

CITIZENS' RIGHTS

The citizens have certain rights with reference to the duties of the Police as stated above. As a step towards transparency and accountability in administration, a Citizens charter has been issued with reference to the duties to be performed by the Police Officers in Himachal Pradesh.

INVESTIGATION OF CRIME

1. Any citizen who has knowledge of preparation or commission of any crime or who has any complaint to make with reference to the duties of the Police as enumerated above can approach the Police Station and give such information available with him or her.
2. If any such information furnished to the Police at the Police Station discloses the commission of a cognizable offence, a First Information Report (F.I.R) shall be reduced to writing by the Officer in-charge of the Police Station and a copy of the same shall be given forthwith to complainant who gave the information leading to the registration of FIR free of cost (Section 154 of the Code of Criminal Procedure). Offences against Law are classified into two heads: (a) Cognizable, and (b) Non-Cognizable. Offences under the Indian Penal code or special and other local laws in which Police Officers are authorized to arrest without warrant are cognizable. Other offences are non-cognizable.
3. According to the Code of Criminal Procedure, any officer and above of the rank of Head constable can function as the Station House Officer in-charge of the Police Station in the absence of Police Sub-Inspector, the senior most Asst Sub-Inspector present at the Police Station or the senior most Head constable present functions as the Station House Officer. (Section 2 (0) of the Code of Criminal Procedure).
4. If the complaint/ information is given orally, it is the duty of the Station House Officer of the Police Station approached to reduce the said complaint into writing read it over to the complainant and on his or her acceptance about the correctness of the recorded statement, obtain his or her signature and issue the FIR.
5. If any Station House Officer refuses to take cognizance of the complaint which discloses a cognizable offence, the concerned citizen can send the substance of such information in writing by post or hand it over in person to the Superintendent of Police of the district having jurisdiction over that Police Station. The concerned Superintendent of Police, if satisfied that information disclosed the commission of a cognizable offence, shall either investigate the

case himself/ herself or direct an investigation to be made by any Police Officer sub-ordinate to him/her (Section 154 Cr.PC).

6. In case, the complaint made to the police Officer by the citizen does not disclose the commission of any cognizable offence, the concerned Police Officer in-charge of the Police Station can refuse investigation into the complaint. He shall enter or cause to be entered the substance of the information disclosing a non-cognizable offence in station diary, refer the informant to the magistrate (Section 155 (1) Cr.PC).

7. If such complaint is made in writing, the Station House Officer of the Police Station must issue an acknowledgement for having received the complaint.

8. If the complainant is not satisfied by the refusal of the Police to register a case on his or her complaint, he or she can approach the court and if directed by the court in writing, the concerned Police Officer shall register the case and investigate as per orders of the court. In such cases non cognizable cases, the Police Officer does not have power to arrest without warrant.

9. If the Officer in charge is satisfied that there are no sufficient grounds to investigate the case, he can record his reason in the F.I.R. and inform the complainant to that effect and send a copy of the F.I.R. to the Court and also issue an endorsement to the complainant to this effect. (157 (b) Cr. P.C).

10. In case, the place of occurrence of the offence does not fall in the jurisdiction of the Police Station at which the Complaint has been made or the FIR has been registered, the Station House Officer after registering the F.I.R., should transfer the case to the Police Station having jurisdiction over the place of occurrence and inform the complainant regarding this transfer. This fact has to be mentioned in the F.I.R. itself. On the ground of jurisdiction alone, issue of F.I.R. should not be refused or delayed.

11. After completion of investigation the investigating, officer should send written information under acknowledgement to the complainant informing him of the exact nature of the final report of the investigation in the case. (Section 173 (2)(i) Cr. P.C)

12. In the event of the complaint being closed as false or mistake of fact or mistake of law or undetected, the complainant has the right to challenge the Police report in the court.

13. A Police Officer investigating the case has the power to secure the attendance of any person who appears to be acquainted with the facts and circumstances of the case and examine such person. No woman or male person under the age of 15 years shall be required to attend at any place other than the place in which such male person or woman resides. (Section 160 Cr. P.C)

16. A Police officer may without an order from a Magistrate and without warrant, arrest any person under section 41 & 42 of the Cr. P.C. According to section 41 of the Cr. P.C any Police Officer may without an order from a Magistrate and without a warrant, arrest any person

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

or

(b) Who has in his possession without lawful excuse the burden of providing which excuse shall lie on such person, and implement of house breaking; or

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

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

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

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

(g) Who has been concerned in, or against whom a reasonable complaint has been made, or credible information has been received, or a reasonable/suspicion exists, of his having been concerned in, any act committed at any place out of India which, if committed in India, would have been punishable as an offence, and for which he is under any law relating to extradition, or otherwise, liable to be apprehended or detained in custody in India; or

(h) Who being a released convict, commits a breach of any rule, made under sub-section (5) of Section 356 of the code of criminal procedure ; or

(i) For whose arrest any requisition, whether written or oral, has been received from another police officer, provided that the requisition specifies the person to be arrested and the offence or other cause for which the arrest is to be made and it appears there from that the person might lawfully be arrested without a warrant by the officer who issued the requisition.

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

18. According to section 42 of the Code of Criminal Procedure,

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

(b) When the true name and residence of such person have been ascertained, he shall be released on his executing a bond, with or without sureties, to appear before a Magistrate if so required; Provided that, if such person is not resident in India, the bond shall be secured by a surety or sureties resident in India.

(c) Should the true name and residence of such person not be ascertained within twenty-four hours from the time of arrest or should he fail to execute the bond, or, if so required, to furnish sufficient sureties, he shall forthwith be forwarded to the nearest Magistrate having jurisdiction.

ARREST BY PRIVATE PERSON

19. Any citizen may also arrest any person under the circumstances listed in section 43 of the code of Criminal Procedure. According this section;

(1) Any private person may arrest or cause to be arrested any person who in his presence commits a non-bail able and cognizable offence, or any proclaimed offender, and, without unnecessary delay, shall make over or cause to be made over any person so arrested to a police officer, or, in the absence of a police officer take such person or cause him to be taken in custody to the nearest police station.

(2) If there is reason to believe that such person comes under the provisions of Section 41, a police officer shall re-arrest him.

(3) If there is reason to believe that he has committed a non cognizable

offence, and he refuse on the demand of Police officer to give his name and residence, or gives a name or residence which such officer has reason to believe to be false, he shall be dealt with under the provisions of Section 42 ; but if there is no sufficient reason to believe that he has committed any offence, he shall be at once released.

20. While making the arrest of any person, the following steps are required to be taken.

(a) 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.

(b) 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 counter -signed by the arrestee and shall contain the time and date of arrest.

(c) A person who has been arrested or detained and is being held in custody in a Police Station or interrogation center or other lock-up, shall be entitled to have one friend or relative or other persons known to him or having interest in his welfare being informed, as soon as practicable, that he has been arrested and is being detained at the particular place, unless the attesting witness of the memo of arrest is himself such a friend or a relative of the arrestee.

(d) The time, place of arrest and venue of custody of an arrestee must be notified by the Police where the friend or relative of the arrestee lives outside the district or town through the 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.

(e) The person arrested must be made aware of this right to have someone informed of his arrest or detention as soon as he is put under arrest or is detained,

(f) An entry must be made in the diary regarding the arrest of the person which shall also disclose the name of the friend who has been informed of the, arrest and the names and particulars of the Police officials in whose custody the arrestee is.

(g) The arrestee should, where he so requests, be also examined at the, time of his arrest and major 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.

(h) The arrestee should be subjected to medical examination by a Government doctor every 48 hours during his detention in custody.

(i) Copies of all the documents including the memo for arrest, referred to above, should be sent to the jurisdictional Magistrate for his record,

(j) The arrestee! May be permitted to meet his lawyer during interrogation, though not throughout the interrogation.

(k) Information regarding the arrest and the place of custody of the arrestee shall be communicated within 12 hours of effecting the arrest to police control room, this information should be displayed on the notice board near the Control Room.

21. Any person accused of a bail able offence and arrested or detained without warrant by an officer in-charge of the Police Station or such person is brought before the court and he is prepared at any time while in custody of such officer or at any stage of the proceeding before such court to give bail, such person shall be released on bail.

22. Properties recovered by Police are to be returned to the claimant or the owner through a court order. The claimant has to file an application in the court. The court normally asks for the opinion of the Police. Normally, the court insists on an indemnity bond to the effect that the property would be produced before the court as and when required. Police on their own cannot release the seized properties to the claimant.

23. Whenever a Police Officer conducts a search of any place or person as authorized under the Law, he should prepare a search list indicating the articles seized from the premises or the person as the case may be in the presence of two witnesses who belong to the area where the search was conducted. A copy of the search list should be given to the owner of the place or the person from whom the seizure was made.

24. If the person who is suspected to be concealing any article for which a search is required to be done happens to be a woman, the search shall be made by another woman with strict regard to decency.

25. In a situation in which a person traveling by train loses his property, the concerned person may lodge a complaint at any place en route on the train journey irrespective of the exact place where the property might have been lost. Such complaint may be made by the passenger to the traveling Train

Ticket Examiner on the train / train Guard or with the. Railway Police Constable / Head Constable or any other Police Officer who may be On duty on the train regarding such a loss. The concerned passenger should give his full postal address and telephone number where he may be contacted in case of recovery of such property or for further investigation about the loss of the property. After receipt of such complaint, the concerned Train Ticket Examiner / Train Guard or Railway Police Officer is bound to get the case registered at the immediate next railway police station. It is the duty of the Railway Police Station Officer receiving such complaint firstly to register the case and to get the investigation done by the competent police officer having jurisdiction. The concerned passenger who makes the complaint need not take the trouble of going to the jurisdictional Railway.

LAW AND ORDER

- a. While on duty, Police officers shall be accessible to members of public.
- b. It is the duty of every Police Officer in charge of an area to keep it peaceful and the public satisfied with the security afforded to persons and property.
- c. The Jurisdiction of every "Police Station is normally divided into areas for service of beats by the Officer in charge by deputing Police Constables /Head Constables.
- d. It is the duty of every police officer to take all steps necessary, in proper time, to prevent breach of peace or serious riots. In the event, it takes place, all measures shall be taken by him with highest priority to bring the situation back to normal.
- e. Every Police Officer shall maintain close liaison with the important citizens of the area through citizens' committee, peace committee and Moholla Committee for the maintenance of peace in the area.
- f. It is the duty of every Police Officer to take firm action against antisocial elements, goondas and rowdies in that area.
- g. It is the duty of the Police to maintain public order during fairs and festivals, public functions, processions, strikes, agitations etc.
- h. No Police Officer shall discriminate on grounds of race, caste, community, language, religion, region, sex or political affiliation.
- i. Police Officers may be deputed for a short duration, to maintain order and peace, at places of entertainment, etc. by charging fees according to the scale

fixed by the Govt. from time to time.

j. Citizens may contribute to the general- well being of the society by rendering all assistance, cooperation and by providing information to Police Officers for the maintenance of law and order and prevention of breach of peace.

UNNATURAL DEATHS

Under the Law, the Police Officers are required to find out the cause of death in cases where they receive information that a person (a) has committed suicide or (b) has been killed by another person or by an animal or machinery or by an accident or (c) has died under circumstances raising a reasonable suspicion of foul play. If the body is unidentified, the investigating Officer makes a record of the of the dead-body and takes the finger impression of the deceased. The photograph of the deceased is taken. These descriptive particulars are circulated to all the surrounding stations. An inventory is prepared regarding the articles of clothing, jewellery, documents and other articles found on or near the dead body. The dead body is forwarded to the Competent Medical officer for the purpose of post-mortem examination. In case the identity of the deceased is known, the relatives of the deceased are informed by the Police regarding the unnatural death. After the Medical Officer's examination is completed, the Police shall, unless they have received orders from a Competent Authority to the contrary, hand over the dead body to the relatives or friends of the deceased.

TRAFFIC

1. All Motor Vehicle accidents where any person is injured or any property is damaged, the driver of the vehicle or other person in charge of the vehicle should report about the occurrence of the accident at the nearest Police Station as soon as possible and in any case within 24 hours of the occurrence.

2. It is the duty of the drivers of the vehicle involved in an accident to take all reasonable steps to secure medical attention for the injured persons.

3. It is the duty of all the Registered Medical Practitioners to give medical assistance to any injured person involved in a road accident brought to him or her by any Police personnel or citizen.

4. The police Officer who first arrives on the scene of an accident should render such first aid as possible in respect of the injured person in the road accident and take immediate necessary steps to procure medical aid or send the injured person without loss of time to the nearest hospital or any registered medical practitioner for treatment.

5. In case of accidents, property on the person of the injured / deceased should be handed over to the blood relatives or the acquaintance of the deceased who establishes his proper identity by the Police Officer under proper acknowledgement.

6. In all cases of road accidents, apart from a free copy of FIR as in all other cases, the complainant is entitled free of cost the following information in the prescribed Performa Name of the Police Station, FIR Number, Name of the accused; Name of the victim; Date and time of occurrence; place of occurrence; Registration Number, model and type of vehicle involved; Driver's name and address; Driving License particulars; Owner's name and address; Name of Insurance Company with which the vehicle is insured; and Name of the dependents in case of death of the victim. A field copy in prescribed Performa is also sent to the district motor accident claim tribunal which decides about the compensation to be paid in the case.

7. The complainant or victim of a road accident or his or her representative can obtain the copies of the following documents from the Investigating Officer;

- i) Inquest Report (In case of death)
- ii) Rough Sketch of the spot;
- iii) Report of inspector of Motor Vehicles ;
- iv) Final report of the investigation ;
- v) Post Mortem Report in case of death ;
- vi) Inquest proceedings ;
- vii) Wound Certificate.

8. The Police Officer can detain the vehicle involved in an accident till it is subjected to inspection by the motor Vehicles Inspector. If the vehicle is seized by the Police Officer for the purpose of inspection, the vehicle should be got released through Court after obtaining an Indemnity Bond.

9. In respect of the hit and run cases, resulting in grievous injuries or death of the victim where the accused is / are not traceable, there is a scheme called the Solatium Scheme. Committee have been formed in all districts of Jharkhand under the chairmanship of the Deputy Commissioners to award compensation in such cases.

Applications can be made to these committees within 6 months from the date of

accidents or within 12 months if there are special reasons for the delay. In a case of claims arising out of grievous hurt, the application should be made by the person injured. Amount of compensation will be paid as fixed from time.

The applicant has to enclose a copy of the FIR along with his application to Deputy Commissioner. The other documents are to be obtained by the Claims Enquiry Officer appointed under the Solatium Scheme.

10. In all other cases of road accidents, in each district, there is a Motor Accidents Claims Tribunal for the purpose of adjudicating upon claims for compensation in respect of accidents involving the death of, or bodily injury to, persons arising out of motor vehicles or damages to any property of a third party so arising or both.

- i) The Tribunal can be approached by
- ii) The person who has sustained the injury; or
- iii) The owner of the property; or
- iv) Where death has resulted from the accident, by all or any of the legal representatives of the deceased; or
- v) any agent duly authorized by the person injured or all or any of the legal representatives of the deceased as the case may be.

The application shall be made on behalf of or for the benefit of all the legal representatives of the deceased and the legal representatives who have not so joined shall be impleaded as respondents to the application.

Application for the claim can be made either to the Claims Tribunal having jurisdiction over the area in which the accident occurred or to the Claim Tribunal within the local limits where the claimant or defendant resides. The Claims Tribunal have all the powers of a Civil Court.

11. Persons with valid driving license issued by the Regional Transport Officer only can drive or ride a motor vehicle.

12. Owners of vehicles who allow their vehicles to be driven by persons without valid driving license are liable for prosecution.

14. When a Police Officer in uniform demands production of a driving license, It should be produced by the concerned 'Motor Vehicle driver. Police Officer is authorized to seize any document if he suspects that the document produced is a false document. Whenever such documents including the Driving License are seized, due acknowledgement should be given by the Police Officer who seizes it.

SERVICES

1. Every Citizen who wishes to possess a fire arm may apply to the District Magistrate giving the reasons for the possession of weapon.

The licensing authority for the grant of Fire Arm license is the District Magistrate of the concerned districts. The License is granted in respect of a Fire Arm of the non-prohibited category to acquire and possess for self protection by the Citizen. The District Magistrate to whom the application is made has the power to issue license restricting the validity to the district level only. In suitable cases the validity could be extended to the state level by the District Magistrate as the case may be. The power to extend the validity of the license to cover the whole country vests with the State Government.

After due verification of antecedents as well as the necessity to possess the firm arm sought for such license will be granted after collecting prescribed fee.

1. Those who possess fire arms, on expiry of the arms license have to immediately deposit the weapon possessed by them with the nearest Police Station or the Arms Dealer till their license is renewed.

2. In case of death of the licensee, the next of kin should deposit the weapon for safe custody either with the nearest Police Station or with any licensed Arms Dealer. The next of kin of the licensee may claim the weapon after obtaining Arms License for himself.

4. Any person who wishes to, conduct public amusement should obtain a license from the competent Authority.

5. A license should be obtained for all public announcements made through public address system and the time stipulation made in the license should be strictly adhered to.

6. A license from District Superintendent of Police should be obtained for assemblies in public places and processions on the public roads, streets or thoroughfares.

7. A license from the competent authority should be obtained for storage of any explosive or inflammable substance.

8. Any citizen aggrieved by sound pollution can take action as provided under section 19 of the Environment (Protection) Act, 1986. The Standards in respect of noise are stipulated in scheduled III as per rule 3 of the Environment (Protection) Rules, 1986.

NATURAL CALAMITY / MAN MADE DISASTER

It will be the duty of every Police Officer to render such measures as appear necessary for the preservation of life and property and the maintenance of law and order. All possible assistance should be rendered by the Police to the Civil Defense, Revenue, Public Works, Railways, Fire force and other relief and rehabilitation work, so that remedial measures taken may be expeditious and effective.

REDRESSAL OF PUBLIC GRIEVANCES

Citizen who may have any grievances against the Police may complain in respect of their grievances to the following authorities:

1. To any Superior officer. The current telephone numbers at which these officers can be contacted are furnished at Annexure -5
2. Complaints from any citizen residing within the limits of any District may be made to the Superintendent of Police whose office is located in that particular district headquarters. In the case of Railways such complainants from the Citizens may be made to the Superintendent of Police (Railway).
3. In the district, each Village is visited by the beat Police Constables & Head constables from each Police station having jurisdiction over the village. Any citizen from the village can inform the beat police constable or the Head constable about his or her grievance. The beat Police constable or Head constable will convey the said grievance to the concerned authority for suitable action.

In case the complaint is against any particular police officer, then the citizen can lodge the complaint with any officer senior in rank to the officer complained against. The organizational chart is given in Annexure 3 & 4 at the charter.

Whenever a citizen makes a petition/complaint, he shall be given an acknowledgement and issued an endorsement regarding action taken to the petitioner.

In addition to this, Citizens Committees have been formed in each Police Station. Citizens from all walks of life are being co-opted to this Committee. The Citizens Committee meetings are held periodically in the Police Stations and they offer suggestions and bring grievance of the local people to the knowledge of the Officers in charge of the Police Station are also present during such meetings. A separate register has been maintained and important

suggestions and grievances expressed by the members of the Citizens committee are entered in this register and efforts are made to redress the grievances.

A meeting of victims of crime with the investigating officers of grave crimes which are pending investigation is held once a month in each sub-divisional headquarters. The complainants in grave crimes which are still pending investigation are invited to this meeting and they shall be provided information about the stage of the investigation, reasons for non - detection and efforts made to detect and finalize the case Help-lines for children, women and senior citizens are functioning in District headquarters. These help-lines can be contacted by the citizens in appropriate situations and the police officers manning these help lines will be available to render suitable assistance.

CONTROL ROOM

Police Control Rooms shall work all the 24 hours in the district headquarters. In case of emergency, public can contact the control Room by dialing telephone 100 for immediate police assistance.

DUTIES OF CITIZENS

According to Article 51A of the Constitution of India, it is the duty of every citizen of India to safe guard public property and to abjure violence. The Law also makes it compulsory for the citizens to report to the police, if they have witnessed or they have any information about the following offences made punishable under the Law.

- (a) Offences against the State.
- (b) Offences against the public tranquility.
- (c) Offences relating to adulteration of food and drugs etc.
- (d) Offences affecting life
- (e) Offences relating to kidnapping for ransom.
- (f) Offences of theft after preparation made of causing death, hurt or restraint in order to the committing of the theft.
- (g) Offences of robbery and dacoity
- (h) Offences relating to Criminal Breach of Trust by public servant.

(i) Offences of mischief against property.

(j) Offences of house of lurking house trespass as specified in Sections 449 and 450 Indian Penal Code.

(k) Offences relating to currency notes and bank notes. Omission to give such information is punishable in law. It is the duty of the Citizens to co-operate with the Police in investigation of the case at the time of drawing up search and seizure list, or inquest proceedings in the interest of furthering criminal justice.

