

## **Unit-3**

# **Legal and Procedural Requirements in Security Services (Advanced)**

## Introduction

Private Security Personnel are responsible for the safety of people, property and places. Private security guards are hired by businesses and individuals to protect people and property from criminal activities such as vandalism, theft and fire. For example the specific duties of a Security Guard will vary, but will typically include monitoring a specific area at all hours of the day and report on any incidents that may take place. Private Security Personnel are not the police, as they have limited powers, and under no circumstances are they supposed to exceed their authority. When dealing with the public, the security officer must work within the law and the guidelines laid down in law or instructions in the official standard operating procedures at all times.

There are certain offenses which are known to occur more often in the industry and business environment, like those pertaining to public tranquility, violence against human body, and property (movable and immovable).

The legal powers, rights and immunities of private security personnel are not only confusing but located across a range of fields. Although the Private Security Personnel have no legal powers to bring those committing the offence to book, nevertheless having knowledge of the various laws improves their ability to take appropriate action as per the legal requirements. In this Unit, we will learn about some of the common laws that provide private security personnel with general powers that also include the power to use force in self-defence and in defence of one's property. We will also learn how security personnel should report an untoward incident or accident and lodge a First Information Report.



**The Indian Constitution was adopted on 26<sup>th</sup> November, 1949. This day is observed as National Law day.**

# Session-1

## Investigating and Reporting Untoward Incidents/ Accidents

### Relevant Knowledge

Private Security Staff may investigate the report of suspicious activities or disruptions when ordered to do so. Private security staff may detain individuals who are suspected of the offences or conditions which enable Police to arrest under section 41 of the Cr PC, under certain conditions which we will discuss in this session. However, major incidents, accidents, thefts and offenses should normally be reported by him/her to the civil police. Security personnel should establish and maintain cordial relations with the Civil Police and the local administrative authorities, including fire services. Such cordial relations are useful when confronted by any crime or offense under the law. Here it is important to understand the difference between detention and arrest of a person. Police briefly detain a suspect because of suspicious behaviour or appearance. For example, a bulge under the jacket could be suspected as a weapon. The police may then do a pat down search of the suspect's outer clothing for contraband. For detention, time should be of reasonable length during which reasonable suspicion is maintained or strengthened. It must stop if reasonable suspicion disappears. A thumb rule for detention period is 20 to 30 minutes. Force if used, should only be of reasonable amount. Deadly force should never be used. Detained person should not be moved, except for safety of officer or suspect or with suspect's consent. If police do find a concealed weapon or illegal contraband during the short-term stop and frisk detention or if the suspect has outstanding warrants, that person will be arrested, taken into custody and transported to the police station for formal booking procedures or investigations. Arrest is, therefore a complete physical seizure.



Private security guards are sometimes called on to testify in court. Certain amount of knowledge of the manner in which the evidence is recorded and presented will be useful.

## Investigation

Investigation is one of the important charters of duty of the security manager/officer/ security supervisor in any industrial/ business organisation. The primary aim of the security department is to prevent an act of theft, whether petty or large. Investigation shall enable to pin point the causes and even plug the gaps for the future. Some of the points that you need to keep in mind are as follows:

- (i) **Arrive at the Scene of the Crime:** Visiting the location of crime and examining it in detail is the most important function of investigation. It helps the investigator in observing all the evidences leading towards the circumstances under which the crime has been committed.
- (ii) **Ascertain Directions of the Crime:** During investigation the direction of entry before crime and exit route after the crime must be found out. It will provide information on the weakness in access control, including drawbacks in interior and exterior security system. Routes of entry or exit will reveal whether any vehicle has been used in the crime. This information will assist the investigator in identifying the routes used finally by the culprit or accused.
- (iii) **Modus Operandi of the Crime:** While carrying out investigations, the method of committing the crime should be observed carefully. It is generally found that some criminals are expert in executing a crime in a particular manner, which may not be possible by others. Therefore, any fact leading to the modus operandi of the crime can give vital clues in identifying the culprit.
- (iv) **Identifying the Witnesses:** The investigator must try and identify the persons who were the eyewitnesses to the crime. These persons can give valuable clues or information about the culprit and reasons for the crime and other relevant details.



## Report

A report is a piece of writing that presents in-depth information about a topic using facts from outside sources. Reports are a means by which detailed facts of the events are recorded so that others may learn what has occurred. When complete, a report must be able to paint a complete picture of the events that occurred in the mind of the reader.

Remember, a good report reflects favourably on the investigator and adds to his/her credibility. A poorly recorded report may result in the conclusion that the work behind it was sloppy. There are two categories of reports, namely “administrative report” and “operational report”.

- (i) **Administrative or “Routine” Reports:** These reports are required for the general flow of information through the office on any given working day. For example, these reports could include a requisition for equipment, a visitor’s register, a temporary pass registry, a time card indicating hours worked, requests for vacation leave, requests for training, budgets, and so on.
- (ii) **Operational or “Incident” Reports:** These reports may describe those things that your supervisor or the client wants a description of or they may describe the occurrence of a non-typical event, that is some unusual incident that has drawn attention to itself during the execution of the daily duties of the Security Guard. Examples of things that may generate reports may include criminal offenses, such as damage to property, robbery, theft, assault, fire, or some other activity.

### **Essentials of a Good Report Writing**

As the job of Security Personnel is very dynamic, they come across volumes of information while performing duty. The importance of this information varies with time and situation. Some information is casual and day-to-day observation while others are unusual and spontaneous. Good report writing requires attention to detail, an understanding of the reasons why a report is required, and who will be the readers of the report. A report should be clear, precise and directly related to the topic or context. It should always be written in a simple language. Let us now identify the various aspects that you need to deal with while preparing a report.

**Get Organised:** Get organised before writing the report. Gather the facts first. Record the facts in the notebook at the time of the incident or as soon as possible. Organise thoughts by figuring out how to best address the situation and present a clear picture of what happened. Then draft the report. Remember, facts should be presented in chronological order.

**Present a Clear Picture:** Keep the sentences, the paragraphs, and the report short and to the point. Present a clear picture of what happened but do not use lengthy sentences.

**Legible Handwriting:** If the report is handwritten, make sure that it can be easily read by others.

**Completeness:** Cover all possible relevant questions, addressing who, what, where, when, why, and how. The questions that should be essentially addressed in the report include the following:

**1. WHO?**

- ◆ Who was involved?
- ◆ Who was the complainant?
- ◆ Who witnessed the event?
- ◆ Who is the suspect?

**2. WHAT?**

- ◆ What actually happened?
- ◆ What evidence or evidences are available?

**3. WHEN?**

- ◆ When did the event occur?

**4. WHERE?**

- ◆ Where did the event occur?

**5. WHY?**

- ◆ Why did the incident happen?

**6. HOW?**

- ◆ How did the incident take place?
- ◆ How did the accused act?
- ◆ How did the witnesses act?
- ◆ How was the evidence recovered?
- ◆ How was the accused arrested?

**Accuracy:** All facts in the report must be accurate. Do not assume anything and do not add anything that you do not know.

**Proofread:** Proof read the report to make sure all aspects have been covered and there are no grammatical or spelling mistakes. It is always better that once you have read the report, have a co-worker go over the document to make sure that everything make sense and there are no mistakes.

## Fire Investigation Report

There are times when the fire would take place in the company premises. The Security Personnel at the scene will have to address the problem as first action. At the end of the fire, security staff is required to give a report of the same. The report contains the entire details of the accident, the circumstances under which the fire or accident took place, actions taken to put off the fire and the losses or damages. For the investigation, the accident investigation committee should be responsible to the manager, and the report should be rendered to him in confidential form at the earliest possible date, following the accident. The format of their report should be as follows:

1. Introduction
2. Brief History of Accident
3. Details of Accident
4. Conclusions
5. Recommendations
6. Exhibits or Evidence
7. Statement of Witnesses

For initial collection of information about an accident, an investigation report form should be made available as per the management policies.

## Format for Accident Investigation Report

Date of Accident ..... Time: .....

1. Name of the Injured .....
2. Age..... Sex.....
3. Years of Service.....
4. Time in Present Job /Dept.....
5. Designation.....
6. Date and Time.....



7. Had the employee been instructed about hazards of the job? .....
8. Severity of Injury ( ) First Aid ( ) Reportable ( ) Lost Time ( ) Fatality
9. Location of Accident.....
10. Nature of Injury.....
11. Part of Body Affected.....
12. Description. (How did the accident occur, objects, equipment and tools used, circumstances, etc.)
13. Was weather a factor? If yes, how?
14. Unsafe act by injured and/or others contributing to the accident
15. Unsafe Mechanical/Physical/Environmental Condition at time of Accident.
16. Unsafe personal factors (improper attitude, lack of knowledge or skill, etc.)
17. What personal protective equipment is required for job?
18. What precautionary measures were taken to prevent occurrence of this type of accident?
19. What were the contributing causes of the accident?
20. What is to be done to prevent the recurrence of accident?
21. Date and time of visit to the site of accident?
22. Signature and name of witnesses (at least two).

Signature of Foreman/Supervisor

Date:

Place:



## Format for Fire Report

1. Date and time of fire accident.
2. Date and time of receipt of the report of fire accident.
3. Location of the accident.
4. Involvement of any vehicle/ machine in the incident/accident (Yes/No), If yes, then details, thereof.
5. Action taken by the security staff on receiving the information.
6. Action taken to suppress the fire.
7. Time of Fire Brigade reporting at the scene.
8. Equipment used by the fire brigade and actions taken by them.
9. Time when the fire was put off.
10. Details of casualties (injured or deceased).
11. Details of losses/damage due to fire incident.
12. Description of the fire incident.
13. Details of witnesses (names, departments, telephone numbers, etc.).
14. Actions taken by the security officer.
15. Any warning issued by the safety officers regarding the possible incident.
16. Action by management/ safety / security staff.

Date:

Place:

## Exercise

### A. Case Based Problem

#### Scenario

Ramesh works as Security Guard in a shoe factory. On 12th April, 2011 at around 13:00 hrs, Ramesh smelt some gas. As he went further towards the source of the smell, he saw that there was a fire in the production floor. He immediately reported the matter to the security staff at the security control room, raised an alarm and collected all his workers. He organised them to pick up the firefighting equipment and took all possible measures to prevent the fire from spreading, but the fire went out of control. Fire brigade arrived at the scene at 13:30 hrs and put off the fire by about 14:50 hours. Imagine you are Ramesh and you have been asked by your Supervisor to prepare the report of the fire accident.



**On the basis of the above scenario, prepare a report of the fire accident. Include the following losses in your report:**

- (a) Two Production Machines Fully Damaged.
- (b) Electrical Circuit Burnt.
- (c) Three Chairs and a Table Burnt.
- (d) Seven Files Burnt.

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**B. Assignment**

Visit the nearest Fire Station and take note of the structure of the organization, services offered, training schedule and procedures, and details of operations. Discuss and document the process of accident investigation, reporting and post-incident analysis with the Fire Officer.

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## Assessment

### A. Fill in the Blanks

1. The primary aim of the security department is to \_\_\_\_\_ an act of theft, whether petty or large.
2. Investigation is one of the important charters of duty of the security officer/supervisor in any \_\_\_\_\_ organisation.
3. All major incidents, accidents, thefts and offenses should normally be reported to the civil \_\_\_\_\_.
4. Private security guards are sometimes called on to \_\_\_\_\_ in court.
5. Modus operandi means the \_\_\_\_\_ of committing the crime.
6. Modus operandi of the crime can give vital \_\_\_\_\_ in identifying the culprit.

### B. Short Answer Questions

1. State three characteristics of an investigation report of crime.

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2. State any six questions that should be addressed while preparing an investigation report of the crime.

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## Checklist For Assessment Activity

Use the following checklist to see if you have met all the requirements for assessment activity.

### Part A

- (a) Differentiated between administrative and operational reports.
- (b) Differentiated between accident and fire report.

### Part B

Discussed in class the following:

- (a) What is crime Investigation?
- (b) Why crime investigation is done?
- (c) What is the difference between administrative and operational report?

### Part C

#### Performance Standards

The Performance Standards may include, but not limited to:

Performance standard	Yes	No
List characteristics of a good report		
Fill the performa of an accident		
Fill the performa of an investigation report		

## Session-2

# Legal Procedures for Controlling and Managing Crowd

### Relevant Knowledge

The essential relationship between an employer and employees is that of the remuneration for the work carried out by the employees. Often there are disputes between the two with regard to wages and other conditions of work. These disputes are fuelled by rising prices of commodities, and consequent effect on the subsistence levels of the employees and their families.

Industrial Dispute Act lays down the provisions to address these disputes in the industry. It is the statutory provision that enables the disputing parties to come to terms within the laws prevailing in the country.

**Strike and Lockout:** As per Industrial Disputes Act 1947 “Strike means a cessation of work by a body of persons employed in any Industry acting in combination, or a concentric refusal under common understanding”.

A lock out is an act of employers in which they close the place of work till the employees accept the terms of employment offered by them. Under such circumstances, workers may take out processions or silent march. The right to peaceful protest is enshrined as a fundamental right in the Constitution of India. Unruly crowd or mob may develop and in extreme conditions, rioting may take place when a public assembly becomes unlawful. The district administration and the police are permitted to disperse the crowd to prevent injuries or damage.

This may entail the use of force in a controlled and specified manner. Only an executive magistrate or an officer-in charge of a police station can order the use of force. The Security Personnel at the site shall be required to control the crowd and to prevent any untoward incident.

### The Right to Assemble - Article 19(1) (b), Constitution of India

All citizens have the right to assemble peacefully and without arms. This right is subject to reasonable restrictions in the interest of the sovereignty and integrity of India and public order.

### **Crowd:**

Organised, non-violent protest marches were a key weapon in the struggle for independence. A crowd is a temporary gathering of people who share a common focus of attention and who influence one another. It is a large assembly of people lacking identity, Usually a crowd has no leader and each person is on his/her own. As long as everyone is orderly, the crowd is peaceful. In today's scenario, examples of crowds are large number of people collected or gathered to listen to a speech, and to watch a parade/ game/show. People may even crowd around outbreak of fire or an accident.

**Champaran  
Satyagraha by  
Mahatma Gandhi in  
1917 was the first  
satyagraha in India.**

### **Mobs and Riots:**

A mob is a disorderly or lawless crowd and can be identified by the leader or the purpose of the crowd. When an acting crowd becomes violent, it is classified as a mob. Mob is a highly emotional crowd that pursues a violent or destructive goal. A frenzied crowd without any particular purpose is a riot, or it is a social eruption that is highly emotional, violent, and undirected.

### **Crowd Control**

Crowd control is the controlling of a crowd to prevent the outbreak of disorder and prevention of possible rioting. The aim in crowd control is to prevent the crowd from becoming a mob. Labour Union activities or strikes, sport events, musical evenings and promotional events are some of the events where crowd control or management will have to be done by the Security Personnel.

Crowd Control requires that security personnel know and understand the following:

- (a) Reason for the Gathering.
- (b) Area Occupied by the Crowd.
- (c) Social Status of the People.
- (d) Identity and Objectives of Potential Trouble-Makers.

Materials such as crowd control barriers, fences and markings painted on the ground can be used to direct a crowd. Crowd control barriers act as a physical and psychological barrier used to demarcate "no access" zones and to designate space for lines. They are also used by riot police to control large gatherings.

### **Mob Control**

Mobs are either organised or spontaneous. Private Security Personnel will have little



to do with organised mobs. Such groups are usually be taken care of by the police or paramilitary forces. A crowd may become a mob and such a transition can occur very quickly. For example, workers on strikes or people carrying out gherao suddenly flare up and take law in their own hands or become violent. To handle such a lawless situation, there is a need for a mature approach and substantial self-control. Security personnel should be impartial in handling the mob, maintain calm and keep the ring leaders under observation from a distance. Under no circumstances foul language and abrasive behaviour be used. Also there is no need to react to noise, abuses and jeers. Mobs are generally sensitive and easily misguided.

### Resources for Crowd Control

Besides personal protective equipment such as helmet, shield, ballistic jacket, squat boots, baton or bamboo stick, etc., other resources required for controlling the crowd include, control barriers and temporary fencing.

### Legal Provisions for Dealing with Unlawful Assembly

Section 129 of Criminal Procedure Code (CrPC) deals with the dispersal of assembly by use of force.

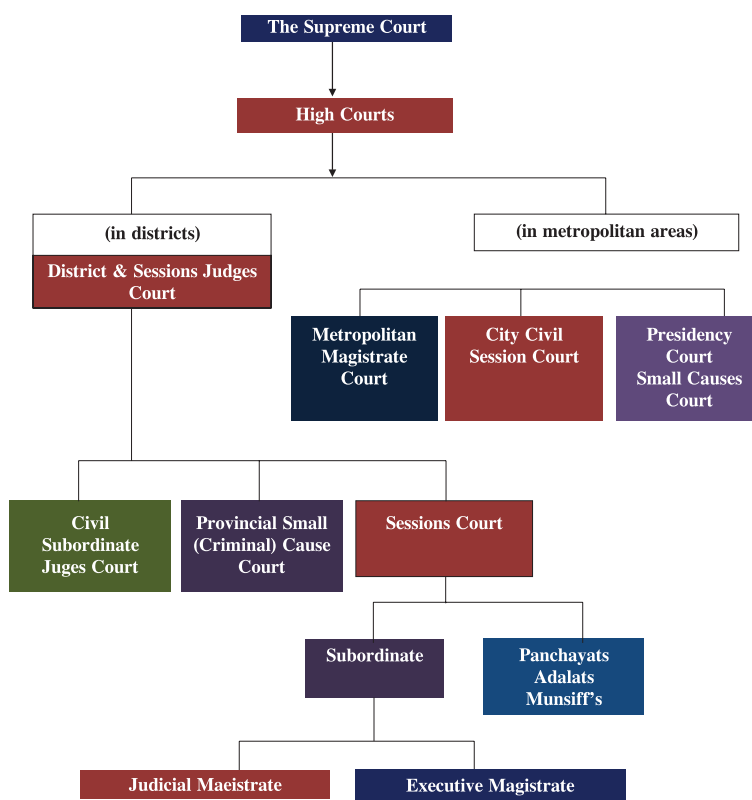


Fig.: 1 Judicial Structure in India

It defines unlawful assembly and lays down the administrative procedures for police authorities who can disperse unlawful assembly using force and also, arrest and confine persons of such assembly, if necessary.

The Executive Magistrate (figure 1) present on the scene may cause it to be dispersed by the armed forces (Section 130), for which he has to make a written requisition. Section 144 has empowered District Magistrate (DM)/Sub-divisional Magistrate (SDM) or any other Executive Magistrate to issue prohibitory orders and take immediate remedial action to prevent occurrence of violence.

**Exercise**

- 1. Prepare a write up on the declaration of the strike by the staff of a bank. Cover the following aspects: (i) Reasons for strike; and (ii) Number of days. You can use the content of the news about the strike published in newspaper or internet.
- 2. (a) Participate in team training exercises or drills.  
(b) Write your experience about the participation in the training exercise or drill (in about 10 lines).

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**Assessment**



**A. Short Answer Questions**

- 1. What is the difference between a crowd and a mob?

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**B. Fill in the Blanks**

1. The right to \_\_\_\_\_ protest is enshrined as a Fundamental Right in the Constitution of India.
2. The district administration and the \_\_\_\_\_ are permitted to disperse the crowd to prevent injuries or damage.
3. Only an executive \_\_\_\_\_ or an officer-in charge of a police station can order the use of force.
4. A \_\_\_\_\_ is a temporary gathering of people who share a common focus of attention and who influence one another.
5. A \_\_\_\_\_ is a disorderly or lawless crowd and can be identified by the leader or the purpose of the crowd.
6. Usually a \_\_\_\_\_ has no leader and each person is on own his own.
7. Section \_\_\_\_\_ of Criminal Procedure Code (CrPC) deals with the dispersal of assembly by use of force.
8. The Executive \_\_\_\_\_ of the highest rank who is present on the site may cause it to be dispersed by the armed forces (Section 130), for which he has to make a written requisition.
9. Section \_\_\_\_\_ has empowered District Magistrate (DM)/Sub-divisional Magistrate (SDM) or any other Executive Magistrate to issue prohibitory orders and take immediate remedial action to prevent occurrence of violence.

**Checklist For Assessment Activity**

Use the following checklist to see if you have met all the requirements for assessment activity.

**Part A**

- (a) Differentiated between crowd and mob.

## Part B

Discussed in Class the Following:

- (a) Some of the common issues that the people try to address through peaceful assembly or processions.
- (b) Examples of cases when resolution of issues was achieved through peaceful processions.
- (c) What can happen if the unruly crowd is not controlled by the security personnel?
- (d) What are the steps that the security personnel should take to control a crowd?

## Part C

### Performance Standards

The Performance Standards may include, but not limited to:

Performance standards	Yes	No
Establish the action to be taken for controlling a crowd in a given situation.		

## Session-3

### Recognising Sections of Indian Penal Code for Legal Protection to Security Personnel

#### Relevant Knowledge

We have learnt that security personnel are to function within the ambit of the laws to be followed by a citizen. Let us now try to recognise the various sections of Indian Penal Code that deals with the protection to security personnel.

Indian Penal Code is the main criminal code of India. It is a comprehensive code, intended to cover all substantive aspects of criminal law. It was drafted in 1860 and came into force in



colonial India during the British Raj in 1862. It has since been amended several times and is now supplemented by other criminal law provisions.

Section 99 of Indian Penal Code (IPC) is about “Acts against which there is no right of private defense”. It protects public servants and security personnel in discharging their duties. Under this section of the IPC, there is no right of private defense against an act which does not reasonably cause the apprehension of death or of grievous hurt, if done, or attempted to be done, by a public servant acting in good faith or done by the direction of a public servant. Nevertheless, the actions of the public servant will require to be proved during trial if a court case is filed. An important point to remember is that it is good practice to have a witness present to corroborate the evidence.

Section 152 of IPC relates to “Assaulting or obstructing public servant when suppressing riot, etc”. This section provides protection to the public servant, when obstructed in any manner in his duty to disperse an unlawful assembly. In discharge of his/her duty if a public servant issues instructions to the Private Security Guard to assist him, it can be interpreted that he/she is also protected.

In case you are required to even arrest as a private person under Cr PC Section 43, it is normally the case that two witnesses should be present. If force is required to restrain a person, some of the points that should be kept in mind are as follows:

- ◆ Arrest be made only if absolutely necessary.
- ◆ Minimum possible force proportional to that required to meet the objective should be used.
- ◆ The matter should be reported to the superiors in Security as well as management.
- ◆ Inform the Police.
- ◆ Keep a witness to the proceedings.



**Section 186 of IPC** describes that the act of obstructing public servant in discharge of public functions can be punished with imprisonment which may extend to three months, or with more, or with both. Similarly **Section 187 of IPC** states that disobedience of order duly promulgated by a public servant is an act of omission to assist public servant when bound by law to give assistance.

**Section 332 and 333** of IPC lay down that voluntarily causing hurt/ grievous hurt to deter public servant from his duty is a crime and is punishable with imprisonment. Section 332 is bailable.

**Section 353 of IPC** lays down that assault or criminal force to deter public servant from discharge of his duty is punishable with non bailable imprisonment.

## Exercise

### Case Based Problem

#### 1. Scenario

An accident took place between the bus and a car at the peak hours of the traffic. A private security officer standing at the nearby ATM immediately ran to the scene of accident and took charge of the first aider. He helped the driver of the car to come out of the driver's seat and informed the police and the ambulance. Subsequently, he detained the driver of the bus and asked him to show his driving license and other papers of the vehicle suspecting that the driver may not be having a valid driver's license. The bus driver challenged the detention and stated that "you have no powers to detain me and I will not show you my driver's license".

**Based on the above scenario, answer the following questions:**

1. Was it legally right for the private security officer to detain the driver?

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#### 2. Scenario

Three inmates ABC of the Jail, charged for attacking a jailor, were recently released on bail. The police case against the three stated that they voluntarily caused grievous hurt to the Jailor.

- (a) Under which section police charged ABC for attacking the jailor?

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- (b) Under which section the police should have charged ABC for attacking the jailor so that they did not get the bail?

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## Assessment

### Fill in the Blanks

1. Security personnel are not the police, therefore, under no circumstances should they exceed their \_\_\_\_\_ when dealing with the public.
2. Security personnel should function within the ambit of the \_\_\_\_\_.
3. Section \_\_\_\_ of Indian Penal Code (IPC) is about “Acts against which there is no right of private defense.” It protects public servants and security personnel discharging their duties.
4. Section \_\_\_\_ of IPC relates to “Assaulting or obstructing public servant when suppressing riot, etc”.
5. In case you are required to even arrest as a private person under Cr PC Section 43, it is normally the case that \_\_\_\_\_ witnesses should be present.

## Checklist For Assessment Activity

Use the following checklist to see if you have met all the requirements for assessment activity.

### Part A

- (a) Differentiated between provisions made under Section 186 and 187 of IPC.
- (b) Differentiated between the provisions made under Section 332 and Section 333 of Indian Penal Code.

### Part B

Discussed in class the following:

- (a) Why is it important to provide legal protection to public servant for discharging his/her duties?

### Part C

### Performance Standards

The Performance Standards may include, but not limited to:



Performance Standards	Yes	No
List sections relating to no right to private defense.		
List sections of IPC related to the legal protection to the public servant.		

## Session-4

### Recognising Sections of Indian Penal Code for Offenses Against Human Body and Property

#### Relevant Knowledge

Security staff or private citizens can take action to prevent a crime or offense, but it is imperative that he/she should have the knowledge of laws dealing with offenses. An offense is a crime that breaks a particular law and requires a particular punishment. While there is an array of offenses in the Indian Penal Code (IPC), there are some prominent ones against human body or property.

If you offend someone, you say or do something rude which upsets or embarrasses him/her. Let us now go through the operative and commonly observed offenses in our society.

#### Chapter XVI-Offenses Against Human Body

Assault, affray and violence come under Chapter XVI - of offenses affecting the human body. Violence is a behavior, which is intended to hurt, injure or kill people. Assault and battery is the crime of attacking someone and causing physical harm. An affray is a noisy and violent fight, especially in a public place. This chapter starts with section 299 to 377 and is divided into five parts, as given below:

- Part I** Sections 299 to 318 pertain to murder and its variants, miscarriages and punishment.
- Part II** Sections 319 to 338 pertain to causing hurt/ grievous hurt in various ways and conditions, and punishments for the same.
- Part III** Sections 339-347 refer to wrongful confinement/ detention/ restraint for different reasons and punishment for the same.

**Part IV** Sections 348-358 refer to use of force and assault and criminal force in different ways and different reasons and punishments.

**Part V** Sections 359 to 377 refer to kidnapping, abduction, rape, prostitution, slavery and unlawful compulsory labour in various variants and their punishment.

### **Chapter XVII of IPC- Offenses Against Property**

Chapter XVII of IPC is about offenses against property, and encompasses sections 378 to 462. The important and commonly committed offenses are as under:

**Sections 378 to 382** deal with theft and punishment.

**Sections 383 to 389** deal with extortion, its variants and punishment for extortion, coupled with other offenses, such as use of force, threat or an act of hurt.

**Sections 390 to 402** are offenses relating to robbery and dacoity. It deals with theft or extortion with use of force or apprehension of death, restraint, etc. While robbery can be committed by one person, dacoity is committed by five or more persons. In all robbery there is either theft or extortion.

**Sections 403-440** relate to misappropriation of stolen (someone else's property of any type), and has element of dishonesty, cheating, fraud and mischief. Punishments for these offenses are also within these sections.

**Sections 441 to 462** pertain to immoveable property, such as criminal trespass, house breaking, their variants or these offenses carried out in different ways.

### **Chapter XVIII -Offenses Relating to Documents and Property Marks**

Chapter XVIII deals with offenses relating to documents and property marks. Sections 463 to 489 cover these offenses, which essentially pertain to forgery or forging documents, counterfeiting, cheating in respect of bank notes, seals, documents and property marks.

### **Some Rules/ Guidelines for Security Staff/ Private Person for Arresting/ Detaining**

Unless there is a reasonable ground to believe that the detainee has a weapon with which he may injure himself or others, Private Security Staff does not have the right to search the baggage or a person they have detained.

A male Security Staff should never be asked to stay along with a female prisoner. Similarly a male prisoner should not be left alone with a female Security Staff.

Ideally a female Security Staff or a female member of the team should stay with the prisoner. The detainee must then be handed over to the police, giving all relevant information and evidence.

## Exercise

### Case Based Problem

A security guard of a factory manufacturing automobile parts reported the following to the Manager of the Company on the morning of 15th May, 2012:

“At 02:00 hours, I observed a person wearing a white shirt and jeans quietly trying to crawl out from under the perimeter fence. He was intercepted by me and I found some valuable motor parts of the company in his possession. I took the parts from him and detained him for the night”. The security guard did not report the matter to any one at night.

**Based on the above scenario, answer the following questions:**

1. What kind of offense was committed by the person who was apprehended?

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2. Was the offense sufficient to detain the person?

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## Assessment

### Fill in the Blanks

- (a) Sections 319 to \_\_\_\_\_ pertain to causing hurt/ grievous hurt.
- (b) Sections 359 to 377 refer to \_\_\_\_\_, abduction, rape, prostitution, slavery and unlawful compulsory labour.
- (c) Sections 299 to 318 pertain to \_\_\_\_\_.
- (d) Sections 378 to 382 deal with \_\_\_\_\_ and punishment.
- (e) Dacoity is committed by \_\_\_\_\_ or more persons.



(f) In all robbery there is either theft or \_\_\_\_\_.

### Checklist For Assessment Activity

Use the following checklist to see if you have met all the requirements for assessment activity.

#### Part A

- (a) Differentiated between robbery and dacoity.
- (b) Differentiated between different sections of IPC for offenses against human body and property.

#### Part B

Discussed in class the following:

- (a) What are the common offenses caused against human body?
- (b) Why is it important for Security Personnel to know about legal provisions for offenses against human body or property?

#### Part C

#### Performance Standards

The Performance Standards may include, but not limited to:

Performance standard	Yes	No
List the IPC section dealing with murder		
List the IPC section dealing with wrongful confinement/ detention/ restraint		

## Session-5

# Recognising Sections Under Criminal Procedure Code for Arresting a Person Under Indian Penal Code

### Relevant Knowledge

#### Arrest

Arrest is purely a Police matter. Section 41 of the Criminal Procedure (CrPC) Code gives a Constable in Uniform the power to arrest a person without warrant, if he/she reasonably suspects that the person has committed a cognizable offense. It does not give that power to a Private Security Staff or a citizen of India. In a cognizable offense, the police can take cognizance of the offense on its own i.e., it need not wait for the court orders to arrest a person. In a non-cognizable offense, the Police cannot arrest a person without orders of the Court i.e., without a Court warrant.



#### Arrest by Private Person (Section 43 of Cr PC)

Any private person may arrest or cause to arrest any person who in his/her presence commits a non-bailable cognizable offense, or any proclaimed offender and may hand over him to the police at the earliest possible moment for reasons given as under:

- (a) That such person comes under the provision of Section 41 (when police may arrest without warrant).
- (b) That such person has committed a non-cognizable offense and he refuses to give his name and residence or gives false name.



This provision can be invoked if you are convinced that the person was acting with criminal intentions, then an arrest may be carried out as per the guidelines mentioned under section 43 of the CrPC. As far as possible, private security staff should facilitate the arrests to be made by the Police.

In an event where they shall have to do this, the same should be done with due caution and tact, ensuring the evidences are meticulously collected, preserved and handed over to the Police.

### **General Exceptions (Including Rights of Private Defense)**

Chapter IV of IPC contains General Exceptions with sections from 76 to 106. These can be divided into two parts:

- (a) **Sections 76-95** pertain to certain acts, which when committed under certain situations/ understanding/ conditions are not an offense. The General Exceptions could arise due to misunderstanding, misconception of having done an act that the same was committed under the law, without a criminal intent, immature children, act done under intoxication, or in good faith, etc.
- (b) **Sections 96 to 106** pertain to the rights of private defence of the human body and property.

### **Right of Private Self Defence**

**Section 96** is about things done in private defence further stating that nothing is an offense, which is done in the exercise of the right of private defence.

**Section 97** deals with right of private defence of the body and of property stating that every person has a right, subject to the restrictions contained in section 99, to defend, firstly his own body, and the body of any other person, and secondly the property, whether movable or immovable, of himself or of any other person. There is no right of private defence against an act which does not reasonably cause the apprehension of death or of grievous hurt, if done, or attempted to be done, by a public servant acting in good faith.

Also, there is no right of private defence in cases in which there is time to have recourse to the protection of the public authorities.

### **Exercise**

#### **Case Based Problem**

At office one day, you see one of your male colleagues to be in possession of the

company's stolen property and you have a doubt that he is carrying a weapon. The commission of the colleague concerned is in line with the provision under Section 41 of the CrPC. The person is quickly making an escape, and you realise that by the time you inform the police and they respond, the person would have run away.

### **Answer the Following:**

1. Would you detain that person? If so what legal powers and protection you have to do so?
2. Do you feel appropriate to search the person's baggage, if so why?
3. Should you decide to detain the person, what action will you take immediately after detaining him?

### **Assessment**



### **Fill in the Blanks**

1. Section \_\_\_\_\_ of the Criminal Procedure (CrPC) Code gives a Constable in Uniform the power to arrest a person without warrant if he/she reasonably suspects that the person has committed a cognizable offense.
2. In a \_\_\_\_\_ offense, the Police cannot arrest a person without orders of the Court i.e. without a Court warrant.
3. The General \_\_\_\_\_ could arise due to misunderstanding, misconception of having done an act that the same was committed under the law, without a criminal intent, immature children, act done under intoxication, or in good faith, etc.
4. Sections 96 to 106 pertain to the rights of private defence of the \_\_\_\_\_ body and property.
5. Section 96 is about things done in private defence further stating that nothing is an offense, which is done in the exercise of the right of \_\_\_\_\_ defence.

### **Checklist For Assessment Activity**

Use the following checklist to see if you have met all the requirements for assessment activity.

### **Part A**

- (a) Differentiated between detention and arrest.



(b) Differentiated between cognizable and non-cognizable offense.

### Part B

Discussed in class the following:

(a) What is offense?

(b) Examples of cognizable and non-cognizable offense against human body.

### Part C

#### Performance Standards

The Performance Standards may include, but not limited to:

Performance Standard	Yes	No
Ascertain if the lawful arrest could be effected in a given situation of offense.		
Identify the limitations of arrest authority.		

## Session-6

# Lodging First Information Report

### Relevant Knowledge

**The First Information Report (FIR)** is a report of information that reaches the police first in point of time and that is why it is called FIR. It is to be registered by the Inspector or the Station House Officer (SHO) at the Police Station on the receipt of the complaint from any individual about any untoward incident/accident/offense. In many cities, Inspectors would be the Station House Officer (SHO) at every police station. In rural areas where an inspector is in charge of a police circle (consisting more than one police station) he is also referred to as “Circle Inspector”. All major incidents, accidents, thefts and offenses should normally be reported to the civil police. Private Security personnel should take the permission of the management of the company or organization before lodging any report with the civil police.

## Objective of FIR

The primary objective of the FIR is to make a complaint to the police to set the criminal law in motion. Its secondary, though equally important object is to obtain early information of an alleged criminal activity.

## Who can lodge FIR?

FIR can be lodged by:

- ◆ Complainant, who is an aggrieved person.
- ◆ Somebody on behalf of the complainant.
- ◆ Person who is aware of the offense (a) as an eyewitness, and (b) as a hearsay (what a person has heard) account.
- ◆ Accused himself/ herself.
- ◆ SHO on his/her own.
- ◆ The order of the Magistrate under section 156 (3) of Criminal Procedure Code (CrPC).
- ◆ A medical doctor.

## Difference between FIR and Complaint

There is a difference between an FIR and a complaint. Let us try to understand that.

Sr. No.	FIR	Complaint
1.	Made before the SHO	Made before the Metropolitan Magistrate
2.	FIR is lodged in cognizable offenses	Complaint can be of cognizable or non-cognizable offense
3.	Any person, who has knowledge of the happening of cognizable offense	Only aggrieved person submit complaint under section 195, 198 199 of Criminal Procedure Code

## FIR Regulation

The receipt and record of FIR of a cognizable offense is regulated by Section 154 of the Criminal Procedure Code. The section read as follows:

- ◆ FIR should be in plain and simple language i.e., in the informant's own words.

- ◆ Legal expressions should be avoided.
- ◆ The informant is required to distinguish between what he has personally seen or known from matters of which he has heard i.e. second-hand information or hear-say evidence.
- ◆ In cases of delay in lodging a report of an offense, the explanation of delay should be demanded.
- ◆ The Informant's statement when complete shall be read over to him and he/she shall sign it or affix his left thumb impression if he is unable to sign.
- ◆ When the information relates to theft of property, the complainant must be asked to give detailed list of articles stolen, their value and distinguishing marks of the articles.

### **Who can Write FIR?**

FIR is always to be written by an officer in-charge of a police station.

#### **Essentials of an FIR**

The following points should be covered while recording the FIR:

- ◆ Who committed the crime?
- ◆ Against whom was the act/crime was committed.
- ◆ When was the crime committed? (Time)
- ◆ Where the crime took place? (Place)
- ◆ What was the motive of the crime? (Motive)
- ◆ What was taken away?
- ◆ What traces were left by the accused?

## Format of the F.I.R.

FORM NO. 24.5 (1)

Book No. \_\_\_\_\_

### Format of First Information Report

First Information of a Cognizable Crime Reported under Section 154, Criminal Penal Code

Police Station ..... District ..... No. ....

Date and Hour of Occurrence .....

1. Date and Hour when reported :
2. Name and Residential Address of the complainant :
3. Brief Description of Offense (with section) and of property carried off, if any :
4. Place of occurrence and distance and direction from the Police Station :
5. Name and address of the criminal :
6. Steps taken regarding investigation
7. Explanation of delay in regarding information:
8. Date and time of despatch from Police Station:

Signature ..... Designation .....

Note: The signature or thumb impression of the informer should be at the end of the information and the signature of the Writer of FIR should exist.

### Exercise

#### Case Based Problem

##### 1. Scenario

The security at the main gate at your office reported to you at approx. 23:00 hours on 22 April 2012, that there was a robbery at the Company's administrative office. You immediately rushed to the office. The security reported that three armed robbers had entered the company from pillar No. 5 through the perimeter, and was challenged by the security guard on patrol. The robbers overpowered the security guard, threatened him with a weapon and entered the administrative office. While two of the robbers kept the security guard covered, the third one opened the safe and robbed the cash lying there. The robbers then made away with cash. You as the Manager reported the incident to

General Manager, who asked you to brief him on the points to be considered before lodging an FIR.

Based on the above scenario, prepare a report of the incident, keeping in view the format of the FIR, for approval of your General Manager.

2. Write a letter of complaint to the Service Manager of an XYZ company, complaining about the problem that you are facing in using the Laptop that you bought recently. The laptop is under 1 year warranty. You may use the format given below:

Format for Letter of Complaint

Your address  
Telephone No.:  
Email address:

Name of the Service Manager

Address

-----

Subject: -----

Dear Mr/Ms -----,

Body of the letter-----

Yours truly,

(Your Signature & Name)

Enclosures:



### Assessment

#### A. State Whether the Statement is True or False

- (a) Permission of the management must be obtained before FIR is lodged with the civil police.
- (b) The receipt and record of First Information Report of a cognizable offense is regulated by section 43 of Cr PC.
- (c) FIR should be in plain and simple language and in the informant's own words.

- (d) The Informant's statement when complete shall be read over to him and signed by the Magistrate.
- (e) The primary objective of the FIR is to make a complaint to the police to set the criminal law in motion.
- (f) Complaint can be made before the Metropolitan Magistrate only by a witness of the crime.
- (g) FIR can be lodged by any person, who has knowledge of the non-cognizable offense having been committed.

### Checklist For Assessment Activity

Use the following checklist to see if you have met all the requirements for assessment activity.

#### Part A

- (a) Differentiated between complaint and first information report.
- (b) Differentiated between a complainant and witness.

#### Part B

Discussed in class the following:

- (a) What is FIR?
- (b) Who can write an FIR?
- (c) Who can lodge an FIR?
- (d) How FIR is different from compliant?

#### Part C

#### Performance Standards

The Performance Standards may include, but not limited to:

Performance Standard	Yes	No
Prepare a report for lodging an FIR		
Write a letter of complaint		

## Notes

[illegible]