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Powers of Police

The Code of Criminal Procedure, 1973 confers important powers on police officers. Power to investigate, search and arrest are some of the powers.

- Registering FIR- Police has power to lodge FIR. Section 154 of the Code of Criminal Procedure, 1973 says that police has to record the information related to any cognizable offence.
- Power to investigate and procedure of investigation- Section 156 gives the power to police officer to investigate any cognizable offence without the order of a Magistrate and the proceedings of the police cannot be called in question on the ground that this section does not empower police officer to investigate.

For investigation as mentioned under Section 156 of the Code, the police has to send a report to the Magistrate first and then start the investigation. The police officer on completion of investigation has to send the police report as per Section 173(2). The police report should contain the following:

- names of the parties; nature of information;
- names of persons who appear to be acquainted with the circumstances of the case;
- whether any offence appears to have been committed and, if so, by whom;
- whether the accused has been arrested; whether he has been released on his bond and, if so, whether with or without sureties;
- whether he has been forwarded in custody under section 170.

Investigation in non- cognizable offences can be carried out by police after an order has been passed by the Magistrate.

- Power to inquire and report on suicide- Section 174 of the Code empowers police to inquire and report the cases of suicide, or when has been killed by another person, by an animal, machinery, accident or has died under circumstances raising reasonable suspicion that some other person has committed an offence.
- Power to require attendance of witnesses- According to Section 160(1) of the Code, police can order the witnesses (except the ones mentioned in the proviso to Section 160(1)) to present before himself or any other person provided the order is in writing, the person is acquainted with the facts of case and person is within the limits of police station.

- Power of preventive arrest- Section 151 of the Code empowers police to arrest a person without the orders of Magistrate if it appears to the police that the person is planning to commit any cognizable offence. In *Medha Patkar v. State*, the landowners of MP and some other people gathered on road and were shouting slogans and their demands. Police arrested those people along with women and children under Section 151. It was held that there was no danger that the gathering will commit a cognizable offence so arresting them was not in accordance with the provisions of Section 151 of the Code and violated their Fundamental Right enshrined under Article 21.

Human Right violations

Police deals with number of people, accused and innocent both and use of force by police to a certain extent is necessary to perform their duties but in this process the human rights and Fundamental Rights of the citizens should not be violated. Universal Declaration of Human Rights has given several important human rights to the people such as Article 3 states, “Everyone has the right to life, liberty and personal security.” Further, Article 5 says that, “No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.” Also, many Fundamental Rights like Article 19 and 21 give freedom and right to life to everyone. Police is criticised for treating the prison inmates or people under custody very often. Human rights are violated in many forms such as illegal detention or arrest, use of force which sometimes lead to death, false implications, etc.

Following are some guidelines laid down under the Constitution and various cases for the rights of prison inmates and people in custody:

- Right to remain silent- Right to remain silent is a right of the persons in custody. Article 20(3) of the Constitution of India also protects persons to witness against them in the court.
- Right to fair investigation- This right can be interpreted from the Articles 20 and 21 of the Constitution. In *Babubhai v. State of Gujarat & Ors.*, it was laid down that right to fair investigation forms the part of Articles 20 and 21.
- Handcuffing- Handcuffing is not a necessity in case of arrest. In *Prem Shankar v. Delhi Administration* it was held that handcuffing is unreasonable and inhumane and it is acceptable only in some exceptional circumstances.
- Arrest- In cases of arrest, Article 22 provides that the person who is to be arrested has a right to know the reasons of his/ her arrest.

Government of India Code of conduct for police

Code of conduct for police in the country which was adopted at the Conference of the Inspectors General of Police in 1960, is as follows:

1. The police must bear faithful allegiance to the Constitution of India and respect and uphold the rights of the citizens as guaranteed by it.
2. The police should not question the propriety of necessity of any law duly enacted. They should enforce the law firmly and impartially without fear or favour, malice or vindictiveness.
3. The police should recognize and respect the limitations of their powers and functions. They should not usurp or even seem to usurp the functions of the judiciary and sit in judgement on cases to avenge individuals and punish the guilty.
4. In securing the observance of law or in maintaining order, the police should as far as practicable, use the methods of persuasion, advice and warning. When the application of force becomes inevitable, only the irreducible minimum of force required in the circumstances should be used.
5. The prime duty of the police is to prevent crime and disorder and the police must recognize that the test of their efficiency is the absence of both and not the visible evidence of police action in dealing with them.
6. The police must recognize that they are members of the public, with the only difference that in the interest of the society and on its behalf they are employed to give full time attention to duties which are normally incumbent on every citizen to perform.
7. The police should realize that the efficient performance of their duties will be dependent on the extent of ready cooperation that they receive from the public. This, in turn, will depend on their ability to secure public approval of their conduct and actions and to earn and retain public respect and confidence.
8. The police should always keep the welfare of the people in mind and be sympathetic and considerate towards them. They should always be ready to offer individual service and friendship and render necessary assistance to all without regard to their wealth and/or social standing.
9. The police should always place duty before self, should maintain calm in the face of danger, scorn or ridicule and should be ready to sacrifice their lives in protecting those of others.

10. The police should always be courteous and well mannered; they should be dependable and impartial; they should possess dignity and courage; and should cultivate character and the trust of the people.

11. Integrity of the highest order is the fundamental basis of the prestige of the police. Recognizing this, the police must keep their private lives scrupulously clean, develop self-restraint and be truthful and honest in thought and deed, in both personal and official life, so that the public may regard them as exemplary citizens.

12. The police should recognize that their full to the potential to the State. It is best ensured only by maintaining a high standard of discipline, faithful performance of duties in accordance with law and implicit obedience to the lawful directions of commanding ranks and absolute loyalty to the force and by keeping themselves in the state of constant training and preparedness.

13. As members of a secular, democratic state the police should strive continually to rise above personal prejudices and promote harmony and the spirit of common brotherhood amongst all the people of India transcending religious,. linguistic and regional or sectional diversities and to renounce practices derogatory to the dignity of women and disadvantaged segments of the society.

Police is an important instrument who is responsible for maintaining peace and order in the country. A country is able to live peacefully, without insecurities if the police performs its functions and duties efficiently and effectively. Police Act 1861 and Model Police Act, 2006 specifies the administration, role, duties and powers of Police Department. Further, The Code of Criminal Procedure, 1973 empowers police officers to conduct investigation, make arrest including preventive arrest, requires attendance of witnesses, etc.