policy. Without changing much of the structure, the Law and Order Administration is not in a position to perform this role in any effective manner. Law has not kept pace with requirements of Social Change. What becomes important is that as custodians of Peace and Order, the Administration should maintain a sense of proportion and allow the process of Democracy to operate freely in a manner that marginal disorders, consistent with social equilibrium, may permit and even force change in the statute books.

To perform the emerging role better, it would be necessary to improve the Police force both qualitatively and quantitatively. Better recruitment procedure, rationalization of manpower resources, proper training facilities, and more vigorous physical fitness tests may improve the quality of the personnel. Effort should also be made to see that no policeman is overworked and there would be enough Police strength to deal with Law
and Order problems. Again, it has been seen that a job well performed is hardly rewarded but every lapse and negligence is magnified. If proper publicity for good work done is given, it is sure to raise the morale of the Police Force.

Although the present day police are working well but not upto the mark. Even when new convulsion grip the society, new challenges are faced by the state, new demands are made of it and it is exposed to new threats, the police organisation needs to be reformed. A close look at the police organisation strongly indicated that no serious effort has ever launched to reform the police and there is a need to overhaul the entire system with the new equipments, trained staff and with better facilities so that we can imagine the society which is free from crime and welfare state.