HAND BOOK ON INVESTIGATION FOR SUB –INSPECTOR OF POLICE W.B.P.

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West Bengal, Barrackpore
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CHAPTER-I

DEFINITION& EXPLANATION

A: Criminal Procedure Code.

**Police Station** (Section 2 (s) CrPC)

“Police station” means any post or place declared, generally or specially, by the State Government, to be a police station, and includes any local area specified by the State Government in this behalf;

**Police Officer**

According to interpretation clause of the Police Act (Act V of 1861) the word “Police” is defined as “the word Police shall include all persons who shall be enrolled under this Act.” According to Police Regulation Bengal interpretation clause the word “Officer” includes men.

In section 25 of the Indian Evidence Act, 1872 the word “Police Officer” is mentioned as a legal term while police personnel is making an investigation of a case as per CrPC.

**Officer-in-charge** (Section 2 (o) CrPC)

“Officer-in-charge of a police station” includes, when the officer-in-charge of a police station is absent from the station-house or unable from illness or other cause to perform his duties, the police officer present at the station-house who is next in rank to such officer and is above the rank of a constable or, when the State Government so directs, any other police officer so present.

**Offence** (Section 2(n) CrPC)

Offence means any act or omission made punishable by any law for the time being in force and includes any act in respect of which a complaint may be made under section 20 of the Cattle Trespass Act, 1871.

**Cognizable Offence** (Sec. 2 (C) CrPC)

Cognizable offence means an offence for which, and cognizable case means a case in which, a police officer may, in accordance with the First Schedule or under any other law for the time being in force arrest without warrant.

**Non-Cognizable Offence** (Sec. 2 (l) CrPC)

Non-Cognizable offence means an offence for which, and Non-Cognizable case means a case in which, a police officer has no authority to arrest without warrant.

**Inquiry** (Section 2(g) CrPC)

“Inquiry” means every inquiry, other than a trial, conducted this code by a Magistrate or Court.

**Summons-Case** (Section 2(w) CrPC)

“Summons-Case” means a case relating to an offence, and not being a warrant case;

**Warrant case** (Section 2 (x) CrPC)

“Warrant case” means a case relating to an offence punishable with death, imprisonment for life or imprisonment for a term exceeding two years;

**Investigation** (Section 2 (h) CrPC)

“Investigation” (Section 2(h) CrPC) includes all the proceedings under this code for the collection of evidence conducted by a police officer or by any person (other than a Magistrate) who is authorized by a Magistrate in this behalf;
B: Police Regulations Bengal.

1. Recording of information in General Diary: Officer-in-charge of a police station can record any information in G.D U/S 44 Police Act.

2. Non-cognizable information: O/C of a Police station has no power to investigate a non-Cognizable information, he can record it in G.D U/S 155 CrPC or 44 Police Act and ask the informant to seek for an order from a competent court for investigation/enquiry of such information (245 PRB).

3. FIR (Cognizable Information): should be recorded by O/C himself (243 PRB) and investigation should be carried out by himself or any other officer as per his direction (244 PRB).

4. Report to magistrate about cognizable offence at once: 245 PRB.

5. Despatch of FIR to other Superior Officer: 246PRB.

6. List of property stolen/misappropriated to be obtained from the informant: 247 PRB.

7. Information of heinous crime occurring outside jurisdiction: 248 PRB.

8. Searches and seizure list u/s 100, 102,165,166 of CrPC: 280 PRB.

9. Medical examination of wounded person: 312 PRB.

10. Dying declaration: 266 PRB.

11. Sketch Map and Plan: 273 PRB.


13. Presence of police officer at the P.M. Examination: 307 PRB.

14. Photographing of unidentified dead body: 314 PRB.

15. Finger print of unidentified dead body: 313 PRB.

16. Arrest without warrant: 316 PRB.

17. Unnecessary arrest to be avoided and bail to be allowed: 317 PRB.

18. Register of person arrested: 323 A.

19. Medical examination of the arrested person: 328 PRB.

20. Illness of the person arrested: 321 PRB.

21. Accommodation and segregation of male, female and juvenile prisoners: 327 PRB.

22. Guards for lock-up: 329 PRB.

23. Use of handcuff: Prisoners shall not be subjected to more restraint than necessary to prevent their escape, in bailable offence prisoners should not be hand cuff unless reason to believe that he can be violent: 330 PRB.

24. Guarding and escorting prisoner arrested: 331, 332 PRB.

25. Death of prisoner in Police custody: 302 (b) PRB.

26. Accused to be forwarded to Magistrate and application for detention in Police custody: 324 PRB.

27. Memorandum of evidence: 274 PRB.

28. Charge sheet: 272 PRB.

29. Final report and discharge of accused person from the case: 275 PRB.

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CHAPTER-II

PRINCIPLE & PROCEDURE OF INVESTIGATION: AN OVERVIEW

Investigation: Meaning

“Investigation” (Section 2(h) CrPC) includes all the proceedings under this code for the collection of evidence conducted by a police officer or by any person (other than a Magistrate) who is authorized by a Magistrate in this behalf; Investigation of crime means collection of evidences in respect of an incident of crime or allegation to establish the truth and fixing responsibilities of the offender.

Investigation is nothing but the collection of evidence in search of TRUTH.

Criminal investigation or investigation of CRIME means the endeavor made by an IO to find out the truth of the information received or alleged, to trace out the culprit and fix up his responsibilities by a legal process of elimination so that he can be successfully be brought before the JUSTICE and put behind the BAR.

Distinction between Investigation, Inquiry and Trial

The investigation, inquiry and trial are three stages of a criminal case. The points of difference inter se are:

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<tr>
<th>Investigation</th>
<th>Inquiry</th>
<th>Trial</th>
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<td>1. Investigation is conducted by Police or by any other person authorized by law but not by Magistrate.</td>
<td>Inquiry is conducted by Magistrate or by any other person authorized by law.</td>
<td>Trial is conducted by Magistrate or by Judge.</td>
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<td>2. It relates to an offence.</td>
<td>It relates to an offence before framing of charge or any other non-offence matter like security proceedings under Section 107 CrPC, dispute of possession under sections 133, 145, 147 CrPC or commitment to Sessions Courts under Section 209 CrPC.</td>
<td>It relates to an offence.</td>
</tr>
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<td>3. It is not on oath.</td>
<td>It is on oath.</td>
<td>It is on oath.</td>
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<td>4. It results either in charge sheet or final report (section 173 CrPC). It is a non-judicial proceeding.</td>
<td>It results either in framing of charge or discharge or final order under sections 133, 145, 147 CrPC or commitment under Section 209 CrPC. It is a judicial proceeding.</td>
<td>It results either in conviction or acquittal or discharge. It is a judicial proceeding.</td>
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<td>5. It generally starts either on FIR or on order of Magistrate.</td>
<td>It starts either on complaint or on Police report.</td>
<td>It starts either on complaint or on Police report or on Magistrate’s report.</td>
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<td>6. It includes discovery, arrest, seizure, search and medical examination, etc.</td>
<td>It includes recording of evidence only.</td>
<td>It adjudicates upon the evidence so recorded.</td>
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Investigation is conducted by both Police and other agencies duly authorized by law.
a) **Investigation conducted by Police**: The Police investigate cognizable offences under section 156 CrPC without an order from the Magistrate. It also investigates non-cognizable offences under order of the Magistrate under section 155 CrPC. Besides this, the magistrate may order the police to investigate any offence, under sections 156 (3) CrPC.

b) **Investigation conducted by other agencies**: Various Acts have conferred powers of investigation on Non-Police agencies under the Railway Property (Unlawful Possession) Act, Customs Act, Central Excise Act, etc. The Magistrate too has been empowered under Sections 202 CrPC to get a case investigated by a person other than the Police.

**Investigation: Task of Police officer**

Investigating officer has to establish link between victim, place of occurrence and offender by producing evidences before the court of law.

He can prove the innocence or guilt of accused by conducting investigation effectively. It is also to be remembered here that in the case of Jamuna Chowdhury v/s State of Bihar, 1994 Cr LJ 890, 1974 SC 1822, it was opined by the Court that “The duty of an IO is not only to bolster up a prosecution case for ending up in conviction but to bring out the real unvarnished truth.”

Investigation in a nutshell can be understood from the following representation.

**Qualities of a good investigating officer:**

Every investigating officer must have certain native ability and certain qualities. Some of which may not be there to being with but which can be acquired during the course of service and experience and can be developed to perfection.

When a crime is reported to the IO he should seek to find answers to the following questions:

- a. How was it committed?
- b. Where was it committed?
- c. When was it committed and under which circumstance?
- d. Why was it committed?
- e. Who committed it?
- f. What is the extent of loss, damage or nature of injuries caused?
- g. What are the exact offences made out?

**He should**

1. Be honest with personal integrity.
2. Have sincere desire to arrive at conclusions based on facts, free from biases and prejudices.
3. Have an open mind.
4. Be accurate.
5. Have full knowledge of the topography of his jurisdiction.
6. Be popular with public, his peer group and other departments to enlist willing cooperation from all.
7. Be prompt.
8. Be punctual in his appointment with witnesses.
9. Be acquainted with all branches of criminal law he has to deal with.
10. Have a pleasant disposition for work.
11. Proceed skillfully watching every step he takes.
12. Have perseverance and tact.
13. Overcome monotony and obstacles.
14. Have courage.
15. Have indefatigable zeal and application to work.
16. Not mind self-denial, his motto being service to others.
17. Have no pretentions whatever.
18. Be swift in reading men and matters by acquiring a thorough knowledge of human nature and human behaviour.

Diagrammatic representation of the procedure of Investigation

Investigation: Aims & Objectives
1. Determination of the veracity of the occurrence; i.e. to find out whether the complaint made are true or not. If true then true to what extent.
2. Tracing the suspect and discovery of exhibits / property.
3. Fixation of responsibilities of the suspects.
4. Procedural Aspects, i.e. an IO is bound to maintain certain legal formalities and procedures (As mentioned in the graphical representation).
5. And the most important thing is that the IO will have to convince the court that the investigation made by him is true in all respects and free from any doubts.
Investigation: Different aspects

1. Legal aspect
2. Scientific aspect
3. Tactical aspect

Investigation: Legal aspect

Chapter-XII (Sec 154 to 176) deals with the legal aspect of investigation, which is as follows:

A. Receipt of information and registration:
   1. Sec 154 CrPC: Information in Cognizable cases.
   2. Sec 155 CrPC: Information as to Non-cognizable cases and investigation of such cases.

B. Power and procedure of investigation:
   1. Sec 156 CrPC: Police officer’s power to investigate cognizable case.
   2. Sec 157 CrPC: Procedure for investigation.

C. Procedure of Submitting of reports relating to investigation.
   1. Sec 158 CrPC: Report how submitted

D. Examination of witness:
   1. Sec 160 CrPC: Police officer’s power to require attendance of witnesses.
   2. Sec 161 CrPC: Examination of witnesses by Police.
   3. Sec 162 CrPC: Statements to Police not to be signed: Use of statements in evidence.
   4. Sec 163 CrPC: No inducement to be offered.
   5. Sec 164 CrPC: Recording of confessions and statements.

E. Search & Seizure for exhibits, stolen property & person
   1. Sec 91 CrPC: Summons to produce document or other thing.
   2. Sec 94 CrPC: Search of place suspected to contain stolen property, forged documents, etc.
   3. Sec 97 CrPC: Search for persons wrongfully confined.
   4. Sec 100 CrPC: Persons in charge of closed place to allow search.
   5. Sec 102 CrPC: Power of Police officer to seize certain property.
   6. Sec 165 CrPC: Search by Police officer.
   7. Sec 166 CrPC: When O/C of PS may require another to issue search-warrant.

F. Medical Examination of victim and accused:
   1. Sec 164 A CrPC: Medical examination of the victim of rape.
   2. Sec 53 CrPC: Examination of accused by medical practitioner at the request of Police officer.
   3. Sec 53 A CrPC: Examination of persons accused of rape by medical practitioner.
   4. Sec 54 CrPC: Examination of arrested person by medical officer.
G. Investigation outside India:
   1. Sec 166 A CrPC: Letter of request to competent authority for investigation in a country or place outside India.
   2. Sec 166 B CrPC: Letter of request from a country or place outside India to a court or an authority for investigation in India.

H. Remand of accused and statutory period of investigation:
   Sec 167 CrPC: Procedure when investigation cannot be completed in 24 hrs.

I. Investigation of UD case by Police officer and inquest by Police & Magistrate:
   1. Sec 174 CrPC: Police to inquire and report on suicide, etc.
   2. Sec 175 CrPC: Power to summon persons.

J. Arrest Custody Escort of accused:
   1. Sec 41 CrPC: When Police may arrest without warrant.
   2. Sec 41 A CrPC: Notice of appearance before Police officer.

* Other provisions Chapter–V will be applicable regarding power, procedure of arrest, rights of accused to be followed.

K. Release of accused on Bail:
   1. Sec 436 CrPC: In what cases Bail to be taken.
   2. Sec 437 CrPC: When Bail may be taken in case of non-bailable offence.
   3. Sec 438 CrPC: Direction for grant of Bail to person apprehending arrest.

L. Documentation & Submission of report in final form:
   4. Sec 169 CrPC: Release of accused when evidence is deficient.
   5. Sec 170 CrPC: Cases to be sent to Magistrate when evidence is sufficient.
   6. Sec 172 CrPC: Diary of proceedings in investigation.
   7. Sec 173 CrPC: Report of Police Officer on completion of investigation.

Investigation: Scientific aspect
   1. Photography of place of occurrence & Videography of oral evidence.
   2. Using scientific technique for tracing exhibits.
   3. Lifting of exhibits by scientific technique and instruments.
   4. Packing of exhibits to send it to Forensic/ Medico-legal experts.
   5. Forensic/Medico-legal assistance for examination and collection of opinions.

Investigation: Tactical aspect
   1. Criminal intelligence for tracing the suspects, arrest and recovery of exhibits/stolen property.
   4. Documentation of case records.
**Stages of Investigation of crime: An overview**

Ordinarily investigation is undertaken by a police officer on information of a cognizable offence. However, the receipt of information is not a condition precedent for an investigation. It can be initiated on information or ‘otherwise’.

Generally investigation of crime commences after registering the FIR at the Police Station and ends with the submission of report in Final Form (CS/FR) as per prescribed procedure laid down in the code of Criminal Procedure.

**Stage – I: Commencement of Investigation**

**STAGES OF CRIMINAL PROCEEDING**

- **Stage - I**
  - letter of complaint
  - entry in General Diary
  - Forwarding of F.I.R. to CJM/ACJM/CMM/MM
  - filling up the formal FIR
  - endorsement of Officer-in-Charge
  - FIRST INFORMATION REPORT (section 154 Cr.P.C.)

**Receipt of Information of Cognizable Offence.**

A. Registration of Crime.

B. Endorsement of Case.

C. Consultation of Crime Records by IO.

D. Preparation for visiting S.O.C. (Scene of Crime) with investigation kit.

E. Requisition to be made (if necessary) to Forensic/Finger Print Expert for inspection of S.O.C.
Stage – II: Progress of Investigation:

A. Scene of Crime Management:
   i. Guarding, Sketching & Photography of S.O.C.
   ii. Tracing, Lifting, Seizing, Packing, Labeling & forwarding of exhibits to Forensic/ Medico Legal experts through court.

B. Examination, Interrogation & Recording Statements:
   i. Sending notice u/s 160 CrPC to witnesses for examination. In this respect the recent amendments should be considered carefully.
   ii. Interrogation of suspects.
   iii. Recording of statement u/s 161 CrPC by Investigating Officer followed by videography (if necessary). Arrangement for recording judicial confession of witnesses & accused by Magistrate u/s 164 CrPC.

C. Arrest/TI Parade/Remand/Bail
   i. Criminal intelligence.
   ii. Arrest of accused.
   iii. Detention of accused under arrest in custody followed by interrogation and to forward him to court.
   iv. Arrangement for conducting Test Identification Parade.
v. Remand and detention of accused in Police custody.
vii. Bail of accused as per procedure of CrPC.

**Stage -III: Completion of Investigation**

A. Documentation of case – Writing of Case diary on regular basis.
B. Collection of expert reports (Forensic & Medico-legal), Collection of sanction for prosecution (if necessary).
C. Preparing case records by attaching all relevant documents relating to investigation.
D. Formation of opinion by IO and submission of Memo of evidence/PP’s opinion (if necessary).
E. Submission of Report in Final Form (CS/FR) to court.
F. Supply of copies to accused (according to A-Form).
G. Sending information regarding result of investigation to the complainant.

**Points to remember:**

a) Investigation in this chapter relates to criminal investigation.
b) Investigation is conducted by police or any other person authorized by magistrate.
c) Three stages of investigation: 1) Registration, 2) Collection of evidence and 3) Formation of opinion and completion of investigation.
CHAPTER-III
REGISTRATION OF CRIME: FIRST INFORMATION REPORT

FIR - What is?
The first information report is a report giving information of the commission of a cognizable crime, which may be made by the complainant (the term “Complainant” has been used here in the popular sense) or by any other person knowing about the commission of such an offence. It is intended to set the criminal law in motion.

A First Information Report is the most important document and forms the basis of the case for prosecution. The word ‘First Information Report’ has not been defined in the CrPC. By practice it has come to mean the information disclosing commission of a cognizable offence and recorded under Sec. 154 CrPC.

The principal object of FIR is only to make a complaint to the police officer to set the criminal law in motion while the secondary objective is to obtain early information of an alleged criminal activity and to record the circumstances before there is time for such circumstances to be forgotten or embellished.

FIR: Its Characteristics:
- It must disclose the commission of a cognizable offence.
- It should be given to the OC of a police station.
- It should be earliest in point of time.

FIR: Other Features:
- It may be in writing.
- If given orally, it shall be reduced to writing by the police officer.
- It should be signed by the person giving it.
- A copy of it should be delivered to the informant free of cost.
- It may be made by any person, whether or not he has the first-hand knowledge about the crime reported except in certain specified cases.
- Delay, if any, in making the FIR should be explained in the FIR itself.
- Strictly speaking, the Telegrams and telephonic messages cannot be treated as FIR, because they are not given in writing duly signed by the informant nor they are reduced to writing by the police and read over to the informant. Moreover, there is hardly any guarantee as to their genuineness / authenticity.
- Refusal by Informant to sign the FIR is punishable u/s 180 IPC.

FIR: Its Basic Objects:
- To set the criminal law in motion through the agency of the police.
- To furnish to the police early information of an alleged criminal activity.

Value of the FIR:
- It is valuable because it gives the earliest version of the occurrence.
- It is not a substantive piece of evidence.
- It can be used for the purpose of corroboration u/s 157 Indian Evidence Act.
It can corroborate the maker if he is called as a witness.

It may be used for contradiction u/s 145 Evidence Act against the author thereof.

**Some Other Uses of the FIR:**

- As a conduct u/s 8 I.E. Act, if lodged by the accused.
- As an admission u/s 21 I.E. Act, if lodged by the accused.
- As a dying declaration, if lodged by the deceased whose death is in issue.
- As an entry by a public servant in the discharge of his official duties u/s 35 I.E. Act.

**Refusal by the Police to Record FIR:**

- Remedy is provided by Section 154 (3) CrPC. The person aggrieved can send to the Superintendent of Police the substance of the information by post. The Superintendent of Police of the district may investigate the case himself or direct any officer subordinate to him for investigation.
- Further the informant can file petition before Ld. Magistrate who will forward the same to the OC of the concerned PS with direction to treat the same as FIR u/s 156(3) CrPC.

**The immediate duty of the Officer-in-Charge of PS on receipt of such information:**

Any information relating to the commission of a cognizable offence (if given orally) is required to be reduced to writing by the Officer-in-Charge of police station which has to be signed by the person giving it and the substance thereof is required to be entered in a book to be kept by such officer in such form as the State Government may prescribe in that behalf. A copy of the FIR is required to be sent forthwith to the magistrate empowered to take cognizance of such offence.

**The duty of the Officer-in-Charge of the police station after recording the FIR:**

After recording the FIR, the Officer-in-Charge of the police station is obliged to proceed in person or depute one of his subordinate officers not below such rank, as the State Government may, by general or special order, prescribe in that behalf, to proceed to the spot to investigate the facts and circumstances of the case and if necessary, to take measures for the discovery and arrest of the offenders.

The practice of sending away complainant, who wishes to make an oral report to go and bring a written one, should be discouraged. Each report should bear a consecutive number in the order of its arrival at the police station.

It is well settled that a first information report is not an encyclopaedia, which must disclose all facts and details relating to the offence reported. It is enough if the police officer on the basis of the information given suspects the commission of a cognizable offence and not that he must be convinced or satisfied that a cognizable offence has been committed.

**Delay in lodging FIR:**

- Delay, in lodging the FIR, if not sufficiently explained, creates suspicion.
- Delay, without any explanation may be fatal to the prosecution.
- Delay in lodging the FIR cannot be used as a realistic formula for doubting the prosecution case and discarding the same. Delay in filing FIR in the case of rape does not mitigate the circumstance for the accused.
- It cannot be used as a ritualistic formula to discard the prosecution’s case.
- The court must look for reasons for delay whether offered or not.
If offered, it should see whether the reasons justify the delay.

Delay in lodging the FIR in a case of rape of a minor girl, where reputation of a family was involved and where her father was called from another place, delays in such cases by family members are usual features.

**Delay in lodging – May be Fatal:**

Delay in lodging the FIR often results in embellishment, which is a creature of an afterthought. On account of delay, the FIR not only gets bereft of the advantage of spontaneity, danger also creeps in the introduction of a coloured version or exaggerated story.

**BUT**

- Delay in filing FIR cannot be a ground for suspicion at all instances.
- It can only be said to raise suspicion when the delay is unexplained.

**The following are the ingredients of FIR:**

- The information should be first in point of time.
- It should be definite and responsible information and not merely rumour or village gossip or hearsay of an indefinite variety.
- It must have been given to an officer-in-charge of a police station.
- It should relate to the commission of a cognizable offence.
- It should be the information which set the police on their investigation.
- It should be given in writing or should be reduced to writing.
- It should have been read over to the person who made it and signed by such person.
- It should be entered in a book kept for the purpose.

**FIR: 11 Ws & 1 H**

1<sup>st</sup> W – What information do you want to give?
2<sup>nd</sup> W – What capacity?
3<sup>rd</sup> W – Who committed?
4<sup>th</sup> W – Against whom (victim)?
5<sup>th</sup> W – When?
6<sup>th</sup> W – Where?
7<sup>th</sup> W – Why?
8<sup>th</sup> W – What they carried away?
9<sup>th</sup> W – Who witnessed?
10<sup>th</sup> W – What they left?
11<sup>th</sup> W – Why delay?
12<sup>th</sup> H – How? Modus operandi (How they arrived etc.)?

**How to record FIR:**

- The FIR should be promptly recorded as any delay leads to suspicion and vitiates the FIR. However if there is a delay it should be explained in the FIR.
- The FIR should be recorded in plain and simple words.
- Accuracy is the watchword. It may be detailed but not unnecessarily lengthy.
- Time of occurrence should be noted.
- Modus operandi should be elicited and mentioned in the FIR.
- The FIR should be a truthful account—neither minimized nor exaggerated.
- Do not interpolate or insert anything after the FIR has been written.
- Avoid scoring out what has been written. In unavoidable circumstances a line should be drawn across the word/s to be scored out still keeping it legible and the officer recording the FIR should initial it.
- Note injuries found on the person of the informant or the witness and mention the same in the FIR.
- Value of property stolen or damaged or lost should be mentioned correctly. Do not lessen the value to improve your statistics.
- The special identifying marks, if any, on the items stolen or lost, together with their detailed description should be clearly noted.

By intelligent questioning, the identity of the accused, the type or weapon used, if any, the language spoken, etc. should be elicited and mentioned in the FIR. The circumstances of identification must be clearly brought out, e.g. the condition of light, the line of visibility, the distance from which the identification was made etc.

The names of the suspects, if any or any accused recognized during the occurrence, should be specified. If a particular person is suspected, the facts on which the suspicion is based should be clearly specified. The informant should be able to distinguish between what he saw, knew and heard.

The names of known/suspected/unknown accused persons with full particulars should be entered serially in the FIR (WBP Form No. 27). The names of the eye witnesses and to those whom the complainant or informant reported the names of the accused immediately after the occurrence should be obtained and recorded for the purpose of corroboration. If such information though available first hand is not noted, the defense may term it as fabrication and afterthought. The original FIR should be sent to Magistrate having jurisdiction. (FIR should be sent to court without delay – PRB 246).

A police officer should not defer drawing up the FIR on the plea of verifying the truth of the complaint. If a person gives a deliberate false information in regard to a cognizable offence, the informant is liable for prosecution under sec. 182 or 211 IPC. A police officer has power to refuse investigation in a cognizable case under provisions of Sec. 157(2) but has no power to refuse the registration of a cognizable case under section 154 CrPC.

Refusal to record FIR on the ground that the place of crime does not fall within the territorial jurisdiction of the police station amounts to dereliction of duty. It is the duty to record a case and forward the same. (AIR- 1993 SC – 2644: 1993, Cr.LJ – 3684: 1994, SCC (Cri) 734.)

**FIR by the accused:**

If the accused gives information of the offence, the officer-in-charge must record it. Any confession which may form part of such an FIR will be inadmissible under section 25 Evidence Act, but those facts, which do not amount to a confession and merely go to show the motive, preparation or opportunity for the crime or give the information leading to the discovery of a fact, can certainly be provided on behalf of prosecution under sec. 7, 8 and 27 of the Evidence Act.

**First information: Referred by the Magistrate:**

When a Magistrate directs the Police to investigate a complaint or a cognizable case filed before him and in regard to which no previous information has been given to the Police, the written information sent by the Magistrate should be treated as the basis of FIR.
Disposal of FIR:
An FIR once started, shall on no account be cancelled by the officer in charge, nor it is permissible for a Magistrate or any other Police officer to do so. Recording of FIR means starting of an investigation of a cognizable case which can only be concluded in any of the following ways:

- By refusing investigation under sec.157 (b) CrPC
- By transferring it to a different police station on question of jurisdiction.
- By submitting a final report after such an investigation or,
- By submitting a charge sheet after an investigation.

Value of FIR:
The FIR is not a substantive piece of evidence. It is relevant in judging the veracity of the prosecution case and value to be attached to it depends on the facts of each case. It is used either to corroborate or to contradict the oral evidence of the maker of the FIR during trial of the case.

Quashing of FIR:
FIR drawn up on the basis of information which does not disclose any offence or discloses only non-cognizable offence can be quashed by the High Court by invoking power under Art. 226 of the Constitution of India or under Sec. 482 CrPC.

Concept of ZERO FIR:
“There is a concept of “Zero-FIR”. It means that a FIR can be filed in any police station (i.e. irrespective of place of incident/jurisdiction) and the same can be later transferred to the appropriate Police Station.

There are two rulings of the Supreme Court in Satvinder Kaur vs Govt. of NCT of Delhi on 5/10/1999 (AIR 1999, 1031) and in Ramesh Kumari vs Govt. of NCT Delhi on 21/2/2006. In the former case, the Court held that at the stage of investigation, the material collected by an investigating officer cannot be judicially scrutinized for arriving at a conclusion that the police station officer of particular police station would not have territorial jurisdiction. That apart, section 156(2) of the CrPC contains an embargo that no proceeding of a police officer shall be challenged on the ground that he has no territorial power to investigate the case. In the latter case, the Court held that a police officer is duty bound to register the case on the basis of such information disclosing a cognizable offence u/s 154(1) of the CrPC. The legal position stated above expects that the police shall register an FIR upon receipt of information of the commission of a cognizable offence. Further, if after registration of FIR, upon investigation, it is found that the subject matter relates to the jurisdiction of some other police station, the FIR may be appropriately transferred to the police station in which the case falls. Moreover, if at the time of registration of FIR, it becomes apparent that the crime was committed outside the jurisdiction of the police station, the police should be appropriately instructed to register a ‘Zero’ FIR, ensure that the FIR is transferred to the concerned police station u/s 170 of the CrPC. It should be clearly stated that the delay over the determination of the jurisdiction leads to avoidable wastage of time which impacts on the victim and also leads to offenders getting an opportunity to slip from the clutches of the law.

Some Important Rulings related to FIR
1. Criteria for registering First Information Report:
The condition, which is sine qua non for recording FIR is that there must be an information and that information must disclose cognizable offence. It is, therefore, clear that if any information disclosing a cognizable offence is laid before officer in charge of a Police Station transpiring the
requirements of Section 154 (1), the said official has no other option than to enter the substance thereof in the prescribed form and register a case on the basis of such information.


2. Delay in lodging FIR – Criteria for evaluation:
   (i) The deceased is a newly married girl. The maternal uncle of the husband of the deceased informed the father of the deceased of the fact of committing suicide by the deceased on June 25, 1983 at about 5.30 P.M. The father of the deceased immediately rushed to the hospital with members of his family where his daughter was brought. He stayed there the whole night with his wife and other members of the family near the dead body of his deceased daughter and on the next day till the dead body was handed over to him after completion of post mortem in the afternoon. The Asstt. Inspector of Police of Ajnala Police Station reached the hospital on the next day i.e. on June 26, 1983 and got the statement of father of the deceased recorded there. This statement was treated as FIR. In the circumstances, it cannot be said that there has been any delay in reporting the incident to the police station.

   [Gurbachan Singh vs. Satpal Singh and others, AIR 1990 SC 209]

(ii) There was delay of two days in reporting the incident to the police in a case under Section 376 of IPC. It is held by the Supreme Court that the victims of rape ordinarily consult relatives and are hesitant to approach police since it involves the question of morality and chastity of women. The woman and her relatives have to struggle with several situations before deciding to approach police, more so when the culprit happens to be relative. In such case, the delay is understandable and hence merely on that ground the prosecution version cannot be doubted.


3. Delay in lodging FIR – Criteria for rejection:

   Unless there are indications of fabrication, the court cannot reject the prosecution version as given in the FIR. Where names of the accused were constantly mentioned throughout, there was absolutely no ground to hold that the FIR was brought into existence subsequently during investigation and the mere delay in lodging the report by itself cannot give scope for an adverse inference leading to rejection of the prosecution case outright.

   [Tara Singh & Others vs. State of Punjab, AIR 1991 SC 63]

4. FIR for offence committed beyond local jurisdiction of PS:

   The police constable at the police station refused to record the complaint presented to him on the ground that the said PS. had no territorial jurisdiction over the place of crime. It is certainly a dereliction of duty on the part of the constable, because any law of territorial jurisdiction could not have prevented the constable from recording information about the cognizable offence and forwarding the same to the PS. having jurisdiction over the area in which the crime was said to have been committed.

   [State of AP vs. Punati Ramalu and others, AIR 1993 SC 264]

5. Delay in transmission of FIR – Effect of:
   (i) Mere delay in Despatch of FIR to magistrate is not a circumstance, which can throw out the prosecution case entirely.

   [Pala Singh & vs. State of Punjab, AIR 1992 SC 2679]

(ii) The delay is not necessarily fatal particularly when it has been recorded without delay and no suspicion is attached to its recording.

   [State of MP vs. Gokaran, AIR 1966AIR SC 131]

(iii) Delay in sending FIR to Magistrate forthwith gives rise to the suspicion that the report was recorded much latter than the stated date. Obviously delay needs to be explained satisfactorily.

   [Ishwar Singh vs. State of UP, AIR 1976 SC 2423]
6. Evidentiary value of FIR:
The FIR is not a substantive piece of evidence, it is only relevant in judging the veracity of prosecution case and the value to be attached to it depends on the facts of each case. Only the essential or broad picture need be stated in the FIR and all minute details need not be mentioned therein. It is not a verbatim summary of the prosecution case. It need not contain details of the occurrence as if it were an “encyclopedia” of the occurrence. It may not be even necessary to catalogue the overt acts therein. Non-mentioning of some facts or vague reference to some others are not fatal. We should also bear in mind that the FIR was given by an illiterate lady soon after the occurrence, when she should have been very emotional and in a disturbed state of mind. In this case, the evidence of the author of FIR is substantially in accord with FIR and the Court below was justified in placing reliance on FIR and the evidence of the maker of FIR.

[Baladev Singh vs. State of Punjab, AIR 1996 SC 372]

Specimen Letter of Complaint. (Endorsed for investigation by OC)

To,
The Officer-in-Charge,
SVSPA Barrackpore Police Station,
N. 24 Parganas.
Sir,

I, Smt. ABC (45 Years) w/o Sri DEF of Quarter No. 14/1 SVSPA Barrackpore PS: SVSPA Barrackpore Model Police Station would like to lodge a written complaint before you that today at about 14.30, I was cooking in my kitchen. My husband DEF was watching TV. At about 14:45 hrs. some men shouted from outside by calling the name of DEF and asked him to come out. My husband hearing this went out to talk with them. I was busy cooking. Suddenly after about 20 minutes I heard my husband shouting for help. Hearing this I rushed out from my quarter and found that my husband DEF was lying unconscious in front of my house and was bleeding. His both palms were severely cut. I saw 4 persons fleeing away towards the west gate. One of them while fleeing looked back and I could recognize him. His name is GHI s/o JKL of MP Sarani Barrackpore who is the son of my husband’s colleague JKL. I couldn’t recognize the other three. My neighbour MNO had also come out at the same time and he along with others took my husband to Police Brigade hospital for treatment. He is under treatment there and is still unconscious.

So I request you to take necessary legal steps against the culprits who had assaulted my husband.

Yours Faithfully,

Sd/- ABC

(DABC)

Received this written Information today (09/09/2013) at 15:30 hrs. and recorded SVSPA Barrackpore Model PS case no. 123/13 dt. 09.09.13 u/s 326/34 IPC. Endorsed the case to SI PQR for its investigation.

SL STU
Officer In-charge
SVSPA BKP Model PS.,
Dt. 09.09.13.

Endorsed by the OC of PS
FIRST INFORMATION REPORT
(Under Section 154 CrPC)

1. District……………………… P.S. …………….. Year……………………… Year.……………. FIR No……………………… Date………………………

2. (i) Act ………………………………….. Sections……………………………………..

(ii) Act ………………………………….. Sections……………………………………..

(iii) Act ………………………………….. Sections……………………………………..

(iv) Other Acts & Sections …………………………………………………………….

3. (a) Occurrence of offence: Day……………….. Date from……………… Date to………………

Time Period …………………… Time from……………… Time to………………

(b) Information received at P.S.: Date……………….. Time ……………………

(c) General Diary Reference : Entry No. ………………….. Time ……………………

4. Type of Information : Written / Oral - Written

5. Place of Occurrence : (a) Direction and distance from P.S. ………………………………..

Beat No. ……………………………………………………………..

(b)Address……………………………………………………………………………………………………

(c) In case, outside the limit of this Police Station, then

Name of P.S. ………………………….. District…………………………..

6. Complainant / Informant :

(a) Name ………………………….. Smt. ABC

(b) Father's/Husband's Name ………………………….. DEF

(c) Date/Year of Birth ………………………….. Age-45 Years (d) Nationality …………………………..

(e) Passport No. ………………………….. Date of Issue ………………………….. Place of Issue …………………………..

(f) Occupation……………………………………………………………………………………………

(g) Address ………………………………………………………………………………………… Quarter No. 14/1 SVSPA, Barrackpore, PS: SVSPA BKP Model PS, North 24 PGS.

7. Details of known/suspected/unknown accused with full particulars:

(Attach separate sheet, if necessary)

(1) ……………………………………………………………………………………………………………………..

(2) ……………………………………………………………………………………………………………………..

(3) ……………………………………………………………………………………………………………………..

8. Reasons for delay in reporting by the complainant ………………………………………………... -----NA------

9. Particulars of properties stolen (Attach separate sheet, if necessary) ………..NA………..

…………………………………………………………………………………………………………………………

10. Total value of property stolen …………………………………………………………………………………… -----NA------


11. Inquest Report / U.D. case No., if any............................................NA..........................................................

12. First Information contents (Attach separate sheet, if required): The original written information of the informant which is treated as FIR is attached herewith.

13. Action taken: Since the above information reveals commission of offence(s) u/s as mentioned at Item No. 2.: 
   (1) Registered the case and took up the investigation or 
   (2) Directed (Name of I.O.) PQR Rank Sub-Inspector No. ** to take up the Investigation or 
   (3) Refused investigation due to ....................................................... or 
   (4) Transferred to P.S. .................................................... District.........................on point of jurisdiction.

F.I.R. read over to the complainant / informant, admitted to be correctly recorded and a copy given to the complainant /informant, free of cost.

STU
09/09/2013

Signature of Officer in charge, 
SVSPA Model PS,BKP.

Police Station: ........................................

Name ....................................................

Rank.............................................. No. WPR/WB/49468

14. Signature / Thumb impression ABC of the complainant / informant....................

15. Date and time of despatch to the Court On 10.09.13 at 08:05

Points to remember:

- FIR should be recorded as soon as it is reported at PS.
- FIR should be recorded carefully. Overwriting and corrections to be avoided.
- No columns should be left blank but should either be crossed or N.A. is to be written.
- Care should be taken in sending the FIR to court and delays to be avoided with copies to CI & SDPO and to the extent of SP of the district when a case is treated SR (Specially Reported).
- Copy of FIR to be given free of cost to the informant with acknowledgement.
- Entry in Khatian Inspection register to be ensured.
- Information to the superior officers should not be delayed.
CHAPTER–IV
SCENE OF CRIME MANAGEMENT

Examination of Scene of Crime: Legal and Scientific Importance

Scene of Crime:

- It is a place where a particular offence has been committed, or
- A place where the physical evidence of a particular case has been detected first.
- It is the most important place for the IO.
- It should be properly protected.
- It should be recorded and documented.
- SOC may be Indoor or Outdoor
- It should be processed thoroughly and systematically.

Examination of the scene of crime is the most important aspect of crime investigation. Inspection of the crime scene or the place of occurrence is practically the basis of all scientific investigation. Nothing can connect the criminal with the crime than the crime scene itself. A thorough examination of the scene of crime gives a clear picture of the modus operandi. If compared with the modus operandi, it gives the clear identification with the recorded criminals, if any.

Sec. 157 CrPC requires the Police Officer investigating a case to proceed to the spot.

The job of Investigating Officer is to identify and establish links between the Offender(s), Victim and the SOC by analyzing Physical Evidence.

Scene of Crime Management: Duties of IO

Before proceeding to the scene of crime:

1. Question the complainant fully.
2. Note in the complaint all the details such as description of the offender, stolen property, description of missing / kidnapped person, unidentified corpse etc., if any.
3. Circulate the information to all the neighboring police stations, district control room. Crime Records and Modus Operandi Bureau.
4. Consult the Station crime records.
5. Carry the Investigating Officer’s kit.
6. If possible send a team well in advance to guard the PO.
7. If possible move to the SOC in group and not in single. It will make the work easy and fruitful.
On arrival at the post:

1. Visit the spot promptly
2. Contact the complainant and assure him of your sincere efforts to bring the offender to book.
3. Survey the place and protect all visible clues.
4. Exclude unnecessary persons and post guards so that no one may tamper with it.
5. Never alter the position, pick up, or even touch any object before its position, condition and the relevance to the crime has been noted in writing and if possible photographs from all angles taken.
6. Commence minute and systematic inspection of the place of occurrence.
7. Seized all material clues in presence of witnesses and prepare a seizure list.
8. Label, Pack and seal the articles taken charge of.
9. Prepare a site plan of the place of occurrence including its general topography, layout, routes of arrival and departure of the culprits, the position of bodies, injured persons, property tempered with, and any other feature relevant to the case.
10. Examination the points of entrance, exit, route of approach, route of retreat, place of entry & exit, articles supposed to have been touched by the criminals, probable place of assembly and distribution of booty.
11. Note any particular conditions such as defecation, taking food or drink etc.
12. Note the condition of weather, condition of ground, footmarks etc.
13. Reconstruct the crime in the condition in which it was committed.
14. Inspect the surrounding areas as well for clues or chance witnesses.
15. Note everything down in the case diary.

**Examination of Scene of Crime: Legal and Scientific Importance**

**Collection of Physical Evidence: Guiding Principles**

It is essential for every investigating officer to know how to look for the clues at the spot, how to seize them, handle, label and pack them, where to send them and how to preserve their identity throughout. Any mistake at any stage may result in the loss of valuable evidence.

The manner in which an article is seized, packed, labeled, sealed and dispatched should be noted in full in the case diary. Remember that each step has to be proved before the Court of trial, in order to establish the identity and genuineness of both, the exhibit and the specimen. The chain of custody of the exhibits is to be proved beyond doubt before Court.

**Protection of clues:**

a. On arrival at the spot, the IO should take steps to preserve all visible and significant clues. Pending the completion of his inspection and the arrival if need be, of experts he should cover any visible trace or material clue appropriately for avoiding tampering and contamination.

b. Dead bodies should be despatched for post mortem examination, immediately after the inquest under Police escort.

c. Movable articles should be handled as little as possible so that no clue is lost damaged of its relative position disturbed. Cases in point are, finger prints, and bloodstains on weapons of offence or hair adhering to blunt instruments.
d. Due care must also be taken not to obliterate any clue like finger prints by careless handling of fixed objects like polished walls, doors, windows, handles and fastenings. Call for experts after preserving them properly.

**Handling of clues:**

The investigating officer should, if possible, use rubber hand gloves.

Some suggested ways of handling the clue are:

- **Flat objects** like a piece of wood or glass sheet only the edge should be handled.
- **A tumbler, bottle of phial** – only the top rim and the bottom should be touched, using a single finger at the top and bottom. Alternately, a stick may be inserted and the bottom upturned with its aid and inspected.
- **A dagger / knife** – the tips of the handle and blade should be held by the tips of the index finger. The fingerprint at the blade end may be wrapped in cotton wool of cloth. Alternatively a small cork may be used.
- **A fire arm** – with the tips of fingers and held against the ends of the barrel and butt.
- **A fired projectile or empty case** – lift only with rubber tipped forceps.
- **Paper, hair, fiber, small pieces of glass or any small solid object** - lift with forceps.
- **Dust or other powdered substance** – collect with a brush or spoon or, if available, a vacuum cleaner.
- **Explosives and bombs** – Do not touch or handle unless sure that there will be no explosion. Call for the experts.
- **Blood, semen, liquid chemicals, vomit, excreta etc.** - collect with help of a spoon.

**Seizure:**

- Take charge of the exhibit in the presence of at least two disinterested and respectable local witnesses under a seizure list.
- The officer seizing these should sign the Seizure List, and also take the signature of the witnesses in whose presence the seizure is made.
- Each article seized should be given a distinctive marking viz. X1, X2 .... This should be referred to in the seizure list so that these can be readily identified in the Court.
- If possible, the articles initialed by the witnesses and sealed in their presence.
- When the articles are received at the police station, make an entry in the General Diary and also in the Property Register. The exhibit then should be packed and dispatched to Court or the expert concerned as quickly as possible.
- Three copies of the seizure list may be prepared along with the original by using carbon in one impression and the original may be sent to the court for use as evidence during the trial of the case. Another carbon copy should be kept in the case diary.
- The seizure witnesses to be examined and their statements to be recorded u/s 161 CrPC.

**Labeling:**

Each article should have a label firmly attached to it, which should contain the following information:

- Date and reference of the forwarding memo.
- Description of the article.
c. If it is blood, number of observed stains with their consecutive numbers or letters as marked on the paper stitched to each stain.
d. Name and designation of the forwarding officer.
e. Police Station, case number, date and seal of the Police Officer.

**Packing and Sealing: Points to be kept in mind:**

a. Excessive sealing should be avoided.
b. The exhibits contained in the package are fully padded with straw or cotton and do not come into contact with each other.
c. Cutting edges of a weapon should be secured with jute or cotton.
d. The package is secure and nothing can seep through or penetrate. Similarly, ants or other insects cannot enter the package.
e. Clean containers are used.
f. There is no possibility of explosion, leakage and evaporation.
g. The joints of the stopper with a bottle are sealed with melted wax to prevent leakage.
h. The container is strong enough to avoid damage in transit.
i. The label does not come off at any stage.
j. The exhibits in separate case are packed in separate sealed containers.
k. A copy of the forwarding memo with a list of the articles is placed in the box containing the exhibits.
l. The exhibits are sent by special messenger as far as possible.
m. The exhibits are sent as early as possible.
n. A list of the articles duly lettered and sealed is enclosed with the parcel.
o. A consecutive number with the description of the article is indicated in the forwarding letter, in the following manner:

  ✓ A dagger with 8” blade and wooden handle Marked A. The blade is suspected to bear blood stains.
  ✓ A white terry-cotton shirt with some stains on the collar and the left pocket marked B.

**The Forwarding Letter:**

A separate forwarding letter should be sent for every parcel. A copy of this letter should also be kept inside the parcel.

The forwarding letter should contain the following particulars:

a. The facts of the case in brief with special reference to its medico-legal aspect.
b. Date and mode of dispatch of the parcel.
c. An accurate description of the contents of the package, mentioning letters or fingers allotted to each item.
d. A duplicate list of the articles as mentioned in (m) under head Packing as above.
e. A facsimile of the seal used in sealing the articles.
f. A note regarding preservation, destruction or return of the article.
g. Points on which the opinion is required.
h. Court orders, if any, in connection with the sending of the exhibit.
Collection of Physical Evidence: Scientific Aspects:

1. **Articles bearing Fingerprints:** Such articles should be so packed that the surfaces bearing the print do not come into contact with anything else.

2. **Footprints:** The casts made of plaster of Paris; wax etc. should be packed in the same way as for the finger prints. Tracings of footprints on glass or plastic sheets should be prepared in the presence of witnesses and signed by them. One copy of the paper tracing should be sent to the Court in a sealed cover to be kept with the judicial record and the other should be sent to the expert duly sealed. The original glass or plastic sheet on which the tracings were taken should be preserved for exhibiting in Court during the trial. Prints found on the scene of occurrence should be sent at once to the expert. If it is held back by the IO till he obtains a specimen for comparison, it may lead to suspicion that the former is not a genuine discovery but was fabricated later to tally with the specimen.

3. **Firearms and Ammunition:** Due precaution should be taken in handling a weapon found or suspected to be loaded. Live cartridges should be, if possible, extracted. In case of a muzzle-loading weapon, it is also necessary to remove the percussion cap. If in case, it is not possible to unload the weapon, this should be mentioned specifically in the forwarding note. The firearms should be packed in such a way as to avoid any play, which may result in scratching or other damage. The muzzle should be plugged with cotton or cork to prevent further oxidation. In case of the revolver both ends of the chamber must also be plugged.

Cartridges should be individually wrapped in cotton and packed in small boxes. The open end of the crime cartridge should be immediately plugged and the case covered in cotton. Ensure that the base of the cartridge and the percussion cap are not scratched during the transit. It is important to mark live and empty cartridge clearly to avoid any accident.

In case of metal cartridge cases or fired projectiles, they should be kept in an envelope which should be sealed and a description of the fired cartridge case or projectile written and signatures of witnesses taken on it.

Labels should not be pasted on the cartridge, but should be wrapped round the body provided there are no fingerprints or other relevant traces on the body. The labels should bear the number, description and make of the firearm or the cartridge and should be sealed and signed by the IO and the witnesses. Arms and ammunition should never be sent by post.

4. **Blood and Blood Stains:** Fresh blood in liquid or clotted form should be transferred to a test tube with the help of a spoon or an eyedropper. About 1/5th of its volume of normal saline solution, prepared by dissolving 0.9 gms. of sodium chloride in 100cc. of distilled water should be added to liquid blood. A sample of the saline solution should also be sent along in a separate phial. Clotted blood should only be moistened with normal saline solution. Also liquid blood can be collected by the use of filter paper by soaking and drying it at room temperature.

Blood stained clothing should first be dried at room temperature. Never dry it in sunlight or by any other means as this destroys the blood cells sooner. Cover the stained portions with clean paper and stitch it on both sides of the stain. Do not fold the cloth across the stain. If there are several stains, each should be serially numbered. The entire clothing should be dispatched.

To collect sample from pool of blood, clean cotton, wool should be used to soak liquid blood, which should be dried under shade in normal temperature and packed in paper envelope. Clean cotton, wool soaked in water should be used to collect dried smear of blood present on the floor or wall or any such object. The rubbing of cotton wool should be gentle. After blood is transferred on the cotton wool, it should be dried in same manner and packed in paper envelope. Bloodstained blade of a dagger should be dried and wrapped with clean piece of paper or cloth and finally packed in a suitable paper envelope or cardboard box. Hair or fiber stuck to a bloodstained dagger or lathi should not be separated.
5. **Semen:** If the semen is still moist, it should be put in a test tube. Add little distilled water to it. Alternatively, allow the garment to dry at room temperature. The packing should be so done that the stained area does not come into friction with anything else lest spermatozoa be destroyed. Cover the stain with cotton wool on both sides and stitch a paper on it.

6. **Saliva, Sweat etc.:** Articles such as handkerchief, vests, shirts etc. suspected to contain saliva, sweat; do not require any special treatment when being packed. To collect a control sample of sweat, the subject may be made to sweat by vigorous exercise etc. In case of a recently dead person, a control sample of saliva may be collected by a swab from inside the mouth.

7. **Hair and Fiber:** Hair or fibre may be found adhering to a human or animal body, to clothing, to weapons or in some cases between doors and windows etc. The hair or fibre should be picked up with a forceps and kept in a test tube or cellophane paper. Put it in another envelope.

Sample hair should also be sent. Since the root of a hair is also important for comparison, hair should be collected by combing.

In murder or hurt cases, involving head injuries, the doctor should be asked to collect some hair from the injured part of the head. Weapon of offence used in causing head injury should also be searched for hair as the hair of the victim may be found adhering to it.

In case of rape, search the wearing apparel of the victim for any foreign hair. Ask the Medical Officer to search victim’s body for presence of any foreign hair and also to collect a sample of hair from the pubic region. If the suspect is arrested immediately, his clothing should be seized and searched for foreign hair. The same procedure should be followed mutatis mutandis in cases of unnatural offences.

8. **Dust:** Dust, soil, ash and similar debris can be collected by means of a spoon or vacuum cleaner and kept in a test tube or cellophane paper. If the mud is attached to a small article, the whole article should be packed in a cellophane paper and sent.

9. **Documents:** Do not handle the document unnecessarily. Do not expose it to heat or damp. Don’t fold the document unnecessarily. If the necessary, they may be rolled. Nothing should be marked or written over the document. The document should be dispatched flat by placing it between two pieces of cardboard. Identifying marks on the document should be made with coloured pencil at blank spaces on the documents. Dispatch the document in double sealed cover.

**Documentation of Scene of Crime:**
A scene of crime visited by an IO should be documented and there are two ways by which a scene of crime can be documented.

2. By drawing the rough sketch map of the Scene of Crime.

**Crime Scene Photography:**

A) **Importance**
- Serve as permanent record
- Help to reconstruct the scene of crime
- Supplement other records
- Record the details of the scene
- Shows the positions of various objects
- Important evidence for the court of law

B) **What to Photograph?**
- Photography should be planned
- Do not economise on the number of shots
 Color photographs should be taken
 Long distance photographs to show the location
 Intermediate distance shots to show relative positions of physical evidence
 Close-up shots to show injuries, footprints, dagger, firearms, etc.
 Scales/ measuring tapes may be used while taking photographs from short distances.

Drawing Sketch Map:

Drawing of sketch map of the SOC is an important part of investigation. The sketch map prepared by the IO is relevant u/s 9 of I.E. Act and as it is based on the actual observation of the IO at the SPOT it is treated as direct evidence and is admissible u/s 60 of I.E. Act.

Generally sketch maps are drawn by IOs on white sheet of paper. One paper contains the drawing while the other consists of its index. SOC map and index should be drawn in separate sheet and only the SOC may be supplied to the defense before commencing trial.

Necessary steps while drawing a sketch map:

 Identify the SOC preferably in presence of the complainant.
 Secure and control through cordoning.
 Establish SOC boundary mentioning distances from the identifying fixed points/pillars/marks etc.
 Take Photo from different angles, distances covering the surroundings.
 Take photographs of the scene of crime by placing the measuring tape or scale beside the article.
 Draw sketch map on a good quality A4 paper. Index in c/w the same in separate sheet of paper.
 Help of site plan maker may be taken but in this case and his statement needs to be recorded.
 ‘SOC’ to be guarded in the event of visit of experts of CFSL or FSL or any other related agencies for locating and lifting physical evidences.

Important decisions regarding sketch map

1. The sketch-map would be admissible so far as it indicates all that the Sub-Inspector saw himself at the spot; but any mark put on the sketch map based on the statements made by the witnesses to the Sub-Inspector would be inadmissible in view of the clear provision of section 162 CrPC. as it will be no more than a statement made to the police during investigation.
   (Tori Singh –vs- State of UP, AIR 1962 SC 399 at p.401)

2. In fact, documents like the inquest report, seizure list or the site-plans consist of two parts, one of which is admissible and the other is inadmissible. That part of such documents which is based on the actual observation of the witness at the spot being direct evidence in the case is clearly admissible under section 60 of the Evidence Act whereas the other part which is based on the information given to the investigation officer or on the statement recorded by him in the course of investigation is inadmissible under section 162 CrPC., except for the limited purpose mentioned in that section.”

Points to remember:

 Care should be taken for guarding the PO, protection of clues and evidence needs to be taken and to be collected without delay.
 Rough sketch map is to be prepared on a separate sheet and the index on another sheet.
 Mark of direction is to be given on the rough sketch map for navigating.
- Articles found on the PO should be shown on the sketch map with relative distance.
- Photography may be done by a professional photographer/ trained police personnel but under the supervision and direction of the IO.
- The Statement of the Photographer should be recorded u/s 161 CrPC.
- Developed prints without negatives are of no use.
- If photography is done by digital camera then the memory chip containing the clips should be collected by the IO along with the developed prints to prove its genuineness in court.
- Photographs with negatives should be sized to make it exhibits.

**Sketch map of PO**

Ref: SVSPA BKP Model PS Case No. 124/14 dt. 01.01.14 u/s 302/34 IPC

A= Dead Body of …………..
B= Sitting area of SVSPA BKP
E, F, & H = Mango Tree
C = Light post no. 22/3.
D= Administrative building s.
G= Gunny Bag
I = Lathi with blood stains.
J= Blood stains on earth.

Prepared by me,
SI PQR
SVSPA Model PS
Dt.01.01.14

**Index of PO**

Ref: SVSPA BKP Model PS Case No. 124/14 dt. 01.01.14 u/s 302/34 IPC

A= Dead Body of …………. 
B= Sitting area of SVSPA BKP 
E, F, & H = Mango Tree 
C = Light post no. 22/3. 
D= Administrative building s. 
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I = Lathi with blood stains. 
J= Blood stains on earth.

Prepared by me, 
SI PQR
SVSPA model PS, Dt. 01.01.14
Samples where to be sent for Expert’s Opinion.

<table>
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<th>The Director, Forensic Science Laboratory, 37/1/2, Belgachia Road, Kolkata- 37 Ph- 033-25565430</th>
<th>Blood, Semen, Viscera, Hair, Arms, Ammunition, Electric Meters, Ballistics, Weapon of Offence, Tampered Registration no. of Vehicles, Wearing Apparels etc.</th>
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<tr>
<td>The Director, Central Forensic Science Laboratory, 30, Gorachand Road, Kolkata 700014 Ph- 033-22849442</td>
<td>Arms, Ammunition, Bombs, Explosives and DNA Test.</td>
</tr>
<tr>
<td>The Director, Finger Print Bureau, Arakshya Bhawan, WB Police record Bhawan Salt Lake City, Kolkata 700091</td>
<td>All finger prints and foot prints</td>
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<tr>
<td>The Examiner, Questioned Documents Examination Bureau, C.I.D. West Bengal, Bhawani Bhawan, Kolkata 700027</td>
<td>All kinds of signatures, forged documents and handwriting.</td>
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<tr>
<td>The Chairman, Eastern India Motion Pictures Association, 192/E, B.N. Sarkar Avenue, Kolkata 700073</td>
<td>All kinds of cassettes, CD or Films.</td>
</tr>
<tr>
<td>The General Manager, Currency Note Press, Nasik Road, Maharastra, PIN 422101 Fax – 0253-26573020 Or Bharatiya Reserve Bank Note Mudran Nigam, Salboni, West Midnapore</td>
<td>Fake Currency Notes.</td>
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CHAPTER V

EXAMINATION OF WITNESSES AND INTERROGATION OF SUSPECTS

Examination of witnesses:
The term ‘interrogation’ in police work refers to skilful questioning of the complainant, victims, informers, witness, suspects, accused person, their accessories such as receivers of stolen property etc. Broadly this means interrogating witnesses and suspects.

There are two kinds of evidence collected in course of investigation of case-direct evidence and the circumstantial evidence. Direct evidence is the testimony of persons who have themselves seen or participated in the crime. The circumstantial evidence is associated with the crime in question that leads to an inference or presumption as to the guilt of the accused.

To collect direct evidence, IO has to contact and examine those persons who have personal knowledge and perception to show the accuser’s motive, plan or preparation to commit the crime or about his conduct during and after the crime. On the other hand, for circumstantial evidence, he has to examine the scene of crime, collect physical evidence and send them to the concerned experts for opinion on the basis of scientific examination to connect the suspects with the crime.

A successful IO must be effective at interrogation. He should be able to understand the nature of the witness in general and his psychology. He must have a fair share of commonsense, capacity for perseverance, tenacity and patience. He should be ready to sympathize and empathize with them. He should be logical in his questioning. He should take into consideration the age, sex, education, social and family background of the witness. Under no circumstances should the witness be abused, threatened or bullied. This will harm the case on hand.

The witness should be examined as early as possible. The advantage is that the facts are fresh in his mind. If you delay the examination, the witness is likely to forget important details, commit mistakes, and exaggerate the facts while drawing from his imagination. Delay may also result in their being tampered by interested parties. The cross verification of the statements transpired during investigation is essential in order to rely on the statements. After cross verification, further interrogation may be carried out to unveil the truth and for collection of material evidence.

Any person under the age of 15 years or above 65 years or woman or mentally or physically disabled persons should not be called to police station for examination. They must be interrogated in their respective places of residence. Also it is to be kept in mind that the statement of a woman against whom an offence u/s 354, 354A, 354B, 354C, 354D, 376,376A, 376B, 376C, 376D, 376E, 509 IPC is alleged to have been committed or attempted shall be recorded by a woman police officer or any woman officer.

Goodwill and sympathy of the witness are necessary for successful interrogation. This is best achieved by going to the witness rather than calling his to the police station. But if this is unavoidable, particularly in rural areas, the investigator must be prepared to defray his travelling expenses in addition to food etc.

Examination of witness u/ 161 CrPC:

Legal procedure:

- Investigating officer has a power to examine any person, who is acquainted with the facts and circumstances of the case u/s 160 CrPC (118 Indian Evidence Act), and in case of female examination, it should be done by female officer or in presence of lady police by going at the place of victim or witness. A child / female/any person above the age of sixty cannot be called at P.S for examination.

- Sec 134 of Indian Evidence Act provide that there is no limit of number of witness to be examined by the IO.
But selection of witness should be in such a manner to get proper judgment of the case in the end.

161(1) CrPC - statement given to the police by witness will be considered as true.

161(3) CrPC - statements given to the police by witness will be considered as true and may be recorded in presence of advocate of the witness or video recording may be done.

162 CrPC - Witness shall not sign on the statement given to police.

A Statement should be recorded in direct speech as stated by the witness.

163 CrPC - No force, inducement, reward shall be given to the witness to give an oral statement about the incident of crime by police.

Procedure of examination of victim / witnesses:

The witness should be examined as early as possible; advantage is that the facts are fresh in his mind. If the IO delay the examination, the witness is likely to forget important details.

IO should be able to understand the nature of the witness in general and his psychology.

IO must have a fair share of commonsense, capacity for perseverance, tenacity and patience.

IO should be sympathetic over the situation and take into consideration the age.

Sex, education, social and family background of the witness.

IO should be logical in his questioning.

Questionnaire may be prepared plan fully before interrogating a suspect.

IO should have thorough knowledge of the case and to understand the link/role of the witness/suspect in that case.

IO should cross examine or verify the statement of the witness to unearth the truth.

After cross verification, further interrogation may be carried out for collection of material evidences.

Under no circumstances should the witness be abused, threatened or tortured.

On recording statement of witness u/s 161 CrPC statement should not be signed by witness.

The female and male below 15 years of age should not be called to police station for interrogation. They must be interrogated in their respective places of residence.(Sec 163 CrPC).

It is better to interrogate a witness at the place of occurrence or in a secured place to get good result.

Examination of victim:

Procedure: victim may be informant u/s 154 CrPC.

Statement of the victim may be recorded as dying declaration 32 (1) I.E. Act.

Statement of the victim and witnesses will be revivified as corroboration u/s 157 Indian I.E. Act by prosecution and as contradiction u/s 154 Indian I.E. Act by defense at the time of trial.

Statement of the victim is required to prove by other witness and Physical evidences for the point of justices.

Type of Witnesses: Witnesses may be categorized as under –

Interested Witness,

Disinterested Witness,
Hand Book on Investigation for Sub –Inspector of Police W.B.P.

- Nervous Witness,
- Unwilling Witness,
- Lying Witness,
- Hostile Witness,
- Child Witness and
- Female Witness.

The law on ‘Examination of witnesses’ has been laid down in sec. 160 to 163 of CrPC and the criminal Law Amendment Act 2013.

Interrogation of Suspects:

Under the law, IO has no legal power to summon before him any person accused of an offence. He can enforce attendance of an accused by securing his arrest. When an accused is sent for and attends before the IO, he is deemed to be in custody for the purposes of section 26 and 27 of Indian Evidence Act. The accused has a right under the Constitution not to give evidence against himself and he may refuse to answer any questions put to him. The requirements as envisaged in D.K. Basu vs. State of West Bengal have to be complied with under all circumstances.

There are cases in which an accused may appear before the police after committing an offence and confess his guilt. There are others in which, prompted by remorse, the culprit quickly breaks down under interrogation and confesses. Such cases are very small in number and a possibility of a subsequent retraction cannot be ruled out.

Hardened criminals usually have a well-prepared defence. There may be a combination of reluctance, hostility and falsehood. There may even be an outright refusal to answer. The IO must be prepared to handle this by way of intelligent questioning.

The purpose of interrogation is not merely to obtain a confession but also to elicit the identity of and part played by accomplices and to recover the property, if any, lost in the case. The need to obtain information to absolve person unjustly suspected must also be kept in mind. IO should try to explore the information from the suspect during interrogation which he wanted not to disclose or to conceal.

You must interrogate the accused after studying the facts of the case thoroughly. The antecedents and the evidence against the suspects help the IO with confronting the accused impressing upon the accused the futility to hide and prevaricate.

The IO should let the suspect talk uninterruptedly to begin with, without showing that he accepts or rejects what he is saying. IO should not accept or reject any statements without verifying them. After the first recitation, confront the suspect with such facts, which are untrue and show him the futility of falsehood. Watch the reactions of the accused. You should never lose your temper. Using third degree methods may land you in trouble.

There are two types of suspects or accused persons:

There are those with remorse and the others without remorse. Obviously the technique of interrogation will vary in these two cases.

The remorseful suspects may include first offenders and those who in a fit of passion have committed an offence. Such offenders are often impelled by repentance to speak the truth. Such offenders sometimes start rationalizing their crime and seek justification for what they have done. A word of sympathy from the IO and a show of agreement may induce him to unburden himself. The interrogator should point out to him the contributory conduct of the victim, the accomplices and the society itself.

The suspects without remorse are the professional and hardened criminals who have little or no qualms of conscience. They need a little softening. A little flattery about his courage of whatever he prides himself in tends to dislodge him from his position. If the part played by a co-accused has earlier
been ascertained, an intelligent mention of it might lead him to believe that the game is up and he may come out with the truth.

You should now record the statement of the accused/suspect. It should be a comprehensive statement of the facts, in first person, known to the accused. The introductory part should include the antecedents of the suspect, including the details of his associates. The rest of it should contain the details of preparation for and actual committing of the crime. The names and addresses of the accomplices should be clearly mentioned, bringing out, as far as possible, the part played by each.

A confession thus recorded can easily be verified by the physical evidence collected from the place of occurrence or on local inspection. The evidentiary value of confession, the law and other aspects are being dealt with in the following chapter.

Confessions:
Confessions are received in evidence with great caution. Severe tests are laid down to prove that the confession is voluntary, true and free without any inducement, threat or promise. The legal provisions relating to confession are to be found in sections 24 to 30 and section 80 of the Indian Evidence Act, and section 164 and 281 of the CrPC.

1. **Confession to a police officer:** Confession before a police officer is not admissible except under section 27 of the Indian Evidence Act.

2. **Judicial Confession u/s 164 CrPC:** Judicial confession is of great value. Cautions prescribed by section 164 CrPC are mandatory and are intended to ensure that the confession is made freely, voluntarily and with a full sense of responsibility. The failure to tell the accused that he was not bound to confess is certainly an omission of one of the cautions mentioned in section 164 CrPC and calls for the rejection of the confession. There is a general misconception that in order to prove a judicial confession, the magistrate recording the confession has to come in every case and prove the confession by his oral evidence. If the provisions of section 164 CrPC appear to have been complied with, the recording magistrate need not come to the court. Thus where the magistrate recording the judicial confession is not readily available on account of transfer, leave, retirement etc., the prosecution need not feel helpless, as recorded confession will automatically prove itself.

3. **Extra-judicial confession before the members of public:** These confessions are not given much weight in court and the IO should not remain satisfied with this sort of evidence alone. With other pieces of evidence an extra-judicial confession will have great value in fixing the guilt of the accused. In extra judicial confessions the courts require the witnesses to give the exact words used by the accused as nearly as possible. Their confessions being mostly unrecorded, the witnesses very often forget the actual words used by the accused and make discrepant statements. Naturally the court requires some other supporting evidence.

4. **Confession of a co-accused:** Confession of a co-accused affecting himself and other accused person in a joint trial may be taken into consideration against such other person and the maker himself within the meaning of section 30 Indian Evidence Act. Confession of a co-accused is very weak evidence and requires corroboration. In fact it is even weaker that the testimony of an accomplices examined as a witness on oath as the maker of the confession is a fellow accused, the other accused person do not even get an opportunity to cross-examine him. IO must be able to show that the maker of the confession has implicated himself in all the offences in which he implicates the other co-accused. Section 30 Indian Evidence act requires that the person must be tried jointly for the same offence, which expression, means, an offence coming under the same legal definition, that is, under the same section of law. A prudent IO should make all efforts to collect other pieces of collateral and corroborative evidence to support his case. He cannot expect to secure a conviction on the basis of uncorroborated confession of a co-accused.

5. **Retracted Confession:** Retracted confession is of no great value. Courts have always shown reluctance to act solely upon the strength of a retracted confession. The court must also satisfy that the confession was voluntary, without any pressure or inducement. The IO should muster some other evidence to support the retracted confession. This corroborative evidence in support of a
retracted confession can come not only from the testimony of a witness in the case, but also from the facts, circumstances and recoveries in a case. A conviction, however, can be based on a retracted confession without corroboration if the reasons given by the accused for withdrawing the confession are palpably false and the court is satisfied that the confession was voluntary and represented the true facts.

How to record a Confession:

The investigating officers try to make use of a confession on a large scale. They think it is a short cut to solve a crime and secure a conviction. Therefore, very often, threats and all imaginable types of pressures are used to secure a confession. It is clear that law does not permit this. On the contrary very severe view is taken of such methods employed by unprofessional police officer. It is an accepted principle that interrogation is the most effective way of securing a confession using decent and civilized methods.

When the accused is in a mood to confess, it is usual to send him at once to a magistrate for recording his confession. It is better to record his statement confessing his guilt in details first. It may be necessary to verify the details as confessed by him. IO may record just the relevant information in the confession. This may give further clues to the crime. It is likely that this whole exercise may become in fructuous because once the accused is produced in the court; he may decide not to confess. However details obtained from him earlier may be useful in further unfolding the truth.

The recording of confession can be done in three ways:

1. Record it sentence by sentence.
2. Record it stage by stage.
3. To hear it completely and then draw up a comprehensive statement.

The second method suits the IO most.

The following points may be kept in mind while recording a confession:

1. Name, parentage, residence etc. of suspect and associates.
2. Acts showing motive and preparation for the crime.
3. Actual commission of the crime with details of time and manner of commission.
4. Subsequent conduct-details or retreat, division and disposal of property.
5. Information on the same lines regarding previous offence.
6. Names and activities of receivers, accomplices, harbourers etc.

Procedure for recording confession leading to discovery (Sec. 27 Indian Evidence Act):

1. Name and other particulars for proper identification of the accused.
2. Date, time and venue of recording.
3. Statement to be recorded in presence of two witnesses.
4. These witnesses will accompany the IO and the accused to the place of discovery.
5. Relevant portion of statement leading to the discovery of the articles or physical evidence should be recorded by the IO and signed by the accused.
6. Recovered articles will be packed and sealed in presence of those witnesses.
7. Seizure memo prepared by the IO will be signed by the IO and the witnesses as well as the accused.
8. Photograph of the witnesses along with the IO, the accused and the seized articles may be taken.
Dying Declaration (32(1) Indian Evidence Act.)

A dying declaration is a statement made as to the cause of a person’s death, or as to any of the circumstances of the transaction, which resulted in the person’s death, made by the persons who ultimately die.

If the person making dying declaration survives, his statement is inadmissible as dying declaration but be relied on under section 157 Indian Evidence Act to corroborate his testimony, when examined can also be used to contradict him under section 145 Indian Evidence Act.

How it is recorded:

As far as possible, a dying declaration should always be recorded by a magistrate and signed by him. Thumb impression of signature is taken of the person making the statement. If a magistrate is not available, the police officers should himself record the statement, preferably in presence of witness and obtain the signatures of the declarant. He should clearly state the reasons in his Case Diary and the statement itself for not summoning the magistrate to record the dying declaration. If the doctor is not available on the spot, a few question must by asked to ascertain mental alertness of the victim and the response of the victim along with the questions must be recorded before recording the statement. For instance question may be asked about the colour of the dress the victim is wearing, the day of recording his statement, and who are the relatives or friends standing beside the victim etc. to ascertain the mental alertness of the victim.

Procedure for recording dying declaration by police:

1. Date, venue and time of recording the statement.
2. Name, age, father’s name etc. of the victim for proper identification.
3. A few preliminary questions to ascertain the mental alertness of the victim and the questions and answers must be recorded.
4. Statement in the form question of questions and answers in the language of the victim.
5. Certificate stating the reasons for non-availability of the doctor and magistrate and the steps taken to secure their attendance.
6. The name, designation and other particulars of the police officer recording the statement.

The statement of the deceased should be recorded in his own words. When the IO or the magistrate recording the statement does not know the script of the language spoken by the deceased, he may record the statement in English. If it is recorded as a result of the questions put to the deceased and the answers given by him, these questions and answers must always be recorded to enable the Court to understand the full significance of the statement. It is, therefore, essential to record the questions in exact words they have been put and take town the actual words in which the answers are given. Dying declaration can also be made by signs in answer to question put as to cause of death, especially when the declarant is not in a position to speak or write which will be admitted as verbal statements. There can be a nod of assent. The case resembles the case of a dumb witness.

FIR is admissible as dying declaration if in a murder case the information report lodged by the deceased relates to the cause of his death, by virtue of section 32(1) of Indian Evidence Act.

The grounds on which a dying declaration is admitted are:

1. Death of declarant
2. Necessity: The victim being often the only eyewitness to the crime, the exclusion of his statement would tend to defeat the ends of justice.
3. Sense of impending death, which creates a sanction equal to the obligation on oath.
Statements, written or oral must be proved. If the statement is oral, the persons who heard it must depose. If recorded, it must be proved by the evidence of the person who recorded it. If the statement made by the deceased does not relate to his death but to the death of another, it is not relevant, it is not relevant. It may be noted that the dying declaration cannot be proved unless the death of the person who made the declaration is also proved.

**Some Important Rulings:**

**Evidentiary value of statement under section 161 CrPC**

A statement recorded under section 161 CrPC shall not be used for any purpose except to contradict a witness in the manner prescribed in the proviso to section 162(1)

[Baldev Singh vs. State of Punjab, AIR 1991 SC 31]

**Principles for evaluation of circumstantial evidence:**

According to Best, the evidence is either direct or circumstantial. Direct evidence is the evidence of witnesses, things or documents, which directly establishes the existence or non-existence of the principal facts. On the other hand, the circumstantial evidence helps the court to infer the existence or non-existence of the principal facts from oral, documentary or physical evidence. So, the inference of facts-in-issue may be drawn from circumstantial evidence.

To prove the guilt of the accused by way of circumstantial evidence the following conditions must be fulfilled:

- The circumstances from which the conclusion is drawn must be fully proved and established;
- The facts established must be consistent with the hypothesis of the guilt of the accused and inconsistent with the innocence of the accused;
- The circumstances must be of conclusive nature and tendency, so that the established facts exclude every possible hypothesis except the guilt of the accused; and
- The established facts will indicate chain of events so complete as not to leave any doubt for the conclusion that in all human probability the crime could have been committed by accused and no one else.

[Sharad Birdhi Chand vs. State, AIR 1984 SC 1622]

**Criteria for appreciation of oral evidence:**

The following is the guideline of the Supreme Court for appreciation of evidence of a witness:

While appreciating the evidence of witness, the approach must be whether the evidence of the witness read as a whole appears to have a ring of truth. Once that impression is formed, it is undoubtedly necessary for the court to scrutinize the evidence more particularly by keeping in view the deficiencies, draw backs and infirmities pointed out in the evidence as a whole and evaluate them to find out whether it is against the general tenor of the evidence given by the witness and whether the earlier evaluation of the evidence is shaken as to render it unworthy of belief. Minor discrepancies on trivial matters, not touching the core of the case, hyper-technical approach by taking sentence, torn out of context here or there from the evidence, attaching importance to some technical error committed by the investigating officer not going to the root of the matter would not ordinarily permit rejection of evidence as a whole. If the court before whom the witness gives evidence had the opportunity to form the opinion about the general tenor of evidence given by the witness, the Appellate Court which had not this benefit will have to attach due weight to the appreciation of evidence by the Trial court and unless the reasons are weighty and formidable it would not be proper to reject the evidence on the ground of variations or infirmities in the matter of trivial details.

Partisan or interested witness-Evaluation:
The persons who are acquainted with the facts of the case as friend or relative cannot be branded as interested witnesses. The person who is interested to see the accused convicted of the charge due to previous enmity are interested witnesses. There is no rule of law that the court will not rely on the evidence of interested witnesses. But the rule of prudence dictates that the evidence of interested witnesses must be properly scrutinized by court before relying on their evidence.

[Shamsuddin vs. State of U.P., AIR 1976 SC 59]

Hostile Witness-Evaluation:
The term 'Hostile Witness' does not appear in the Indian Evidence Act. When any witness is permitted by the court to be cross-examined by the party who called him, the witness is popularly called hostile witness. This permission is granted, then the party, which called the witness, shall have the right to ask any question including leading question, which could have been asked by the adverse party. If the court thinks from the evidence, demeanour, temper, attitude, tenor and tendency of answering the questions, from perusal of previous inconsistent statements of the witness that grant of permission is expedient to extract the truth and to do justice, the court can do so under section 154 of I.E. Act.

Simply because a witness has been declared hostile, his testimony does not become totally unreliable on the count. The evidence given by such witness remains admissible and there is no legal bar to pass a conviction upon his testimony, if corroborated by other reliable evidence. It is held by the Supreme Court that the evidence of a hostile witness should not be totally rejected if spoken in favour of the prosecution or accused, but it can be subjected to close scrutiny and that portion of the evidence which is consistent with the case of the prosecution or defence may be accepted.

[State of U.P. vs. Ramesh Prasad Mishra, AIR 1996 SC 2766]

Evaluation of evidence of rape victim-guidelines of Apex Court:
"Corroborative evidence is not imperative component of judicial credence in every case of rape. Corroboration as a condition for judicial reliance on the testimony of the prosecutrix is not a requirement of law but a guidance of prudence under given circumstances. It must not be overlooked that a woman or a girl subjected to sexual assault is not an accomplice to the crime, but is a victim of another person's lust and it is improper and undesirable to test her evidence with a certain amount of suspicion, treating her as if she were an accomplice. Inferences have to be drawn from given set of facts and circumstances with realistic diversity and not dead uniformity lest that type of rigidity in the shape of rule of law is introduced through a new form of testimonial tyranny making justice a casualty. Courts cannot cling to a fossil formula and insist upon corroboration even if, taken as a whole the case spoken of by the victim of sex crime, strikes the judicial mind as probable"


Non explanation of injuries on the person of the accused- Effect of:
The prosecution has established that an occurrence has taken place in which some persons on either side received injuries. No explanation was given as to how the four accused persons received injuries. In such a situation, the version given by the defence cannot be brushed aside. Consequently doubt arises about the credibility or truthfulness of the version put forward by the prosecution.


Medical evidence vis-a-vis evidence of eye witness- Guidelines of Apex Court:
There was a quarrel between two groups in village Silara in Rohtak over a marriage ceremony on 9.12.84. As a result of the quarrel between one groups led by the accused Daula forcibly entered into the house of Ishwar, caught hold of him and assaulted him with Tanpi. Ishwar also received injury by fists and blows and also by lathi. Ishwar succumbed to the injuries while he was taken to Medical
A criminal case was registered under section 302/34IPC. Sub Inspector Ramchander held the inquest on the dead body of Ishwar and then the dead body was sent for postmortem examination. On completion of investigation, charge sheet was submitted against four accused persons under section 302/34IPC.

The Additional Sessions Judge, Rohtak convicted all the accused persons and sentenced each of them to undergo life imprisonment. On appeal, Punjab and Haryana High Court set aside the decision of the session judge and acquitted the accused persons of the charge of murder on the grounds inter-alia that the evidence of eye witnesses is contrary to the evidence of medical officer who conducted post mortem on dead body of Ishwar. The matter went up to Supreme Court by way of special leave petition.

On consideration of the entire evidence, it is found by the Supreme Court that three eye witnesses have testified that the three accused persons were holding Ishwar and the accused Daula gave a powerful blow on his back with Tanpi, which proved fatal. The depth of the injury was 14 cm, which was more than the length of the blade of the weapon. Dr. Rohtas Yadav, who conducted the post mortem examination on the dead body, admitted during cross-examination that such an injury may not be possible with Tanpi. As there is no iota of evidence to disbelieve the testimony of three eyewitnesses and as the depth of the injury may be more than the length of the blade of Tanpi due to forcible blow, the Supreme Court relied on the evidence of three eye witnesses by discarding the opinion of Dr. Yadav. By setting aside the decision of the Punjab and Haryana High Court and by restoring the order of conviction and sentence passed by the Trial Court, it is held by the Supreme Court that the evidence of the Doctor being the opinion evidence cannot nullify the evidence of eye witnesses if the evidence of "eye witnesses is unimpeachable"

[Prem vs. Daula, AIR 1997 SC 715]

Delay in recording statements of witnesses-effect of:

Unjustified and unexplained long delay on the part of investigation officer in recording statement of material eye witness during investigation of murder case will render evidence of such witness unreliable.

[Balakrishna Swain vs. State of Orissa, AIR 1971 SC 804]

Points to remember:

- While recording the statement of Female/child witnesses necessary guidelines to be followed.
- Give patient hearing to the witnesses and record statements accordingly.
- Language and dialect should reflect in the recording if need be interpreter may be engaged to record statement. Provided statement of the interpreter to be also recorded in separate sheet of paper.
- Statements recorded should form a part of the case diary and the whole CD is to be paginated.
- It is to be kept in mind that the statement of a woman against whom an offence u/s 354, 354A, 354B, 354C, 354D, 376, 376A, 376B, 376C, 376D, 376E, 509 IPC is alleged to have been committed or attempted shall be recorded by a woman police officer or any woman officer.
- Witnesses to be examined by the IO at once without any delay if any is to be explained in the CD and should be justifiable.
CHAPTER VI
SEARCH & SEIZURE

Search: Introduction:

Search is an effective tool in the hands of the authority and the same time, it constitutes a serious invasion on the liberty of a person.

Search - Its Meaning:
- Looking for
- Exploration
- Probing

Search - Where:
- House, building and premises
- Person
- Vehicle
- Vessel

Search - What For:
- Discovery of contrabands article or illicit goods or stolen property.
- Documents - This may be relevant or incriminating in any form.
- Evidence of guilt

Law relating to Search at a Glance:

a. Search with warrants:
   - Sec. 93 CrPC - General Search.
   - Sec. 94 CrPC - Stolen Property/Forged Documents etc.
   - Sec. 95 CrPC - Forfeited Publications.
   - Sec. 97 CrPC - Wrongfully confined persons.
   - Sec. 98 CrPC - Restoration of abducted females.

b. Search without Warrants:
   - Magistrates – 103 CrPC
   - Police Officer (O/C)
     - Section 165 CrPC
     - Section 168 CrPC
     - Section 153 CrPC

c. Procedure of Search
   - Sec. 47 CrPC
   - Sec. 100 CrPC
   - Sec. 165 CrPC
d. Search of a person
   - Sec. 51 CrPC
   - Sec. 52 CrPC

e. Power of Police to Seize Without Warrant
   - Sec. 102 CrPC

Search of a Person - Its Objects (Sec. 51 CrPC and 100 (3) CrPC):
   - To find incriminating articles.
   - To seize offensive weapon (Sec. 52 CrPC)
   - To look for any other thing which may be useful for investigation - marks of injuries on his person.

Search of a Place: What it is? (Defined in Sec. 2 (p) CrPC):
   - House
   - Building
   - Tent
   - Vehicle
   - Vessel

Relevant Sections of Law Regarding Search of a Place:
   - Search of a place entered by a person sought to be arrested - Sec. 47 CrPC.
   - Without warrant, for investigation - Sec. 165 CrPC.
   - Search under warrant issued by the Court:
     - For production of certain documents or thing (S. 93)
     - Place, suspected to contain stolen property etc. (S. 94)
     - For publications forfeited by the Government (S. 95)
     - Recovery of persons wrongfully confined (S. 97)
     - Restoration of abducted females (S. 98)
     - Document or thing in postal custody (S. 92)

Search Warrant – What is it?
   - A search warrant is a warrant issued by a Court for the search of a place to be executed in the same way as a warrant for arrest of a person (Sec. 99), subject to the special safeguards provided in Section 100 CrPC.
   - Simply speaking, it is an authority given by a competent public servant to search a place for anything or person.

(Issuing a search warrant by an Executive or Judicial Magistrate is a judicial act)

Search by Magistrates in his Presence: (Section 103 CrPC)
   Any Magistrate (judicial or Executive) is empowered to direct search to be made:
   - In his presence
Of any place
- For the search of which he is competent to issue a search warrant.

Points to be borne in Mind in the context of search:
- Reasonableness of the search.
- Time likely to be taken in conducting the search.
- Likelihood of the incriminatory property being destroyed.
- Calling upon two witnesses.
- Must be in presence of witnesses.
- Preparation of search list.
- The occupants to attend search.
- Disclosure of identity by Public Servants making the search.
- Showing of the authorization
- Woman – by a woman – decency and decorum to be observed.
- Public servants called to constitute a search party should be tight-lipped.
- Members of the search party should organize themselves effectively.
- They should offer themselves to be searched and the witnesses be searched.
- One or two members of the search party should keep a watch over the members of the search party.
- After entry, no outsider, except medical officer or legal practitioner should be called at the request of the party
- Search party should take control of the telephone, if any.
- Members of the search party should be cool, polite and courteous.
- Members of the Search Party should be cool, polite and courteous.

Elements of Search: Three Ss
It should be -
- Sudden
- Surprise
- Swift

It should have:
- Authenticity
- Secrecy
- Co-ordination

What Search Party Should Carry?
- Authorization
- Search material, blank papers, carbons, pins, tags, etc.
- Valid identify cards
- Seals
Pen, Pencil etc.
Organize effectively/call witnesses/offer yourself for search, before and also after search (at the point of entry and also at the point of exit).

**Enactment under which Searches may be conducted by Persons Authorised to do so:**

- Arms Act
- Essential Commodities Act
- Opium Act
- Excise Act (State)
- Income-Tax Act
- Customs Act
- State Gambling Act
- Motor Vehicles Act
- Prevention of Food Adulteration Act
- Prevention of Corruption Act
- Code of Criminal Procedure
- Prevention of Immoral Traffic Act
- The Dramatic Performance Act
- Gold Control Act

**Irregularity in search:**

- Does not violate seizure of articles.
- Cannot vitiate trial or conviction unless accused has been prejudiced.
- It casts a duty upon the Court to scrutinize evidence carefully.
- It may affect the weight of evidence (vide Section – S. 465 CrPC).

**Seizure:**
The act of taking possession of property as per law and in contrary to the wishes of the owner.

After search the IO must seize the articles which are incriminating or which is necessary and related to his case. All physical evidences that are found at the PO needs to be seized by the IO for incorporating the same in his case.

Preparation of seizure list is very important as the defence advocates will always try to point out the discrepancy in preparing the seizure list as it is easier to do so than challenging the opinion of the expert derived from that physical evidence.

**Seizure List:**
In order to seize the articles the IO has to prepare a seizure List as given in PRB rule no. 280

While making the search/seizure, keep the following points in mind:

1. Make an entry in General Diary disclosing the fact why search is required to be made without any warrant, wherever the search is conducted without a warrant for recovery of property.
2. Ensure that there is due regard to decency.
3. Cause as little inconvenience as possible to the other inmates of and especially to the other inmates of the house and especially to women.
4. Make the search in the presence of the owner or his representative.
5. Preferably searches should be made in the daytime. However, Law does not prohibit a search during the night.
6. Ensure that no article is planted in the house to be searched.
7. Similarly, no article is taken out of the house while the search is on.
8. At least two respectable witnesses of the locality are called upon to attend and witness the search. Evidence of search without search witness is of little value.
9. Care should be taken that the search witnesses are independent witnesses, unconnected with any of the parties.
10. Select search witnesses after a preliminary inquiry into their antecedents.
11. Professional witnesses should be discarded.
12. Invite the house owner or representative to examine the person of each police officer who was present during the search, so also of any witness entering or remaining in the house at that time.
13. If the accused is in the police lockup take him to the place of search and give him an opportunity to witness it.
14. Give a copy of the seizure list to the suspected person with acknowledgement.
15. Where no property is seized, a ‘nil’ search list should be given.
16. A person whose house is searched should be asked to sign the search list.
17. Do not include any statement of the accused or witnesses in the search list. Such a statement is hit by section 162 CrPC and is likely to destroy the evidentiary value of the search list to a great extent.
18. An abstract of the list of the property seized with a recorded of circumstances under which they were seized should be entered in the Case Diary.
19. Heavy property or livestock should ordinarily, pending the orders of a magistrate be left in the charge of some local respectable person willing to undertake the responsibility of its custody and its production when required by a Court.
20. In case of seizure of property under section 51 or 102 of CrPC, the fact of the seizure has to be reported to the magistrate, who may dispose of property as per the provisions of CrPC. Similar provisions are also available in section 24 and 25 of the Police Act 1861.
21. All articles or weapons other than cash or cattle found at a house search or on the person of the prisoner should be carefully at the time of seizure marked with date of seizure, name of the person from whom seized signatures of witnesses and police officer with proper labeling and sealing. IO should use his own metal seal to make it more reliable to the court.
22. Original seizure list should be forwarded to the Court at the earliest opportunity, and a carbon copy of the same is to be kept in case docket.
23. Ensure that the articles seized should be properly documented in the property register of the PS. Otherwise the chain of custody will be lost and the integrity of the evidence will be hampered. Property register number should be mentioned in all references.
24. The articles seized should be properly labeled and the original label should be affixed with the article in such a way that it can be removed by the expert while examining without destroying the evidence as well as the label itself. The carbon copy of the label is to be kept in case docket for comparison in Court during trial. (No label for cash and cattle seized).
25. The signatures of the witnesses and the suspect/accused should bear the date in the seizure/search list.

Some Important Rulings:

Search – Requirement:

- Independent witnesses were required to be search witnesses but they refused. Evidence of investigating officer and other witnesses remaining unshaken – conviction can be based on such evidence.

[T. Hamza Vs. State of Kerala, 2000 SCC (Cri) 216]
The requirement to have independent witness to corroborate the evidence of the police is to be viewed from a realistic angle. Every citizen of India must be presumed to be an independent person until it is proved that he was a dependent of the police or other officials for any purpose whatsoever.


**Illegal Search and Seizure – Evidence Relevant:**

- The Evidence Act or the Code of Criminal Procedure or for that matter any law in India does not exclude relevant evidence on the ground that it was obtained under an illegal search and seizure.

*State vs. Satish N.M.T. Joy Immaculate, 2004 SCC (Cri) 1722*

**Seizure of Bank Account – Sec. 102 CrPC- Police Officer’s Power to Seize:**

- With regard to the power of seizure of bank account under section 102 of CrPC, 1973 the Supreme Court has held that the bank account of an accused or any of his relations is “property” within the meaning of section 102 of the Criminal Procedure Code, 1973, and a police officer in course of investigation can seize or prohibit the operation of the said account if such assets have direct links with the commission of the offence for which the police officer is investigating into. The contrary view taken by Karnataka, Gauhati and Allahabad High court does not represent the correct law.

*State of Maharashtra vs Tapas D. Neogy, 1999 SCC (Cri) 1352*

**Points to remember:**

- The original seizure list is to be sent to the Ld. Court as soon as possible.
- Seized articles should be properly labeled.
- Copy of the label should be kept in the CD.
- Proper entries to be made in the GD
- Entries in the Property register to be ensured.
- Chain of custody to be maintained.
- Nil Seizure List.
- For obtaining expert opinion against seized article, the same should be forwarded through the Ld. Court bearing CMR Number. (Court Malkhana Register). It should be sent to Court without any unnecessary delay.
**Proforma of Search/seizure List**

**Search/seizure List**

Ref. .......................... P.S. Case /GDE No. ................ dt. ................... u/s .........................

<p>| | |</p>
<table>
<thead>
<tr>
<th></th>
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<tbody>
<tr>
<td>1.</td>
<td>Date &amp; Time of Seizure : - ..........................................................</td>
</tr>
<tr>
<td>2.</td>
<td>Place of Seizure : - .................................................................</td>
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<tr>
<td>3.</td>
<td>From Whom Seized:- .................................................................</td>
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<tr>
<td>4.</td>
<td>Name &amp; Address of Witnesses:-  a) ..............................................</td>
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<td></td>
<td>b) .................................................................</td>
</tr>
<tr>
<td></td>
<td>c) .................................................................</td>
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<tr>
<td></td>
<td>d) .................................................................</td>
</tr>
<tr>
<td>5.</td>
<td>Description of Seized Articles : - .............................................</td>
</tr>
<tr>
<td>6.</td>
<td>Signature of Witnesses:-  a) ..................................................</td>
</tr>
<tr>
<td></td>
<td>b) .................................................................</td>
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<td>c) .................................................................</td>
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<td></td>
<td>d) .................................................................</td>
</tr>
</tbody>
</table>

**Search/Seized by me,**

Name.................................................
Rank.................................................
Date.................................................
Place.................................................
CHAPTER-VII
ARREST / CUSTODY / REMAND.

What is Arrest?
“ARREST” means seize someone by legal authority depriving his liberty and take him into custody.

Greatest care should be taken to arrest a person. The arrest should be made only on good and compelling grounds because an arrest is a restraint on the personal liberty of an individual.

Arrest without warrant:

The relevant provisions for arrest without a warrant are contained in sections 41, 42, 48, 60, 120, 130, 151 and 171 of the CrPC. Preventive arrest, object and power of police are contained in sections 55, 129(2), 123(6), 432(3), CrPC.

It should be remembered that arrest under section 41(i), 48, 60, 122 and 151 can be affected by any police officer while arrest under sections 41(ii), 130, and 171, CrPC can be made or directed by the officer in charge of a PS. Police officer do not have the powers to make arrest in non-cognizable cases except under the circumstances mentioned in section 42 CrPC, section 34 Police Act, section 20 Arms Act, section 13 Indian Explosives Act, section 145, 146, 150, 154, of Railways Act, and section 164 of Forest Act.

No arrest can be made just because it is lawful for the police officer to do so. The police officer must be able to justify the arrest apart from his power to do so. Sec 41 of CrPC has pointed out the justifications specifically.

In case of offences with punishment for a term less than 7 years or upto seven years

A | To prevent committing of any further offence by the accused or
R | For proper investigation of the offence
R | Prevent disappearance of/tamper of evidence by the accused
E | To prevent influencing of witnesses by the accused
S | Ensure the presence of accused before Court.
T

A Police officer must record the reason of arrest in writing if arrest is needed. If the officer decides not to arrest then the reason for not arresting also is to be recorded in writing in the CD

In this case as per sec 41A of CrPC police officer can issue a notice of appearance to the accused person before him. If the accused complies then he shall not be arrested but if he fails to appear then the police officer may arrest him subject to orders of competent Court.
In Case of offences with punishment for more than 7 years or death sentence

**A Police officer must record the reason of arrest in writing**

**Bailable / Non-bailable warrants:** Warrants are issued by the magistrate. The officer making the arrest should be provided with proper particulars of identity to avoid arresting wrong persons. Prompt service of warrant by the police is essential both in the interest of the community and for speedy trial. Warrant of arrest remain in till executed cancelled or withdrawn.

If the warrant remains unexecuted, it may be returned to the issuing Court with an appropriate report so that action under sections 82 and 83 may be taken by the Court.

**Arrest of certain classes of persons:**

Whenever public servant is arrested, the matter should be intimated to the superior officers, if possible before the arrest and in any case immediately after the arrest. Members of the Armed Forces cannot be arrested without sanction of the Central Govt. for anything done by them in discharge of their official duty. Otherwise for the arrest of any members of the Armed Forces, intimation should be sent to the Officer commanding the unit to which the member belongs. It should be done immediately after the arrest is effected. The law laid down by the Supreme Court is that the judicial officers cannot be arrested for committing any offence without the permission of the District and Sessions judge or the Chief justice of the High Court, as the case may be.

Under rule 228 of procedure and Conduct of Business in Lok Sabha, when a member is arrested on a criminal charge, or is detained under an executive order of a Magistrate, the executive authority must inform without delay such fact to the Speaker. Intimation should invariably be sent to the Government concerned concurrently with the intimation sent to the Speaker/Chairman of the Legislative Assembly/Council/Lok Sabha/ RajyaSabha. The intimation should not be delayed on the grounds of holidays.

**Procedure after arrest:**

Persons arrest should be thoroughly. In case of a woman, by a woman constable or officer. The search is done for anything that may facilitate attack, escape or suicide. An inventory of the articles found on his person should be prepared and a copy given to him. To counter complaints against the police of misappropriation of property seized from the prisoner, such searches and seizures must be done in the presence of witnesses. The arrested person must be produced before the nearest judicial Magistrate within 24 hours from the time of arrest excluding the time required for journey.
The directives of the Supreme Court regarding arrest:

(D.K. Basu vs. State of West Bengal)

1. The Police personnel 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 the interrogation of the arrest must be recorded in a register.

2. The police officer carrying out the arrest of the arrestee shall prepare a memo of arrest at the time of arrest and such memo shall be attested by at least one witness, who may be either a member of the family 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 shall contain the 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 centre or other lockup, shall be entitled to have one friend or relative or other person known to him or having interest in his welfare being informed, as soon as practicable, that he has arrested and is being detained at a particular place, unless the attesting witness of the memo of arrest is himself such a friend or relative of the arrestee.

4. The time, place of arrest and venue of custody of an arrestee must be notified by the police where the next friend or relative of the arrestee lives outside the district or town through Legal Aid Organization in the district and the police station of the area concerned telegraphically within a period of 8 to 12 hours after the arrest.

5. The person arrested must be aware of this right to have someone informed of his arrest or detention as soon as he is put under arrest or is detained.

6. An entry must be made in the diary at the place of detention regarding the arrest of the person which shall also disclose the name of the next friend of the person who has been informed of the arrest and the names and particulars of the police officials in whose custody the arrestee is.

7. The arrestee, where he so requests, be also examined at the time of his arrest and minor injuries, if any, present on his/her body, must be recorded at that time. The ‘Inspection Memo’ must be signed both by the arrestee and the police officer effecting the arrest and its copy provided to the arrestee.

8. The arrestee should be subjected to medical examination by a trained doctor every 48 hours during his detention in custody, by a doctor on the panel of approved doctors appointed by Director, Health Services of the concerned State or Union Territory, Health services should prepare such a panel for all Tehsils and districts as well.

9. Copies of all the documents, including the memo of arrest referred above, should be sent to the Ilaka Magistrate for his record.

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

11. A police control room should be provided at all district and state headquarters where information regarding the arrest and place of custody of the arrestee shall be communicated by officer causing the arrest and at the police control room it should be displayed on a conspicuous notice board.


In accordance with the order of the Hon’ble Supreme Court of India dated 18.12.96 regarding medical examination of accused person detained in police custody. The following courses of actions are to be taken with immediate effect until further orders:
1. Block Medical Officer of Health and in his absence the Medical Officer on duty will attend the arrest for examination of major or minor injury persisted on the body of the captive, in addition to his normal duties. The inspection memo must be both, the arrestee and the police officer and its copy to be provided to the arrestee. The officer will bring the arrestee to the Block Primary Health Center falling within the jurisdiction of the police station.

2. Medical officer on duty in the Medical Emergency Department attached to District Hospital, sub-divisional Hospital, State General Hospital will be instructed for examination of major or minor injury persisted on the body of the arrestee brought to them by the police officer in the same manner as stated in para 1.

**Arrest**

**Dos:**

1. Ensure that no person is deprived of his/her right to life or personal liberty, except in accordance with the procedure established by law (Art. 21 of the Indian Constitution).

2. Ensure that the identity of the police officer effecting arrest is clearly indicated by means of a name plate and rank. (Guidelines on Arrest: DK Basu vs State of West Bengal AIR 1997 SC 610) (Sec 41 B CrPC).

3. Ensure that the arrestee is informed of the full particulars or the grounds of arrest (Art 22 of the Indian Constitution).

4. Ensure that a relative or a friend of the arrestee is informed about the fact of arrest and the place where he/she is being detained (Section 50A (1) CrPC).

5. Ensure that information regarding the arrest and the person informed about the arrest is recorded in the designated register kept in the police station (Section 50A (3) CrPC).

6. Ensure that if some injuries are found on the body of the arrested person at the time of arrest, the same are specified in the Arrest Memo and the arrested person is medically examined.

7. Ensure that no woman is arrested after sunset and before sunrise, other than in exceptional circumstances (Section 46(4) CrPC).

8. Ensure that a woman police officer is associated while effecting arrest of a woman (Section 46(4) CrPC).

9. Ensure that no force or beating is administered under any circumstances while effecting arrest of a juvenile or a child. Respectable citizens may be associated while arresting juveniles and children.

10. Protect the human dignity of the person being arrested. Public display or parading of the person arrested should not be permitted.

11. Conduct search of the arrested person with due respect to his/her human dignity. Avoid unnecessary use of force and respect his/her right to privacy. Searches of women should be conducted only by other women, with strict regard to decency (Section 51(2) CrPC).

12. In case of a bailable offence, inform the arrested person of his/her entitlement to be released on bail so that (s)he may arrange for sureties.

13. Inform the Police Control Room and the District/State Headquarters about the arrest and the place of detention.

**Don'ts:**

1. Do not arrest a person without warrant, unless there is a reasonable satisfaction, on the basis of investigation done, about the person’s involvement in a cognizable offence and there is a need to affect his/her arrest. (Section 41, CrPC).
2. Do not arrest a person unless the commission of an offence cannot otherwise be prevented (Section 151, CrPC).

3. Do not use more force than is necessary to restrain an arrested person (Section 49 CrPC and Art. 21 of the Indian Constitution).

4. Do not summon to police station, a woman or any male person 15 years of age associated with case. The questioning of any officer only at the place of residence of such woman/minor (Section 160(1) CrPC)

5. Do not detain any arrested person beyond 24 hours without the express order of a Magistrate (Section 57 CrPC)

6. Do not use handcuffs or fetters on arrested person unless you have recorded reasons and obtained orders of the court for such use.

**Detention**

**Dos:**

1. Ensure that a written order is sent to any person who may be required to come to the police station for the purpose of questioning. (Section 160(1) CrPC)

2. Ensure that family members or friends of any person detained by the police are aware of his whereabouts.

3. Ensure that whenever any person is detained in the police station, proper entry is made in the General Diary.

4. Ensure prompt medical attention for anyone detained by the police, in case the need so arises.

5. Treat all detainees with the dignity due to any human being.

**Don’ts:**

1. Do not subject any person in detention to torture, or to nay cruel, inhuman or degrading treatment or punishment.

2. Do not compel a person in detention to confess, to otherwise incriminate him/herself or to testify against any other person.

3. Do not detain anyone for a prolonged period in the name of interrogation as this may amount to harassment and wrongful confinement.

**Protection of Women**

**Dos**

1. Ensure that a woman is searched only by another female, with strict regard to privacy and decency (Section 51 (2) CrPC)

2. Ensure that a woman suspect is kept in a separate lock-up in the police station (S.C. Judgment, Sheela Barse -Vs- State of Maharashtra).

3. As far as possible, a woman police officer should be associated while effecting arrest of a woman (Section (2) CrPC)

4. Report to the O/C any instance of domestic violence that comes to your notice.

5. Be sympathetic to women victims of crime, especially rape and molestation, and give due respect to their privacy.

6. In cases of domestic violence, inform the aggrieved woman of her right to obtain relief by way of a protection order.
**Don’ts:**

1. Do not summon a woman associated with a case to a police station. The questioning of any woman can only be done at her place of residence (Section 106 91) CrPC
2. Do not arrest a woman after sunset and before sunrise, other than in exceptional circumstances (Section 46 (4) CrPC)

**Protection of Children**

**Dos:**

1. Treat Children politely and interrogate them preferable while dressed in civil clothes.
2. If a child is to be interrogated, question him at the place where he ordinarily resides (Section 160 CrPC)
3. Do ensure that as soon as a juvenile in conflict with law is apprehended by police, he is placed under the charge of the special juvenile police unit or the designated police officer (Section 10 of the JJ Care and Protection Act 2000).
4. In case of arrest, verify the age of the child before deciding upon further course of action.
5. In case of arrest, ensure that the child is produced before a juvenile court without delay. The time taken, in any case, should not exceed 24 hours (Section 57 CrPC)
6. The employment of children in factories, mines and hazardous employment is prohibited (Art. 24 of the Indian Constitution). Identify and report any such instances to the concerned authorities (Section 3 of Child Labour Prohibition & Regulation Act 1986).
7. Take steps to get any child released if he is kept in Bondage (Bonded Labour System (abolition) Act 19760.

**Don’ts:**

1. Do not call any female child to the police station for questioning (Section 160 CrPC)
2. Do not call any male child less than 15 years of age, to the police station for questioning. (Section 160 CrPC)
3. Do not keep a juvenile in police lockup (Section 18, Juvenile Justice Act 1986).

**Use of Handcuffs: Do’s & Don’ts:**

1. That no prisoner shall be handcuffed or fettered routinely or merely for the convenience of the custodian or escort;
2. That it is arbitrary and irrational to classify prisoners for the purposes of handcuffs, into ‘B’ class and ordinary class. No one shall be fettered in any form based on superior class differentia as law treats them equally;
3. Handcuffing of prisoners should be resorted only in exceptional circumstances where there is a clear and present danger of escape or where the concern accused is so violent that he cannot otherwise be secured. Handcuffing may be avoided by increasing the strength of the armed escort or by taking prisoners in well protected vans.
4. It is in only in exceptional circumstances where there is no other reasonable way of preventing the escape of prisoner than to recourse to handcuffing him may be taken. Even in such extreme cases where handcuffs have to be put on, escorting authority must record contemporaneously the reasons for doing so. The belief in this behalf must be based on antecedents which must be recorded and proneness to violence must be authentic. Vague surmises or general averments that the under trial is a crook or desperado, rowdy or maniac cannot suffice. Merely because the offence is serious the inference of escape proneness or desperate character does not follow;
5. These recorded reasons must be shown to the Presiding Judge and his approval should be taken. Once the Court directs that the handcuffs are not to be used, no escorting authority should overrule this direction.

**Important Judgments regarding Arrest and Handcuffing:**

1. The power to arrest without a warrant should be exercised only after a reasonable satisfaction is reached, after some investigation, as to the genuineness of a complaint and a reasonable belief as to both the person’s complicity as well as the need to effect arrest.
   

2. Arrest cannot be justified merely on the existence of power, as a matter of law, to arrest without a warrant in a cognizable case.
   

3. Except in heinous offences, as mentioned above, an arrest must be avoided if a police officer issues notice to the person to attend the police station and not leave the station without permission.
   
   (Joginder Kumar’s case (1994) SCC 260).

4. The use of handcuffs or leg chains should be avoided and if at all, it should be resorted to strictly in accordance with the law repeatedly explained and mandated in judgment of the Supreme Court in PremShanker Shukla v. Delhi Administration [(1980) 3 SCC 526] and Citizen for Democracy v. State of Assam [(1995) 3 SCC 743].

**Remand**

**Legal Provisions and procedure:**

‘To remand a person’ means to send him back to the custody for further investigation or trial. An accused may be remanded to POLICE custody or JUDICIAL Custody on the order of a Court and upon its Satisfaction.

Section 167 of the Criminal Procedure code deals with the procedure of REMAND when investigation cannot be completed in 24 hours.

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**“CUSTODY”**

*means such a care towards a thing under possession as would have been taken if that thing really belonged to him.*

<table>
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<tr>
<th>POLICE CUSTODY</th>
<th>JUDICIAL CUSTODY</th>
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<tr>
<td>15 days from the date of arrest.</td>
<td>(i) ninety days, where the investigation relates to an offence punishable with death, imprisonment for life or imprisonment for a term of not less than ten years;</td>
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<td>(ii) sixty days, where the investigation relates to any other offence.</td>
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An application for police remand should not be treated as a matter of routine. The period of police remand should be as short as possible. The CD should be written up to date and forwarded to the Magistrate with the accused to enable the Magistrate to decide the matter. Magistrates do not grant remands to police unless they are satisfied that there are good grounds to do so. The grounds for remand must be specifically mentioned in the application supported by the entries in Case Diary. Generally police remand is required for:

- Knowing the details of the offence and arrest of other accomplices
- Make recovery or collect physical evidence
- Make recovery of the stolen articles etc.
- An accused who has been produced before a Magistrate for a confession and who has declined to make it or has given an unsatisfactory statement will not be remanded to police custody.

An accused can be taken into police custody for a maximum period of 15 days from the date of his / her arrest/ surrender in court.

Transit Remand: When an accused is arrested outside the jurisdiction of the Police Station, where the case was recorded by the officers of that PS, then as per norms he should be produced before the Court within 24 hours. But if the distance is such that the accused cannot be produced before court within 24 hours, then the accused should be produced before the local court within whose jurisdiction he was arrested with prayer for allowing sufficient time for producing the accused before the court of original jurisdiction. Court will allow sufficient time for the same which is called transit remand.

Preliminary Condition for granting Remand:

- The ground upon which the remand is needed shall be distinctly stated in the application to the Magistrate.
- It is shown in the case diary that such custody is necessary for the identification of any person, or the discovery or identification of any property or any special reason.
- Such accused have been actually produced before the Magistrate.
- No application for remand to police custody shall be made on the ground that the accused person is likely to Confess.

Grounds for remand to police custody:

- That it is necessary to take the accused to a distance for identification of any person/co-accused or that he may be shown to persons likely to identify him as having been seen at or near the scene of offence.
- That the accused has offered to point out stolen property or weapons or other articles connected with the case.
- That the accused is willing to assist police in identifying and arresting his accomplices.
- That for the reconstruction of the crime.
- Any other good and sufficient special reason which satisfies the Court.

Important Judgments on Police Remand:

- The Magistrate shall not pass orders remanding under trial prisoners to custody unless such prisoners have been actually produced before them on due dates. (RULE-74: CRIMINAL RULES AND ORDERS OF THE HIGH COURT AT CALCUTTA)
- At every stage, when they obtain remand, the police must satisfy the Magistrate that there is sufficient evidence against the accused and that further evidence must be obtained, and then if the Magistrate is satisfied he could direct remand. (1966 Cr LJ 1141 at p.1145).
- The mere fact that the police state that the presence of the accused is necessary to finish investigation. (7 CWN 457)
The mere fact that the verification of the statement of the accused is needed is not a ground for the police remand. (7 CWN 220)

The provision of section 167 of the criminal Procedure Code should be scrupulously observed, the copy of the police diary should be produced when the accused is brought to Court, and the Magistrate cannot remand the accused without satisfying himself that a remand was necessary on a perusal of the said diary. (AIR 1963 Manipur 12 at p. 14).

Limit of police custody not exceeding 15 days in the whole under section 167(2) is applicable only to a single case and is not attracted to a series of different cases requiring investigation against the same accused. (1984 Cr LJ 253 Punj (FB); (1992) SCC 141)

Points to remember:

- Before arresting a person, guidelines of Apex court regarding arrest should be kept in mind.
- Special care to be taken while arresting a woman or child.
- Section 41 A of CrPC is to be complied with.
- Handcuffing rules to be kept in mind and obtain permission if time permits. In the event of scarcity of time, reasons behind hand cufing must be noted in the report sent to the Ld. Court the same should also contain in QDE.
- Custody cum arrest memo and inspection memo should be properly filled up. Previous injuries of the arrested accused must be mentioned in the arrest cum inspection memo.
- Car Diary should be maintained accordingly with special mentioning of places.
- Personal diary should be maintained accordingly.
- GD should be properly written.
- Be cautious while taking police remand and the same should carry recommendation of superiors.
- Medical examination of accused should be conducted as per law.
- During police remand care should be taken regarding the medical exam of the accused.
- Proper supply of food and water should be incorporated in GD.
CHAPTER-VIII
TEST IDENTIFICATION PARADE

Facts which establish the identity of any person or thing whose identity is relevant, are, by virtue of section 9 Indian Evidence Act, relevant. The term used in police investigation is ‘test identification’ i.e. a process by which the identity of persons, things, or animals concerned in the offence under investigation is established as enumerated in section 54A of CrPC.

With regard to criminal offence, the identification has two fold objectives:

- To satisfy the IO that the person arrested, but not previously known to the witness, is concerned in the crime or that a particular item of property is connected with the case.
- Is to enable the witnesses to satisfy themselves that the accused whom they suspect is really the one who was seen by them in connection with the commission of the crime.

Value of such evidence is indeed very high when it can be established that the witness while being examined in the trial corroborates such evidence. Statements made by the witnesses in course of T.I. proceedings are admissible both for the purpose of corroboration under section 145 and 155 of the Indian Evidence Act. A memorandum prepared by the Magistrate is admissible in evidence under section 80 Indian Evidence Act without any proof. It means that the magistrate need not come to the Court to prove the memo unless the accused points out ambiguity, defects or lacunae in the T.I. proceedings. The T.I. parade if conducted by a police officer attracts the provisions of section 162 CrPC that makes the evidence inadmissible.

Since human memory is often short lived, it is desirable to hold T.I. parade without unnecessary delay. The delay, if any must be explained to the magistrate with a request to record the same in his T.I parade report and the delay must be explained in the Case Diary.

Some important criteria:

- **When to hold a Test Identification parade:** There is no necessity to hold a TI parade where an accused is well known to the witness. It is only to be done when the identity of the accused is to be established by the witnesses. Therefore in TI parade the most important criteria are -
  - That the accused is not known to the witnesses before the occurrence.
  - That the witness should have the opportunity to observe the accused during the commission of the crime.
  - There should have been sufficient surrounding circumstances which facilitated the identification of the accused at the time of occurrence.

- **Who is to hold a TI Parade?** Magistrates should preferably hold TI Parade.

- **Where to hold a TI Parade?** Test identification is held in a separate place within the jail premises. A TI Parade held in the police station is of no value.(Nari Santa v/s Emperor AIR 1945 Pat 161). The TI parade should be held in Jail rather than at the PS which is strongly deprecated. ( Ram Charam Bhudiram Gupta v/s State of Maharashtra 1995 CrLJ 4048)
Some important Rulings

➢ Bar of Section 162 CrPC applicable to proceeding to TI Parade :

The process of identification by the identifying witnesses involves the statement by the statement by the identifying witnesses that the particular properties identified were the subject matter of the offence or the suspects identified was concerned in the offence. All these statements express or implied including the signs and gestures would amount to a communication of the fact of identification by the identifier to another person. Such communications are tantamount to statements made by the identifying witness to a police Officer in the course of investigation and come within the ban of section 162 of CrPC.


Test Identification Parade – Effect of delay:

The occurrence took place on December 4, 1973. The accused was arrested on January 23, 1974. Test identification parade was held more than six months thereafter on July 29, 1974. There is no plausible explanation regarding the inordinate delay in holding identification parade. It is held by the Supreme Court that the conviction of the accused cannot be based on such evidence and identification.

[Puttam alias Kamal Prasad Vs. State of UP.AIR 1992 SC 1032]

Points to remember:

➢ TI parade to be conducted as soon as possible.
➢ Before sending the witness for TI parade the IO should examine the witness properly and his statement should be recorded accordingly.
➢ Evidentially conduct of TI parade may preferably be done before he/she be taken in Police remand.
CHAPTER-IX

BAIL

The first schedule of the CrPC lays down whether the offence is bailable or not. Provision regarding bail can be broadly classified in two categories:

- Bailable cases.
- Non-bailable Cases

Chapter XXXII of the CrPC deals with the subject extensively. The relevant provisions for bail are contained in sections 436, 436A, 437, 437A, 438 & 439 CrPC.

In bailable cases grant of bail is a matter of course. Bail may be given either by the OC having the accused in his custody or by the Court. He can even be released on bail on executing a bond even without sureties. The officer releasing on bail has the discretion to insist upon or dispense with sureties.

A person arrested without warrant on a bailable offence shall be-

- Informed of the details of the offence for which he is arrested and the grounds of arrest, and
- That he is entitled to be released on bail (Section 50 CrPC). This is in conformity with Art. 22 (10) of the Constitution. A note should be made in the Case Diary to that effect.

Bail may be allowed even on oral application. The police and the magistrate have equal power in the matter of releasing persons accused of a bailable offence on bail. No bail, however, can be granted where the accused on reasonable grounds appears to be guilty of offence punishable with death or with imprisonment for life. This rule, however does not apply to-

- A person under eighteen years of age
- A woman
- A sick or infirm person

A person released on bail can be re-arrested and committed to custody if it is considered necessary. Sufficient conditions may be imposed while releasing on bail a person accused of an offence punishable with imprisonment, which may extend to seven years or more or an offence against State Property.

Bail bond must invariably be signed by the officer in charge of the police station and he shall be held personally responsible for the due release of accused and proper execution of bond. It is illegal, therefore strictly forbidden for any police officer except the officer in charge of a police station to enlarge an accused on personal recognizance bond with or without sureties. The practice of signing bail bonds ‘on behalf of the officer in charge is therefore illegal.

The provisions relating to anticipatory bail are contained in section 438 CrPC. Anticipatory bail means bail in anticipation of arrest. Naturally it can be given or obtained only in non-bailable offences but not in bailable offences. An accused is not immune from arrest only because his anticipatory bail petition is pending for hearing in Court. However if an interim order prohibiting arrest till disposal of anticipatory bail application is passed by the Court, the police officer will not arrest the accused person. The grant of anticipatory bail only transforms a non-bailable offence in to a bailable offence. The formalities of arrest and release on bail as per orders of the Court must be observed by the police officer when the accused is granted anticipatory bail.

Points to be remembered:

- Bail matter to be decided by the OC himself. In the event of bailable offence, bail must be offered keeping an impression in the GD.
- Proper reasons for allowing bail and vice versa i.e. reasons for not allowing bail whatever the case may be, the OC must record the reasons in writing in the GD Book.
- If bail is offered than proper bond is to be obtained by the OC himself.

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CHAPTER-X

INQUEST

Section 174 CrPC provides for investigation by police in all cases of sudden, unnatural or suspicious deaths. The police are empowered to investigate the apparent cause of death –

- In case where a person has committed suicide
- Has been killed by another or by an animal or machinery or by accident,
- Has died under circumstances where there is a reasonable suspicion that some other person has committed an offence.

Inquest - its meaning:

- This expression occurs in section 174 and Section 176 CrPC.
- Literally, it means a legal inquiry.
- Strictly speaking, it has been employed in the CrPC to mean the inquiry held u/s176 by a competent Executive Magistrate into the cause of an unnatural or suspicious death.
- Loosely, it is also applied to refer to the investigation conducted by a police officer u/s 174 CrPC for the purpose of ascertaining the apparent cause of an unnatural or suspicious death.
- Hence, the term, "Inquest" is commonly used to mean either an investigation by the police u/s174 CrPC or an inquiry by the Magistrate u/s176 CrPC undertaken by them under the Law to find out the cause of an unnatural or suspicious death.

Need for probe:

- Unnatural or suspicious death calls for a probe.
- It needs to be looked into, for which Inquest is the mechanism built by Law.
- The idea is to find out whether or not there was any foul play behind such death.

Two agencies for such Probe:

They are -

- Police and
- Magistracy.

Inquest by the Judicial Magistrate - When Mandatory:

In the following cases, it is compulsory for the Judicial Magistrate to hold inquests, to make an inquiry into the cause of death vide section 176 CrPC.

- When any person dies or disappears in police custody or any other custody authorized by magistrate.
- When rape is alleged to have been committed on any woman in police custody or any other custody authorized by magistrate.

Inquest by the Executive Magistrate - When Mandatory:

In the following cases, it is compulsory for nearest Executive Magistrate empowered to hold inquests, to make an inquiry into the cause of death -

- The case involves suicide by a woman within seven years of her marriage.
- The case relates to the death of a woman within 7 years of her marriage in any circumstances raising a reasonable suspicion that some other person committed an offence in relation to such woman.
Hand Book on Investigation for Sub –Inspector of Police W.B.P.

Vide Sec. 176(1) read with Sec. 174(3), as amended by the Act 46 of 1983.

Inquest – purpose of:
The whole purpose of preparing an inquest report under Sec. 174 (1) CrPC is to investigate into and draw up a report of the apparent cause of death describing such wounds as may be found on the body of the deceased and stating in what manner, or by what weapon or instrument, if any, such wounds appear to have been inflicted.

[George Vs. State of Kerala, 1998 SCC (Cri) 1232]

Inquest – its scope:
The proceeding under section 174 CrPC have a very limited scope. The object of the proceedings is merely to ascertain whether a person has died under suspicious circumstances or unnatural death and if so what the apparent cause of the death is. The question regarding the details as to how the deceased was assaulted is foreign.


Inquest report – not a substantive evidence:
The inquest report cannot be treated as substantive evidence and the same can be looked into for testing the veracity of the witnesses.


The requirement of Sec. 174 CrPC:
The requirement of Sec. 174 CrPC is that the police officer shall record the apparent cause of death describing the wounds as may be found on the body and also the weapon or instrument by which they appear to have been inflicted and this has to be done in the presence of two or more respectable inhabitants of the neighbourhood.

[Amar Singh Vs Balwinder Singh and Others. (2003) 2 SCC 518]

Nature of inquest report compared with post-mortem report:
Preparation of an inquest report is a part of the investigation within the meaning of Criminal Procedure Code. Neither the inquest report nor the post-mortem report can be termed to be a basic evidence or substantive evidence and discrepancy occurring therein can neither be termed to be fatal nor even a suspicious circumstance, which would warrant a benefit to the accused and the resultant dismissal of the prosecution case.

[Munshi Prasad Vs. State of Bihar, 2002 SCC (Cri) 175]

The following points should be noted particularly on the scene:
- Fix the position of the body with reference to two fixed objects at the scene; and other objects (exhibits) found at the scene should be indicated with reference to the body, the distance being measured accurately.
- Then note:
  - The position of hand, feet, head etc.
The position, length and breadth (not the depth) of any wounds, bruises or other marks of injury including marks on clothes and body such as charring etc., as in gunshot wounds, noting wherever possible the direction from which the injuries are likely to have been caused.

The nature and extent of any fracture.

The condition of hair, well groomed or disturbed or recently cut.

In the case of a male, give a full description of the hair on the face including beard and moustache or whether clean-shaven.

Any holes in the ear lobes or edges or nose.

Condition of the skin, palm and feet whether they are hard and marks of chappal, boots etc.

While examining the body from head to foot, note all the points useful for fixing the time of death, such as the presence or absence of rigor mortis; note the manner of dressing and make an inventory of clothing, jewellery or any other article found on or near the body.

All points which might indicate the person’s caste, community and age.

Any, marks of identification such as warts, moles, old scars, tattoo marks etc. and their exact location on the body.

Colour and approximate height of the body.

All other points which may be useful in the investigation or in establishing the identity of the body, if unknown.

If identity is not established, it is necessary to take fingerprints and photograph of the body. Nail clippings are useful; the medical officer conducting the post mortem, if necessary, be requested to take them.

The position of the body should not be changed without taking down notes and photographs.

After the identity is established, the nearest relative should be sent for to confirm the identity.

Do’s and Don'ts:

Proceed with inquest after preliminary inspection of the scene.

Do not fail to uncover the dead body and examine the private parts if necessary with strict regard to decency after observing the usual formalities in case of a female body. Call female witnesses at the time of examination of the dead body of a female.

Where death is in police custody, a magistrate must hold the inquest.

Do not use the medical terms while drawing up the inquest report. Witnesses may not understand them and further, the terminology employed may be wrong.

If parts of human body or bones are found in different places, draw up separate inquest reports.

The statement of witnesses examined at the inquest should be recorded separately and not in the body of the inquest report and their original statements should be attached to the inquest report sent to the magistrate.

Avoid erasures and overwriting in the report. If there is any mistake, draw a line over it neatly so that it can be read and initial it.

The names of witnesses and the accused, if known, must be mentioned in the inquest report.

If the body is not identified, take all the steps to establish the same. Look for scars, tattoo, deformities, articles of value, jewellery on the person, dhobi marks on the clothes etc. Fingerprints must be taken.
The body should be photographed without disturbing the same. Photograph the immediate surroundings to get the perspective. In murder cases it is useful to take close-up view of injuries.

Describe the wounds accurately with reference to their nature, position and size. Their length and breadth should be measured.

The manner of dressing and the nature of clothing worn by the deceased, its colour, size and position of any tears, holes etc. as also the presence of stains, their nature, size and location should be described accurately.

Record the amount of blood found at the scene, on the body and in the articles seized. The nature of injury and the amount of blood found at the scene may indicate whether that is the actual place of occurrence or not.

In cases of suspected homicide, the palms, fists, and finger-nails should be examined carefully to see if any hair or other substance is found and if so, they should be seized in presence of the witnesses.

All exhibits seized at the scene must be packed in presence of the witnesses and this fact should be recorded in the inquest report.

Record in detail the apparent cause of death, if by violence, with what weapon and if any person is suspected, who and why.

Signatures of the witnesses must be taken on the inquest report.

Avoid vague expressions like “some distance away”, ‘not far from the body’ “etc.

Additional inquest procedure:

(WB Police Directorate Memo No. 5092(20) Adm/C-74597 dated 28.01.97)

In order to help in proper assessment of ‘Time since death’, determination of temperature changes and development of rigor mortis at the time of first examination at the scene is essential. This can be attained in the present system of inquest by examining the dead body at the scene scientifically for those two parameters either by a medical officer or a trained police officer.

Essential requirement for determining temperature change and rigor mortis:

Taking of rectal temperature at the first examination of the body at the scene itself while conducting the inquest. A simple rectal thermometer can be inserted in the anus of the dead body. After waiting for 3 to 5 temperature so read should be mentioned in the inquest report as also the time of its recording.

Recommendation of NHRC for introduction of additional procedure for inquest (PD memo No. 2761/Adm/HRC/45/97 dated 12.08.99)

“The additional inquest procedure is to be conducted only in the case of custodial deaths by the IO, whether police officer or magistrate as contemplated under section 174 and 176 CrPC, respectively.”

Some important Rulings: Evidentiary value of Inquest Report:

The inquest report cannot be treated as substantive evidence and the same cannot be looked into for testing the veracity of the witnesses.

It transpires from the evidence of chance witness of inquest report that the firing of the accused was accidental, though his version in inquest report was that the accused fired deliberately at the deceased. The inquest report was drafted in the language known to the witness. The evidence of the chance witness was not relied on by the Supreme Court and the theory of accidental fire was rejected by the Apex Court.
Preparation of Report and its evidentiary value-guidelines of Apex Court:

According to Supreme Court, the object of the proceeding under Section 174 CrPC is merely to ascertain whether a person has died under suspicious circumstances or an unnatural death and if so what the apparent cause of the death is. The question regarding details as to how the deceased was assaulted or who assaulted him or under what circumstances he was assaulted appears to be foreign to the ambit and scope of the proceedings under section 174 CrPC It is not necessary for the police to mention in the inquest report how or under what circumstances the injuries were received or who caused whose injuries on the dead body. The contents of the inquest panchnama cannot be contrasted with the recitals in the FIR. While the inquest panchnama revealed that Shankar Lal was shot dead by firearm, the police had no obligation to make any reference to the fact that Shankar Lal was also assaulted by Banka during the incident in the inquest panchnama. That apart, the inquest report cannot be discarded for contradicting FIR because the contents of FIR can be used for corroboration or contradiction of the evidence given by the author of FIR during trial in court. The Supreme Court had to set aside the judgment of High Court by restoring the order of conviction and sentence given by the trial court except the sentence of death on the accused Abdul, which was commuted to imprisonment for life.

[State of U.P. and Abdul and others, 1977 SCC (Cr.) 804]

Post Mortem Examination

The Officer holding the inquest will then send the body for post-mortem examination to the nearest authorized medical officer along with a requisition, through the policeman accompanying the body. Delay in sending the dead body for PM examination should be avoided as the body might get decomposed and may lead to difficulty in finding out the cause of death.

A Policeman of any rank who was present at the inquest and has seen the body, should accompany and hand it over to the medical officer along with the records sent by the IO and wait till the examination is over, to receive the PM report and take it back to the IO. He is responsible for the safety of the body till the examination is over. He is also responsible for the identification of the dead body to the doctor conducting the post mortem examination. He should be able to testify as a witness, if necessary, that from the time the IO entrusted the body to him and until the examination by the medical officer was over, no body interfered with the body.

The normal rule is that the body should be sent to the nearest qualified medical officer for post-mortem examination.

Video filming shall be done in respect of deaths in police and judicial custody: (Memo No. 1001(6)-HS/HRC-186/95 dated 1st November 1995)

The National Human Rights Commission has recommended the introduction of a new model Post Mortem Report form in the matter of conduct of PM examination. (WB Police Directorate memo No. 5091(20)/Adm/C-743/97 dated – 29.10.97). Ensure that the PM reports are written in this model form.

Magisterial inquiry and conducting post mortem examination in all cases of custodial deaths – recommendation of the NHRC dated 15th March 1999 (Communicated for strict compliance vide PD memo No. 2762/Adm/HRC-733/99 dated 18.08.99)…. In view of all these circumstances and the fact that the death of an under-trial prisoner or one serving sentence even in hospital is in the eyes of law a death in judicial custody, it is not only desirable but essential that post mortem and magisterial inquiry be done in all such cases.

Guidelines for videography of Post Mortem Examination: (Vide PD memo No. 276/Adm/HRC/C 125/98 dated 12.08.99)
Instructions for Doctors conducting the post mortem:

- For identity, a shot should be taken with face turned to a side showing whole body of the deceased with a relative and the IO identifying the body standing near the body. It is also advised that a conversation regarding identification of the body by the relatives or the IO be also recorded at the same time.
- In case of unidentified bodied besides taking full view of the body with face turned to the side view of fingerprints and shot of important belongings should be taken.
- About 20 grams of liver and muscle should be preserved for identification in future. Process of taking this sample from the body should be covered in the video shot.
- Long shot showing the whole body from view and continuing it with near view of injuries should be taken in such a way by zooming the lens so that there is no doubt about the identity of the deceased or the injury/mark on the body.
- Another long shot showing the whole side of the back of the body together with a near view of any important injury by taken.
- Shots to prove that the autopsy has been conducted by the particular Medical Officer should be taken.
- Shot of all significant marks, injuries/findings should be taken. The Medical officer should describe such findings and the same should also be recorded.
- Shots of important areas like front of palms. Soles, buttocks, scrotum and anus/private parts be taken so that identification is intact. This should be taken by zooming the lenses to ensure that all shots are of the same body.
- Internal findings, which result in to death, should be shown on the video shot in such a way that the identity of the deceased could also be deciphered.
- Wherever possible, while indicating positive or negative findings, doctor’s commentary in his own voice should also be recorded. Shots should be such that the identity of the person could be made out beyond doubt.
- The videography should take minimum of 45 minutes, covering the performance of the post mortem.
- At the commencement of post mortem recoding of the videography, the medical officer who conducts the post mortem should mention his name/designation and details of the body on which PM is being conducted. Similarly at the end of the post mortem, the same thing should also be recorded.

Points to remember:

- Inquest means a probe in respect of circumstances of the case for ascertaining the actual cause of death in case of unnatural deaths.
- Inquest report is to be prepared in triplicate. The original and one copy to be handed over to the escort constable who accompanies the dead body for PM examination and the last copy to remain with IO for tagging in CD.
- Use of medical terms while describing wounds on a dead body should be avoided.
- In case of videography of the PM the CD/cassette should be sealed by the autopsy surgeon who conducted PM.
- Prayer to the MO / Autopsy surgeon should contain the points of quarry should be specifically mentioned along with prayer for seizure, if needed in the interest of investigation.

A proforma of Surathal report is provided as per Rule 299 of PRB.
INVESTIGATION REPORT UNDER SECTION 174 CrPC

(Regulation – 299)

District .............................. Police Station
..............................

F.I.R. /U.D. Case No. ................................. U/S ......................... Date ..............................

Case reported at ......................... hrs. Investigation commenced at ......................... hrs

Investigation closed at .............................. hrs.

1) Name, Parentage and residence of deceased :

2) Place where body was found :

3) Description of the corpse and position in which found:

4) Apparent injuries or marks on the body :

5) Manner in which and weapons (if any) by which injuries appear to have been inflicted

6) Circumstances if any which give rise to suspicion of foul play

7) Accurate list and description of cloths, ornaments, weapons and other articles found on or near the dead body:

8) Opinion of witnesses as to cause of death

9)

10)

11) Opinion of Police officer as to cause of death

12) Signature of witnesses:

1. ..............................................................................................................................................

2. ..............................................................................................................................................

3. ..............................................................................................................................................

4. ..............................................................................................................................................

Signature of the Police Officer

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CHAPTER-XI

CASE DIARIES

A case Diary is the record of investigation prescribed by section 172(1) CrPC. It enables senior officers to guide and supervise the investigation besides providing a record for the IO’s own reference. A trial court may use it as an aid to its proceedings.

CASE DIARY IS THE PICTORIAL REPRESENTATION OF ANY INVESTIGATION. It also aids the prosecutor to represent the case before the court.

A CD is considered as a privileged document (sec 172(3)) as the accused or his agents are not entitled to call for case diaries. They are also not entitled to see the case diary merely because they are referred to by the court.

A CD as required by section 172(1) CrPC should contain a record of:

a. The time at which the information reached the IO.

b. The time at which he began and closed his investigation every day.

c. The place visited by him, and the steps taken by him every day.

d. A Statement of the circumstances ascertained through his investigation.

Investigation in item (d) above means all proceedings under this Code for collection of evidence conducted by a police officer (Section 2(1) CrPC) and would include, in particular:

- A description of the scene of offence,
- A Statement of witnesses, suspects or accused examined with date and time and proper identification.
- The death caused or injury inflicted and action taken. (Inquest, post mortem, medical attention etc. as a result).
- A description of property stolen or damaged,
- The searches, seizures and arrests made with date and time and venue and further action taken, and the disposal of the case.

Requirements of Sec. 172 CrPC for writing Case Diary:

- The time at which the information reached him shall be noted at the beginning of the case diary
- The place or places visited by him shall be noted in the case diary with date and time of visit
- The time at which he begun and closed his investigation shall be mentioned in the case diary
- The statement of circumstances ascertained through his investigation shall also be incorporated in the case diary
- The entry of the proceedings of investigation in case diary should be made day by day.

Proceedings to be noted in Case Diary:

- Gist of information
- Consultation of PS records especially in case of crime against property and its outcome.
- Visit of SOC and its description with sketch map, and index, photograph etc.
A true record of the observation at the scene of crime together with a statement and reason for such statement of circumstances ascertained

Date, time and places visited should be chronologically noted.

Every action related to the case performed by the IO should be recorded.

Details of Search/seizure/arrest / examination of witnesses with their respective place should be recorded.

Name, age, address and other particulars of the witnesses examined and complete true statement recorded under section 161 CrPC should be inserted in case diary. Each and every step of investigation including forwarding of any accused, reports, documents, seized articles sent to experts, their opinion with date and time of dispatch and receipt.

Formation of Opinion/ Opinion of OC and senior officers and report in Final Form stating full particulars of accused / witnesses/ and Police officers involved in investigation of the case.

**Departmental requirements:**

For the purpose of departmental record and supervision, a CD should also contain a record of -

- The sending of information, express or ordinary, to the departmental superiors under the rules.
- The requisition of the services of experts.
- The reference made to the crime records.
- The verification of the complicity of the possible criminals
- The issue of Hue and Cry notices, inquiry slips and other steps taken to obtain co-operation or help from whatever quarter.
- The disposal of manpower and equipment in furtherance of the investigation.
- The clues found at the spot and the action taken to preserve develop and submit them to expert examination
- The verification of the statement made or alibi claimed during the investigation
- The theories formed after the investigation and the reason for the discard of any
- The lines of further investigation proposed, and
- The final probabilities or facts of the case as determined on conclusion of investigation.

**Procedure:**

- **Separate examination of witnesses:** Each witness should be separately examined and his or her statement recorded chronologically.

- **Full particulars of the witness:** The name, father’s name, age and full postal address of the witness should be recorded for proper identification of the witness.

- **Full statement of each witness to be recorded:** The statement of each witness should be recorded in full and in sufficient details. Important omissions are treated as contradictions so must be avoided. If necessary, a witness already examined may be re-examined to obtain clarifications of any new point emerging in the course of investigation.

- **Statements not to be signed:** Under no circumstances should any witness examined be required to sign his statement. The signed statement will be hit by the provisions contained in section 162(1) CrPC
Option not to record: There is an option with the IO not to reduce certain statements in writing but in all cases in which the witnesses are required to give evidence in Court, their statements should be recorded under section 161 CrPC Failure to do so would amount to denying the accused an opportunity to defend himself.

When submitted: Case Diaries should be submitted in the following cases:

- In all cognizable cases investigated by the police under chapter IV of CrPC.
- In all non-cognizable cases investigated by police under the orders of the competent Magistrate.
- In all investigations under section 174 CrPC into the apparent cause of death.

Writing and dispatch: Cases Diaries should be written promptly in the prescribed form, page numbered and dispatched without delay. The diary should be written from day to day. No case diary need be written if there has been no investigation on a particular day but the gap must be explained in the next CD.

Use of Case Diary in Court:

The Trial Court can, under the provision of section 172(2) of CrPC call for CD and use it as an aid to inquiry or trial. The defence has no right to see the CD even if it is so used by the Court. CD may also be used by the court to contradict the police officer who wrote it, but the particular portion of it which is so used partially loses its privilege and has to be shown to the defence to enable it to cross examine the police officer within the meaning of section 145 Indian evidence Act.

During investigation, the Court can call for the Case Diary to form an opinion whether the accused person whose bail application is pending for hearing, should be released on bail or deny bail. However, the Court cannot disclose the contents of the Case Diary, at the time of passing orders of bail during investigation.

By defense: A CD which does not contain any statement of witnesses is a privileged document. The defence has no right to inspect or get a copy of it unless the officer, who wrote it, refreshes his memory in which case the defence can also see it but not get a copy. The defence can use statements recorded under section 161 CrPC to contradict prosecution witness. In that case the prosecution can also use any portion of the statement in re-examination but only for the purpose of explaining away any matter referred to in his cross-examination.

By prosecution: Section 162 CrPC permits the prosecution to use any part of the statement with the permission of the Court to contradict a hostile witness (section 145 Indian Evidence Act).

Important Judgments regarding Case Diary:

- "The early stage of investigation which follows on the commission of a crime must necessarily in the vast majority of cases be left to the police and until the honesty, the capacity, the discretion and judgment of the police can be thoroughly trusted, it is necessary for the protection of the public against criminals, for the vindication of the law and the protection of those who are charged with having committed a criminal offence that the Magistrate or Judge before whom the case is for investigation or for trial should have means of ascertaining what was information, true, false or misleading, which was obtained from day to day by the police officer who was investigating the case and what were the lines of investigation upon which the police officer acted.” (ILR 19 Ald 390 –FB)

- The entries in case diary should be made with promptness, in sufficient detail, in careful chronological order with complete objectivity. (1983 Cr.LJ. 1081 SC).
Where prosecution and defence are both inadequate, it will enable the court to rise up to the occasion and discover for itself the material facts and circumstances from the case diary, which can be brought to light through the witness examined in the case to arrive at the truth in the interest of justice. (AIR 1970 Assam 137 at p.142).

Points to remember:

a) Case diary is a pictorial representation of an investigation and the trial judge can get a clear picture of the same if it is written systematically and time to time.

b) CD should be properly arranged date wise and firmly tagged and properly paginated.

c) CD should consist of all the particulars and documents i.e. seizure list/label/statements of witnesses and accused if any/custody memo/expert opinion/PM report etc.

d) On completion of investigation CD should be sent to the Ld. court along with copy of final form without any unnecessary delay.

e) During investigation the CD should be kept by the IO in his own custody. Carbon/True copy of the same should be sent to CI office time to time.

f) A CD should have the full particulars of the witnesses / accused /Doctors supplying injury report or PM report etc. for future communication during trial.

g) CDs of investigation should be submitted regularly to the concerned superior officer without delay subject to the status of the cases whether it is treated.
Specimen 1st CD of a case is provided as example: West Bengal Form No. 5363

**CASE DIARY UNDER SECTION 172, CRPC**
*(P.R.B. Form No. 43- Vide – Rule 230)*

<table>
<thead>
<tr>
<th>Arrested and sent up</th>
<th>Arrested and released on bail</th>
<th>At large</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**PARTICULARS OF ENQUIRY**

<table>
<thead>
<tr>
<th>No. of hour of entry</th>
<th>Place of entry</th>
<th>Synopsis of entry</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
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</tbody>
</table>

<table>
<thead>
<tr>
<th>1</th>
<th>PS</th>
<th>Gist of FIR</th>
</tr>
</thead>
</table>

The fact of the case in brief is that on 09.09.13 at 1545 hrs one ABC aged about 45 years, w/o DEF of Quarter No. 14/1, SVSPA Barrackpore Police Station came to PS and submitted a written complaint to the effect that on 09.09.13 at about 1445 hrs her husband DEF was assaulted by 4 persons in front of his quarter. Hearing the hue and cry of her husband the complainant came out and found her husband lying unconscious and bleeding. His both palms had severe deep cut injuries. She could recognize one of the miscreants who is GHI s/o JKL of MP Sarani Barrackpore who is the son of her husband’s colleague JKL. She couldn’t recognize the other three. Her husband is at present admitted in Brigade Police Hospital.

Over this on the written complaint of the complainant, OC PS recorded this case and endorsed the case to me for conducting its investigation. Accordingly I took up its investigation.

Here
- **PO** means Place of Occurrence
- **DO** means Date of Occurrence
- **DR** means Date of recording the FIR
- **DD** means Date & time of departure for PO from PS
- **DA** means Date & time of arrival at the Place of Occurrence
- **RO** means Recording officer
- **IO** means Investigating officer

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CHAPTER-XII

MEMO OF EVIDENCE

It is an important task for the IO to form his opinion and which aids the Public Prosecutor to understand his line of investigation as well as the case for the purpose of conducting trial. It is also very useful for the IO when he deposes in the Court during trial.

Suggested Format of Memo of Evidence is given below which can be used for writing the MOE.

MEMO OF EVIDENCE

1) S.R. No.:
2) Case Ref:
3) Name of Victim with particulars:
4) P.O. & D.O. :
5) Complainant:
6) Name of I.O. :
7) Gist of the Case:
8) Motive:
9) Name & Address of the Accused with date of arrest/ surrender:

<table>
<thead>
<tr>
<th>Sl. No.</th>
<th>Name Particulars &amp; Age.</th>
<th>Address</th>
<th>Date of Arrest/ Surre.</th>
<th>FIR Named / others.</th>
</tr>
</thead>
<tbody>
<tr>
<td>A1.</td>
<td></td>
<td></td>
<td></td>
<td></td>
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<tr>
<td>A2.</td>
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<td></td>
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<tr>
<td>A3.</td>
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<tr>
<td>A4.</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>A5.</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>A6.</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

10) Seizure with date:

<table>
<thead>
<tr>
<th>Sl. No.</th>
<th>SEIZURE</th>
<th>Label Done (Y,N)</th>
<th>Date of Seizure</th>
<th>P.R. No.</th>
</tr>
</thead>
<tbody>
<tr>
<td>SW1.</td>
<td></td>
<td></td>
<td></td>
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<tr>
<td>SW2.</td>
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<td>SW3.</td>
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<tr>
<td>SW4.</td>
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<tr>
<td>SW5.</td>
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</tr>
<tr>
<td>SW6.</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
11) P.M. Report of deceased collected:

<table>
<thead>
<tr>
<th>Name of Deceased</th>
<th>Name &amp; Address of Autopsy Surgeon</th>
<th>Date of collection of report</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

12) Details of Inquest:

<table>
<thead>
<tr>
<th>Sl. No.</th>
<th>Name of Deceased</th>
<th>Name of Inquest officer</th>
<th>Police/Magistrate</th>
<th>Date.</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
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</tr>
</tbody>
</table>

13) Details of P.M. Report/Medico legal report of victim/deceased:

14) Details of FSL Report / Expert Opinion:

<table>
<thead>
<tr>
<th>SL.No</th>
<th>Type of Exhibit</th>
<th>Opinion</th>
<th>Date on which sent</th>
<th>Date of report.</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2.</td>
<td></td>
<td></td>
<td></td>
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</tr>
</tbody>
</table>

15) Total no. of Photograph of P.O./Victim taken & enclosed in C.D. : 

16) Persons examined & statement recorded u/s 161 CrPC:

<table>
<thead>
<tr>
<th>Sl. No.</th>
<th>Name &amp; Particulars of persons examined</th>
<th>Relation with victim</th>
<th>Date of examination</th>
<th>Type of witness.</th>
</tr>
</thead>
<tbody>
<tr>
<td>PW1</td>
<td></td>
<td></td>
<td></td>
<td></td>
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<tr>
<td>PW2</td>
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<td>PW3</td>
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<td>PW4</td>
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<td>PW7</td>
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<td>PW8</td>
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<td>PW9</td>
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</tr>
<tr>
<td>PW10</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>PW11</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

17) Statement recorded u/s 164 CrPC:

<table>
<thead>
<tr>
<th>Sl. No.</th>
<th>Name &amp; Particulars of persons examined</th>
<th>Relation with victim</th>
<th>Date of examination</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td></td>
<td></td>
<td></td>
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<tr>
<td>2</td>
<td></td>
<td></td>
<td></td>
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</tbody>
</table>
18) Evidence Chart:
   i) Points to be proved by the prosecution (including role of individual accused):
      a) 
      b) 
      c) 
   ii) Evidence to be proved:

<table>
<thead>
<tr>
<th></th>
<th></th>
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</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>PW1</td>
<td></td>
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<tr>
<td>2</td>
<td>PW2</td>
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</tr>
<tr>
<td>3</td>
<td>PW3</td>
<td></td>
</tr>
<tr>
<td>4</td>
<td>PW4</td>
<td></td>
</tr>
<tr>
<td>5</td>
<td>PW5 to PW 14</td>
<td></td>
</tr>
</tbody>
</table>

19) Merits and Demerits of the Case:

20) Opinion of I.O.: Under the above noted circumstances I am of the opinion that the accused persons as noted below should be charge sheeted for committing offence noted against each:

<table>
<thead>
<tr>
<th>Sl.No.</th>
<th>Persons to be charge sheeted</th>
<th>U/S</th>
<th>JC/Bail/Abscond</th>
</tr>
</thead>
<tbody>
<tr>
<td>A1</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>A2</td>
<td></td>
<td></td>
<td></td>
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<td>A4</td>
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<td>A5</td>
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<tr>
<td>A6</td>
<td></td>
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</tr>
</tbody>
</table>

NB: - Supplementary C.S. will be submitted later, on receipt of F.S.L. report.

Submitted,

Dt.

21) Recommendation of Supervising Officers:
CHAPTER-XIII

CHARGE SHEET AND FINAL REPORT

What is Charge Sheet?

Nowhere in CrPC Charge Sheet has been defined. The Observation of Patna High Court in this regard is of great importance:

“There is no provision for a charge-sheet in the Criminal Procedure Code: charge-sheet is a form provided under Department Rules of the Government presumably under section 173 (2) (i) of the Code. That section requires the police to submit to the Magistrate empowered to take cognizance of the offence on a police report- a report in the form prescribed by the Local Government. The Government has, as it appears, prescribed two forms: one is called a charge-sheet to be used when the accused is sent up for trial, and the other is called final report, which is used when the accused is not sent up for trial.” (AIR 1932 Pat 72 at p 76: CrLJ 349)

The provisions regarding the report of police officer on completion of investigation are contained in section 173 CrPC

On completion of investigation a case can be disposed of in two ways:

- By submission of a Charge Sheet i.e. forwarding the accused to the Court for trial.
- By submission of a Final Report i.e. not sending up the accused at all for such a trial. If the IO had already sent up an accused and if he subsequently did not want the accused to be charge-sheeted due to lack of evidence, he could send a report to the Magistrate to discharge the accused from the case.

Charge Sheet must contain the following informations:

- The names of the parties [s.173(2) (i) (a)];
- The nature of the information [s.173(2) (i) (b)];
- The names of the persons who appear to be acquainted with the circumstances of the case with the type of evidence they will tender. [s.173(2) (i) (c)];
- A statement of the offence with which the accused is charged [s.173(2) (i) (d), 211(1)];
- A statement of the law and the section of the law against which the offence is was committed [s. 211(4)];
- Particulars as to the time and place of the alleged offence and the person against whom or the thing in respect of which it was committed [ s. 212];
- Particulars of the manner in which the alleged offence was committed should also be stated [s. 213];
- Whether the accused has been arrested [s.173(2) (i) (e)];
- Whether he has been released on his bond and, if so, whether with or without sureties [s.173(2) (i) (f)];
- Whether he has been forwarded in custody under section 170 [s.173(2) (i) (g)];
- The fact, date and place of the previous conviction is also to be mentioned in the charge, where it is intended by the prosecution to prove a previous conviction of the accused for the purpose of enhancing the punishment or punishment of a different kind for the subsequent offence[ s. 211(7)].
- The reason for delay, if any, in lodging the FIR.
The reason for omission of the names of the accused in the complaint or FIR.
The reason for abandoning witnesses named at the outset.
The reason for any omission in the first list of stolen properties.
Any inaccuracy in distances and dates.
List of articles seized during investigation of the case and their status and manner of disposal.

**Quantum of evidence:** A case should not be charge-sheeted unless the chain of evidence is complete. Only so many witnesses as are necessary to establish the case need be cited. Redundant witnesses consume time and suggest reliance on quantity rather than quality, thus weakening the case.

**Evaluation of evidence:** It is advisable to view every bit of significant evidence from the point of trial judge and the defense. Due allowance must be made for defects of observation and memory. The evidence in every case cannot be expected to be cast iron. What is needed is a prima facie case based on natural and convincing evidence. Efforts to ‘pad’ a case with ‘facts’ that are patently labored, contrived or untrue do not help. One true witness is better than five false ones.

The section under which it is proposed to charge an accused should be carefully read to see that every clause and ingredient is established by evidence. For instance in a case under section 279 IPC (race and negligent driving). IO must show that the place of occurrence was a public place. Similarly in a case under section 3 Arms Act, a charge sheet is bad unless accompanied by an appropriate sanction of the District Magistrate. The expert report is essential to charge sheet the accused in any case under NDPS Act.

**The Charge Sheet Form:** The form of charge sheet must be carefully filled. The columns are self-explanatory and there should be no difficulty in filling them up. The following documents should accompany the Charge Sheet:

- All documents on which the prosecution proposes to rely.
- List of property stolen.
- List of property found on the accused or otherwise recovered.
- Reports on previous conviction of the accused if any.
- Bail bonds and recognizance bonds.
- Sanction order, wherever necessary.

**Final Report:** Final Report may be sent under one of the following heads:

- True-undetected
- Intentionally false
- Mistake of law
- Mistake of fact
- Civil in nature
- Non-cognizable

**Discharge/ Release of Accused:**

While investigating a case it is to be kept in mind that as per section 169 of CrPC if there is insufficient evidence against an accused and that a charge sheet cannot be submitted against him then the accused should be discharged at any stage of investigation from the case after obtaining bond with or without sureties. In this case the IO is not required to obtain permission from the Court. However
the Court can direct for further investigation. The scheme of the code is that if the IO finds that there is no evidence against particular accused he has to simply release him after taking a bond from him u/s 169 CrPC. In fact IO is not even supposed to apply to the magistrate under section 169 CrPC for discharge. The word used in section 169 CrPC is release due to the fact that there is no sufficient evidence to proceed against the accused. The IO is to obtain a bond with or without surety at the time of release.[Abdul Razzak Abdul Gani Dunge vs. State of Maharashtra, 2008 CrLJ 133(134): 2007All MR (Cri) 2084 9Bom]

Supplementary Charge Sheet:

Section 173(8) of the Code lays down that further investigation can be made after a final report under Section 173(2) has been forwarded to the Magistrate and after such investigation the Officer-in-Charge if receives further evidence he shall forward to the Magistrate a report regarding such evidence in the form prescribed. The Sub-section (8) of Section 173 of the Code makes it clear that sending of report under Sub-section (2) does not preclude further investigation and sending supplementary report. The investigating agency can submit supplementary reports to the Magistrate even where the Magistrate has already taken cognizance of the offence upon police report. Order of learned Magistrate taking cognizance on subsequent report is competent and cannot be interfered with. In this matter it was also opined by the Supreme Court in the case of Rama Chaudhry v/s State of Bihar [AIR 2009 SC 2308] that law does not mandate taking of prior permission from magistrate for carrying out a further investigation but it can be said to be good to inform the Court about further investigation so that the Court can temporarily stop the proceedings.

Points to remember:

- Care should be taken so that the CS can be submitted as soon as possible and within the statutory period for initiating custody trial. The same should be sent through superiors preferably CI or as the case may be.
- CS should be exhaustive containing full particulars of witnesses and accused of that case. Special mention on prima- basic evidences must be there.
- Before submitting CS, check the documents that should accompany CS as described earlier.
- While submitting final report sufficient reasons are to be mentioned.
- Check that all the columns of the CS form has been completely filled and nothing is left blank. Un-necessary columns to be struck off or NA may be written.
- Corrections on CS should be clearly visible and should be attached by the IO. Use of Erasure inks should be discarded.
- Khatian register in the PS must be updated as soon as CS is submitted.
- Result of the case be intimated to the complainant in writing.
- Unnecessary delay in submitting CS to be avoided and submission of supplementary CS should be taken into consideration.

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CHAPTER-XIV
ELECTRONIC DATA ANALYSIS AND DETECTION OF CRIME

In Call Data Analysis of a Cell Phone one can find out the subscribers name and address, nature of call done with date, time and duration, the economical position of the caller through his monthly bill, his night time stay, the work place and many other things can be known from the CDR (Call Data Report). In now-a-days CDR (Call Data Report) of Cell phone has taken a keen part of investigation. So it is necessary to read the call data report and IO must be experienced in it. Usually each district has a special cell namely Call Monitoring Cell and if the Officers of the Police Station is in need of CDR of a particular number, the Monitoring Cell Units provides them the CDR which helps them in investigation of cases.

Beside Call Data Analysis of the Cell Phone, the Computers also helps a lot in tracking out the criminals. Each Cell Phone has a unique number which is known as IMEI Numbers and it is generally of 15 digit number. In the Cell Phone Missing Case we provide the IMEI Numbers to all service providers and those service providers tells us whether the IMEI Numbers is matching or not. When we make a cell phone call then the call passes through the router of the Tower and the router catches the IMEI Nos and the service provider gets the IMEI No and they provide the same to Police Department on requisition. IMEI Nos looks like 357020020367170. In the matter of matching of IMEI the last number does not match. If the first 14 digit match with IMEI Number then we can say the IMEI Numbers has matched.

Every computer also has a unique number which is known as MAC Number. If we analysis the MAC Number of the computer we can easily trace out from which computer the mail has been sent. Now the question how to get the MAC number of a computer? First we go to the Start menu of the computer and then to run and then we have to give command “CMD Config/all” and we can able to find out the MAC No of a computer and from it we can detect the particular computer from which the mail is send. IP No (Internet Protocol No) also helps us to detect the origin of the mail.

Analysis as per case study: Here in the model case the accused is identified as per sources impute and from the Criminal Photo Album it came to light that his name is Mr. SSS and he is wearing a Yellow Colored T Shirt having blue pant. Now, the IO has able to collect the cell phone number of the alleged accused whose name is Mr. SSS. In this instant case the mobile number is 9732529009. IO, from the cell phone search collected the information that the subscriber belongs to Vodafone Company. The requisition is like this:

CASE STUDY IN RESPECT OF SENDING REQUISITION TO SPECIAL OPERATION GROUP (SOG) FOR MOBILE CALL ANALYSIS.

To,
The OC Monitoring Cell,
Barasat, North 24 Pgns.

Ref:-Barasat PS Case No- 123/2014 Dated 01/08/2014 U/S 379 IPC.
Sub: - Kindly provide me the CDR of the mobile no 9732529009.

Sir,

With due reference, I beg to state before you that the CDR of the cell phone no 9732529009 is extremely urgent. Kindly provide the CDR at the earliest for the sake of investigation.

Yours faithfully,
SI PPP.
Barasat P.S.
Within maximum 02 hours the CDR will come to the applicant.

In the instant case the IO SI PPP received the decoded CDR of the Cell Phone No. 9732529009 which is as follows.

| MSISDN : - | 9732529009 |
| Name :- | Sri SSS |
| Address :- | DUTTAPUKUR, BARASAT |
| Activation Date :- | 18-APR-2011 |
| Status :- | Active |
| From Date :- | 01/08/2014 |
| Till Date :- | 01/08/2014 AT 12.00 HRS |
| Report Index :- | WB_906293 |
| Report Date :- | 01/08/2014. |

Now the Call Data

<table>
<thead>
<tr>
<th>SR. NO.</th>
<th>A_NUMBER</th>
<th>B_NUMBER</th>
<th>CALL_DATE</th>
<th>CALL_TIME</th>
<th>DURATION</th>
<th>TOWER_LOC</th>
<th>CALL_TYPE</th>
<th>IMEI_NO</th>
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</thead>
<tbody>
<tr>
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<td>08768376232</td>
<td>09732529009</td>
<td>01/08/2014</td>
<td>05:47:26</td>
<td>200</td>
<td>Barasat Rail Station</td>
<td>INC</td>
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</tr>
<tr>
<td>2</td>
<td>09933791593</td>
<td>09732529009</td>
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<td>37</td>
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<td>09732529009</td>
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</tr>
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<td>09732529009</td>
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77
In this call data report the following tables are given. A Number, B Number, Call Date, Call Time, Duration, Type of Call and IMEI No.

- **A Number**: A Numbers are the numbers in which the accused has communicated.
- **B Number**: It is the cell phone number of the accused persons.
- **Call Date**: It narrates the date of happenings of communication. That means the date of calling or receiving of cell phones.
- **Call Time**: Call time.
- **Type of Call**: INC – Incoming Call, OUT - Outgoing Call, SMS- SMS.
- **Tower Location**: Tower location comes in the crude form, IO decoded the Towers from Tower Dumps and it came into this picture. Tower Dump is usually supplied by each Service Providers to the District Head Qtrs.
- **IMEI No**: It is the unique number of a cell phone. It always remains the same. If a mobile is lost then one can track the mobiles though IMEI No. or through IMEI search. Here in the above noted CDR the IO of the case decoded the Tower Location and it reflects that at first the tower location is in Barasat Police Station and then the tower location changes and then it comes to Colony More and then its adjacent to Helabottala and then it went to Amdanga and then to Ashoknagar. It seems that the tower location is changing and it fixed in Ashoknagar. In the aforesaid case the accused Aktar was arrested from Palpara, Ashoknagar and the stolen Hero
Honda Motor Cycle was also recovered from a ditch near Pantapara, Ashoknagar. Seizure list was also prepared by the IO and it is also attached with the case docket.

Now for more details we can also analysis this CDR we can make the CDR in PIVOT Table and then we will be able to establish that to whom nos the said accused i.e. Mr. SSS has communicated how many times. For making PIVOT Table we will have to make a PIVOT Chart and the said PIVOT Table can be done through INSERT of the Windows 7. We can able to select four factors and can able to arrange a PIVOT Chart. Let us give the example of the PIVOT Chart of the aforesaid Call Data Report.

Through the PIVOT Chart we can able to find out the important numbers to which the accused has communicated. If we able to find out the most important person who is attached to the accused then we can trace that person and by the means of him we can able to tract the accused or many other things of the accused.

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</table>

In this CDR we can find out the accused Mr. SSS has communicated many times with the two numbers which are - 8640828915 & 08768376232

If we able to find out that two persons by taking the subscriber of that both the numbers then we can have an idea of that accused.

By CDR analysis we can know many things of a person. His character and antecedents can be also traced down by seeing the CDR or by taking diversion of the Cell Phone. The economical stability of a person can also be judged from seeing the CDR of a mobile phone of a person. In this particular CDR only one days CDR is taken. Remember that the CDR is only available for the last six months only generally.

Legally, we can take the help of the CDR also. For taking legal support we have to submit requisition to the Service Provider personally by dint of Case Connection and if the Service Provider supply us the Call Data Report then we have to seize the same to go through the service provider officer and then have to tag the same in the Case Docket. Even the service providers deploys their employee to come to the Court and to give deposition in the favour of the prosecution. But obviously, it should be done in important cases.
Computers help in investigation a lot. Cell Phone has unique numbers those which are known as IMEI No such as Computers has unique numbers which are known as MAC No’s. This MAC No’s or Manufacturing Nos are found in the local area network card of a computer. In the laptop stolen case we can able to detect the MAC Nos and then we can able to send it to the service providers and request them to search their network if the same MAC No’s is used in net. Moreover, the electronic devices sometimes spread radiation (electronic signals). In foreign countries paranormal activities are checked by different types of electro- magnetic meters. In far, the electronic gadgets can be detected by those types of meters which will be able to detect the case and to track the criminals easily.

**Points to remember:**

- Use of CDR in investigation should be cautiously used.
- Proper entries in CD should be made regarding the information received from Data analysis otherwise it cannot be incorporated in investigation.
- Help of experts should be taken as and when necessary.
- Close liaison with the service providers and monitoring cell will help a lot in this regard.
- The same (CDR) must be authenticated by the service provider and certificate so bound must be incorporated in the CD.

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CHAPTER-XV
STANDARD OPERATING PROCEDURES FOR INVESTIGATION OF RAPE CASES, HOMICIDE CASES AND OTHER CASES.

Suggested SOP for Investigation of Rape Cases

Step I: Registration of Cases:

- The complaint as par as practicable, may be obtain from the Women / Victim girl and get it signed.
- If a woman police personnel is available at the Police Station, she should be entrusted to interact with the victim for getting the complaint from the victim, as she will be in a better position to reveal the entire fact without any fear and shy.
- If the rape victim does not report the complaint immediately, the reason of delay should be written in the complaint.
- If the information is given by the victim, then it should be recorded by a woman police officer or any woman officer.
- If the victim temporarily or permanently mentally or physically disabled, then such information shall be recorded by a police officer at the residence of the victim or at a place of her choice. It should be video graphed.
- Help of an interpreter or a special educator may be taken.
- If the victim party is illiterate, on the basis of oral complaint FIR should be started and complaint should be reduced into writing. (U/S 156(1) CrPC). (It should be in the first language and in exactly same language of the informant and get it signed) (Refusal of sign the report is punishable U/S 180 IPC)
- The 5 “W”s and one “H” must be mentioned in the FIR (i.e. Who, What, When, Where, By which means, & How.
- Recording officer must ensure that name and address of known accused or description of dress, means of identification and colloquial language in case of unknown accused and name of witness / eye witness should be written in the complaint. (PRB Rule 247)
- A copy of recorded information must be given to the informant free of cost. (154(2) CrPC.)
- Officer in charge of Police station should send the FIR to the Magistrate to take cognizance (157 CrPC).

Step II: Caring of Victims/Inquest:

- Victim should be send to govt. hospital for medical examination with the escort of lady police personal.
- Consent for medical examination should be taken from the victim (if major) in writing.
- In case of minor (victim) consent for medical examination should be taken from a person competent to give such consent.
- Victim should be medically examined by a registered medical practitioner at government hospital without any delay. {Must be within 24 hrs. (Sec 164A(1) CrPC)}
- If no registered medical practitioner in a govt. hospital or run by local authority found, any other registered medical practitioner may examine the victim.
- If any foreign material recovered from the body or wearing apparel of the victim (hair, pubic hair, vaginal swab Etc.), at the time of medical examination, it should be preserved by the medical examiner, pack separately, and send for examination through court.
- The wearing apparel of the victim of rape are to be seized, preserved and send for examination through court.
Actual age of victim should be ascertained through birth certificate or ossification test.

If victim is not the complainant then it is better to record the statement of victim and eye witness (if any) U/S 164 CrPC to strengthen the case.

The statement of victim as per as practicable recorded by a women police officer (a) at the residence of the victim, (or) at a place of her choice (b) in presence of her guardian /near relative/ social worker. [U/S 157 b (1) CrPC].

Medical treatment of victim should be arranged free of cost on the certificate of police officer not below the rank of officer in charge.

Swab are to be taken from vagina to check presence of semen.

Fingernail scrapings of the victim are to be collected for detection of blood or tissue.

Queries to be made to the MO by the IO:

- Whether the victim is subjected to recent forceful sexual intercourse or not?
- Whether any injury is present on any parts of the body including private parts?
- Whether any foreign body is detected in the private parts of the victim?
- What is the approximate age of the victim?

Step III: Scene of crime management:

- Scene of crime is to be visited by the IO as early as possible.
- Scene of crime is to be cordon to avoid contamination.
- Before search of scene of crime photograph is to be taken and also draw a rough sketch map with index.
- Search of SOC is to be done in presence of minimum two local disinterested witnesses.
- Before commencement of search of clues, the IO must know a) How to look for b) What to look for c) where to look for.
- During search use gloves.
- Physical evidence collected from SOC must be packed in separate packet.
- Biological sample is to be packed in paper bag.
- All articles is to be seized, label and packed in presence of minimum two local disinterested witnesses duly signed by them.
- When blood /semen stain stained is seized from SOC, control sample is to be seized adjacent to the actual place of seizure.
- If there is a chance of getting finger print, requisition is to be submitted to Director Finger Print Bureau. CID WB, Police Record Bhaban, Salt Lake Kolkata 91 for developing the fingerprint.

Step IV: Examination of witnesses:

- Record the statement of eye witness and other witness.
- Statement is to recorder in detail, in first person and his own language.
- The examination of the neighbours specially women with whom the victim use to interact should be done with care.
- While examining witnesses incidents of previous tortures and their amicable settlements if any should be considered.
- Child witnesses should be properly examined and with caution.
- Statement is to record in detail, in first person and his own language.
Steps V: Arrest and custody of accused:

- All effort should be made to arrest the accused within a very short period of time.
- If the accused is not known, after the arrest of the accused / suspect- he should be placed before Test Identification Parade for his identification. (U/S 54 A CrPC)
- Immediately after the arrest, the accused is to be search and his cloth is to be seized and packed separately for sending it to Forensic Lab through Court for Chemical analysis.
- The accused shall be produced before medical practitioner run by Government or local authority immediately for ascertaining his potency and comparison of seminal stain for fixing him scientifically with the crime. (U/S 53 A CrPC)
- In absence of medical practitioner run by Government or local authority within sixteen kilometer from where the offence committed, accused shall be produced before any other medical practitioner for necessary medical test. (U/S 53 A CrPC)
- Requisition for medical examination of accused should be done submitted by police officer not bellow the rank of Sub Inspector. (U/S 53 A CrPC)
- Reasonable force may be applied upon arrested accused for medical examination. . (U/S 53 A CrPC)
- No need to take consent from arrested accused for his medical examination.
- In case arrest of unknown accused / suspect, if, both Test Identification Parade & police remand are necessary, then at the time of forwarding the accused / suspect before court, prayer should be submitted for both Test Identification Parade & police remand. (Please mentioned in the prayer that police Remand should be allowed after holding Test Identification Parade.)
- Arrest cum Inspection memo should be prepared at the place of arrest and a copy be supplied.
- Regarding handcuffing of accused guidelines of Hon’ble Apex court should be followed.
- Accused should be forwarded to Court within 24 hours after medical examination.
- Queries related to the accused
  ✓ Whether the person is potent or not?
  ✓ Whether there is any evidence of recent seminal emission or not?
  ✓ Whether any injury present on any parts of the body including private parts?
  ✓ Whether any foreign body present over the body?
  ✓ Any other point of Medico legal interest.
- Proper entries should be made in all relevant registers (GD, Hazat register, AAR, Interrogation register, diet register, display board etc.) while in police custody.

Step VI: Collection of Evidence; Other important:

- Seizure list along with seized articles are to be send to court immediately.
- All the biological evidence is to be dried in room temperature (never in direct sun light)
- All the evidences are to be send to expert through court.
- All the expert opinions / prosecution document are to be filed to court without any delay.
- If blood is taken either from victim or accused for DNA typing Biological Sample Authentication Card should be attached by the Medical officer.
- If the accused is absconding for a longer period and the victim is conceived, if she is willing for abortion, tissue of the aborted fetus can be collected and send for DNA fingerprinting for the purpose of fixing the accused, with the offence of rape. If he is not willing for an abortion, blood samples can be collected from the child, mother and the accused and can be sent for DNA finger printing for fixing the accused.
Step VII: Submission of CS and caring of trial:

- After completion of investigation charge sheet shall be submitted without unnecessary delay. [U/S 173 (1) CrPC]
- Charge sheet [U/S 173 CrPC] should be submitted within 90 days from the date of arrest of accused person in case of offence u/s 304B IPC [U/S 167(2a) CrPC] to ensure custody trial. Supplementary charge sheet should be submitted after receiving FSL and other reports.
- Supply the copies of prosecution documents to the accused. [U/S 208 CrPC]
- It should be taken care that the witnesses of the case are not intimidated. If such incidents are reported, legal proceedings should be initiated (195A IPC).
- Attendances of witnesses in court should be ensured and their safety and security should be taken into consideration.
- As far as practicable IO may assist the PP concerned during trial.
- Investigation of child rape case may be completed within three months from the date of FIR. [U/S 173 (1A) CrPC.]
Suggested SOP for Investigation of Homicide Cases
Each homicide investigation is different, so some things here may not need to be done in all investigations. It is intended as a guide to assist in an investigation.

Homicide Investigation Checklist

A. Arrival at Scene:
- Enter scene by route least likely to disturb evidence, noting route of travel.
- Check victim for signs of life (breathing, neck area for pulse).
- Note time of arrival

B. In Case of Living Victim:
- Call for Medical Assistance immediately.
- Arrangements should be made for recording Dying Declarations.
- Conscious Victim - If victim is conscious, attempt to obtain the following information:
  - Who did this to you?
  - If name of assailant not known to victim, commence identification by description: man, woman, race, height, weight, color of hair, eyes, type of clothing, etc.

C. In Case of Unconscious Victim:
- At Scene of Crime - If victim unconscious on arrival at scene, make sure that a police officer remains with victim at all times, including trip to hospital so that any dying declarations made during conscious periods can be noted.
- At hospital - Upon arrival at hospital alert medical personnel to possibility of dying declarations. Request them to note same if made during operative period.
- Notification - Request to be notified if victim regains consciousness so that you will be present when any dying declarations made.

D. Removal of Deceased from Scene of Crime:
- Before removal -
  - If possible, photograph deceased’s position at scene before removal.
  - If time and circumstance do not permit to take photos before deceased is removed, carefully note the position of the deceased in your report.

E. Obtain Physical Evidence from Deceased/Victim:
- Officer accompanying victim to hospital should collect victim’s clothing and personal effects as they become available.
- Officer receiving items should carefully note time received and the identity of person from whom items were received.
- If Necessary for identification items handled by physicians, nurses should be marked by those persons and the chain of custody noted. This is particularly important with items such as bullets, etc. Medical personnel should not attempt to identify caliber or types of firearms used.
- Make a note that a failure to follow up on collecting items that left the crime scene with the victim may cause their loss or render them useless as evidence. So preparation of proper seizure list is necessary in all steps.

F. Secure Scene of crime:
- Block or rope off scene (A Bigger is better).
- Persons at Scene -
Clear unauthorized person from the scene. Please note that you cannot worry about hurting someone’s feelings. If they do not belong tell them to leave firmly but politely.

Prevent anyone from touching the body or disturbing anything pending the arrival of the identification personnel, and investigative officers.

Witnesses -
- Note name and address of persons present.
- Obtain brief statement from each person present and record statements as necessary.
- Keep Witnesses separate to prevent conversation.
- Prevent Destruction of fragile evidence such as footprints, tire tracks, etc.

G. Process Scene of Crime:
- At night obtain adequate lighting before scene processing commences. Artificial lighting used must be adequate for photography and for minute detail search for items such as hair, cartridge cases, etc.
- When lighting not available, secure scene under guard and wait for daylight before processing is commenced.
- Take color photographs of the scene from all angles. Work from the perimeter to centre. Include photographs of entrance, exit routes to scene. Remember that there is no such thing as too many photographs of a crime scene. Make sure that all possible locations relevant to scene are photographed. Particularly important that all rooms at scene are photographed.
- Photograph specific items of evidence such as footprints, cartridge cases, weapons, etc. as observed in place at scene. Where scale is important (footprints, tire tracks) use ruler scale to show size.
- Remember that something may have happened in an adjoining room that will be of critical importance as the investigation develops.
- Overhead photographs should be taken of outdoor scenes, including streets, intersections. These can be invaluable in constructing scale representation of scene by utilising extension ladders, Power Company, fire trucks etc.
- Video tape recordings should be made of scene where possible, including snap shots of collecting evidence at scene. Videography of accused and witnesses are also necessary.
- Colour photograph of the deceased at scene should be taken from all angles. Also photograph the deceased while items are removed from body, identification, clothing, etc.
- Photograph substances on body and clothing of deceased such as blood, seminal fluid, powder residue, etc. These should include full length and close-ups.
- Photograph wounds, injuries - include close-ups. This should be done step by step as body examined, disrobed by medical examiner at scene.
- Make careful note of following while preparing Inquest report:
  - Description of PO, position and condition of the dead body including wearing apparels to be mentioned and photographed.
  - All visible injuries should be mentioned in details but try to avoid medical terms.
  - In case of holding inquest after sunset, arrangement of proper and sufficient light should be made and it must be mentioned in the Inquest report.
  - If the inquest is done at a hospital, the inquest report should be signed by the hospital authority.
- Survey Scene of Crime:
Take careful measurements of the scene. Measure each room in a house.
Use a reference point that is permanent.

Search of Scene of Crime

Deceased
- Before removing examine deceased for physical evidence (Example: loose hairs, fibers, etc.)
- Place deceased on a cloth sheet, move body shortest possible distance.
- Examine the ground underneath the victim.
- Examine deceased for additional physical evidence that may become visible after movement.
- Collect physical evidence from deceased to include personal effects, clothing, shoes, weapons, etc.

Scene area
- Organize scene search by adopting specific plan, assign tasks, areas of search to individual officers.
- Execute search by carefully following plan of assigned tasks.
- Note, mark and photograph location of objects found such as latent fingerprints, footprints, tire tracks, tool marks, hair, fragments of cloth, buttons, cigarette butts, cartridge cases, bullet holes, bullets, bloodstains, etc.
- Collect, mark evidence. Remember that when collecting evidence do not overlook such items as room furniture, doors, etc. that can be used to reconstruct crime scene in court.
- Preserve items of evidence individually.
- Do not place separate items of evidence in same container. (Example: mixing items of clothing in one bag can compromise evidence such as head or pubic hair when the location of such items on a particular garment is critical.
- Use correct container - molded plastic container for blood. Paper bindle for hair or fibre. Paper bag for bloody items. Never put evidence that may decompose or deteriorate into a plastic bag.
- Provide information to lab personnel concerning source of item, what test you desire performed. Make contact with the lab personnel and give a brief account of what your investigation shows.

H. Process Accused:

Photograph Accused
- Show any injuries or lack of injuries
- Show his clothing and general appearance
- Show hands (both sides)
- Show any tattoos or scars
- Take any evidence that you are entitled to
- Pubic combing in a rape & murder case
- Any item that is on the clothing and could be lost
- Obtain order for blood and hair samples/ nail scrapings

I. Autopsy Processing:

Arrange for proper transportation of the deceased to morgue.
Police officer should be present during the autopsy
If possible before autopsy take finger and palm prints of deceased. If not then once the autopsy is completed get the prints.

Pick up any evidence that was obtained during the autopsy (blood samples, hair samples, fingernail scrapings, bullets)

Please note that - Place each item in a separate container. Paper bags are best. Each container should be marked, dated and initialed.

J. Investigative Personnel:

Obtain summary of situation from officer who first arrived at scene.

Check scene security and take steps necessary to correct and errors or omissions, if any.

Review all actions of officers on the scene

Initiate Investigation from the beginning

Determine identity of deceased from -
  ✓ Relatives
  ✓ Witnesses
  ✓ Fingerprints

Attempt to reconstruct events at crime scene by use of the following:
  ✓ Position of body
  ✓ Number, location of wounds
  ✓ Trajectory of bullets
  ✓ Bloodstains, substances
  ✓ Other signs of violence
  ✓ Other physical evidence at scene

K. Investigation:

The case diary should include the following:
  ✓ Index of contents
  ✓ Initial reports
  ✓ Follow up reports
  ✓ Evidence reports
  ✓ Medical reports
  ✓ Witness statements
  ✓ Accused statements
  ✓ Background of Accused
  ✓ Background of deceased
  ✓ Photographs with negatives/memory card.
  ✓ Video tape or record of Accused statement.

Establish movements of deceased prior to death to determine:

Time last seen alive
WHO with
WHAT doing
WHERE

Examine deceased’s background, including the following:

- Relatives
- Friends
- Employment
- Possible criminal record or activities
- Finances
- Possible romantic involvements
- Possible use of narcotics
- Gang involvement

Motive:

- Consider deceased’s background
- View scene information for evidence indicating motives such as:
  - Sex
  - Theft of money or property
  - Narcotics
  - Mental Derangement

Determine actions of accused before homicide:

- You may be required to cover period days, weeks or months before homicide, depending on circumstances, including motive.
- Pay attention to any unusual actions of Accused, trips, absences from work, home, etc.
- Cover any activities such as surveillance of victim, purchase of weapons, etc.
- Determine actions of Accused after homicide
  - Destruction or concealment of:
    - Clothing worn at crime scene
    - Weapons used
    - Vehicles used (including cleaning of same to remove bloodstains etc.)

Practical tips:

- Question thoroughly those concerned.
- Be careful in questioning witnesses- they may turn to be principals in the crime.
- Be courteous and tactful.
- Do not disclose valuable information to press or unauthorized persons.

List of Evidence - List items seized, using consecutive numbers for each individual item. Specify following:

- What
- Where seized
- From whom
- Where stored
- Action taken - Specify if item given to lab personnel for testing, and, if so, to whom.
- Action Needed - Specify any processing remaining to be done such as latent prints, lab testing, etc.
List of witnesses with brief statement of what testimony concerns; connection with case.

Witnesses Statements

Collection of Evidence; Other important points:

- Case wise planning for collecting sufficient evidence should be made by the IO.
- Collection of evidence as per offence
- Collection of injury report/ PM report should be collected as ASAP.
- Collection of FSL report.
- Dying declaration if any is to be collected along with BHT/MC.
- Seizure list along with seized articles are to be send to court immediately.
- Care should be taken in maintaining the integrity of evidence (Chain of custody).
- All the expert opinions / prosecution document are to be filed to court without any delay.

Do not include:

- Your opinions concerning the value of the case.
- Irrelevant Material.

Submission of CS and caring of trial:

- After completion of investigation charge sheet shall be submitted without unnecessary delay. [U/S 173 (1) CrPC]
- Charge sheet [U/S 173 CrPC] should be submitted within 90 days from the date of arrest of accused person to ensure custody trial. Supplementary charge sheet should be submitted after receiving FSL and other reports.
- Supply the copies of prosecution documents to the accused. [U/S 208 CrPC]
- It should be taken care that the witnesses of the case are not intimidated. If such incidents are reported, legal proceedings should be initiated (195A IPC).
- Attendances of witnesses in court should be ensured and their safety and security should be taken into consideration.
- As far as practicable IO may assist the PP concerned during trial.

Checklist: Medico-legal aspect

If Death Due to poisoning -

- Colour of the skin
- Any peculiar smell
- Sign of corrosion
- Colours of nails, teeth, tongue, face.
- Any sign of vomiting / purging.
- Any vial, injection, ampoule etc.
- Hypodermic syringe.
- Any tablet/liquid/powder.
- Brand name of the tablet/powder/liquid.
- When the deceased took the food and the type of food?
- Who else took the same food and what is his condition?
- Whether Deceased was suffering from any disease in the past?
- Onset of the disease.
- Treatment prescribed.
 ✓ Name of the doctor / hospital.
 ✓ Medico legal report.
 ✓ Sudden sickness( time and type)
 ✓ Treatment prescribed,
 ✓ Medico legal report.
 ✓ Name of the doctor / hospital.
 ✓ When died.
 ✓ Whether alcoholic.
 ✓ Whether drug addict.
 ✓ Who got the suspected poison?
 ✓ Possible mode of administration of the suspected drug.
 ✓ Whether the deceased was suffering from mental illness.
 ✓ Treatment prescribed.
 ✓ Name of the doctor / hospital.
 ✓ Suicide note.
 ✓ Statement of other family members/ friends/ official circles.
 ✓ Details about the job/ profession / trade.
 ✓ Financial status.
 ✓ Motive.
 ✓ Business transaction.
 ✓ Probable persons who could get the poison.
 ✓ When did he get the poison?
 ✓ Where from he got the poison.
 ✓ Did he get sufficient time and opportunity to administer the poison?

 If death is due to Hanging/ suffocation/drowning/strangulation:
  ➢ Hanging from tree /fan/any other object.
  ➢ Height of the object from the floor.
  ➢ How the deceased reached to the object for hanging.
  ➢ Whether ante mortem or post mortem.
  ➢ Size of the rope / string
  ➢ Type of noose around the neck.
  ➢ Whether noose on the neck is oblique.
  ➢ Whether tongue is protruding out.
  ➢ Whether eyes are open.
  ➢ Whether saliva is dribbling.
  ➢ Colour of nail
  ➢ Colour of face
  ➢ Whether there is any ligature mark around the neck.
  ➢ Whether it is a case of partial hanging.
  ➢ Whether there is any suicidal note.
  ➢ Whether the suicidal note written by the deceased.
  ➢ Financial status/ business transactions.
  ➢ Whether the victim was suffering from mental or other illness
  ➢ History of illness.
Treatment prescribed.
Profession of the deceased.
Relation with his family members/friends / colleagues.

**If the deceased is a lady:**
- Her age.
- Whether married/ unmarried.
- When did she marry?
- Whether employed.
- Whether arranged or love marriage.
- Relation with husband/in-laws.
- Dowry.
- Past history of torture.
- Whether any information of torture was sent to her parents.
- Observations of neighbors / friends.
- Extra marital relationship if any.
- Family background of the parents of the deceased.
- Mental condition.
- Whether she was sexually assaulted.

**If death is due to suffocation:**
- How suffocation was caused
- Whether ante mortem or post mortem
- Whether there is any mark of injury on the face of the victim
- Whether there is any discharge on the object used for causing suffocation.
- Age of the victim
- Whether suffocation is accidental or homicidal.
- Condition of the room where deceased was living at the time of death.
- Ventilation.
- Smell inside the room.
- Temperature inside the room.
- Whether the doors / windows were open.
- Whether there is air conditioner. Air cooler in the room.
- Possible source of leakage of gas or production of toxic gas.
- Colour of the nails, face, etc.
- In case of fire, extent of burn.

**If death is due to drowning:**
- Mark of strangulation on the throat.
- Discharge from the nostrils, mouth, etc.
- Injuries on the face and throat.
- Condition of the eyes
- Whether mouth is open.
- Any other injury on the body.
- Indication of scuffle.
- Sigh of scuffle in the scene.
- Position of the body.
- Wearing apparel.
- Whether the victim was under the influence of drug or alcohol.
- Built of the victim.
- If the victim is a lady, whether she was sexually assaulted before death.

**If death is due to burn:**
- Whether ante mortem or post mortem burn
- Whether suicidal / homicidal / accidental.
- Extent/degree of Burn.
- Parts of the body burnt and percentage
- Position of the dead body
- Condition of the wearing apparel
- Whether any attempt has been made to extinguish the fire.
- Who attempted.
- What is the condition of the person who tried to rescue the victim?
- Whether victim died on the spot or taken to the hospital.
- Name of the doctor/hospital.
- Treatment given.
- Dying declaration recorded.
- When died
- Financial status.

**In case of married lady:**
- When was she married
- Whether love or arranged marriage.
- Relationship with the husband and in laws.
- Dowry
- Past history of torture,
- Observation of neighbors/ friends.
- Intervention by police
- Suicide note
- Mental condition of the deceased prior to the incident.
- Love affair.
- Un employment
- Social causes.
- Whether sexually assaulted.

**In case of unmarried lady:**
- Weak in studies.
- Love affair
- Poverty
- Social problems
- Health
- Mental illness
- Drug addiction/alcoholism.
- Whether sexually assaulted.
- Fire accelerant used
Specific advice to post mortem surgeon
To preserve trachea to prove anti-mortem or post mortem.

If death is due to gun-shot injury:

- How many persons sustained fire arm injury in the incident
- How many died/injured
- Examination of wounds
- Which part/s of the body injured (location)
- Whether any part of the body blown off
- Margin of the wounds inverted or averted.
- Margin is inverted and wound is small – wound of entrance.
- Margin averted and size of the wound is larger – wound of exit.
- In case of multiple wounds of entrance whether all the wounds look alike or different.
- Whether there is blackening/ tattooing of skin.
- Whether hairs are singed.
- What type of fire arm used?
- From what distance fired.
- Approximately how many shots fired?
- Which injuries appear to be fatal?
- Location of wounds.

If death is due to injuries caused by the weapons other than fire arm:

- Examination of the injuries
- Nature of injuries such as contusion, laceration, punctured, incised etc.
- Location of injuries, their numbers, size and type in each location.
- Whether hesitation cut is present.
- If present, on which part of the body.
- How many such injuries are there?
- Possible weapon used.
- Is there defence wound.
- Quantity of bloodshed near the victim
- Shape and size of blood spatter.
- Distribution of blood at the scene of crime.
- Position of the dead body
- Whether corresponding cuts are seen on the clothes.
- Whether injuries match with the weapon recovered.
- Wounds are ante mortem or post mortem.
- Signs of struggle.
- Built and health of the deceased and suspect.
- Whether victim admitted in hospital.
- Medico legal report of the victim.
- Treatment given to the victim.
- When died in hospital
- Dying declaration.
- Whether crime committed elsewhere and body dumped at other place.
- If victim is female, whether she was sexually assaulted.
Suggested Procedures for investigation of certain cases:

<table>
<thead>
<tr>
<th>Nature of crime</th>
<th>Procedure required</th>
</tr>
</thead>
</table>
| Simple hurt (324 IPC)    | ➢ Statement of informant, witness, study of previous incident and subsequent conduct of offender of threat etc.  
                               ➢ Medical repot of injuries of victim.  
                               ➢ Seizure of weapon, blood, wearing apparels of victim.  
                               ➢ Arrest of offender. Remand etc.  
                               ➢ In the case of 323/341 IPC medical repot of victim is required. |
| Grievous hurt (326 IPC)  | ➢ Statement of informant, witness, study of previous incident and subsequent conduct of offender of threat.  
                               ➢ Medical repot of injuries of victim.  
                               ➢ Seizure of weapon, blood, wearing apparels of victim.  
                               ➢ Bed head ticket seized from hospital.  
                               ➢ Arrest of offender. Remand, identification of accused by TI parade if require etc. |
| Attempt to murder (307 IPC) | ➢ Statement of informant, witness. (In the FIR it should be mentioned that at the time of FIR, statement of the informant and witness should be such that, at the time of incident the offender uttered the word to the informant that he will kill the complainant), study of previous incident and subsequent conduct of offender of threat.  
                               ➢ Medical repot of injuries of victim (Doctor of Medical Hospital).  
                               ➢ Seizure of weapon, blood, wearing apparels of victim.  
                               ➢ Medico legal report of injuries of informant/victim, whether any defense wounds and nature of weapon used (Forensic Medicine).  
                               ➢ Bead head ticket seized from hospital.  
                               ➢ Photograph and sketch map of the PO.  
                               ➢ Arrest of offender. Remand, identification of accused by TI parade etc.  
                               ➢ Memo of evidence. |
<table>
<thead>
<tr>
<th>Crime Type</th>
<th>Steps</th>
</tr>
</thead>
</table>
| Homicide (302/120B IPC or Murder with firearms (302/120B IPC and 25(1b)(a)/27 Arms Act ) or Culpable homicide not amounting to murder(304 /114 IPC) | ➢ Statement of informant, witness. (In the FIR it should be mentioned that at the time of FIR, statement of the complainant and witness should be such that, at the time of incident the offender uttered the word to the complainant that he will kill the complainant), study of previous incident and subsequent conduct of offender of threat.  
➢ In case of Culpable Homicide not amounting to murder, we have to study cause of the incident also.  
➢ Medical report of injuries of victim and whether any defense wounds.  
➢ Seizure of weapon, blood, wearing apparels of victim.  
➢ Medico legal report of injuries of victim /deceased and nature of weapon used (Forensic Medicine).  
➢ Bead head ticket seized from hospital.  
➢ Expert opinion of FSL Experts (of blood at PO, in the wearing apparels of victim, in weapon of offence, in bullet in case of bullet injuries).  
➢ Photograph and sketch map of the PO.  
➢ Arrest of offender. Remand, identification of accused by TI parade etc.  
➢ Memo of evidence. |
| Kidnapping (366 IPC) | ➢ Statement of informant, witness. Study of previous incident or conduct and subsequent conduct of offender by telephone or message on demand of money or any illegal demand.  
➢ Medical report of injuries of victim and whether any defense wounds.  
➢ Seizure of weapon, or vehicle used.  
➢ Photograph and sketch map of the PO.  
➢ Arrest of offender, Remand, Identification of accused by TI Parade etc.  
➢ Memo of evidence. |
| Rape (376 IPC) | ➢ Statement of informant, witness. Study of previous incident or conduct and subsequent conduct of offender of threat.  
➢ Medical report of injuries of victim.  
➢ Seizure of blood, wearing apparels of victim.  
➢ Medico legal report of injuries of victim and whether any defense wounds (Forensic Medicine).  
➢ Expert opinion of FSL Experts (of blood at PO, in the wearing apparels of victim, in weapon of offence, in bullet in case of bullet injuries).  
➢ Photograph and sketch map of the PO.  
➢ Arrest of offender. Remand, identification of accused by TI parade etc.  
➢ Memo of evidence. |
<table>
<thead>
<tr>
<th>Offence against property:</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Theft (379 IPC), snatching (379 IPC),</strong></td>
</tr>
<tr>
<td>- Statement of complainant (In case of snatching statement the complainant should say a word that he can identify the offender, whenever he call for identification),</td>
</tr>
<tr>
<td>- witness,</td>
</tr>
<tr>
<td>- Study of Modus operendi of offender.</td>
</tr>
<tr>
<td>- Seizure of incriminating article and collection of foot print and finger print at PO.</td>
</tr>
<tr>
<td>- Photograph and sketch map of the PO.</td>
</tr>
<tr>
<td>- Arrest of offender with help of source information and study of previous crime of same type by seeing crime and criminal register and crime map.</td>
</tr>
<tr>
<td>- Arrest of receiver of stolen property, Remand etc.</td>
</tr>
<tr>
<td>- Recovery of stolen article and identification by complainant before court</td>
</tr>
<tr>
<td>- TI parade of the offender and examination of supporting witness who has seen entry and exit of the offender.</td>
</tr>
</tbody>
</table>

<p>| <strong>Burglary 457/454/380 IPC) Or 380 IPC</strong> |
| - Statement of complainant, witness. |
| - Study of Modus operendi of offender. |
| - Seizure of, incriminating article and collection of foot print and finger print at PO. |
| - Photograph and sketch map of the PO. |
| - Arrest of offender with help of source information and study of previous crime of same type by seeing crime and criminal register and crime map. |
| - Arrest of receiver of stolen property. |
| - Remand etc. |
| - Recovered article identification by complainant before court. |</p>
<table>
<thead>
<tr>
<th><strong>Dacoity or Robbery</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td>➢ Statement of complainant (In case of snatching statement the complainant should say a word that he can identify the offender, whenever he call for identification), Witness.</td>
</tr>
<tr>
<td>➢ Study of Modus operendi of offender.</td>
</tr>
<tr>
<td>➢ Seizure of incriminating article and collection of foot print and finger print at PO.</td>
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<td>➢ Photograph and sketch map of the PO.</td>
</tr>
<tr>
<td>➢ Arrest of offenders with help of source information and study of previous crime of same type by seeing crime and criminal register and crime map.</td>
</tr>
<tr>
<td>➢ Arrest of receiver.</td>
</tr>
<tr>
<td>➢ Seizure of lost articles and weapon of offence.</td>
</tr>
<tr>
<td>➢ Remand etc.</td>
</tr>
<tr>
<td>➢ Identification of recovered article by complainant before court</td>
</tr>
<tr>
<td>➢ TI parade of the offender and examination of supporting witness who has seen entry and exit of the offender</td>
</tr>
<tr>
<td>➢ Memo of evidence.</td>
</tr>
</tbody>
</table>

**Accidental:**

<table>
<thead>
<tr>
<th><strong>Road traffic Accident (279/304 A IPC)</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td>➢ Statement of complainant/witness,</td>
</tr>
<tr>
<td>➢ Study of movement of offending vehicle, time of occurrence, place of occurrence, skidmarks, tyre marks.</td>
</tr>
<tr>
<td>➢ Seizure vehicle, glass, vehicle parts from the PO.</td>
</tr>
<tr>
<td>➢ Photograph and sketch map of the PO.</td>
</tr>
<tr>
<td>➢ Arrest of offenders with help of Register of transport authority.</td>
</tr>
<tr>
<td>➢ Post mortem and inquest of the deceased to ascertain cause of death, time of death, nature of marks of injuries on deceased.</td>
</tr>
<tr>
<td>➢ Examination of offending vehicle by the MVI and obtain report.</td>
</tr>
<tr>
<td>➢ Identification of deceased and proper handing over of dead body to claimant.</td>
</tr>
<tr>
<td>➢ Handing over of offending vehicle to claimant after verification.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th><strong>Rioting (148/149/324/427/341/114 IPC)</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td>➢ Statement of complainant (may be Police), witness.</td>
</tr>
<tr>
<td>➢ Study of movement of offender and cause of rioting.</td>
</tr>
<tr>
<td>➢ Seizure vehicle, glass, broken tiles / bricks, weapon of offence from the PO.</td>
</tr>
<tr>
<td>➢ Photograph and sketch map of the PO.</td>
</tr>
<tr>
<td>➢ Arrest of offenders with help source and identifier, Remand etc.</td>
</tr>
<tr>
<td>➢ TI parade of the offender.</td>
</tr>
</tbody>
</table>