DISCLAIMER

No part of this publication may be reproduced or copied in any form by any means without prior written permission of Editor-in-chief of White Black Legal – The Law Journal. The Editorial Team of White Black Legal holds the copyright to all articles contributed to this publication. The views expressed in this publication are purely personal opinions of the authors and do not reflect the views of the Editorial Team of White Black Legal. Though all efforts are made to ensure the accuracy and correctness of the information published, White Black Legal shall not be responsible for any errors caused due to oversight or otherwise.
EDITORIAL TEAM

EDITOR IN CHIEF
Name - Mr. Varun Agrawal
Consultant || SUMEG FINANCIAL SERVICES PVT.LTD.
Phone - +91-9990670288
Email - whiteblacklegal@gmail.com

EDITOR
Name - Mr. Anand Agrawal
Consultant || SUMEG FINANCIAL SERVICES PVT.LTD.

EDITOR (HONORARY)
Name - Smt Surbhi Mittal
Manager || PSU

EDITOR (HONORARY)
Name - Mr Praveen Mittal
Consultant || United Health Group MNC

EDITOR
Name - Smt Sweety Jain
Consultant || SUMEG FINANCIAL SERVICES PVT.LTD.

EDITOR
Name - Mr. Siddharth Dhawan
Core Team Member || Legal Education Awareness Foundation
ABOUT US

WHITE BLACK LEGAL is an open access, peer-reviewed and refereed journal provide dedicated to express views on topical legal issues, thereby generating a cross current of ideas on emerging matters. This platform shall also ignite the initiative and desire of young law students to contribute in the field of law. The erudite response of legal luminaries shall be solicited to enable readers to explore challenges that lie before law makers, lawyers and the society at large, in the event of the ever changing social, economic and technological scenario.

With this thought, we hereby present to you

WHITE BLACK LEGAL: THE LAW JOURNAL
ROLE OF POLICE UNDER CONSTITUTION AND CRIMINAL PROCEDURE CODE

By : Sruti Devan K

INTRODUCTION:

The basic concept of governance in ancient India was of Dharma and Danda and there were functionaries to ensure the operation of 'Danda'. In fact Dandaniti was an important ingredient of statecraft. In the Dharma-sutras proper wielding of 'Danda' «as held to be an important duty of the king. The basic unit of policing was the village; a village being an aggregation of families together with their lands and pastures surrounding the village. Every village had its local court which was composed of the Headman and the elders of the village. These courts decided minor criminal cases such as petty thefts as well as civil disputes. The Mahabharata speaks of Gramadhipati and the Buddhist Jatakas mention Grambhojaka. While these were actually village headmen the nagaraguthka was responsible for arresting and executing robbers. There is also the mention of "chora-ghataka" —slayer of thieves. Kautilya's Arthashastra refers to a detailed police organisation, a "sangrahana" for 10 villages, a "kharvatika" for 200 villages, a "dronamukha" for 400 villages and a "sthaniya" for 800 villages. Significantly there was accent on intelligence collection.

This research project is about the role of police under constitution and criminal procedure code. More information are following…….

RESEARCH PROBLEM:

The problem of this research is that to study the role of police under constitution and criminal procedure code. Because these statutes gives the powers and imposes certain duties to police officers. So this research will help us to study more about their position in India.
NEED OF THE RESEARCH:

With the advance of civilization, ideas of socialism and democracy took root. Laws of the land no longer reflected the individual whims and fancies of ruling individuals or groups. Law making as a process involved increasing participation by the public through elected representatives. Law thus got delinked from the individual ruler or ruling group or party and got attached to the people of the State as a whole. Personalised laws were replaced by public laws. Police role consequently changed in its content. Instead of serving the interests of an individual ruler or a group, police started functioning as servants of an impersonal law which was something common to all citizens of the State. So it is indeed for every citizen to know their position under our statutes. This research will definitely help for to clear the doubts regarding position of police officers under the CRPC and Constitution.

OBJECTIVES:

- To find out the role of police in the Indian society.
- To find out the position of police under Constitution and Criminal procedure code.
- To find out the powers, duties and other procedure followed by them.

LIMITATIONS:

- This research doesn’t talk much about the origin and development of the concept.
- This research is giving importance to the position of police under constitution and Crpc only.
- This research is fully based on present systems. It doesn’t talk much about the old systems.

HYPOTHESIS:

From this project report, it is very clear that police officer plays a vital role in our society by maintaining law and order. It will be difficult to maintain peace in the country without their help. Every police officer holds a social status other than a mere citizen, because they are having a special position under constitution and criminal procedure code also. If they are utilizing those powers in a good manner then maintenance of peace will be simple thing.
REVIEW OF LITERATURE:

- Crimonology and penology by R.K. Radhamani is a very famous book in the field of criminology. It gives us a clear picture about the police organization in India.
- Police system and Hierarchy; a mere study is an other famous book in the same field. It was written by the Eminent writer and Orater Mr. K.C.Rajagopal. In this book, he talks about the origin and historical development of police system and their organization in India.

CHAPTERISATION:

- Role of police in India.
- Content and scope.
- Principle of Necessity.
- Dying declaration under English Law.
- Dying declaration under Indian Law.
- Comparison between the both Laws.

CHAPTER 1: ROLE OF POLICE IN INDIA

THE INDIAN police system, when it was first conceived by the British rulers, was meticulously designed, structured and honed to enforce law and public order primarily for sustaining the foreign rule. As part of the strait-jacket administration that was put in place soon after the patriotic uprising of 1857 by some sections of Indian soldiers against the British command, it had functioned as a loyal adjunct of the government for over 140 years.

The statutory basis for the Indian police is the Police Act of 1861 which put the police squarely under the control of the government. The position has remained the same after Independence. The old Police Act continues to be law without being replaced by any fresh legislation to fit our democracy after Independence. Police Officers have a duty to protect individuals from constitutional violations by fellow officers. Therefore, an officer who witnesses a fellow officer violating an individual's constitutional rights may be liable to the victim for failing to intervene.
CHAPTER 2 : CONCEPT OF POLICE UNDER CONSTITUTION

`Public Order' and `Police' figure as entries 1 and 2 respectively in the State List in the Seventh Schedule of the Constitution. Each State has, therefore, exclusive power to legislate in regard to its police system and also has full administrative control over the police in the State. The Central Government can exercise similar power in regard to `Public Order' and `Police' in the Union Territories only. Under entry 80 of the Union List, the Centre has powers to extend the jurisdiction of the members of the police force of one State to another State, but it can be done only with the consent of the latter State.

Under entry 2A of the Union List, the Central Government has power to deploy any armed force of the Union or any other force subject to the control of the Union or any unit thereof in any State in aid of civil power. Powers under this entry are invoked only in a serious emergency when the civil authorities in a State request the assistance of the armed forces of the Union for maintaining public order.

Officers of the Indian Police Service, which is an all India service constituted under Article 312 of the Constitution, provide the leadership for the police force in each State. Disciplinary control over IPS officers is shared by the State Government concerned and the Central Government. While minor punishments can be awarded to an IPS officer by the State Government, major punishments like dismissal or removal from service can be awarded only by the Central Government. However, in the day-to-day administration of a State, all matters of promotion, posting and transfer of IPS officers at all levels within the State are handled exclusively by the State Government concerned. The Centre exercises similar powers in regard to IPS officers working under the Central Government.

Entry 8 of the Union List mentions `Central Bureau of Intelligence and Investigation'. Acting under this entry, the Central Government runs the Intelligence Bureau and the Central Bureau of Investigation under its full administrative control and direction. While officers of the Intelligence Bureau have no police powers and are solely concerned with collection and analysis of intelligence relating to national security, officers of the Central Bureau of Investigation exercise police powers to make regular inquiries and open investigations into certain specified offences, notified by the Central Government. They get these powers under the provisions of the Delhi Special Police Establishment Act of 1946 which is the statutory base for the Central Bureau of Investigation. Since it acquires the character of a police agency under this Act, the jurisdiction of the Central Bureau of Investigation normally extends to the Union Territories only. It can exercise its powers in the States also, but that will require the concurrence of the State Government concerned, as stipulated in entry 80 of the Union List. At present, the Central Bureau of Investigation faces difficulties whenever some State Governments show reluctance to give concurrence for the CBI to function within the State in respect of some sensational cases which have political significance in the State.
CHAPTER 3 : POLICE UNDER CRPC

The ordinary criminal courts derive their existence from CRPC. However, CRPC does not say anything about the constitution of Police. It assumes the existence of police and devolves various powers and responsibilities on to it.

Functions –
As per The Police Act, 1861, the police force is an instrument for the prevention and detection of crime.

Organization –
Every state establishes its own police force which is formally enrolled. The force consists of such number of officers and men and is constituted in such manner as the state govt. may decide from time to time. The overall administration of police in the entire state is done by Director General of Police. The administration of police in a district is done by District Superintendent of Police under the general control and direction of District Magistrate who is usually the Collector of the district. Every police officer appointed to the police force, other than Inspector General of Police and District Superintendent of Police, receives a certificate in prescribed form by virtue of which he is vested with the powers, functions and privileges of a police officer.

The Police Act, 1888 also empowers the Central Government to create special police districts and to extend the jurisdiction of police of any state to that district. The Police Act 1949 creates a police force for Union Territories.

Powers –
1. The Cr P C confers specific powers on the members of police force who are enrolled as police officers. These powers include power to make an arrest, search, and investigate. Wider powers have been given to police officers in charge of a police station. As per Section 2(s), police station means any post or place that is generally or specially designated by the state govt as a police station. Further, as per Section 2(o) officer in charge of a police station includes the officer who is present at the police station and is next in rank to the police officer in charge, if he is on leave or is absent. This only increases the importance of the police officer in charge of a police station.

2. Section 36 of CRPC specifies that officers of police who are superior in rank to police officer in charge of a police station can exercise all the powers of that police officer. In the case of State of Bihar vs J A C Saldanha SCC 1980, SC held that if the Inspector General (Vigilance) is an officer superior to the officer in charge of the police station he can exercise the powers of that officer throughout the territory to which the superior officer has been appointed, which, in this case is the entire territory of Bihar.

Duties –
1. Duty towards maintenance of Public Order:

The task of maintenance of public order includes several measures for preventing violations of law relating to public peace. Extending the principle mentioned in the foregoing paragraph, we feel that police should be enabled in law to take the assistance for other organized public bodies for undertaking appropriate preventive measures.

2. Duty towards Crime -

Police responsibility for investigation of crimes may be spelt out in general terms in the basic law, namely, the Police Act, but in actual procedural practice there should be graded situations specifying different degree's of police responsibility in regard to different types of crimes. In the existing law, we have a graded division of crimes into two categories—cognizable and non-cognizable. The procedural law describes in detail the responsibility of police in the investigation of a cognizable crime. Police intervention in a no cognizable crime requires prior permission from a magistrate. We agree that police responsibility need not be made uniform in regard to all crimes under all laws. Certain types of crimes will require police intervention on their own initiative and on their own intelligence, without waiting for a complaint as such from any aggrieved person. Certain other types of crimes may justify police intervention only on a specific complaint from a member of the public. A third category of crime can be visualized where police may intervene only on a complaint from an aggrieved party and not by any member of the public. The different types of police response that will be desirable in different situations will be separately dealt with by us in another chapter where we will be examining the present provisions in law relating to inquiries and investigation. It is sufficient for the purpose of this chapter to state our view that police responsibility for investigation need not be the same for all types of crimes but may be graded and classified into different categories for different types of crimes.

CHAPTER 4 : ARREST AND FALSE ARREST

Arrest -

Arrest means apprehension of a person by legal authority so as to cause deprivation of his liberty. Thus, after arrest, a person’s liberty is in control of the arrester. Arrest is an important tool for bringing an accused before the court as well as to prevent a crime or prevent a person suspected of doing crime from running away from the law. Cr P C contemplates two types of arrests – an arrest that is made for the execution of a warrant issued by a magistrate and an arrest that is made without any warrant but in accordance with some legal provision that permits arrest.

False Arrest -
The claim that is most often asserted against police is false arrest. Persons bringing this claim assert that police violated their Fourth Amendment right against unreasonable seizure. If the officer had probable cause to believe the individual had committed a crime, the arrest is reasonable and the Fourth Amendment has not been violated. Police can arrest without a warrant for a felony or misdemeanor committed in their presence. (Some states also allow warrantless arrests for misdemeanor domestic assaults not committed in the officer's presence.) Even if the information the officer relied upon later turns out to be false, the officer is not liable if he believed it was accurate at the time of the arrest. To prevail on a false arrest claim, the victim must show that the arresting officer lacked probable cause, that is, facts sufficient to cause a reasonable person to believe that a crime had been committed.

Section 41 to 44 contains provisions that govern the arrest of a person by police and private citizens, while Section 46 describes how an arrest is made.

**Arrest without warrant**

There are situations when a person may be arrested by a police officer, a magistrate or even private citizen without a warrant. These are described in Section 41, 42, 43, and 44 as follows –

Arrest by Police – Section 41. When police may arrest without warrant (CIPSODOBO)

1. Any police officer may without an order from a Magistrate and without a warrant, arrest any person –

   (a) who has been concerned in any cognizable offence, or against whom a reasonable complaint has been made, or credible information has been received, or a reasonable suspicion exists, of his having been so concerned; or

   (b) who has in his possession without lawful excuse, the burden of proving which excuse shall lie on such person, any implement of house-breaking; or

   (c) who has been proclaimed as an offender either under this Code or by order of the State Government; or

   (d) In whose possession anything is found which may reasonably be suspected to be stolen property and who may reasonably be suspected of having committed an offence with reference to such thing; or

   (e) Who obstructs a police officer while in the execution of his duty, or who has escaped, or attempts to escape, from lawful custody; or

   (f) Who is reasonably suspected of being a deserter from any of the Armed Forces of the Union; or

   (g) who has been concerned in, or against whom a reasonable complaint has been made, or credible information has been received, or a reasonable suspicion exists, of his having been concerned in, any act committed at any place out of India which, if committed in India, would have been punishable as an offence, and for which he is, under any law relating to extradition, or otherwise, liable to be apprehended or detained in custody in India; or
(h) who, being a released convict, commits a breach of any rule made under sub-section (5) of section 356; or
(l) for whose arrest any requisition, whether written or oral, has been received from another police officer, provided that the requisition specifies the person to be arrested and the offence or other cause for which the arrest is to be made and it appears therefore that the person might lawfully be arrested without a warrant by the officer who issued the requisition.

(2) Any officer in charge of a police station may, in like manner, arrest or cause to be arrested any person, belonging to one or more of the categories of persons specified in section 109 or section 110.

In the case of Joginder Kumar vs State of UP, CrLJ, 1994, it was held that no arrest can be made merely because it is lawful to do so. There must be a justifiable reason to arrest. Further, in State vs Bhera, CrLJ, 1997, it was held that the "reasonable suspicion" and "creditable information" must relate to definite averments which must be considered by the Police Officer himself before he arrests the person.

Section 42 allows a police officer to arrest a person for a non-cognizable offence, if he refuses to give his name and residence. As per Section 42(1), when any person who, in the presence of a police officer, has committed or has been accused of committing a non-cognizable offence refuses, on demand of such officer, to give his name and residence or gives a name or residence which such officer has reason to believe to be false, he may be arrested by such officer in order that his name or residence may be ascertained.

However, as per sub clause (2), the person must be released when the true name and residence of such person have been ascertained. He may be required to execute a bond, with or without sureties, to appear before a Magistrate if necessary. Provided that, if such person is not resident in India, the bond shall be secured by a surety or sureties resident in India.

CHAPTER 5 : POLICE MISCONDUCT

Civil rights claims are an important part of our legal system, providing a balance between the duty of law enforcement to uphold the laws, and the rights of individuals to be free from police misconduct. Yet cases against police officers can be difficult. Officers may be immune from suit, even though an individual feels he or she was mistreated. Claims against police departments can also be expensive to bring because a lot of evidence must be secured, including records, statements of police, statements of witnesses, and various other documentation, to prove the misconduct.

The evidence supporting your claim is the most important element in a police misconduct suit. If you feel you've been the victim of police misconduct, contact a Civil Rights Attorney promptly so that valuable evidence does not disappear. Take photographs of any injuries or damage caused by the police, and set aside clothing or other objects that was torn or stained with
blood from the incident. Try to get the names and addresses or telephone numbers of anyone who may have witnessed the incident. Also, write down exactly what happened as soon as you can, so that you don't forget important details.

CHAPTER 6: PRISON AUTHORITIES AND THIRD DEGREE MEASURES

CRPC presumes the existence of Prisons and Prison authorities. The code empowers magistrates and judges under certain circumstances to order detention of under trial prisoners in jail during the pendency of proceedings. The code also empowers the courts to impose sentences of imprisonment on convicted persons and to send them to prison authorities. However, the code does not make specific provisions for creation and administration of prison authorities. These matters are dealt with in separate acts such as The Prisons Act 1894, The Prisoners Act, 1900, and the Probation of Offenders Act 1958.

CHAPTER 7: POLICE; SERVANT OF LAW

For the present purpose we would, in particular, draw attention to the fifth principle, which underlines police responsibility for absolutely impartial service to law in complete independence of policy. We hold this as the most fundamental concept for observance in the police system in a democracy. The basic role of police is to function as a law enforcement agency and render impartial service to law, in complete independence of mere wishes, indications or desires, oppressed by the Government as a matter of policy which either come in conflict with or do not conform to the provisions in our Constitution or laws duly enacted there under. We will be separately discussing in another chapter the working arrangements and safeguards that would be needed to enable the police perform this role, but our purpose in this chapter is to underline this role as the basic role. We visualize that as we proceed further with our task of police reform, we might find it necessary to make several radical changes in the existing provisions of the outmoded Police Act of 1861. We recommend that the basic police role as noted above may be specifically spelt out in categorical terms in the new Police Act.

Code of Conduct for police

Code of Conduct for the police in India was adopted at the Conference of Inspectors General of Police in 1960 and circulated to all the State Governments. This Code has the following clauses:

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 are essentially a law enforcing agency. They should not question the propriety or necessity of any duly enacted law. They should enforce the law firmly and impartially, without fear or favor, malice or vindictiveness.
(3) The police should recognize and respect the limitations of their powers and functions. They should not usurp or when seem to usurp the functions of the judiciary and sit in judgment on cases. Nor should they avenge individuals and punish the guilty.

(4) In securing the observance of law or in maintaining order, the police should use the methods of persuasion, advice and warning. Should these fail, and the application of force becomes inevitable, only the absolute minimum 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 community 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 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. The extent to which they succeed in obtaining public cooperation will diminish proportionately the necessity of the use of physical force or compulsion in the discharge of their functions.

(8) The police should be sympathetic and considerate to all people and should be constantly mindful of their welfare. They should always be ready to offer individual service and friendship and render necessary assistance to all without regard to their wealth or social standing.

(9) The police shall always place duty before self, should remain calm and good humored whatever be the danger or provocation 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 unattached; 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 they can enhance their utility to the Administration and the country only by maintaining a high standard of discipline, unstinted obedience to the superiors and loyalty to the force and by keeping themselves in a state of constant training and preparedness.

While we are in general agreement with all the above clauses and are satisfied that they will admirably fit in with the re-defined role, duties and responsibilities for the police as envisaged now, we have some reservations in accepting clause (12) as it is. A reference to the utility of the police to the "administration" and the "country" separately would induce a general impression that the interests of the administration and the country may not always coincide. We have made clear our view that the basic role of the police is to function as a servant of the law and not as a
servant of the government in power. The word "Administration" in clause (12) can only refer to the Government and, therefore, we do not accept its relevance in this clause. Further, the use of the words "unstinted obedience to the superiors" may also be misunderstood to mean an obligation to execute any decision taken by the hierarchy irrespective of its legal validity or propriety. We would, therefore, recommend that clause (12) of the above Code may be modified to read as under:

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

CHAPTER 8 : ROLE OF POLICE AS A COUNCELLER AND IN ENFORCEMENT OF SOCIAL LEGISLATION

Role as a counselor -

The police have a limited role in the field of prevention of crime. Even for performing this limited role, we feel that the police should have greater facilities recognised in law for dealing with different situations, in a less aggressive manner than through usual process of arrest, detention in custody. It is acknowledged that every individual member of the community can do a great deal to reduce the opportunities for commission of crime by taking due care of his person and property. In U.K. an important activity of the police is to advise people on how best they can keep their property secure. This is typified by the figures of the year 1976 according to which 40,000 persons were advised by the Metropolitan Police (Crime Prevention Mobile Advice Unit) on how to secure their house and motor-cars. In addition 20,000 surveys of premises were made and 1,900 talks given towards crime prevention. This advisory role of police is not recognized in our country. Such duties are performed here and there on the initiative of a few police officers but this performance is not institutionalized in the system. The use of a formal warning can also be helpful on occasions. Juveniles becoming wayward, taking drugs, pilfering objects out of bravado and smartness, could be warned on record and their parents duly advised. Persons in danger of falling into the clutches of criminals could be brought to the notice of social welfare organizations. Counseling and warning should be deemed legitimate as police activities towards prevention of crime and recognized as such in law.

Role in enforcement of social Legislation –

During our visits to the States and group discussions with several members of the services as also public, a basic question was raised whether the police should have any role at all in the enforcement of such social and economic laws. We have received three views on this subject. The first and what may be called the conservative view is that police should have nothing to do
with social and economic legislation because (i) the police are concerned with the basic criminal law only; (ii) due to deficiencies of manpower and equipment, they can barely manage to enforce the basic criminal law and cannot undertake a wider role; (iii) much of social and economic legislation is in advance of, and sometimes in conflict with, public opinion and, therefore, enforcement of such legislation would increase public hostility to police; (iv) socio-economic reform is not the business of police; (v) greater efficiency would result from concentration on a narrow role and (vi) it introduces avoidable corruption in the ranks of police which then affects every aspect of their activity. The second view, which is opposite to the first,’ states that (i) police are the primary law enforcing agency and must enforce all laws; (ii) social and economic legislation represent an attempt to fulfill the aspirations of the people as outlined in the Preamble of the Constitution and the Directive Principles of State Policy and, therefore, police must lend a hand in this national effort; (iii) by enforcing such legislation police would be acting as agents of social change, a role which is definitely better for their psychological health then the traditional negative and punitive role; and, (iv) social legislation often aims at social defense which being preventive in approach is of direct concern to the police. The third view is a composite of the two and holds that the police need not concern themselves with every piece of social and economic legislation but must concern themselves with such as seek to curb (i) social evils that are generally acknowledged as such by the mass of people, an example of which is the Prevention of Corruption Act through effective enforcement of which police can promote rectitude in public life; (ii) social crimes which have a tendency to sprout traditional crime relating to life and property and (iii) social and economic crimes which tend to develop into organized crime.

CHAPTER 9 : PROBLEM WITH HANDCUFFING AND THIRD DEGREE MEASURES

Handcuffing :-

The persons arrested by Law-enforcement Agencies and the Prisoners requiring to be produced before a Court, routinely require to be secured during transit. The arrest could be either in pursuance of a Warrant issued by Court or without a warrant in appropriate cases. In India, the basic law for arrest is laid down in Chapter V of The Code of Criminal Procedure 1973. The Code stipulates (Section 46) that the person making the arrest shall actually touch or confine the body of the person to be arrested, unless there be a submission to the custody by word or action. For female arrestees there are special provisions. Section 49 of the Code further lays down that the person arrested shall not be subjected to more restraint than is necessary to prevent his escape. Section 55A casts a duty on the person having the custody of an accused to take reasonable care of the health and safety of the accused. The Rules for securing the arrested person are contained in the State Police Manuals, mostly in Chapters dealing with the Police Station work or in Chapters dealing with Police Escorts.

As regards the attendance of prisoners for production before Court, the enabling provisions are contained in the Attendance of Prisoners Act 1955. The State Governments are empowered to make rules to carry out the provisions of this Act. However the practical position
is that the Prison authorities handover the prisoners required for production before Court to the Police Escort Party at the Jail gate and then onwards it is the Police which is responsible for securing the prisoner till the prisoner is handed back to the jail or otherwise disposed off in accordance with Court orders. They follow the Rules relating to Escorts contained in the State Police Manuals. It is these Rules and their implementation which has come to the adverse notice of Courts time and again.

Why do we need to secure the arrested person or the prisoner at all? Besides the most important reason which is clear by section 49 of the Code that it is to prevent his escape, there are other cogent reasons which are not apparent on the face of the issue. Most important is that unsecured arrested person is easy to be forcibly taken away not only by the well-wishers of the arrested person but by his arch enemies also. Secondly it is also important to distinguish the arrested person and prisoner from other persons in the Crowd that is so common during Transit through train, Bus and other public transport and also in the Court Premises. Their inter-mingling with the crowd and possibility of melting away in the melee is not desirable. In any case the arrested person should not be tempted to develop a feeling that there are opportunities galore for his easy escape. Target hardening needs to be conspicuous. There have also been cases where after arrest an unsecured prisoner tried to commit suicide by jumping out from the vehicle or train or cause hurt to him.

All over the world, handcuffing is the preferred and most prevalent method of effecting arrest. While making arrest, not many countries make any concession from handcuffing even to women arrestees. In fact the copy-book method of handcuffing is to handcuff both the hands tied together from behind. The Law in most of the countries does not make a distinction on various methods of securing arrestee based on the gravity of offence. If arrest is to be made, it is mostly by immediate handcuffing. What is different from our country is the treatment after the Handcuffing. In most of the countries the arresting team has a vehicle ready at hand for carrying the arrestee to the Police Station and after conducting a mandatory body search the arrestee is immediately placed in the vehicle. The occasion for parading in full public view with handcuffs on, does not arise at all. Another difference is that of the material of which the Handcuff is made of. Nowadays a modern handcuff is no longer the traditional Metal Handcuff as normally used in our country. We also still use manila rope to hold on to the Handcuffed person making him no better than the spectacle of performing monkey with reins in the hand of the Madaari.

Third degree measures:
They use this for all not only for criminals, terrorists but opposition party workers also. They use third degree for earning money from accused person. This cruel method includes beating hard by sticks, use of current, chilly powder in anus, making a man helicopter by hanging, pulling nails, punching by Sharp tools on private organs, using ice and hot water and many more... endless process of torturing. Indian Police is expert in all third degree tackling.
As everyone knows in India, 3rd degree interrogation is resorting to physical torture by police. Interrogation of a prisoner by the police involving the infliction of mental or physical suffering for bringing about a confession or to extract information. Mr. Richard H. Sylvester, the Chief of Police in Washington, probably coined the phrase. According to him police procedures can be classified into 1) The arrest is the first degree, 2) The transportation to jail is the second degree, and 3) The interrogation is the third degree. In India, even slapping a person for extracting information or confession is an offence under Indian Penal Code (Sec. 370)

One more aspect of Indian laws is that, most of the prevailing laws were enacted under British rule. At that time the officers were either British or Anglo Indians and constabulary was the Natives so for entering into the good books of the officers, constables resorted to unlawful methods of interrogation like 3rd degree. To avoid this provisions were made in Indian Evidence Act. Sec 25 and 26 make the statement recorded by police inadmissible in court unless witness appears before the court and deposes according to the statement and gets subjected to cross examination by defense lawyer.

3rd degree methods are the inadvisable short cuts but in the light of Increased crime rates and shortage of manpower in police force, many officers are tempted to use such methods, secondly the new generation officers are commonly impatient due to immaturity and lack of experience, hence while I was working in Maharashtra Police, I always made it a point to watch how junior officers were interrogating the accused persons.

**CONCLUSION:**

In the light of our observations in the foregoing paragraphs regarding the re-defined role, duties, powers and responsibilities of the police, we recommend that the new Police Act may spell out the duties and responsibilities of the police to—

(i) Promote and preserve public order;
(ii) Investigate crimes, and where appropriate, to apprehend the offenders and participate in subsequent legal proceedings connected therewith;
(iii) Identify problems and situations that are likely to result in commission of crimes;
(iv) Reduce the opportunities for the commission of crimes through preventive patrol and other appropriate police measures;
(v) Aid and co-operate with other relevant agencies in implementing other appropriate measures for prevention of crimes;
(vi) Aid individuals who are in danger of physical harm;
(vii) Create and maintain a feeling of security in the community;
(viii) Facilitate orderly movement of people and vehicles;
(ix) Counsel and resolve conflicts and promote amity;
(x) Provide other appropriate services and afford relief to people in distress situations; and
(xi) Collect intelligence relating to matters affecting public peace and crimes in general including social and economic offences, national integrity and security; and
(xii) Perform such other duties as may be enjoined on them by law for the time being in force.
(ii) Above will give legal scope for police to be associated with the process of prosecution and have effective interaction with the prosecuting agency:

(iii) And (v) will afford scope for police to be associated in a recognized manner with the other wings of the criminal justice system for preventing crime and reforming criminals. I (ix) and (x) will facilitate the performance of service-oriented functions and will also recognize a counseling and mediating role for the police in appropriate situations…