CHAPTER I

Overview

Stagnation in ideas, processes, policy and legislation on policing, and on issues relating to the maintenance of law and order in India, has been endemic after Independence, and the limited advances that have been made have been a consequence, overwhelmingly, of the imperatives of emerging crises, of rapidly transforming technologies, or of unmediated changes in political equations and administrative practices. The dominant approach, consequently, has been of crisis management through a succession of *ad hoc* and emergency measures, and most of the trends in force transformation or procedural and institutional changes have been provoked, not by planned intent, but by the accidents and exigencies of evolving situations.

Perhaps the most obvious index of the general failure of planned transformation is visible in the fact that, though the scope of policing and the frontiers of criminality have been expanding exponentially since Independence, with terrorism and the changing internal security scenario adding a dramatic new dimension to the character and scale of the challenge, police administration in India is still governed by the archaic colonial Police Act of 1861. From a conventional law and order role, the Indian police has been progressively drawn into the dynamics of international and regional security tensions, the war against persistent and widening networks of terrorism, the transnational dynamics of organised crime, the increasing sophistication of a range of technology-driven

offences, and the rising complexity of social and political conflicts that require skills, sensitivities and capabilities far beyond the projections of those who drafted the mandate under which the police system is administered. Indeed, while conventional – often feudal – views of the police continue to dominate much of the political and policy spectrum, the role of the police has undergone radical transformation, catapulting the Force to the centre-stage of governance.

The emerging challenges before the police have been influenced by a host of international, regional and internal factors. In the contemporary world, the utility of war as a rational instrument of state policy to secure political objectives is being seriously questioned.[1] The lethality and destruction caused by conventional wars is too great to be offset by their intended political objectives. Furthermore, the advent of weapons of mass destruction has marginalised the significance and possibility of such conventional wars, with the imminent danger of a nuclear spiral. High-intensity conventional warfare has, consequently, become a less preferred option, with 'internal' conflicts aided and abetted by external powers in a pattern of 'low intensity war' emerging as the favoured substitute. These have now become far more common than inter-state war and, as Liddle Hart notes, "This is the only kind of war that fits the conditions of the modern age."[2] This 'kind of war' cannot be countered by conventional military

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[1] For a discussion on relevance of war in contemporary world, see Ken Booth, ed., *New Thinking about Strategy and International Security*, London: Harper and Collins, 1991; Martin Van Crevald, *On Future War*, London Brassey, 1991; and *The Transformation of War*, New York: Free Press, 1991.

[2] Quoted in Frank Kitson, *Low Intensity Operations: Subversion, Insurgency, Peacekeeping,* London: Faber and Faber, 1971, p. 16.

force – though such force may have a significant role in the state's responses – and inevitably creates unique challenges for contemporary policing.

India has long faced a number of insurgent, secessionist and terrorist movements. The character of these movements has grown immensely complex over time, and foreign support for these movements has become progressively more active and unconstrained, particularly from Pakistan. The Pakistan-sponsored Islamist terrorist movement, with its primary focus on Jammu & Kashmir, is by far the most dangerous and urgent of such current difficulties. There are, moreover, a number of secessionist movements in India's Northeast. Indeed, terrorism has claimed more lives than four full-scale wars that the country has had to fight since Independence. Between 1988 and May 15, 2002, 31,903 persons had lost their lives in the terrorist conflict in Jammu & Kashmir alone.[3] India lost approximately 5500 lives in full scale-conflicts while terrorism had claimed more than 60,000 lives.[4] Over six hundred thousand persons have also been rendered homeless by the scourge of terror in different parts of the country.[5]

Apart from secessionist and terrorist violence, there has been a noticeable upsurge of crime in recent decades and the indications are that

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[3] South Asia Terrorism Portal, www.satp.org.
[4] Union Law Minister Arun Jaitely, during a debate on Prevention of Terrorism Act (POTA), in Rajya Sabha on March 18, 2002. See, "Joint Session likely to pass POTO", *The Hindu*, Chennai, March 19, 2002.
[5] *Times of India*, New Delhi, March 18, 2002.

the crime graph will continue to register an upward trend.[6] The most disturbing aspects of these tendencies are the widening tentacles of organised crime and its linkages with international terrorist groupings. What is projected, consequently, is a fundamental change in the very nature of organised criminal activity:

> The emergence of global financial and trading systems, and the progressive dismantling of trade barriers and internal restrictions on businesses within the country over the past decade, has fundamentally changed the context in which criminal organisations operate… An overwhelming proportion of organised crime, today, is not predatory but collusive – based on a continuing and symbiotic relationship of acquiescence between criminal enterprises on the one hand and, on the other, government agencies, officials and enterprises whose primary businesses lie within the ambit of the law. 'Enterprise Crime' now engages in a mixture of co-operation and competition both with governments and the larger business community. Their growing power is based on their capacity to exploit (rather than disrupt) legitimate business and financial activities, and their ability to corrupt government and law enforcement agencies… This contemporary blend of corporate and criminal cultures is not susceptible to the solutions of the past… The fact is, criminal

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6   S.P. Srivastava, "The Indian Police in the Twenty First Century: Challenges and Response", in Jaytilak Guha Roy, ed., *Policing in Twentyfirst Century*, New Delhi:

syndicates have now gone transnational…[7]

Various Left Wing extremist (Naxalite) movements also afflict parts of Andhra Pradesh, Bihar, Jharkhand, Orissa, Chhattisgarh, Madhya Pradesh, Maharashtra, West Bengal and Uttar Pradesh. Communal and caste violence, and frequent breakdown of law and order pose added problems for internal security management. Apart from this, legitimate political movements, if not handled properly, can also produce unexpected and avoidable crises, and there is, today, a welter of political movements and transient agitations that create a continuous and rising challenge for policing. The process of modernisation and democratisation has made people progressively conscious and assertive about their rights and, as Rajni Kothari notes, "the state is facing the greatest challenge from those very people who are being increasingly politicised by the expansion of democracy but are not satisfied at the pace of socio-economic change".[8] Lopsided development, together with the lack of emphasis on institutionalising democratic norms, has rendered the Indian state weak and vulnerable to a variety of social challenges, and the national scene is often marred by violent protests and demonstrations.

It is now commonplace to observe that, at the heart of these many problems is a crisis of governance. Good governance means efficient and effective administration in a democratic set up, with a penetration down to

Indian Institute of Public Administration, 1999, p.10.

[7]   Ajai Sahni, "Enterprise Crime Targets Nation's Economy," *The Pioneer*, New Delhi, January 21, 1999.

[8]   Quoted in Kuldeep Mathur, "The State and the Use of Coercive Power in India", *Asian Survey*, Vol. XXXII, no., 4, April 1992, p. 338.

the grassroots level.[9] In India, the crisis of governance has assumed unprecedented dimensions and urgency as a result of the rising intensity and magnitude of internal security threats that not only hamper national development and progress, but add significantly to political and social instability. *The maintenance of internal order at a satisfactory level is a basic prerequisite for governance, and in its absence, the entire enterprise of administration, of development, and of nation building, is destined to fail.* The ultimate objective of the national enterprise, and within it, of law and order administration, is the adoption of new values of governance with a view to establishing the greater efficiency, legitimacy and credibility of the system.[10] This challenge has added new dimensions to the task of the police in this country:

> The Indian Police has not only contributed to the primary and often not spectacular essentiality of maintaining peace and order, its functions have taken deeper and deeper dimensions…playing a vital role in the contributory factors towards stability and development. It has come to serve more positive and sociological objectives.[11]

These expanding functions, however, cannot be viewed in isolation. The interface of the police with various other organs of the state and different sections of civil society has far reaching consequences for it's

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[9]   H.K. Asmerom, K Borgman and R Hoppe, "Good Governance, Decentralisation in Post-colonial State," *Indian Journal of Public Administration*, Vol. 41, No. 4, October-December 1995, p. 736.

[10] O.P Minocha, "Law and order Administration and Good Governance", in Jaytilak Guha Roy ed., *Policing in Twentyfirst Century*, p. 87.

[11] PD Shrama, *Indian Police,* New Delhi: Uppal, 1995, preface.

functioning. The role of the police is part of the state's response to various challenges to its authority, internal stability, democracy and development. The use of force by police to maintain law and order, to ensure internal stability, and in defence of the values of democracy and processes of development, is an integral part of this role, but within the proviso that such use of force, and the democratic state itself, must be perceived by most of its citizens to be legitimate. This is the principle that underlies Max Weber's concept of state and its foundation in these dual characteristics of legitimacy and force: "A state is a human community that (successfully) claims the monopoly of the legitimate use of physical force within a given territory."[12] Kuldeep Mathur elaborates on this concept,

> Coercion, accepted as the defining characteristics of the state, has a dual character. It guarantees the reproduction of domination and order and suppresses challenges to state authority. In course of time, it helps to create conditions that allow for voluntary obedience of laws and their legitimisation. Yet coercion also undermines legitimacy. Continuous use of force to suppress dissent, resolve social conflicts and maintain order may lead to the erosion of legitimacy and undermine the capacity of state to govern.[13]

This demands a delicate balance, the maintenance of a dominant image of fairness and justice in the use of force by the state and the activities of its coercive apparatus and agencies, so that "confidence in the

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[12] Max Weber, "Politics as a Vocation", in HH Gerth and C Wright Mills eds., *From Max Weber*, New York: Oxford University Press, 1946, p.78.

future improvements in the system is maintained among larger section of the population, (and) the use of force will be regarded as legitimate and tolerated as necessary part of the social change."[14] The stability of a democratic regime, consequently, depends on the way it responds to social conflicts and the way it uses force.

Regrettably, the police in India, instead of being regarded as an instrument to enforce the rule of law, are largely viewed as ineffective in controlling crime and criminals, and, worse, their use of force is often thought to be arbitrary, unfair and partisan. The common public widely views the police as a pliable tool in the hands of unscrupulous politicians, a tradition that was established through their oppressive exploitation by the rulers during the colonial period.[15]

Over the past three decades, however, a notable acceleration in the process of degeneration has been visible, substantially as a result of the evolution and consolidation of an insidious network of politicians, delinquents and anti-social elements, as well as the direct criminalisation of politics, which has affected police performance more that the performance of any other state institution.[16] This process has gone side by side with the politicisation of the police, and increasing interference in the placement and

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[13] Kuldeep Mathur, "The State and the Use of Coercive Power in India", *Asian Survey*, Vol. XXXII, No., 4, April 1992, pp. 337-38.

[14] Juan Linz, *The Breakdown of Democratic Regimes: Crisis Breakdown and Re-equilibrium*, Baltimore: The John Hopkins Press, 1978, p. 16.

[15] Ved Marwah, A citizen-friendly force? www.india-seminar.com/semframe.htm.

[16] Ibid.

transfer of police officers on considerations other than the non-partisan principles of merit and efficiency of law and order administration.

Among other negative effects, this has resulted in uncertain tenures and, specifically, has shortened the tenures at the cutting edge of the police administration – in the rank of Superintendents of Police (SPs) – with a direct and disastrous impact on the independence and effectiveness of the Force. Political leaders have progressively acquired a definitive role in the continuation of SPs at places of their postings. This has seriously affected morale, discipline and performance, and has also resulted in polarisation in some States on religious, caste and ethnic lines, significantly eroding the credibility of the police.

The decline in the average duration of a posting at the SP level, and the persistence of a perpetual 'Damocles sword of transfer' throughout such a tenure, appears at a crucial juncture when the complexity of tasks and the manpower in an SP's charge are expanding continuously and at a rapid pace. Consequently, despite extraordinary achievements under the most trying circumstances, the image and authority of the police has suffered immensely. Clearly, a study of various aspects of the police as an institution in an evolving relationship with the political process is an urgent imperative.

THE STUDY

A preliminary survey of literature on police administration in India suggests that the issue of the periodicity and impact of transfers is a grossly under-researched area. There has been no conclusive documentation on the

subject and little research on the impact of existing practices on the efficiency and effectiveness of SPs in India. The existing understanding of the subject is, consequently, far from comprehensive. Analyses have largely focused on an overview of the political environment in which the police functions and on the broad interplay of political process and police organisation which have resulted in the rising frequency of transfers. Government documents and reports of various committees/commissions appointed by the government largely confine themselves to the definition of guidelines and recommendations. Attitudinal and behavioural patterns due to the prevailing system of frequent transfers, and its consequent impact on crime and law and order management, have not been adequately mapped.

The present study is an attempt to fill some of these lacunae. An effort has been made to empirically establish the linkages and correlation between security and length of tenure, on the one hand, and performance efficiency in crime and law and order management of officials of the rank of Superintendent of Police, on the other. The study also attempts to review and analyse existing literature on the subject, including comparable experiences in the United Kingdom, where certain commonalities exist with the India's policing system. The primary objective of the present study is to define and evaluate appropriate norms and practices on which the States' transfer policy with regard to officers of the rank of SP need to be based.

The origin of this study lies in the widespread perception about mismanagement of principal law enforcing agencies by successive governments, and the increasing deviation from current norms and practices governing the transfers of Superintendent of Police.

This study, seeks to bring an inter-disciplinary focus on the problem of security and length of tenure in the police force, and to analyse its impact on efficiency and effectiveness in crime and law and order management. Specifically, it proposes to:

1. Identify the linkages, correlation and dynamics of the interaction between security and length of tenure of officers at the rank of SP and performance in crime and law and order management.

2. Review and analyse existing data and literature on the subject.

3. Define and evaluate appropriate norms and practices that ought to determine the State's transfer policy with regard to officers in the rank of Superintendent of Police.

HYPOTHESES

1. Increasing politicisation of transfers leads to erosion of efficiency in policing and law enforcement.

2. The transfer policy of SPs has remained, at best, an *ad hoc* arrangement subject to the whims of political leaders.

3. A fixed tenure for SPs is the best guarantee against the erosion of efficiency and better control over the law and order situation in an area.

4. Allowing current trends to continue will tend to strengthen the forces of disorder, especially organised criminal groups who have a strong nexus with political actors.

5. There is a need to establish clear norms to govern the security and tenure of officers at the rank of SP.

METHODOLOGY

Within the framework of the general approach outlined above, several methodological principles were applied to establish the system of investigation for the study. Though the unit of observation was the SP, care was taken to draw a sample from senior police officers, and various sections – academicians, journalists, social activists and political actors – in civil society. The reason for such diversity was the quantification of perceptions of different segments – police and non-police – to secure a comprehensive picture of the problem and its diverse assessments by different affected groups.

The study was conducted in three phases. Each phase had a different purpose and separate methods of investigation. This methodological pluralism produced a wider range of information and its optimal use in analysis. The first stage involved a survey of the available literature, as well as preliminary qualitative observations, including several formal and informal discussions with serving and retired police officers, politicians, academicians and civil servants. This research, discussions and interviews:

- established the basis for a better approach to the field;

- helped sharpen, according to the context, the conceptual basis of the study;

- defined relevant questions for the subsequent survey;

- contributed to an understanding of the rationale, motivation and attitudes that direct the action/behaviour of key decision-makers in the government.

The first round of research, observations and interactions enabled, particularly, the identification of the informal machinery, practices and relevant terminology, including the formal and the informal systems of transfer of Indian Police Service (IPS) officers that prevailed in the States under study. At this stage of initial inquiry, large discrepancies were found between the projected theories or policies and the actual practice. This round specifically helped discover the contours of the informal set-up and practices which had no visible place in the lexicon of the formal system, including the categorisation of postings based on positive and negative incentives, 'prize postings', 'punishment postings', 'plane postings', etc. This stage also helped identify some specific cases of political interference.

Formal and informal discussions thus generated information, interpretations, an understanding of perspectives, attitudes, behaviour and related problems reflecting on the planning or evaluation of crime and law and order management. In this phase, both structured and unstructured types of interviews were used. The primary issues covered during the interviews were – political scenario, coalition culture, IPS neutrality, police-politics interface, levels of criminalisation, transfer and morale, transfers and

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efficiency of law and order administration, and measures to improve the situation. At this stage, material culled from an intensive review of the existing literature on the subject was reconciled with the practical observations born out of ground experience.

The second stage involved an intensive field survey in three selected States: Uttar Pradesh, Andhra Pradesh and Assam. The basis for selection of these States was their geographical location (dispersal), size, political stability and instability, diversity of challenges faced by the police, nature and extent of political interference in the working of the police, and the frequency of transfers of SPs. Each of these factors had been identified and assessed in terms of their significance on the basis of formal and informal discussions, as well as information garnered from secondary sources.

The second phase included a quantitative survey that was administered to IPS officers and various segments within the larger public. An extensive questionnaire was developed to study the problem of frequent transfers in the rank of SP, and their impact on the efficiency and effectiveness for policing. The survey instrument was a multiple-choice questionnaire yielding quantified perceptions of respondents on various questions on an intensity scale of ten, with 1 denoting Very High and 10 denoting Very Low. A sample of ten per cent of total cadre strength of IPS officials in the three target States was taken. Questionnaires also allowed for the inclusion of qualitative observations and remarks on each of the questions as well as for general observations on the entire questionnaire and issues under study.

Data generated in all the three phases of the survey thus yielded ample quantitative and qualitative information, which was then subjected to a systematic analysis to deduce trends and generate reliable assessments.

All quantitative data were tabulated to map the impact of the frequency of transfers on the efficiency and effectiveness of SPs. This created continuity in data sets, an integrated database and the broadest possible indicators on which an overview on the issue under study was constructed. The process of analysing collected data was designed as a trend-indicator device, permitting the analysis of changes vis-à-vis attitudes and behavioural patterns relating to the subject of study.

MEASURING EFFICIENCY AND EFFECTIVENESS OF POLICE ORGANISATION

Meeting the contemporary challenges confronting the police demands high degrees of professionalism and efficiency. The very character of policing, with its increasing complexities, continuous transformation and growing linkage with the fundamental interests of the state, the multifaceted tasks of governance, and the unity and integrity of the nation, demand special kinds of administrative and personnel skills, and the development of unique tools and strategies. The nature of policing demands that operations and activities undertaken by the Force have to be time bound, even as they meet and exhaust procedures established by law.

The assessment of efficiency and effectiveness in the police is a very complex issue as a result of the variety of tasks executed by the Force, as well as the many accountable and unaccountable services it is engaged in

providing. Efficiency, if we borrow the concept from economics, at its barest, means consumer satisfaction maximized at least cost to society. Applied in the context of policing, this would require a comparison of costs and resources used and benefits produced so that resources allocated maximise the 'policing gains' to society. This means that the police organization needs to ensure that 'value for money' is achieved and, to this end, competitive pressure has to be created internally. Effectiveness in policing would then be measured by the extent to which the police organization is accomplishing its purpose.

While the ideal police department is both efficient and effective, the two conditions are by no means inextricably linked. An operation may be effective but still inefficient. For example, a successful criminal investigation, which results in the arrest of the offender, but which could have been achieved in as timely and as thorough a manner with less than the resources deployed, would be inefficient. Conversely, an activity may be efficient without being effective.[17]

Researchers have made a variety of attempts to assess the efficiency of the police. One of the most commonly employed methods is the tendency to use crime statistics to measure police effectiveness. However, recent research has shown that crime statistics are very imperfect reflection of the true nature of crime and of policing.[18] Many factors intervene between the

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[17] P.N. Grabosky, "Efficiency and Effectiveness in Australian Policing", http://www.aic.gov.au/publications/tandi/ti16.pdf. Also see Paul D. Epstein, "Measuring the Performance of Public Service," in M. Holzer ed., *Public Productivity Handbook*. New York: Marcel Dekker, 1992, pp. 161-194.
[18] Ibid.

commission of crime and its transformation into a crime statistic. Not all crimes committed come to the notice of the police. Statistics, which purports to reflect these, often tell us more about police resource allocation than they do about the target criminal activities. A British Home Ministry study suggests that the more accessible the police, the greater the tendency of a citizen to report an offence.[19] Thus, ironically, an increase in the rate of reported crime could, in these circumstances, as easily be interpreted as *indicative of effectiveness* as it would be regarded as cause for concern.

Another method of quantifying police efficiency and effectiveness is cost-benefit analysis, which seeks to determine whether a particular activity represents a worthwhile use of resources by comparing the monetary cost of an activity with its monetary consequences.[20] A variant is 'cost effectiveness analysis', which determines how a particular objective can be attained, at least cost. The latter differs from cost benefit analysis in that cost effective analysis does not ask whether the activity is worth doing in the first place. Nor does it entail the monetary quantification of the effects of the activity. It can, however, provide a basis for strategic planning.

These various notions of efficiency, however, are not easily applied to the police organization. The ultimate ends of policing often resist quantification, particularly in terms of money. A significant proportion of police resources are also devoted to tasks quite unrelated to the prevention of crime and the apprehension of offenders. Crime is, furthermore, the

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[19] R. Clarke and M. Hough, *Crime and Police Effectiveness*, Home Office Research Study No. 79, London: Her Majesty's Stationary Office, 1984.
[20] Vikki Dadds and Tammy Scheide, "Police Performance and Activity Measurement",

product of many factors, many of which are beyond the control of the police to influence. The police, moreover, also deliver a range of unstructured services which find little mention within the official record of their tasks, but are integral to their role in ensuring harmony in community relations, and minimising social friction within their jurisdictions.

Another index sometimes taken into account while measuring police efficiency is response time. That is, the sooner the police arrive at the scene of a reported crime, the more likely they are to provide relief or apprehend the offender, and, consequently, the greater their 'efficiency'. This approach also suffers from deficiencies comparable to the others outlined. In the first instance, not all crimes are susceptible to the impact of a timely police response. More significantly, this approach does not take into account the enormous preventive work of the police, which has assumed far greater significance in the contemporary context. Response time, moreover, is defined by a wide range of variables that are not properly comparable between jurisdictions, and certainly not comparable between different societies or countries. Consequently, while a minimal response time is certainly the objective of any police organisation, it is not particularly useful in the development of consistent indices of 'efficiency' within and between police organisations.

Clearly, there is no simple method by which the efficiency of the police can be assessed, though the elements of the various indices mentioned above would constitute necessary, though not sufficient, parts of

http://www.aic.gov.au/publications/tandi/ti180.pdf.

such an assessment. It would be safe, however, to assert that key elements in the efficiency of policing would include the following variables:

- better human resource management;

- efficient macro-management of the force;

- efficient management of material resources;

- harmonious relationship with the local community; and

- a harmonious relationship with other wings of the government since many of the strategies of crime and law and order management involve other agencies as well.

Any approach that focuses simply on the quantum of manpower and resources, consequently, creates no guarantees of improved efficiency and effectiveness. Of equal significance is the issue of the utilization of existing resources and the pattern of their transformation into policing activities. Quantitative growth in numbers and addition of sophisticated weapons do not necessarily make for efficiency of the police force. The key question is, how improvements in administration and management can bring about increases in the effectiveness of the organisation.

Whatever the specific measures through which such transformations are sought, the SP is their hub and pivot in the district, and his management of the human and material resources at his disposal is the critical element in the enhancement of the efficiency and effectiveness of the police organisation in his jurisdiction. The costs of training and maintaining a sworn police officer are considerable. An assessment of the extent to which

uniformed personnel are underutilized could reveal substantial potential savings. Research studies reveal that the biggest challenge confronting police organisations today is the optimum utilisation of the available human resource and the maintenance of its qualitative and quantitative character at the desired level of effective use.[21] How SPs make their choices, the discriminate use of subjective and objective criteria in decision-making, and the procedural consistency and coherence of their responses to various choices, are thus crucial to the structure and efficiency of law and order administration. Any variable that works to the detriment of the integrity of these processes and choices, and that undermines the authority and independence of the SP, consequently, has a corrosive impact on the entire structure of administration and on public welfare in the local communities.

CRUCIAL POSITIONING OF THE SUPERINTENDENT OF POLICE IN THE POLICE HIERARCHY

Under the Constitution of India, the maintenance of law and order is within the competence of the State government and policing is a State subject.[22] Section 1 of the Police Act, 1861, states:

The Superintendence of the police throughout a general police district shall vest in and shall be exercised by the State government to which such district is subordinate, and except as authorised under

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[21] Dr. K.M. Mathur, *Measuring Human Resource Development: An Indian Perspective*, New Delhi: Gyan Publishing House, 2001, p. 237.

[22] The Seventh Schedule of the Constitution makes a clear demarcation between the operational areas of the Union and State governments. Entry II of List II of the Seventh Schedule vests with the State executive powers in regard to public order.

provisions of this Act, no person officer or court shall be empowered by the State government to supersede or control any police functionary.[23]

Therefore, the State government is entrusted with the powers of policy formulation, general administration and superintendence, resolution of problems of police officials at the higher level, and initiation of reforms in police organisation.[24]

The police in each State is organised and maintained as one police force for the entire State under the command of a Director General of Police (DGP). The DGP is responsible to the government for complete discipline in, and management of, the police force, and for efficient service as a means to preventing and checking crime, and the maintenance of law and order. The police in each State is organised and maintained as one police force for the entire State under the command of a Director General of Police (DGP). The DGP is responsible to the government for complete discipline in, and management of, the police force, and for efficient service as a means to preventing and checking crime, and the maintenance of law and order. A number of States have introduced the police Commissionerate system in big cities. The system was first introduced during the British period in Calcutta and then in Bombay (now Mumbai) and Madras (now Chennai). In the District Magistrate system, the District Magistrate is in overall charge of the criminal administration of the district or the territory, and he has the final say in any matter affecting law and order. In the Commissioner system, the

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[23]   Indian Police Act, 1861.

control is removed from the District Magistrate and is vested in the Commissioner of Police, who. is given all the regulatory and licensing powers under the various Acts, which normally a District Magistrate possesses, and also powers of restraint under the Code of Criminal Procedure. The National Police Commission had recommended that all cities with a population of five lakh or more should have the Police Commissionerate system.[25]

The district police organisation constitutes the hub of the Indian police system and is represented by the SP. At the district level, the SP heads the police, but in the scheme of Indian Administrative system, the civil administrative head in the district is the District Magistrate (DM), and law and order is under his civil jurisdiction. The arrangement contemplated in law for the administration of the police in the district is set forth in paragraph 2 of section 4 of the Police Act 1861 (Act V of 1861):

The administration of the police throughout the local jurisdiction of the Magistrate of the District shall under the general control and direction of such Magistrate be vested in a District Superintendent and Assistant District Superintendent, as the State Government shall consider necessary.[26]

Consequently, on the one hand, the district police are a part of a strong hierarchical organisation and, on the other, have, to a large

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[24]   Ramakant, *Police Administration*, Delhi: Osmos Publications, 1996, p.18.

[25]   Prabhjot Singh, "Do We Deserve This Police",
http://www.tribuneindia.com/2000/20001029/edit.htm

[26]   Indian Police Act, 1861.

extent, an operational responsibility to the DM. This system was introduced during the colonial administration because it was thought that the maintenance of the position of the district officer was absolutely essential to the maintenance of British rule in India.[27] Control of the DM over the district police has, however, undergone continuous transformations since Independence, and has assumed different forms in different States over time.[28] The dual control at the district level has increasingly become the cause of friction, divided loyalties, shirking of responsibilities and delay in execution of responsibilities. Indeed, this arrangement had become problematic long before Independence, and the Police Commission of 1902-3 observed that all the witnesses who gave evidence on that point before the Commission condemned this system. The Commission had noted that the Inspector General has 'no concern with the most important part of the police work and there is want of concert in police action throughout the Presidency.'[29]

The National Police Commission appointed by the Government of India in 1977 observed that the general control and direction of the DM cannot be construed as warranting any interference by that authority in the internal management of the police force. In fact, though the District Magistrate is referred to as the Head of the Criminal Administration by several State Police regulations and manuals, such a position is not conferred upon him by law either in the Police Act or the Code of

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[27] Chapter XXXIV, Fifth Report, National Police Commission, Government of India, 1980.

[28] Indian Police, p. 89.

[29] Police Commission, 1902-3.

Criminal Procedure.[30] Legally, the DM's power to control and direct the Superintendent of Police should only be restricted to selective and individual situations and should be exercised more as an exception than as a rule.

Despite this dual control over the district police, the existing legal set-up gives considerable amount of operational independence in matters relating to internal management of the force, and the control of crime, to the SP. Section 23 of the Indian Police Act states,

> It shall be the duty of every police officer promptly to obey and execute all orders and warrants lawfully issued to him by any competent authority; to collect and communicate intelligence affecting the public peace; to prevent the commission of offences and public nuisance; to detect and bring offenders to justice and to apprehend, all persons whom he is legally authorised to apprehend, and for whose apprehension sufficient ground exists; and it shall be lawful for every police officer for any of the purposes mentioned in this section, without a warrant, to enter and inspect any drinking shop, gaming house or other place of resort of loose and disorderly character.[31]

The National Police Commission reiterates the operational independence of the police in its observation that,

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[30] District Police and the Executive Magistracy, Chapter xxxix, Fifth Report, National Police Commission, Government of India.
[31] Indian Police Act, 1861.

…the Superintendent of Police should function with full responsibility and accountability as provided for in the law. He should have a large degree of operational freedom to deal with crimes, criminals and public order situations. We are of the view that the Superintendent of Police should be adequately armed under the law to deal with situations independently and without recourse to detailed consultation and advice from any other authority. We would at the same time stress that the powers to be vested in any authority should be commensurate with the performance expected from that authority. We, therefore, recommend that all such powers under the law which are required for regulation and control and for the promotion of order should vest in the Superintendent of Police, and other appropriate ranks in the police.[32]

In practice also we witness considerable independence and discretion enjoyed by the Superintendents of Police in matters relating to crime and law and order management. The increasing administrative pressures on District Magistrates, the growing complexity of crimes and the technical skills required for their containment and resolution, and the rapid and continuous transformations in the nature of policing have immensely expanded the role of the SP in a district. Policing has become an increasingly specialised occupation, and District Magistrates have neither the time nor the aptitude to look after the police organisation.

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[32] Fifth Report, National Police Commission, Government of India.

The primary task of an SP is to keep the district peaceful and public satisfied, to maintain the Force in good discipline, to promote good public relations, to organise an efficient intelligence set-up, to acquire full knowledge of the district and its problems from a police perspective, to participate, to the extent possible and permissible, in welfare activities sponsored by official and non-official agencies, and to gain the confidence and loyalty of subordinates by personal integrity, impartiality, devotion to duty and a high sense of justice. As the head of the district police, he is responsible for its efficiency and discipline and for the proper performance of its duties. It is his responsibility to ensure that his subordinates also develop in a manner that maximises their contributions to the goals of the organisation. For this he must motivate his subordinates to acquire requisite skills and the information that enable them to function efficiently.

The SP has wide-ranging powers in preventive and investigative tasks of the police. He is empowered to take all sorts of preventive measures if a breach of peace is apprehended in the district. He controls the incidence of crime in the district through:

- effective patrolling;

- investigation of grave crimes and making and receiving special reports about these cases; and

- administrative supervision over his subordinates who keep a constant vigil, administer preventive measures and maintain up to date record of criminals and criminal activities in the district.[33]

The functions of the SP include various kinds of organisational and personnel responsibilities at the district level. These include responsibilities relating to:

- Policies pertaining to recruitment, promotion, training programmes and disciplinary matters.[34]

- Efficiency and discipline in the Force and proper performance of duties.

- Maintenance of good police-public relations.[35]

By virtue of both his primary and ancillary powers and responsibilities, the SP is, consequently, central to the district administrative structure. It is not only his role in law and order administration, the preservation of peace and the prevention of crime that contribute to this centrality, but also the range of secondary activities associated with these, such as frequent informal mediation in a range of disputes, crucial interactions with the public, particularly with influential figures in the community, the catalytic role in the development of informal and non-governmental institutional responses to the needs and crises of local communities, co-ordination and

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[33] For a discussion on the role of SP, see P.D. Sharma, *Police and Criminal Justice Administration in India*, New Delhi: Uppal, 1985.
[34] Ibid.
[35] CBI Bulletin, March 6, 1972, p. 1.

interaction with other core departments of government, etc. The SP thus wields enormous power and influence, and occupies a pivotal position in the district administration. His efficiency and effectiveness contribute enormously to the capabilities and effectiveness, not only of the whole police organisation, but also to administrative efficiency and public well being of the entire district.