

A MANUAL ON
POLICE STANDING ORDER 151 (OLD PSO145) ENQUIRY
AND
GOVERNMENT INSTRUCTIONS ON PROTECTION OF HUMAN RIGHTS

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CHAPTER -I**OBJECT OF THE MANUAL**

In a democratic set up, incidents of death, torture and rapes in police custody assumes tremendous importance. They affect the entire credibility of the Government and the human face of the party in power, apart from according a bad name to the police. Such incidents, if left unchecked, can do untold damage to the administration as well as to the police machinery. The formation of National Human Rights Commission has created an awareness among the public especially amongst the women folk who are understandably greatly agitated over such incidents. The Government consider that all possible steps are taken to prevent the occurrence of such unpleasant incidents. The enquiry under PSO 145 is the basis for proceeding against police personnel who are involved in the crime so as to create confidence amongst the public that the Government and Magistracy are impartial in safeguarding their human rights.

1.2) In exercise of the powers conferred by Section 2 of the Madras Revenue Enquires Act 1893 (Madras Act V of 1893), the Government invests the Revenue Divisional Officer with powers to summon any person to appear before such officer or to produce any document or thing in possession or under the control of such person, the production of which, in the opinion of such officer, is necessary to conduct an inquiry into a charge of torture, or causing deaths, or grievous hurt, rape and other sexual offences against any police official under P.S.O. 145. A detailed procedure has been prescribed under PSO 145 for the conduct of enquires on the charges against such

offences. This enquiry is essentially a quasi-judicial, fact finding enquiry and the Government expects the Sub Divisional Magistrate to personally draft it so as to seek and record the truth, weigh the evidence and fix the responsibility and culpability of those involved, so that the strictest penalties the law can administer are given to them.

1.3) Although many Government orders and instructions have been issued in the past, it has been the frequent experience that such enquiry reports have been drafted poorly and are lacking in essential details stressed upon in various instructions. From past experience, the Government observe that it has not been possible to take effective and deterrent action against the erring police officials due to delay in conducting the enquires and submission of inconsistent, imperfect or incomplete reports by the concerned Enquiry Officers. In most of the reports, the Enquiry Officers do not fix any specific responsibility or specify the names of police personnel found responsible for the crime. They simply advise criminal and or departmental action against "all concerned" police personnel, thereby defeating the very purpose of conducting a fact-finding enquiry. The police personnel involved also are able to go scot-free without any punishment.

1.4) Keeping all these defects in mind, the Government have decided to bring out a Manual on custodial crimes to specify in detail the various steps to be taken by the law enforcing authorities and the Enquiry Officer at various stages of the enquiry. The object of this Manual is to educate them of all the procedures to be adopted so as to enable them to conduct the enquiry in a manner as to establish the truth, instill confidence in the minds of the public

and when charges against erring personnel stand proved, to have a proper base of evidence leading to the successful prosecution of those arraigned.

1.5) The procedure to be adopted by the Enquiry Officer/Collectors/Police officers have been detailed in the chapters that follow.

1.6) Important Government orders passed by the Government in the past are also furnish in the annexure to this Manual for ready reference.

1.7) The Director General of Police, Madras should arrange programmes to impart training to the subordinate police officers as to deal with the accused in a humane manner, the methods of interrogation to be adopted to extract the truth without resorting to third degree methods, or torture so as to avoid police excesses while under custody which are absolutely necessary to boost the image and morale of the police force.

CHAPTER II

PROCEDURE TO BE ADOPTED AT THE FIRST STAGE

Preliminary Report by Collectors/Superintendents of Police

The Collectors and Superintendents of Police concerned should send the preliminary information report to the Government within an hour of the incident either by telephone or FAX on the occurrence of death in police custody/torture/rape/police firing to Public Department.

Public (Law & Order) Department

Direct Line Telephone : 25672396

Micro Phone No. : 21 6361

Fax No. : 25677128

(On all working days and Saturdays within office hours)

Chief Secretary's Control Room: (During night and Sundays)

Direct Line Telephone : 25671388

Micro Phone No. : 21 6995

Fax No. : 25677128

Detailed Report by Collectors and Superintendents of Police

2.2) A detailed report on all the above incidents should be sent within 2 days to Chief Secretary to Government and Secretary, Public (Law & Order) Department without fail. An immediate report should also be sent to the National Human Rights Commission within 24 hours in all cases of deaths in custody.

2.3) On receipt of information from the Station House Officer, Village Administrative Officer or other sources, the Sub Divisional Magistrate of the area concerned should immediately inspect the place of occurrence and hold

an inquest and collect details in the prescribed format. (for format of inquest report see the annexure.)

Recording of Statements when alive/Identification Parades

2.4) If the victim is alive, a dying declaration statement should be recorded by the Enquiry Officer. The details regarding the nature of injuries inflicted (in cases of imminent death), persons responsible for torture (names) reasons for torture and nature of wounds and injuries should be recorded. In the case of rapes, or attempt to rape and molestation, identification parade should be conducted before the victim so as to enable pinpointing of guilt.

Recording of wounds/injuries when dead

2.5) If the victim is dead, details regarding the nature of wounds/injuries found on the corpse, the dresses worn/whether mutilated, torn or intact, any other symptoms found on the body should be recorded in the presence of Panchayatdars, witnesses and signatures should be obtained from them in the statement. The inquest report is an important document usable as evidence and should be personally filled up by the Magistrate.

Photographs

2.6) Photographs showing the position of the body and photographs of the place where the incident took place should also be taken and sent along with the report.

Collection of evidence

2.7) The Enquiry Officer should also record a statement from the witnesses and also from persons suspected regarding their involvement in the crime etc., and collect all the material evidence from the place of occurrence.

Seizure of Records

2.8) If during the inquest, any prima facie case is made out regarding the involvement of the police or even if it is suspected to be so, then the enquiry officer should immediately seize the following station records and take them into his possession:

1. General Diary
2. PSR
3. Duty Roster
4. Sentry Relief Book
5. Register of arrest
6. Pocket Diaries of the involved persons
7. Any other station records relating to the offence

2.9) Before seizing the records, all the pages and entries should be verified and signed as a token of verification, if possible in the presence of the Station House Officer to avoid subsequent interpolations of entries or tampering and destruction of records.

Post-Mortem

2.10) At the next stage, the Enquiry Officer should send the body for post-mortem. The post mortem should be conducted by a team of not less than 2 Medical Officers. The Post-mortem certificate should be obtained on the same day itself by the Enquiry Officer.

Chemical Analysis Report

2.11) The materials collected should be sent to the Forensic department for chemical analysis. The Forensic report should be obtained within 15 days. If the report is delayed, the Enquiry Officer should take up the matter with the Joint Director, Health of the District for taking disciplinary action against those concerned for delay. (Instructions issued in this regard by the Health and Family Welfare Department is appended to this manual for information).

Rape Cases

2.12) In cases of rape, the victim should be sent to a nearby Hospital/Medical officer for Medical check-up within 6 hours of occurrence of crime and medical opinion should be obtained on the same day.

2.13) It is essential that the victim should be subjected to Medical Examination to prove the offence of rape.

2.14) At the next stage, the Enquiry officer should send a preliminary report to the Collector based on investigation and enquiries made, with suggestions for (or not) ordering a detailed enquiry under PSO 145.

(Note: All the above procedures should be attended by the Enquiry Officer on the day of occurrence itself)

Ordering for PSO 145 Enquiry by Collector:

2.15) The Collector, after analyzing the preliminary report, submitted by the Enquiry Officer, should order for an enquiry under Police Standing Order 151 (OLD PSO 145), if there are sufficient grounds for it. The order instituting the enquiry should contain the terms of reference of the enquiry, the time stipulated. (i.e.20 days for the submission of the report) A copy of the order should be sent to Government.

CHAPTER III

PROCEDURE TO BE FOLLOWED IN THE SECOND STAGE

Calling witness

On receipt of orders of PSO enquiry from the Collector, the Revenue Divisional Officer/Sub Divisional Magistrate should immediately commence the enquiry. Wide publicity to be given to call for witnesses from persons knowing the incident, to depose before him including notices in the Press. If necessary, the Enquiry Officer can seek the assistance of a Gazetted police officer to assist him in the enquiry. Every effort should be made to ensure that witnesses are not intimidated or prevented from tendering evidence.

Serving of Summons

3.2) Summons should be sent to all persons concerned including the Medical Officers, Public and Police witnesses. All the procedures laid down for serving summons should be adopted without fail. Certificate of service should be part of the records of enquiry.

Failure on the part of public

3.3) If any member of the public fails to attend the enquiry, action may be initiated under section 2 of the Madras Revenue Enquiries Act, 1893.

Failure on the part of police

3.4) The police personnel should attend the enquiry without fail on the date specified by the Enquiry Officer. It is the duty of the Gazetted police officer or the Deputy Superintendent of Police concerned to secure the police personnel for the enquiry. A detailed procedure has been laid down in PSO 75 as to what action can be initiated for failure by the police to attend the enquiry. Extract of PSO 75 is annexed for ready reference.

Examination of witnesses

3.5) The witnesses called for should be asked to depose all facts known to them, regarding the commission of the offence. The Enquiry Officer should ask leading questions about the incident, and also test the veracity of the witnesses. Their previous statement, if any, should be compared with the present statement deposed. If any contradiction is found, the witness should be asked to explain the same and to depose the correct statement.

Cross examination

3.6) The Enquiry officer should also cross examine the witnesses so as to find out the credibility of the witnesses. Cross examination of witnesses by the accused police personnel is not allowed under PSO 145. The demeanour of the witnesses should also be recorded by the Magistrate in his report and used as a basis for assessing its evidentiary value.

Recording of statement of witnesses

3.7) Statements of witnesses should be recorded by the Enquiry Officer. If the witness is literate, they may be asked to record their statement in writing. If he is illiterate, the statement should be recorded, read out to them and their signatures or thumb impression should be obtained in the statement so recorded. This should be counter signed by the Enquiry officer in their presence.

Examination of Medical Officer

3.8) At the next stage, the Medical officer who conducted the postmortem/medical examination, should be examined by the enquiry officer. They may be asked to explain the nature of wounds, injuries if any recorded in the postmortem certificate and as to whether the wounds/injuries were the cause for the death of the victims. If the doctor suspects the wounds/injuries to have been caused by any weapon, the type of weapon that might have been used and the terminal nature of injuries caused by those weapons should be ascertained and recorded. If no wound or injury is found, the doctors may be asked to explain in detail the reasons that would have caused the death of the victim. Each of the doctors should be examined separately.

3.9) In some cases, the victim would have been alive at the police station and would have died on the way to hospital or after admission in the hospital. In such cases, the type of medical aid provided to the victim and the reasons that would have caused the death subsequently should be ascertained from the Medical Officer, who attended on him, and recorded. In any case, the cause of death should have been ascertained without any doubt. The statements of the medical officer should be got signed by them and should be countersigned by the enquiry officer in their presence.

Examination of Forensic Report

3.10) The Forensic Report, the chemical analysis report should be examined by the enquiry officer thoroughly, if necessary with the aid of the Medical Officer who conducted the postmortem.

Expert Medical opinion

3.11) If the Medical opinion differs or is inconclusive, the enquiry officer can refer the matter to the Head of department of the concerned discipline for an expert opinion and a conclusive decision should be arrived at on the terminal nature of wounds/injuries that caused the death. In all such cases, the utmost expedition should be shown in obtaining final reports.

3.12) The Enquiry officer should examine each of the police personnel involved separately. They may be interrogated on the following:-

1. Their role in apprehension of the victim, whether victim was secured on his own or by order from higher authorities, the offence for which he was apprehended.
2. To find out the facts in the FIR filed.
3. Reasons for the delay, if any, in filling of FIR.
4. Entries in the G.D., P.S.R. sentry Relief Book, duty roster, pocket diaries.
5. Interpolations, over writing, missing facts and entries in the station records, reasons thereof, persons responsible for the lapses.

In the case of "reported" suicidal hanging:-

- (a) the accessories used for hanging
- (b) how the victim was able to get them
- (c) height of the place used for hanging
- (d) persons who were on duty at the time of hanging

Note: Using the photograph of the place of occurrence taken by the R.D.O. at the time of inquest, the statement given by the concerned police officials can be verified as to whether it is possible.

3.13) In case of "reported" suicide by consumption of poison:-

- (a) nature of substances used
- (b) how the victim was able to get it
- (c) the possibility of consuming such substances while in custody

3.14) In the case of "reported" self immolation:-

- (a) what type of substance was used
- (b) how the victim was able to get it while in custody.
- (c) The person who noticed it first
- (d) Whether any first aid was given and attempt made to save the victim

3.15) In the cases of "reported" suicidal hanging outside the police station:-

- (a) how the detenu escaped from the lock up
- (b) persons responsible for the lapse
- (c) persons who were on duty

In the cases of custodial rape:-

- (a) the time when the victim was taken to the police station and under what circumstances – and the offence allegedly committed by the victim.
- (b) Whether FIR filed
- (c) Reasons for keeping the woman in the police station, particularly after sunset.
- (d) The person if any who accompanied the woman to the police station
- (e) Whether any women police official was posted in the company of the woman if she was detained in the night.
- (f) Persons responsible for the rape and persons abetting the commission of such an offence

- (g) Cross examination of the facts and points raised by the public witnesses
- (h) Verification, corroboration of depositions of police.
- (i) Verification of medical report obtained if necessary with the assistance of Medical Officer preferably a lady Medical Officer.

3.16) In all the above cases, statements should be obtained from the police officials/witnesses in their own handwriting and should be countersigned by the Enquiry officer in their presence.

Examination of material exhibits

3.17) The Enquiry officer should verify the material exhibits, if any, obtained and to record the proof of material exhibits.

Classification of evidences

3.18) The Enquiry officer should classify the evidences, depositions and records and the material exhibits as primary evidence and secondary evidence.

3.19) Primary Evidence:-

1. Inquest report
2. Post mortem certificate
3. Forensic report
4. Final Medical opinion
5. Expert Medical opinion
6. Dying declaration
7. Wounds certificate
8. General diary
9. P.S.R.
10. Sentry Relief Book
11. Duty roaster

12. Register of arrest
13. Remand register
14. Pocket diaries
15. Statements of eye witnesses (Public)
16. Statements of witnesses (Public)
17. Statements of police witnesses
18. Any other evidence having a direct bearing on the matter under enquiry.
19. Material exhibits
20. Photographs etc.

3.20) SECONDARY EVIDENCE:-

1. statements of hearsay witnesses
2. Oral accounts

(Kindly arrange the evidence and witnesses as primary and secondary for writing the reports and for documentation purpose)

CHAPTER IV
PROCEDURE TO BE FOLLOWED AT THE THIRD STAGE

Preparation of enquiry report by R.D.O.

The enquiry report should be prepared and submitted to Collectors within 20 days from the date of the incident positively. The report should invariably contain information on the following:-

1. Facts given in the inquest report in brief.
2. Deposition of co-prisoners if any (facts only)
3. Deposition of eye witnesses if any (facts only)
4. Deposition of other public witnesses if any (facts only)
5. Deposition of police officials if any (facts only)
6. Statement of Medical officers
7. Facts unearthed in Station record
8. Nature of wounds, abrasions, injuries etc., as per the postmortem report
9. Contents of Forensic Report
10. Final medical opinion
11. Facts unearthed in the enquiry after critical analysis of all pieces of evidence
12. Conclusive opinion of the Enquiry Officer.
13. Persons specifically responsible for the crime.

14. Criminal / Departmental action recommended against each delinquent police official. Where criminal prosecution is recommended, based on the evidence gathered, the specific IPC offence should be indicated.

4.2) The primary and secondary evidence collected should be serialised for easy reference.

4.3) The enquiry report along with other documents should be sent to Collector within the stipulated time.

CHAPTER V
DETAILED GUIDELINES FOR CONDUCTING PSO 151 (OLD PSO145)
ENQUIRY

Verification of FIR

While making an enquiry into the deaths in custody, allegations of torture/rape etc., the Sub Divisional Magistrate soon after holding the enquiry should verify whether FIR has been registered as per section 154 of the Cr.P.C. and also check up the time of death etc. The time of registering the FIR, the contents of the FIR and details of person who gave the first information and time, whether the complaint was properly registered by the police in the FIR statement should be noted. The SDM should also check up whether a copy of the FIR on the grave occurrence was sent to the District Magistrate (i.e.) Collector as express report as specified under PSO 577.

Verification of offences

5.2) An analysis of many PSO 145 reports shows that most of the custodial victims are the persons accused of commission of prohibition offences, theft, member of unlawful assembly, causing public nuisance, causing grievous/simple hurts, assault, robbery, dacoity, cheating etc. While making an enquiry under PSO 145, the Revenue Divisional Officer should check up the details of the offence for which the accused was taken to custody and as to whether the alleged offence was recorded in the FIR through a proper complaint. The Revenue Divisional Officer should also enquire the time of the alleged commission of the offence and time of registering the complaint in the FIR and if the FIR is not registered immediately, he should investigate the reasons for the delay in registration. This will reveal whether during the

delay in registering the FIR, the accused was unlawfully taken into custody or kept under illegal detention. The mode of investigation commenced by the police, the actual time of arresting the accused and the time recorded in the General Diary, PSR and Sentry Relief Books should be cross checked and the entries made in the station records immediately after the arrest of the accused, should be compared. Discrepancies noted will be revealing.

5.3) The Enquiry Officer should be aware that most of the offences charged against the accused are either bailable or non-cognizable. The police can arrest a person without warrant (from the competent Magistrate) only for the commission of cognizable offences. In non-cognizable cases, a warrant from the Magistrate is absolutely necessary. Hence, while enquiring the case the Sub Divisional Magistrate should clearly check whether the offence in question requires a warrant for arrest or not and if no warrant is required whether the arrest was made as per section 46 Cr.P.C. (i.e.) the quantum of force used in apprehending the accused and whether the force used was necessary to arrest the accused under such circumstances. He should check if there were injuries or wounds caused to the person arrested and whether such excessive use of force was necessary according to the circumstances. The law permits the police to use minimum force required for arrest. If excessive use of force is evident, the person who uses such excessive force will be criminally responsible and liable for punishment. These factors should be investigated by the Magistrate. While making an enquiry, the Sub Divisional Magistrate should critically analyse the use of force in apprehending an accused, whether the circumstances justified it or not and record his specific opinion in the

matter. Similarly, most of the offences charged against the accused in the PSO enquiry are bailable. It should be noted that the police officer has no discretion to refuse bail when the offence is bailable and in certain cases the arrested person is entitled to bail as a matter of right. So when a person is arrested, he has to be either let out on bail or remanded to judicial custody within 24 hours and keeping such persons in the police lock up without an order of the Magistrate beyond 24 hours amounts to illegal detention. The police can be charged for this omission. **It is quite common that the accused kept in the lock up have wounds, injuries, abrasions etc. and generally the police attribute this to attempts made by the accused to escape from arrest. The accused, however invariably, point their fingers against the police that they have inflicted the injuries on them. According to Section 53 of the Cr.P.C. the police are bound to send the accused for medical examination if he has injuries or is in ill-health. Hence, if an accused is found in the lock up with injuries / ill health, without being sent to medical examination an adverse presumption should be made that the injuries and wounds were caused by the police while under their custody in the lock up.**

Verification of time of arrest

5.4) In almost all the PSO cases, it is invariably found that the accused is kept in the lock-up without registering a case. There are no entries in the station records. In such cases, the enquiry officer should verify the records and find out whether the accused was arrested at the time noted in the station records or earlier. Attempt should be made to relate these times to depositions of independent witnesses. **The statements of the independent witnesses have to be taken into account about the time of arrest to check on the uniformity of timings recorded, from the depositions of the independent witnesses, other persons kept in the lock up on those days should be examined to find out the real time of the arrest of the accused. If the time of the arrest does not tally with the time recorded in the station records, it has to be concluded that the accused was kept under illegal detention, till such time.**

Medical evidence

5.5) In an enquiry under PSO, the guilt of the accused police officials should, of course, be proved conclusively. It is seen that where there were no external or internal injuries on the body of the deceased and no signs of torture were visible the enquiry officer are not taking the medical and the Forensic report as the conclusive evidence to prove the cause of death of the deceased apart from other evidences. **The enquiry officer should therefore ascertain the facts behind the medical opinion conclusively from the team of doctors by cross-examining them separately. It must be remembered that if there is any suspicion as to the cause of**

death, the final medical opinion, postmortem and Forensic report which are critical to successful prosecution should be referred to experts for a conclusive opinion as to the cause of death. In most of cases, the medical opinion is inconclusive and indecisive and it is seen to be primarily an expression of opinion and not of facts. **If there is no evidence from eye witnesses or other evidence to prove the cause of death, medical evidence has to be relied on, to determine the cause of death. Where direct evidence of eye witnesses is available on record as to the physical harm inflicted on the deceased and this evidence is in conflict with medical evidence on record, the enquiry officer need not always give credence to the medical opinion so as to render other evidence entirely useless.** In such a situation the enquiry officer should analyse other corroborative or circumstantial evidence to prove the case in addition to the eyewitnesses or medical evidence. Where there are conflicting opinions between Medical Officers and experts, **the reasonable course would be to accept the opinion which is not in conflict with the direct evidence.**

5.6) In most of the cases of deaths in custody, the final medical opinion as to the cause of death of the victim read as **"the deceased would appear to have died of "Myocardial infarction"**. In such cases, the enquiry officer conclude the cause of death as a natural one and no liability is fixed on the delinquent police officials who have kept the victim under illegal detention or tortured them to meet this tragic end. **Deaths due to myo-cardial infarction are not always because of natural cause but may also be due to some attending factors which hasten this natural end.** If the

victim was not subjected to severe torture or other forms of cruelty while in custody, deaths due to heart attack (**myocardial infarction**) can be avoided. Whenever, the death is due to myocardial infarction the enquiry officers should ascertain the factors which led to the death from the medical officers and the role played by each of the delinquent police personnel and fix up criminal responsibility against them.

Rape cases

5.7) The inserted sections 114-A and 114-B of the Indian evidence Act, empower the court of draw a presumption against the accused in prosecution for rape and dowry deaths. Instructions have been issued that no woman (except in certain cases) should be kept in the lock up before dawn and after sun set. **The woman accused should be searched only by woman police and they should be kept under lock-up (if necessary) in woman Police Station under the control of Women Police Constables only.** Despite these strict instructions, cases of molestation and custodial rape have been reported.

5.8) Whenever a complaint of rape in custody against the police is made, the Sub Divisional Magistrate should immediately subject the victim to medical examination as early **as possible within 6 hours of the incident and arrange to send the dresses worn by the victim at the time of the incident for chemical analysis and report based on the medical and forensic evidence and testimony of the ravished Woman and by other evidences, the enquiry officer can draw inference whether the alleged rape was committed or not.** In cases of custodial rape, it is almost impossible to get any other independent evidence to corroborate the testimony of the victim. **Hence, if the presence of the women in custody is established after sun set till the morning (without reasonable cause) by any sources, the allegations of molestation or rape against any specific person or all the persons on duty in the police station stands established on presumption under section 114-A of the Indian Evidence Act.**

5.9) The complainants in most of the custodial rape cases are married women. **Establishing rape on married women without medical examination, within 6 hours, would be extremely difficult. Medical evidence showing injury to her private parts, injury to other parts of her body, seminal stains on her clothes or the clothes of the accused or marks of struggle at the places of occurrence are the vital evidences to prove an offence of rape and attempts should be made by the Enquiry Officer to establish this by enquiry.**

Suicidal hanging

5.10) It is noticed that most of the accused who were kept in the lock-up or called for interrogation to the police station were found hanging either in the bathroom or other places in the Police Station or outside the police station premises. In such cases, attempts are made to tamper with the entries in the station records viz., GD., PSR, Sentry relief book and pocket diaries etc. **Hence, the enquiry officer should seize these records immediately and verify whether corroborative entries were made first in the G.D., PSR, and Sentry relief book respectively, to establish the presence of the victim in police custody.** If the presence of the victim could not be established through the entries in the station records, **the co-prisoners and other independent witnesses should be examined to prove the presence of the victim in the police station under illegal detention.** After establishing the presence of the victim in the Police Station, responsibility lies with the police to account for the presence of the victim in his custody.

5.11) If the victim is found hanging in the lock up or the bathroom of the police station, the enquiry officer should critically analyze the height of the place, the accessories used for hanging, the need for the presence of such accessories in the lock-up or the bathroom, whether such accessories like hurricane lamp, rope, furniture etc. were accounted for in the articles register of the Police Station. **In most of the cases the victims have been allegedly hanging by dhotis, towels, sarees and ropes etc, in the lock-up. Normally, the detenues are allowed into custody only in their underwear.** The dresses worn by the detinue and the dresses are deposited

in the station under the security of the police and these **should be entered in the PSR**. Hence, a check of the **PSR would disclose** details of the dresses worn by the detenu while in the lock-up and it **would help the enquiry officer to fix up responsibility as to whether actually the detenu was wearing the dhoti or towel etc. while in the lock up and was able to use this for committing suicide by hanging.**

5.12) If the detenu was hanging outside the police station by a tree etc., the enquiry officer should probe as to how the detenu was also to escape from the lock up. The primary onus of explanation and responsibility should be fixed on the sentry PC along with other personnel on duty. **If it is a case of illegal detention, primary responsibility lies with the Station House Officer along with other personnel on duty.** If the dead body is found on a tree outside the police station, the enquiry officer should explore as to how the deceased was able to climb on the tree and what were the accessories used by him for committing suicide by hanging. Hence, the type of ligature marks on the neck, other injuries, condition of tongue/eyeballs etc. are extremely significant and are attendant features to be taken note of. If the body is thrown on the high way or in a well, the enquiry should reveal the accident or injury marks on the body. **In all these cases, medical evidence is of paramount importance and it should disclose whether the hanging was ante-mortem or post-mortem and whether the death was due to the injuries sustained or due to hanging alone. In suicidal cases, the scar marks around the neck on the place of knot and the rupture of hyoid and other neck bones and other specific injury marks on the body of the deceased would establish whether the hanging was ante-**

mortem or post-mortem. If it is a case of ante-mortem, the persons responsible are liable for being charged with culpable homicide amounting to murder and if it is otherwise, the police are liable for criminal negligence etc.

5.13) It is often noticed that some of the detenus in the lock-up died due to flames. The police allege that the detenus set fire to his body. In one peculiar case, a detenu kept in the lock-up with underwear who was escorted to the lavatory to ease himself is reported to have burnt himself and died. **In this case, as to how the kerosene in the hurricane lamp came to be transferred into a plastic bottle and how he got hold of a match box, where he kept these articles hidden while being dressed only in an underwear, were not explained by the police or by the Enquiry Officer. In such cases , the enquiry officer should critically examine the presence of such articles with a detenu in the lock-up and should fix-up specific responsibility against the police for allowing this to happen.**

CHAPTER VI

PROCEDURE TO BE FOLLOWED BY COLLECTOR

On receipt of enquiry report from the Revenue Divisional Officers concerned, the Collectors, after perusing the deposition of witnesses, medical evidences, should analyse the findings of the enquiry officer with records of enquiry. If the enquiry report contains any discrepancy or if the enquiry conducted is not sufficient to prove the crime, it should be returned to the enquiry officer pointing out the discrepancy for rectification. **Enquiry report in complete form, should be sent to Government along with the recommendation of the Collector, categorically stating whether he agrees with the findings of Enquiry Officer. If not, the Collector should specify points where he disagrees with the Enquiry Officer and send his recommendation specifying the action recommended whether criminal prosecution/ Department action against the delinquent police officials.**

6.2) It has been noticed that many of the reports of Collectors **are content with merely forwarding letters with no comments on the evidence collected, conclusions reached, recommendations made.** The Collectors should particularly relate the evidence to the conclusions reached and in case any gap is found in presentation, **records referred to or section of the law, these should invariably find place in his report.**

6.3) Two copies of Enquiry Report along with the recommendation of Collector should reach Government within 30 days from the date of occurrence. If under any unavoidable circumstances, the Collector is unable to send the report within the stipulated time, a report may be sent to Government explaining in detail the circumstances under which it was not possible.

CHAPTER VII

PROCEDURE TO BE FOLLOWED AFTER ORDERS ARE PASSED BY

GOVERNMENT ON THE ENQUIRY REPORT

Preparation of draft complaint

The Collectors / Sub Divisional Magistrates on receipt of orders from the Government for the criminal prosecution against the delinquent police personnel, should send a copy of the **order of enquiry report and other required information to Public Prosecutor / Assistant Public Prosecutor concerned for drafting a complaint against the delinquents.**

Verification

7.2) Subsequently, the contents of the draft complaints viz., name and other particulars of the accused, charges against the accused etc., referred to in the complaint should be verified with the particulars in the enquiry report. **A copy of the Enquiry report along with Government orders should be sent to DGP, Madras for taking departmental action.**

Filing in Court

7.3) The draft complaint after due verification and approval should be filed in **Court by Sub -Divisional Magistrate within 7 days from the date of receipt of the order from the Government. The Collector should ensure the filing of draft complaint within the stipulated time.**

7.4) After filing the case, the C. C. No. of the case should be intimated to Government immediately.

Production of Witnesses

7.5) Collector/Sub Divisional Magistrate/Superintendent of Police of the district concerned should ensure production of all witnesses in the Court and the progress of the case to be intimated to Government without fail.

7.6) If stay or appeal petition is filed by the accused, copies of such orders and petitions should be sent to Government for filing Counter Affidavits.

Final Result

7.7) If the case ends in acquittal, the Sub Divisional Magistrate should obtain the opinion of the Public Prosecutor concerned as to whether it is a fit case for filing an appeal or review the case and should send it to Government for consideration.

7.8) Where the case ends in conviction, the result along with judgement copy should be sent to Government for further action.

CHAPTER VIII

PROCEDURE TO BE FOLLOWED FOR DEPARTMENTAL ACTION BY THE POLICE AUTHORITIES.

When the Government orders departmental action against the accused Police personnel, it is noticed that there is inordinate delay by the Police Department in taking action which nullifies the efforts taken by the District authorities. **In one interesting case, the punishing Authority viz. the Superintendent of Police, rightly imposed the punishment "Removal from service" on two Police Constables for the charges held proved against them that "High handed behaviour and unbecoming member of disciplinary force that they along with other Police Constables assaulted and caused grievous injuries to one Thiru Punniamoorthy, S/o Villappan of Thalyamangalam Village on 24.10.1989 at 10 hours".**

8.2) But the appellate authority viz. Deputy Inspector General of Police, who expressed his concurrence with the punishing Authority took a lenient view on some extraneous consideration, showing importance to the members of the family who have been affected and modified the punishment as **"Reduction in time scale of pay for 2 years for 2 stages without cumulative effect".**

8.3) The Government considered that such lenient views will not be conducive to the maintenance of discipline in the Police force and ordered the Director General of Police to issue suitable instructions in this regard to the Unit officers to refrain from issuing such orders on the basis of extraneous considerations. A copy of the order issued is appended to this Manual.

8.4) The case cited is not the only one. In a large number of cases, the Departmental officer/Punishing Authority do suggest only to "drop" further action against the delinquent Police personnel and that the charges are held as "not proved". Since the very purpose of conducting enquiries and the efforts taken and by the Government are defeated by such lapses, the Government are of the view that departmental action is ordered only after a careful consideration of the evidence and report sent by the Sub Divisional Magistrate and after getting orders from the Hon'ble Chief Minister. As such, the Government consider that in Departmental action, ordered by them, the enquiry should be commenced within a month from the date of receipt of the Government Order and it should be processed quickly in accordance with the rules in force. The result of the departmental action along with the findings of the Enquiry Officer, the punishment suggested by Punishing Authority and imposed by the Appellate authority should be sent to Government for approval.

Sl.No.1**Copy of:****GOVERNMENT OF TAMIL NADU****ABSTRACT**

Law and Order – Charges of torture or of causing death or grievous hurt against police officials – Inquiry under Police Standing Order 157 by Presidency Magistrate and Revenue Divisional Officers – Powers to summon witness and take evidence on oath – Investiture with powers under section 2 of Madras Revenue Inquiries Act, 1893.

PUBLIC (GENERAL-A) DEPARTMENT

G.O.Ms.No.2349

Dated the 5th August 1957.

Read:

G.O.Ms.No.2854, Home, dated the 12th October 1955.**ORDER:**

Before the judiciary was separated from the executive, the procedure prescribed in Police Standing Order 157 in regard to an inquiry into a charge of torture or of causing death or grievous hurt against a police official, in substance, was that the Sub-divisional Magistrate concerned should take cognizance of the offence, under the relevant clause of sub-section (1) of section 190 of the Criminal Procedure Code and thereafter enquire into the case and dispose of it according to the provisions of the same Code. The enquiry was thus a judicial one, in which the Sub-divisional Magistrate, had powers under the Criminal Procedure Code to summon witnesses to compel the production of a document or a thing and to examine witnesses on oath.

2. After the separation of the judiciary from the Executive, the enquiry under Police Standing Order 157 has shed its judicial character. The revised Police Standing Order 157 issued with G.O.Ms.No.2854, Home, dated 12th October 1955, contemplates an enquiry of a non-judicial character by the Revenue Divisional Officer who should arrive at a finding on the point whether there are grounds for launching a criminal prosecution against the police officials concerned and report his finding to the Collector of the district. If any prosecution for the offence is considered necessary, the Collector will issue instructions to the Revenue Divisional Officer for laying a formal complaint in the Court of the appropriate Judicial Magistrate. In Madras City inquiries into charges of police torture will be conducted by a Presidency Magistrate. If it is decided to prosecute the police officials concerned the Commissioner of Police will be directed to lay a formal complaint in the Court of a Presidency

Magistrate other than the Presidency who held the inquiry under Police Standing Order 157.

3. The inquiry contemplated by the revised Police Standing Order being a non-judicial one, neither a Presidency Magistrate nor a Revenue Divisional Officer has the power to compel the attendance of witnesses before him or take evidence on oath when he conducts the enquiry. In order to remedy this drawback the Government have decided to invest Presidency Magistrate and Revenue Divisional Officers with powers under section 2 of the Madras Revenue Inquiries Act, 1893. In virtue of the powers thus conferred Presidency Magistrates and Revenue Divisional Officers will have by law, the authority to receive evidence whenever they proceed to conduct an inquiry under Police Standing Order 157. The authority to receive evidence also carries with it ipso facto the authority to administer oaths, by virtue of section 4, of the Indian Oaths Act, 1873. The following notification will be published in the Fort St. George Gazette:-

NOTIFICATION

In exercise of the powers conferred by the section 2 of the Madras Revenue Enquiries Act, 1893 (Madras Act V of 1893), the Governor of Madras hereby invests each of the officers mentioned in the schedule below with power to summon any person to appear before such officer or to produce any document or thing in the possession or under the control of such person, the production of which, in the opinion of such officer, is necessary to the conduct of an enquiry into a charge of torture or of causing death, or grievous hurt against any police official under Police Standing Order 157.

Schedule

- (i) Presidency Magistrate including the Chief Presidency Magistrate;
- (ii) Revenue Divisional Officers

(By order of the Governor)

W.R.S.SATTHIANADHAN,
Chief Secretary to Government

To
All Collector with spare copies for Revenue Divisional Officers
The Chief Presidency Magistrate, Madras.
The Inspector-General of Police, Madras.
The Commissioner of Police, Madras.
Copy to Home Department,
The Registrar, High Court, Madras
The Board of Revenue, Madras
The Revenue Department,
The Controller of Stationery and Printing
for publication of the notification in the
Fort St. George Gazette.

/Forwarded/By Order/

sd./-xxx
SECTION OFFICER

Sl.No.2Copy of:**GOVERNMENT OF TAMIL NADU****ABSTRACT**

Law and Order – Charges of torture of causing death or grievous hurt against Police Offices – Inquiry under Police Standing Order 157 by Presidency Magistrates and Revenue Divisional Officers – Examination of Police Officials against whom charge has been made and of General Diary and other Police Station records – Instructions issued.

PUBLIC (GENERAL-A) DEPARTMENT

G.O.Ms.No.2666.

Dated the 12th September, 1957.

Read :

G.O.Ms.No.2854, Home dated 12th October 1955.**ORDER:**

In Police Standing Order 157, the Government have laid down the procedure, which Presidency Magistrates and Revenue Divisional Officers should follow, while conducting enquiries into charges against Police officials, of torture or causing death or grievous hurt, in their official or in their private capacity. The question has been raised whether during the course of such an enquiry, the inquiring officer should examine the police official against whom the charge has been made. The Government have considered the point and they are of the opinion, that as an enquiry under Police Standing Order 157 is not a full-scale judicial enquiry or trial, there is no obligation on the part of the enquiring officers to invariably examine the accused, Police Official. The Government, however direct that the enquiring officers should specifically consider the need for examining the accused, Police official in each case and if they decide not to examine the accused, they should record the reasons for the same.

There have been cases in the past where a Revenue Divisional Officer conducting the enquiry under Police Standing Order 157, has allowed the accused Police Officer to cross-examine the complaint. The object underlying the inquiry is to ascertain whether there is sufficient evidence for prosecuting the accused Police official, in a Court of Law. In other words proceedings under Police Standing Order 157 is more or less in the nature of an investigation with this difference, viz., that the investigation, so called, is conducted not by a

Police officer but by a Magistrate of the First-Class. The Government are of the view that accused Police Official should not be allowed to cross-examine the complaint during the enquiry. Since a gazetted Police officer will be associated with the enquiry any point in favour of the accused Police officer will not be lost sight. The Government, therefore, direct that in future Police officials should not be allowed to cross-examine the complaint.

It happens, not infrequently, that the death of a person in Police custody or of torture of grievous hurt sustained by a person while he is under such custody, is the result of wrongful confinement of the persons concerned. It is essential that the enquiring officer should consider all pieces of evidence for and against the police officer. The Government direct that whenever a Presidency Magistrate or a Revenue Divisional Officer conducts an enquiry under Police Standing Order 157, he should invariably examine the General Diary and the other Police Station records., relevant to the case before arriving at his finding.

(By order of the Governor)

(W.R.S.SATTHIANADHAN)

Chief Secretary to Government.

To
 All Collector with spare copies for Revenue Divisional Officers
 The Chief Presidency Magistrate, Madras.
 The Inspector-General of Police, Madras.
 The Commissioner of Police, Madras.
 Copy to Home Department,
 The Registrar, High Court, Madras
 The Board of Revenue, Madras
 The Revenue Department,
 The Controller of Stationery and Printing
 for publication of the notification in the
 Fort St. George Gazette.

/Forwarded /By Order/

sd./-xxx
 SECTION OFFICER

Sl.No.3

Copy of:

GOVERNMENT OF TAMIL NADU

Public (General-A) Department,
Secretariat, Chennai-9.

Memorandum No.3700/68-3, dated the 14th August 1968.

Sub : Law and order – Public Administration in the State –
Death in Police custody – Furnishing of report to the
Government Procedure – Ordered.

Instance of deaths in Police custody are brought to the notice of the Government by the Inspector-General of Police, Madras, or by the Collectors of the district, as the case may be, every now and then. The Government observe that while the Inspector-General of Police sends his report on such incident invariably, the District Collector sends his report only occasionally, especially when a death in Police custody appears to assume some public importance.

2. As a matter of fact, in such cases, the Government are not in a position to examine the cases thoroughly, in the absence of inquest report etc., of the Revenue Divisional Officer concerned, to be sent to the Government through the District Collector. The Government, therefore, consider it necessary to get the Revenue Divisional Officer's report invariably, through the Collector, on all the incidents of deaths in Police custody, for thorough scrutiny and final disposal.

3. The Government accordingly direct that in future, regarding deaths in police custody, the Inspector-General of Police, Madras should send his first information report to the Government immediately on the occurrence of the incident and that the Collector of the district concerned should also send the Government a follow-up detailed report on all incidents, accompanied by the relevant records of the Revenue Divisional Officer.

4. The receipt of this memorandum should be acknowledged by return of post.

C.S.RAMAKRISHNAN
Chief Secretary to Government.

/Forwarded/By Order/

SECTION OFFICER

Sl.No.4**Copy of:****GOVERNMENT OF TAMIL NADU**

Public (General-A) Department,
Secretariat, Chennai-9.

Memorandum No.3657/69-8, dated the 2nd February 1970

Sub : Law and order – Public Administration in the State –
Death in Judicial custody – Furnishing of report to
the Government Procedure – Ordered.

Ref: (1) Government Memorandum No.3700/68-3, Public
(General-A) dated 14th August 1968.
(2) From the Collector of Coimbatore, Letter
K.Dis.No.9097/69-M, dated 15th July 1969.

.....

In the Government Memorandum cited, the Inspector –General of Police, Madras was instructed to send his first information report to the Government immediately on the occurrence of any death in police custody and the Collectors were instructed to send a follow-up detailed report on all incidents, accompanied by the relevant records of the Revenue Divisional Officer. Accordingly, the Collectors have been sending reports on enquiries conducted under Police Standing Order 145 by the Revenue Divisional Officers into cases of death in Police custody and alleged Police excesses.

2. In the letter second cited, the Collector of Coimbatore has stated that in the case dealt with in the letter, the death did not occur when the deceased was in police custody. The deceased happened to be a convict under imprisonment, that is, in judicial custody. The Collector wanted clarification whether a report had to be sent to the Government in such cases also.

3 The Government have examined the matter carefully. They consider that even in cases where the deceased was in judicial custody, an enquiry into the death should be conducted by the Revenue Divisional Officer and the records along with the findings of the Revenue Divisional Officer should be forwarded through the Collector. In other words, the instructions contained in the Government Memorandum read above will be applicable to cases, of death in judicial custody (that is when the deceased was under judicial custody at the time of death) also. The Collectors are requested to take action accordingly.

4. The receipt of this Memorandum should be acknowledged by return of post.

E.P.ROYAPPA
Chief Secretary to Government.

To

The Collector of the districts (except the Collector of Madras)
The Inspector-General of Police, Madras-4.
The Commissioner of Police, Madras-8.
The Inspector-General of Prisons, Madras-7.
Copy to Home (Pol.IV) Department, Madras-9.
Public (SC) Department, Madras-9.

/True Copy/

SECTION OFFICER

Sl.No.5**Copy of:****GOVERNMENT OF TAMIL NADU****ABSTRACT**

Law and Order – Procedure to be followed in respect of charges of torture by the Police or of death or of grievous hurt caused by the Police – Enquiry under Police Standing Order – Allegations of rape and commission of unnatural offences against Police – Inclusion within the purview of Police Standing Orders passed.

PUBLIC (GENERAL-A) DEPARTMENT

G.O.Ms.No.1763

Dated the 29th July, 1970

Read:-

From the Inspector-General of Police,
Letter No.F.Dis.21594/C2/69, dated 1st December 1969.

ORDER:

The Government have examined whether or not the allegations of rape and commission of unnatural offences against the Police may be brought within the purview of Police Standing Order 145 so as to enable to Enquiry Officer (Revenue Divisional Officer) to go into the matter to assess the criminal liability of the concerned Police personnel.

2. Police Standing Order 145 lays down the procedure to be followed in respect of charges of torture by the Police or of death or grievous hurt caused by the Police. The Deputy Inspector General of Police, Western Range, has opined that rape or the commission of an unnatural offence can be construed to be as bad as worse than grievous hurt, but allegations of rape and commission of unnatural offences are not covered by Police Standing Order 145, as these do not come under the definition of grievous hurt as given in section 320, Indian Penal Code.

3. The Inspector-General of Police, Madras has pointed out that the Police Standing Order is designed to guard against any excess that the Police Officers may resort to in their anxiety to bring home the guilty of, or to extort confession from, persons and that the same cannot be said in the case of rape or commission of unnatural offences as these offences are committed for sexual gratification. The Inspector-General of Police has stated that the two offences are cognizable and there is always the scope for the prosecution of offenders, and that in the offences of rape and the

commission of unnatural offences there is not much for a Revenue Divisional Officer to go into as matters of law and jurisprudence are not involved in these two offences.

4. The Government have carefully examined the points raised by the Inspector-General of Police, Madras mentioned in paragraph 3 above. The Government do not agree with the Inspector-General of Police because rape is a very serious crime, and committed by a Policeman in respect of a person in a lock-up assumes grave proportions. It is also observed from the many cases that have come to the notice of Government that rape and unnatural offences are not uncommon and that for want of thorough investigation and lack of evidence the offender gets off with mild punishment.

5. In the circumstances stated in paragraph 4 above the Government direct that the Revenue Divisional Officers should conduct enquiries under Police Standing Order 145 into allegations of rape or other sexual offences committed in police custody.

6. The Inspector-General of Police, Madras is requested to send necessary draft amendments to Police Standing Order 145 to the Home Department for necessary action.

The receipt of this Government Order should be acknowledged.

(By order of the Governor)

E.P.ROYAPPA
Chief Secretary Government.

To

The Inspector General of Police, Madras-4.

/Forwarded/By Order/

sd./-xxx
SECTION OFFICER

Sl.No.6**POLICE STANDING ORDER****VOLUME-1****Order No.145 (New No.151)**

PROCEDURE IN RESPECT OF CHARGES OF TORTURE BY THE POLICE OR OF DEATH OR GRIEVOUS HURT CAUSED BY THE POLICE:-

(G.O.Ms.No.2461, dated 14th September, 1970)

The following procedure is prescribed in respect of charges of torture or causing death or grievous hurt or rape or commission of an unnatural offence against Police officials:-

In the mufassal. – (1)(a) A Gazetted Police Officer to whom a complaint of such an offence is made or who otherwise hears of such an occurrence should immediately start an informal investigation into the occurrence and should also report the case at once to the Revenue Divisional Officer concerned. Any such investigation should be subject to the instructions in paragraph (2) below.

(b) When information of the commission of any such offence is received by a police officer below the rank of Assistant or deputy Superintendent of Police, he should not make any regular investigation himself but should at once report the case to the Revenue Divisional Officer and the Assistant or Deputy Superintendent of Police to whom he is subordinate and send a copy of such report to the Superintendent of Police direct.

(2)(a) On receiving information about any such occurrence either from a Police Officer as indicated in paragraph (1) above or otherwise, an information enquiry into the occurrence should be conducted by the Revenue Divisional Officer. The enquiry will be of a non-judicial character and more or less in the nature of an investigation in order to see whether there is a prima facie case for launching a criminal prosecution against the Police Officer concerned and to fix the responsibility on the individual Police Officers. While an appeal can be issued to the public to come forward to testify in the enquiry, the proceedings of the enquiry should not be given wide publicity.

(b) There is no objection to a Gazetted Police Officer being associated with such an enquiry but there should be no parallel investigation by the Police referred to in paragraph (1) above or otherwise and any information gathered by a Gazetted Police Officer should promptly be reported to the Revenue Divisional Officer. The Revenue Divisional Officer should complete the informal enquiry in the manner indicated in paragraphs (3) and (4) below.

(c) There is no obligation on the part of the enquiring officer to invariably examine the accused officer. The need to do so should, however, be specifically considered and if he decides not to examine the accused Police Officer he should record the reasons for the same.

(d) The enquiring officer should invariably examine the General Diary and other Police Station records relevant to the case and should consider all pieces of evidence both for and against the accused Police Officer before the arriving at his finding.

(e) Every Revenue Divisional Officer and every Presidency Magistrate, including the Chief Presidency Magistrate who has been conferred with powers under section 2 of the Madras Revenue Enquiries Act, 1893, may summon any person to appear before him or to produce any document or thing in the possession or under the control of such person, the production of which, in the opinion of such Revenue Divisional Officer or Presidency Magistrate, is necessary to the conduct of the enquiry. By virtue of the powers thus conferred, Revenue Divisional Officers and Presidency Magistrate including the Chief Presidency Magistrate, Madras will have by law, the authority to receive evidence whenever they proceed to conduct an enquiry under Police Standing Order 145. The authority to receive evidence also carries with it ipso facto the authority to administer oaths, by virtue of section 4 of the Indian Oaths Act, 1873.

(f) The accused Police Officer should not be allowed to cross examine the complaint or any of the witnesses at an enquiry.

(3) When a complaint of torture has been filed in the Court of a Judicial Magistrate by the affected party, the Revenue Divisional Officer conducting the informal enquiry under paragraph (2) above should not terminate it but should continue it and arrive at his own findings on the individual responsibility of each Police Official, such findings should, however, be kept confidential pending the trial result of the Judicial enquiry or trial emanating

from the complaint. On the completion of such judicial enquiry, the Revenue Divisional Officer should decide on the further course of action to be followed, in the light of the judicial decision and take appropriate steps.

(4) (a) When the affected party files no such complaint in the Court of Judicial Magistrate, the Revenue Divisional Officer should complete his investigation and arrive at specific findings as to whether there are grounds to launch criminal proceedings and as to the individual responsibility of each of the Police Officers concerned and submit a report to the Collector. If any prosecution for the offence is considered necessary as a result of such findings, the Collector should issue instructions to the Revenue Divisional Officer for laying a formal complaint, for the offence or offences disclosed, before the Court of the First-Class Judicial Magistrate having jurisdiction.

(b) Whenever a Revenue Divisional Officer, who conducts an enquiry under the above Order, finds that the Police Official concerned has been guilty of some other offence not coming under this Order, he should forward the report of enquiry to the Collector of the district, who will transfer the record of enquiry to the Superintendent of Police concerned for further action.

City of Madras – (5) The procedure prescribed in paragraphs (1) to (4) will apply mutatis mutandis in respect of charges of the same nature against the Police in the City of Madras, with the following modifications:-

Every reference to the Revenue Divisional Officer in those paragraphs will be construed as referring to the Chief Presidency Magistrate. The report of the Collector referred to in paragraph 4 above need not, however, be sent by the Chief Presidency Magistrate to any other authority. The Chief Presidency Magistrate may direct any of the Presidency Magistrates to hold the

informal enquiry into the occurrence. Such Presidency Magistrate should conduct the informal enquiry and record findings on the questions referred to in paragraph (2) above in the matter and forward the same to the Chief Presidency Magistrate. If any prosecution for the offence is considered necessary in consequence of these findings, the Chief Presidency Magistrate may issue instructions to the Commissioner of Police for laying a formal complaint in such court of the Presidency Magistrate as he may specify, other than the Presidency Magistrate who conducted the informal enquiry.

(a) Whenever the Chief Presidency Magistrate or any stipendiary Presidency Magistrate, who conducts an enquiry under the above order, finds that the Police official concerned has been guilty of some other offence not coming under this Order, the record of enquiry should be transferred to the Commissioner of Police by the Chief Presidency Magistrate, if he has held the enquiry, and if, any other Presidency Magistrate has held the enquiry he should forward the record of enquiry to the Chief Presidency Magistrate who in turn will transfer the record of enquiry to the Commissioner of Police, Madras, for further action.

(b) Post-mortem Examination:- In order to establish beyond all reasonable doubt the death of a person in Police custody including those cases where the individual dies on the way to the hospital, especially where there is a chance to suspect suppression of facts, post-mortem examination of the body is very necessary. Therefore, in all cases of death in Police custody including those cases where the individual dies on his way to hospital for treatment, the enquiring officer exercising the powers of First-Class Magistrate in the mofussil or the Chief Presidency Magistrate in the City shall

invariably send the dead body for post-mortem examination and obtain the post-mortem certificate before recording his findings of enquiry.

General- (6) When complaints of torture, etc, against the Police Subordinate are received by a Police Officer either in the mofussil or in the City through the media of telegrams from non-official sources or anonymous or pseudonymous petitions and letters, or even by vague rumour, the officer receiving the same, should immediately inform the Revenue Divisional Officer concerned in the mofussil and the Chief Presidency Magistrate in the City of Madras of the fact that a complaint has been received and that he is trying to verify the veracity or authenticity of the information and that the result of the verification will be communicated to the Revenue Divisional Officer or the Chief Presidency Magistrate, as the case may be, as early as possible. He should not, however, register the complaint as a First Information Report until after such verification.

(7) It is left to the Revenue Divisional Officer concerned in the mofussil and the Chief Presidency Magistrate in the City either to wait for the result of the Police verification of the authenticity of the report or cause to be made such verification as he considers necessary. The Revenue Divisional Officer or the Chief Presidency Magistrate, as the case may be, should not, however, start the formal investigation under paragraph (2) above, before satisfying himself as to the authenticity of the anonymous or pseudonymous communications containing the complaint.

(8) Such cases as are referred to in paragraphs (1)(a) and (b) above should receive special mention in Part I of the Weekly Report prescribed by Police Standing Order. Volume-I, Order No.137, by both the Assistant or

Deputy Superintendent of Police concerned and the Superintendent of Police in mofussil and the Assistant Commissioner and the Deputy Commissioner in the City of Madras.

Sl.No.7**Copy of:****GOVERNMENT OF TAMIL NADU**

Public (General-D) Department,
Secretariat, Chennai-9.

Office Memorandum No.847, dated 29th October 1971

Sub : Law and order – Public Administration in the State –
Death in Police and Judicial custody – Delay in
furnishing report to Government – Instructions –
Issued.

Ref: (i) Government Memo No.3700/69-3, Public
(General-A) dated 14th June 1968.

(ii) Government Memo No.3657/69-8, Public
(General-A) dated 2nd February 1970.

(iii) Government Memo No.5178/70-1, Public
(General-A) dated 7th November 1970.

.....

In the Government Memorandum first and second cited, all the Collectors except Collector of Madras have been instructed to send to Government, a detailed report on all instances of death either in Police or judicial custody accompanied by the relevant requested to ensure that, as far as possible, prosecution is launched. Government Memorandum third cited, they have also been requested to ensure that as far as possible, prosecution is launched Govt. memo IIIrd cited they have also been regretted to ensure that as far as possible, prosecution is launched within three months from the date on which the victim is alleged to have been tortured in Police custody, in case of Revenue Divisional Officer finds Police officials responsible for torture, etc, as a result of enquiry under Police Standing Order 145.

2. An instance of death in police custody has come to the notice of Government recently. In that case, the Government have not received any report for along time from the Collector, though the Revenue Divisional Officer conducted an inquest over the dead body on the day following the date of death of individual. The Collector concerned was, therefore, requested to obtain and send a detailed report of the Revenue Divisional Officer without delay. But the Collector took nearly four months to send the report of the Revenue Divisional Officer, the Revenue Divisional Officer concerned, in turn took nearly three months to examine the witnesses and send a report to the Collector. The Government viewed with grave concern the inordinate delay on

the part of the Collector and the Revenue Divisional Officer in the submission of the report and, however, cautioned them to see that such lapses do not recur in future.

3. The Government, therefore, observe that in a matter requiring investigation, every one should realize that the time is an essential factor and the case is processed expeditiously. In the circumstances, the Government direct in future, the Collectors should ensure that the reports of the enquiry officer on all incidents of death under Police Standing Order 145 are obtained and send to Government within a month from the date of incident of death. The Collectors should impress on the Revenue Divisional Officer, the importance and urgency of such enquires and that failure to comply with the instructions will entail disciplinary action.

4. The receipt of Memorandum should be acknowledged by return of post.

P.SABANAYAGAM,
Chief Secretary to Government.

/True Copy/

SECTION OFFICER

Sl.No.8

Copy of:

GOVERNMENT OF TAMIL NADU

ABSTRACT

Law and Order - Public Administration - Death in Police Custody - Enquiry-
Post-mortem Examination - Necessary instructions - Issued.

Public (General- D) Department

G.O.Ms.No.620

Dated 7th March, 1982.

Read:

1. From the Collector of Salem, Letter Roc.No.31910/71(CS), dated the 29th April, 1971.
2. From the Inspector General of Police, Letter Rc.No.34830/C2/71, dated the 17th September 1971.

ORDER:-

Under Police Standing Order 145, the Enquiry Officer exercising the powers of a First-Class Magistrate, conducts enquiry in all cases of death in Police custody, including those cases where, the individual dies on his way to hospital for treatment. According to clause (2) of Police Standing Order 144, the body of the deceased is to be kept for inquest by the Inquiry Officer. But there is no provision to have postmortem examination in all cases of death in Police custody. The decision whether to send the dead body for postmortem examination or not is left to the decision of the Inquiry Officers.

2. An instance came to notice of the Government in which a remand prisoner died on his way to hospital and the Inquiry Officer conducted a detailed enquiry under Police Standing Order 145 and came to the conclusion that the remand prisoner died of natural causes. The Inquiry Officer dispensed with the post-mortem examination in this case, as he did not suspect any foul play by the Police. **A question has arisen whether post-mortem examination is not necessary in all such cases.** The Government have examined the question in consultation with the Inspector-General of Police.

3. In order to establish beyond all reasonable doubt that the death of an individual, in police custody including those cases, where the individual dies on his way to the hospital, is due to natural causes, especially where there is chance to suspect suppression of facts, post-mortem examination of the dead body is considered essential. **It is accordingly ordered that in all cases of death in Police Custody including those cases where the individual dies on his way to the hospital for treatment, the Inquiry Officer exercising the powers of First-Class Magistrate shall send the dead body for post-mortem examination and obtain the post-mortem certificate before recording his findings of inquiry.**

4. All Collectors of districts are requested to issue necessary instructions to all Inquiry Officers exercising the powers of a First-Class Magistrate in this regard.

5. The Commissioner of Police, Madras is also requested to bring this to the notice of the authorities concerned so far as Madras City is concerned.

6. Necessary amendments to the Police Standing Order will be issued from Home Department in due course. The Inspector General of Police is requested to send necessary proposals in this regard to the Home Department, for issue of necessary amendments.

(By order of the Governor)

P.SABANAYAGAM
Chief Secretary to Government

To
All Collectors of districts
The Commissioner of Police, Madras
The Inspector-General of Police, Madras-4.

Copy to :
The Chief Presidency Magistrate, Madras
The Home Department, Madras-9

/Forwarded/By order/

sd./-xxx
SECTION OFFICER

Sl.No.9**Copy of:****GOVERNMENT OF TAMILNADU****ABSTRACT**

Law and Order – Tamil Nadu Legislative Council – Assurance regarding protection to lawyers while appearing in the Courts – Procedure for enquiry in cases of attacks and of minor injuries caused by the Police –orders issued in G.O.Ms.No.1700, Public (General.A) dated 25th May 1971 – Modified.

Public (General- A) Department

G.O.Ms.No.945

Dated the 4th April, 1972.

Read:

- 1) G.O.Ms.No.1700, Public (General-A), dated 25th May, 1971.
- 2) From the Inspector General of Police, Madras,
Ref. No.Rc.16175/C3/71, dated 23rd August 1971.

.....

ORDER:-

The Government have considered the assurance given by the Chief Minister in the Legislative Council that the Government would examine the existing procedure and issue orders on the suggestions that the Government should make enquires regarding the attack by Police against Advocates in the Court in consultation with the Inspector General of Police, Madras. Accordingly Government direct that a specific provision should be made in the Police Standing Order for enquiry by Revenue Divisional Officer or other officers belonging to Revenue Department in cases of attacks and of minor injuries caused by the Police for which any compensation is made.

2. The Inspector-General of Police, Madras, has brought to the notice of the Government some practical difficulties in implementing the orders of the Government. The matter has again been examined in the light of the observations of the Inspector General of Police, Madras.

3. The Government after careful consideration and in supersession of the orders issued in the Government Order cited, direct that in cases of attacks and of minor injuries caused by the Police, the person concerned may prefer a complaint in person to the Executive First-Class Magistrate having jurisdiction (Revenue Divisional Officer) and such officer should hold a preliminary enquiry and take such further steps as he deems necessary. If the Executive First-Class Magistrate considers that there is a PRIMA FACIE case, and an enquiry is necessary, he should send up proposals to the Collector of the district and obtain specific orders from him before commencing the enquiry.

4. The Inspector - General of Police, Madras is requested to take necessary action in this regard and send draft proposals for amending the Police Standing Order to the Home Department.

(By order of the Governor)

P.SABANAYAGAM
Chief Secretary to Government.

To
The Inspector-General of Police, Madras-4.
Copy to :
The Home Department, Madras-9
The Public (General-D)/Public (SC)/Public (Genl.B) Departments
The Law Department, Madras-9.

/Forwarded/By order/

Sd./-xxxx
SECTION OFFICER

Sl.No.10

Copy of:

GOVERNMENT OF TAMIL NADU

Public (General-D) Department,
Secretariat, Chennai-9.

Office Memorandum No.3767/71-9, dated 5th July 1972

Sub: Law and Order – Death of remand Prisoner in Police custody – Enquiry under Police Standing Order 145 - Certain clarifications by Commissioner of Police, Madras - Orders Passed.

Ref: From the Commissioner of Police, Madras
Letter No.16362/F5/72, dated 24th March 1972.

.....
Thiru Yasin, Son of Khayum, was reported to have died while he was under the custody of Triplicane, D1 Police Station on 8th August, 1971. This was reported to Government by the Commissioner of Police, Madras. As the report under Police Standing Order 145 was not received from the Commissioner of Police as per the instructions in the Police Standing Order, Volume I, the Commissioner of Police was requested to send the enquiry report from the Presidency Magistrate.

2. In the letter cited, the Commissioner of Police has stated

- I. that there have been no charges of torture or causing grievous hurt, etc., on any police official.
- II. that the verdict of Panchayatdars in the inquest report, as well as the report of the Medical Officer, who conducted the post-mortem are clear, that the death of Yasin is due to natural causes.
- III. that there are no petitions received in his office or any public allegations on the police official into the death of Yasin in Police Custody and therefore he reported to Government that there are no grounds for the conduct of an enquiry under Police Standing Order 145 regarding the death of Yasin.

3. The Government have examined the interpretations given by the Commissioner of Police, with regard to the existing instructions in the Police Standing Order regarding the death in Police custody and the procedure to be followed in conducting the enquiry. It may be stated in this connection that Thiru M.A.Latheef, M.L.A. has sent a petition requesting the Government to enquire into the death of Yasin. Dr. Hande has also raised an legislative Assembly Question on the above subject. **It is not, therefore, correct to say that there are no petitions or allegations against police officials in the instant case.**

4. The Government wishes to invite the attention of the Commissioner of Police to the existing instructions in this regard **and to state that there are no discretionary powers vested with the Commissioner of Police or the Presidency Magistrate to dispense with the enquiry and direct that it is obligatory on the part of the Commissioner of Police and the District Collectors to order an enquiry under Police Standing Order 145 in all cases of police torture or death in police custody whether there are allegations against the Police or not unless, the enquiry is dispensed with by the Government.**

5. The Commissioner of Police, Madras is therefore requested to arrange for an enquiry under Police Standing Order 145 into the death of Yasin very urgently and forward the records of enquiry to the Government without further delay.

P.SABANAYAGAM
Chief Secretary to Government.

To

The Commissioner of Police, Madras-8.

Copy to

The Chief Presidency Magistrate, Madras-8.

The Inspector General of Police, Madras-4.

The Home Department.

/True Copy/

SECTION OFFICER

Sl.No.11

Copy of:

GOVERNMENT OF TAMIL NADU

Public (General-D) Department,
Secretariat, Chennai-9.

Memorandum No.146/73-1, dated the 10th January, 1973

Sub: Law and Order-Death in Police custody - Sending of reports to Government-Instructions-Issued.

.....

Public (General D) is concerned with the subject "Death of remand or under trial prisoners" in police custody, while the subject "death of convicted prisoners" is dealt with in Home Department. Reports regarding convicted prisoners are being sent to this department by Collectors. Such reports will have to be transmitted to Home Department in order to avoid duplication of work. All Collectors of Districts and the Commissioner of Police, Madras are requested to send in future only reports relating to death of remand or under trial prisoners. Reports regarding death of convicted prisoners may be sent to Home Department direct.

D.SUNDARESAN
Under Secretary to Government.

To
All Collectors.
The Commissioner of Police, Madras-8.

Copy to
The Inspector General of Police, Madras-4.
Home Department.

/True Copy/

SECTION OFFICER

Sl.No.12

Copy of:

GOVERNMENT OF TAMIL NADU

Public (General-D) Department,
Secretariat, Chennai-9.

Memorandum No.7393/72-4, dated 31st March 1973

Sub: Law and Order-Chingleput Railway Police Station -Allegation of torture by Police-Compliant from Kanniappan-Findings of Revenue Divisional Officer, Chingleput-Accepted-Delay in sending report- Instructions issued.

Ref: From the Collector of Chingleput letterNo.3658/M/72, C1, dated 8th September 1972.

.....
The torture of Kanniappan by Police took place on 24th March 1972. But the Collector's report was sent to Government only in September 1972 (i.e.) after a delay of about six months.

2. The attention of the Collector of Chingleput is in this connection invited to the orders issued in paragraph 3 of Government Memo.No.3700/68-3, Public (General A) Department, dated 14th August, 1968, wherein the Inspector General of Police and Collectors of Districts have been asked to send to Government, their reports on all incidents of death immediately on the occurrence of the incidents. There is no doubt, that these instructions will equally apply to cases of torture also.

3. The Collector of Chingleput is directed to avoid such delays in future.

4. The Government have examined the enquiry report of the Revenue Divisional Officer, Chingleput, regarding allegations of torture of Kanniappan by Police on 24th March 1972. As a year has already passed after the date of incident, this could not be probed further, to establish beyond doubt, whether kanniappan was really tortured or not. In the circumstance, the Government accept the finding of the Revenue Divisional Officer that there is no evidence of alleged torture of the accused at the hands of the police.

P.SABANAYAGAM
Chief Secretary to Government.

To
The Collector of Chingleput at Kancheepuram.

/True Copy/

SECTION OFFICER

Sl.No.13

Copy of:

GOVERNMENT OF TAMIL NADU

Public (General-D) Department,
Secretariat, Chennai-9.

Memorandum No.7393/72-5, dated the 31st March, 1973

Sub : Law and Order – Public Administration in Tamil Nadu-
Torture by Police – Furnishing of report to
Government – Instructions issued.

Ref: Government Memorandum No.3700/68-3,
Public (General-A) dated 14th August 1968.

.....

In paragraph 3 of the memorandum cited, the Government have issued orders that the First Information Report regarding cases of death in Police custody should be sent by the Inspector-General of Police immediately on the occurrence of the incident and that the Collector of the district concerned should also send to the Government a follow-up detailed report on all incidents, accompanied by the relevant records of the Revenue Divisional Officer. There is no doubt that these instructions will equally apply to case of torture, rape, etc.,

2. An instance has come to the notice of Government, wherein there was an allegation of torture by Police and the report of the Collector was sent to Government after a delay of about six months. Before the Government could come to a conclusion, considerable time has already passed after the incident. The matter could not be probed further, to establish beyond doubt, whether the torture in question would have taken place or not. The Government had, therefore, no other go but to accept the findings of the Revenue Divisional Officer in the above case.

3. In order to render justice to the person aggrieved, of torture, rape, etc., it is felt necessary, that reports regarding torture, rape, etc., of accused by Police should be sent to Government immediately on receipt of such information or complaint. The Government accordingly direct that in future the Inspector-General of Police or the Commissioner of Police, as the case be, should send his First Information report to Government regarding cases of torture, rape, etc., to Government immediately on the occurrence of the incident and the Collector of the district concerned should also send to the Government his detailed report on all **such incidents accompanied by the relevant records of the Revenue Divisional Officer invariably within one month from the date of occurrence.**

4. The receipt of this Memorandum should be acknowledged.

P. SABANAYAGAM
Chief Secretary to Government.

/True Copy/

SECTION OFFICER

Sl.No.14**Copy of:****GOVERNMENT OF TAMIL NADU****ABSTRACT**

Law and Order – Procedure for Magisterial enquiry in cases of attack and minor injuries caused by Police and allegations of torture and deaths in Police custody – Revised instructions issued.

Public (Law And Order – A),

G.O. Ms. No.138

Dated 17th January 1976

READ:-

G.O. Ms. No.24, Public (General-A), dated 2nd January 1974.

ORDER:

According to the instructions issued in the Government Order read above, in cases of attacks and of minor injuries caused by the Police in the districts, the person concerned may prefer a complaint in person to the Executive First Class Magistrate (Revenue Divisional Officer) have jurisdiction over the area and such Magistrate should hold a preliminary enquiry and take such further steps as he deems necessary. If he considers that there is a prima facie case and a detailed enquiry is necessary he should obtain specific orders of the Collector for conducting the detailed enquiry. In regard to cases in Madras city, the powers of conducting the preliminary enquiry and of giving concurrence for the detailed enquiry were vested with the Presidency Magistrate and the Chief Presidency Magistrate respectively.

2. Consequent on the enactment of the Code of Criminal Procedure, 1973 (Central Act 2 of 1974), the Government have, in their notification published in G.O. Ms. No.736, Home, dated 28th March 1974, appointed the Collector of Madras, the Personal Assistant to the Collector of Madras and the Taluk Tahsildars in the Metropolitan area of the Madras City as Executive Magistrates as in the case of their counterparts in the districts. The new Code does not provide any class to the Executive Magistrates. Therefore, the term "Executive First-Class Magistrate" is now obsolete. However, the Government desire that the Executive Magistrates not below the rank of Revenue Divisional Officers in the districts will conduct the preliminary enquiry in cases of complaints of attack and of minor injuries caused by the Police. Similarly, in

Madras City, the Personal Assistant to the Collector of Madras will hold the preliminary enquiries in such cases and when there is a PRIMA FACIE case he should get the concurrence of the Collector of Madras before commencing the detailed enquiry. In all cases where a detailed enquiry is made, the enquiry report should be sent to the Government in the Public (Law and Order-A) Department.

3. Similarly in respect of the charges of torture by Police or grievous hurt caused by Police and in cases of death in Police custody in Madras City, the Personal Assistant to the Collector of Madras will hold the enquiries under Police Standing Order 145.

4. The Metropolitan Magistrate in Madras City will be relieved of their responsibilities under Police Standing Order 145 and the Government Order read above.

5. The Inspector-General of Police, Madras, is requested to send proposals for amending the Police Standing Order to the Government in the Home Department.

(By order of the Governor)

P. SABANAYAGAM
Chief Secretary to Government.

/Forwarded/By Order/

sd./-xxx
SECTION OFFICER

Sl.No.15Copy of:GOVERNMENT OF TAMIL NADU

Public (Law and Order –A) Department,
Secretariat, Chennai-9.

Memorandum No.1752/76-2, dated 7th October, 1976,

Sub: Law and Order – Deaths in Police custody – Enquiry under Police Standing Order 145 – Furnishing of records of enquiry to Superintendent of Police – Further clarifications – Issued.

Ref:1. G.O. Ms. No.1922, Public (General-A), dated 16th June, 1955.

2. Government Memorandum No.8420/69-7,
Public (General-D), dated 27th June 1970.

3. From the Collector of South Arcot,
Letter No.C5/49351/76, dated 23rd May 1976.

According to the instructions issued in the Government Order first cited, if a Superintendent of Police applies to the Collector for a copy of the report of the Revenue Divisional Officer, under Police Standing Order 145, pending instruction of criminal proceedings against a Police official, the Collector could furnish a copy of it for clarification whether, in a case where departmental action is contemplated against the Police official, the statements recorded from the witness during the Police Standing Order enquiry may also be furnished to Superintendent of Police, if requested for by him. In case where no criminal prosecution is contemplated but only departmental action is instituted against the delinquent Police officials there would be no objection to furnish the statements recorded by the Enquiry Officer. In fact it would be necessary to furnish the statement would be available with the Police Department as **parallel enquiries by Police officers are prohibited**. Further in the Memorandum third cited, it has been ordered that Police officer who conduct oral enquiries against the delinquent Police officials need not re-examine the witnesses in the departmental enquiry afresh unless the accused person **themselves want cross-examination**, and that it would be enough, if the charges are framed on the basis of the findings of the Executive Magistrates and record cross-examination, if any, as a continuation of the statement given before the Executive Magistrate.

Therefore, in cases where no criminal prosecution is contemplated but only departmental action is instituted against the delinquent Police official, the Collector may **furnish the records of enquiry to Superintendent of Police**, if requested by the latter. **However, it should be ensured that the records of enquiry are treated as confidential till the enquiry report is considered by the Government and orders are issued by them accepting the findings.**

2. The receipt of the Memorandum may be acknowledged.

J.R. RAMANATHAN

Deputy Secretary to Government.

To
Collector of South Arcot District.

/True Copy/

SECTION OFFICER

Sl.No.16**Copy of:****GOVERNMENT OF TAMIL NADU****ABSTRACT**

Law and Order – Charge of torture, rape, etc. by the Police – Enquiry under Police Standing Order 145 – Orders – Issued.

Public (Law and Order-A) Department

G.O. Ms. No. 1127,

Dated the 4th May 1977.

Read:

1.G.O. Ms. No. 1763, Public (Law and Order-A),
dated 29th July 1970

2. From the Inspector General of Police,
Letter No. 193023/c2/75, dated 15th February 1976.

.....

ORDER:-

According to the orders issued in the Government Order read above, the Revenue Divisional Officers should conduct the enquiries under Police Standing Order 145 should also be conducted into allegations of rape or other sexual offences committed in Police Custody.

2. A question has been raised whether the enquiries under the Police Standing Order 145 should also be conducted into allegations of rape or other sexual offences when the offence was committed neither in the course of their official duties nor when the victim was in the custody of the Police.

3. The Government have considered the issues involved in the matter. The personal liability of a Police personnel has always an official background in such cases. The Government, therefore, direct that the Revenue Divisional Officers should conduct enquiries under Police Standing Order 145 into allegations of rape or sexual offences committed by the Police personnel, even if the lapses committed were neither in the course of their official duties nor when the victim was in the custody of the Police.

4. The inspector-General of Police, Madras is requested to send necessary draft amendments to Police Standing Order 145 to the Government in the Home Department.

5. The receipt of the Government Order should be acknowledged.

(BY ORDER OF THE GOVERNOR)

C.V.R. PANIKAR.
Chief Secretary to Government.

To

The Inspector – General of Police, Madras-600 004.

/Forwarded/By Order/

sd./-xxx
SECTION OFFICER

Sl.No.17

Copy of:

GOVERNMENT OF TAMIL NADU

Public (Law & Order-A) Department,
Secretariat, Chennai-9.

Memorandum No.3186/77-16, dated 20th April 1979.

Sub : Law and Order – Wrongful confinement and deaths in
Police custody – Inspection of Police stations – Orders
Issued.

.....

Thiru S.P.Srinivasan, Member, board of Revenue, who was appointed as the Enquiry Officer to enquire into the circumstances relating to the death of one Seeralan in Police custody has recommended, among other things, that in order to prevent the wrongful confinement of suspects in Police Stations and to avoid allegations of torture while in Police custody, the Executive Magistrate may be empowered to inspect the Police Stations by surprise and make a note in the General Diary of any irregularities they may notice and report them to the District Magistrates (Collectors) who will forward them to the Superintendents of Police for necessary action.

2. The Government after careful consideration of the above recommendation in consultation with the Board of Revenue and Inspector-General of Police, have decided as follows:-

(i) According to the Police Standing Order the Collectors of the district as the Chief Executive Authorities in the district are already authorized to have the police force under their control and direction for the purpose of control of crime and maintenance of Law and Order. Therefore, it is considered that no further delegation of these powers of the Collectors to the Executive Magistrates down below is necessary. The present arrangement may continue.

(ii) Considering the fact that the Inspectors of Police have also been raised to the status of Gazetted Officers, Police Officers of and above the rank of Inspectors of Police may be associated while making enquiries Under Police Standing Order 145.

3. In this connection, it is also pointed out that according to the provisions in Police Standing Order 145 while an enquiry is being conducted by the Revenue Divisional Officer a **parallel enquiry should not be made by the Police**. This procedure, it is noticed, has not been strictly adhered to while an enquiry was conducted on the death of Seeralan. The Inspector-General of Police is requested to issue strict instructions to all the Superintendent of Police under his control that these provisions of the Police Standing Order 145 are scrupulously followed in future.

4. The receipt of this Memorandum should be acknowledged.

V.KARTHIKEYAN
Chief Secretary to Government.

To

The Inspector-General of Police, Madras-600 004.
The Secretary, Board Revenue (L.R.), Madras-5
All Collectors.

Copy to:

The Home Department, Madras -9.
The Revenue Department, Madras-9.

/True Copy/

SECTION OFFICER

Sl.No.18

Copy of:

GOVERNMENT OF TAMIL NADU

Public (Law & Order-A)
Secretariat, Chennai-9.

D.O.2544/81-5, dated 1st June 1982

Sub : Law and Order – Complaints against Police officials and cases of death in Police Custody – Enquiry under Police Standing Order 145.

It has been noticed by the Government that in some cases the Enquiry Officers who conducted the enquiry under Police Standing Order 145 have vaguely suggested that criminal and /or departmental action may be taken against **“all concerned Police Personnel”** instead of specifying the names of the Police officials and the individual responsibility of each Police official. The very purpose of the enquiry is to fix the individual responsibility of each Police official concerned in the matter. The **Enquiry Officer should carefully consider the part played by each Police official and arrive at his own findings as to the individual responsibility of each official. While recommending criminal or departmental action the Enquiry Officer should specify the name of each police official against whom action is to be taken and the offences for which he/they is/are liable for action such as causing injuries, causing death, tampering of evidence, tampering of records, improper maintenance of records, etc.** You are, therefore, requested to issue suitable instructions to all Executive Magistrates in your district and ensure that in future reports are specific.

Yours sincerely,

R.KIRUBHAKARAN
Joint Secretary to Government.

/True Copy/SECTION OFFICER

Sl.No.19**Copy of:****GOVERNMENT OF TAMIL NADU****ABSTRACT**

Law and Order – Procedure for conducting Magisterial enquiry and for taking follow-up action based on the decision of judicial enquiry regarding torture and death in Police Custody Amendment to Police Standing Order 145 – Volume-I – Approved.

Home (POL XIV) Department

G.O.Ms.No.1877

Dated the 27th July 1982
Adi 11 Thunthubi,
Thiruvallur Andu-2013

READ:-

- 1) G.O.Ms.no.1283, Home, dated 29th April 1977
- 2) From the Director General of Police, Madras letter No.K.Dis.175963/C2/ 79, dated 25th September 1979.

ORDER :-

The following amendment is issued to Police Standing Order, Volume I:-

AMENDMENT

In the said order, in Order 145, for paragraph (3), the following paragraph shall be substituted, namely :-

- “(3) (a) When a complaint of such an offence as mentioned supra has been filed before the Court of a Judicial Magistrate by the affected party, the Executive Magistrate should not conduct the informal enquiry afresh or where he has already started conducting the informal enquiry he shall not continue it any further, and on the completion of the judicial proceedings, the Executive Magistrate shall decide on follow-up action in the light of the Judicial findings on the matter.

- (b) The filing of a complaint in the Court of Judicial Magistrate or the informal enquiry by the Executive Magistrate while no such complaint is made in a Court will not preclude simultaneous disciplinary proceedings being taken against the Police officer concerned by the disciplinary authority”.

(BY Order of the Governor)

T.V.VENKATARAMAN,
Commissioner and Secretary to Government.

To

The Director General of Police, Madras-4
All Collectors including the Collector of Madras.
All Revenue Divisional Officers, The Commissioner of Police, Madras-8.
The Home (Cts.II and Cts.V) Department.

Copy to:

The Registrar, High Court, Madras-104.
The Revenue Department, Public (Law & Order) Department.
All Police Sections in Home Department.

/Forwarded/By Order/

sd./-xxx
SECTION OFFICER

Sl.No.20

Copy of:

GOVERNMENT OF TAMIL NADU

ABSTRACT

Law and Order - Death in Police Custody and allegations of torture, rape, etc., against Police personnel – Prompt disposal of cases against police personnel – Quarterly report to Government Prescribed.

Public (Law & Order-A) Department

G.O.Ms.No.2001

Dated the 9th November,1982.
Ayypasi 23, Thunthubi,
Thiruvalluvar Aandu 2013.

ORDER :-

The Government had occasion to notice that there has been considerable delay in taking action in several cases against erring Police personnel against whom criminal prosecution and / or departmental action was ordered by the Government with reference to the enquiry reports under Police Standing Order 145. The Government have, therefore, decided to monitor such cases closely. The Director General of Police, Madras and the Collectors of all the districts including the Collector of Madras are requested to send a quarterly report in the proforma annexed for the quarters ending 31st March, 30th June, 30th September and 31st December so as to reach the Government on or before the 15th of the month following the quarter.

2. The Director General of Police, Madras may send the report in respect of departmental action taken against the police personnel and the Collectors may send the report in regard to the stage of criminal prosecution ordered against the police personnel.

3. The first report for the quarter ending 31st December 1982 should be sent so as to reach the Government on or before 15th January, 1983.

4. The receipt of the Government Order should be acknowledged.

(By order of the Governor)

R.KIRUBHAKARAN
Joint Secretary to Government.

To

The Director General of Police, Madras-4
All Collectors including Madras District.

/Forwarded/By Order/

Sd./-xxx
SECTION OFFICER

Copy of:

PROFORMA

- i) Serial Number
- ii) Date of occurrence
- iii) Place of occurrence / Police station
- iv) Name of the decease / injured / victim
- v) Number and date of the Government Order in which Criminal Prosecution / Departmental action was ordered
- vi) Name or names of delinquent police personnel
- vii) Stage of the Criminal Prosecution / Departmental action
- viii) Reasons for delay
- ix) Remarks

/True Copy/

SECTION OFFICER

Sl.No.21

Copy of:

GOVERNMENT OF TAMIL NADU

Public (Law & Order-A) Department,
Secretariat, Chennai-9.

Circular No.1337/82-8, dated 16th June 1983

From

Thiru R.Kirubhakaran,IAS,
Joint Secretary to Government

To

All Collectors,

Sir / Madam,

Sub : Law and Order – Magisterial Enquiry under Police Standing Order
145 – Launching of prosecution before the acceptance of findings
of Magisterial Enquiry – Instructions Issued.

An instance has come to the notice of Government, that criminal prosecution was launched against a Police constable, on the instructions of a Collector, even before the issue of Government Order on the findings of the Magisterial enquiry under Police Standing Order 145 (i.e.), during the pendency of the enquiry under Police Standing Order 145. The criminal prosecution ended in acquittal and hence the instructions of the Government to prosecute the delinquent official on the basis of the findings of Magisterial enquiry could not be carried out, leading to an embarrassing situation. Instructions are clear under Police Standing Order 145 (2)(b) that there should be no parallel investigation by the Police when the Magisterial enquiry been ordered. Government feels that this course of action (viz.) to initiate criminal prosecution during the pendency of Magisterial enquiry should be avoided.

2. I am, therefore, directed to request you to refrain from issuing instructions to initiate criminal prosecution during the course of an enquiry by the Executive Magistrate under Police Standing Order 145 and to await orders of the Government to initiate criminal prosecution in such cases.

Yours faithfully,

S.RAMASUNDRAM,
For Joint Secretary to Government.

/True Copy/

SECTION OFFICER

Sl.No.22

Copy of:

GOVERNMENT OF TAMIL NADU

Public (Law & Order-E) Department,
Secretariat, Chennai-9.

Letter No.1070/91-1, dated 13th June 1991

From
Thiru A.M.Swaminathan, IAS,
Secretary to Government

To
All Collectors.

Sir,

Sub : Law and Order – Enquiries under Police Standing Order 144 (3)
and 145 – Enquiry by Revenue Divisional Officer - Regarding.

.....

It has been noticed by the Government that in some cases of Police firing / allegations of torture by Police / Death in custody etc., to which some of the Collectors have ordered Police Standing Order enquires under 144(3) and 145 by the District Revenue Officers. In some cases the enquiries so ordered and conducted by the District Revenue Officers are challenged in the Courts and Tamil Nadu Administrative Tribunal, on the ground that the District Revenue Officer is not the competent authority to enquire complaints and allegations, etc., against Police Officials under the existing provisions of Police Standing Order 144(3) and 145. In one particular case, the proceedings have also been quashed on this ground.

2. In view of the above, Government, after careful consideration considers that the Collectors should order an enquiry under Police Standing Order, 144(3) and 145 to be conducted only by the Revenue Divisional Officer until further clarification in the matter.

3. The Collectors are requested to follow the above instructions scrupulously.

4. The receipt of this letter should be acknowledged immediately.

Yours faithfully,

Sd /-xxx
For Secretary to Government

Copy to:
Director General of Police, Madras-4
All Superintendent of Police,
All Commissioner of Police,
Deputy Inspector General of Police (Ranges)
Public (Law & Order-A) Department, Madras-9
The Home Department, Madras-9.

/True Copy/

SECTION OFFICER

Sl.No.23

Copy of:

GOVERNMENT OF TAMIL NADU

Public (Law and Order) Department,
Secretariat, Chennai-9.

Letter No.1237/92-1, dated 18th August, 1992.

From
R.Christodas Gandhi, IAS.,
Additional Secretary to Government.

To
The Collector, Chengalpattu-MGR District,
Kancheepuram.

Sir,

Sub: Law and Order-Chengalpattu-MGR District, Thiruvallur
Taluk-Veppanchettu Village-Alleged torture of Varadhan by
Kadambathur Police Personnel-Preliminary enquiry
conducted by the Revenue Divisional Officer, Thiruvallur-
Report-Reg.

Ref: Your letter No.139185/90-M1, dated 17th June, 1992.

.....

I am directed to invite your attention to the letter cited and to state that the Revenue Divisional Officer, Thiruvallur who conducted the enquiry into the incident of the alleged unlawful detention and torture of Thiru Varadhan, S/o Ekambara Reddy by Kadambathur Police Station on 17th October 1989 has not given his findings while submitting his report based on the merits of the case.

It should be ensured that in future, the enquiry officers should give their **specific findings** in all cases pertaining to enquiries under Police Standing Order 144(3)/145. In the absence of such specific findings, the District Collector should insist for remarks from the Enquiry Officer concerned and forward the same along with his own opinion.

2. However, the Government on careful consideration of the enquiry report submitted by the Revenue Divisional Officer, Thiruvallur have decided to drop further action in the matter, as the complaint of Thiru Varadhan, S/o Ekambara Reddy on his unlawful confinement and torture does not stand proved.

Yours faithfully,

Sd/- xxx
for Addl. Secy. to Government.

Copy to:

The Revenue Divisional Officer, Thiruvallur.
The Collectors except Collector of Chengai-MGR District.

/True Copy/

SECTION OFFICER

Sl.No.24

Copy of:

GOVERNMENT OF TAMIL NADU

Health and Family Welfare Department,
Secretariat, Chennai-9.

Letter No.60713/B2/93-1, , dated 15th October 1993.

From
Tmt. Susan Mathew, IAS.,
Special Secretary to Government.

To
The Director of Medical and Rural Health Services,
Madras-600 006.

The Director of Medical Education, Madras-5.

Madam,

Sub: Law and Order-Enquiry Police Standing Order 144(3)
and 145-Delay in issuance of Forensic Report-Instructions-
Issued.

It has been brought to the notice of the Government that the Sub Divisional Magistrates/Revenue Divisional Officers are not able to arrive at a definite conclusion in cases enquired into under Police Standing Order 144(3) and 145 due to non-receipt of forensic reports in time from the Medical Department and thereby the Enquiry Officers are forced to furnish their report of enquiry in incomplete shape to cover the time limit prescribed by the Government. If the Enquiry Officers submit their report in an incomplete shape the very purpose of such enquiry is defeated. I am, therefore, directed to request you to give strict instructions to the Medical Officers and others concerned in all levels to send Medical Forensic reports to the Sub Divisional Magistrates/Revenue Divisional Officers, who conduct the enquiry under Police

Standing Order 144(3) and 145 **within 15 days from the date of receipt of requisition** from them. Any deviation from the above instruction will be viewed seriously by the Government and appropriate disciplinary actions will be initiated against officers who do not adhere to the time limit.

Yours faithfully,

Sd/-xxx
for Spl. Secy. to Government.

Copy to:

The Collector of Kanniyakumari,
Nagercoil (with reference to his
D.O. letter No.4327/93,
dated 19th July, 1993).

Public (Law and Order A) Department,
Madras-600 009.

/True Copy/

SECTION OFFICER

Sl.No.25

Copy of:

GOVERNMENT OF TAMIL NADU

Home (Pol.VI) Department,
Secretariat, Chennai-9.

Letter No.127304/Pol.VI/93-1, dated 7th December 1993.

From
Thiru R.Balakrishnan, IAS.,
Special Secretary to Government.

To
The Director General of Police,
Madras-600 004.

Sir,

Sub: Public Servants-Police Department-Taking of Departmental action in pursuance of Police Standing Order 145 enquiry-Regarding.

It has come to notice that in one case the Punishing Authority (viz. the Superintendent of Police, Tiruchirapalli) has rightly imposed the punishment of "Removal from service" on Police Constables 1548/TAN Shanmughasundaram (1816/NQM) and 547/TAN Panneerselvam (1909/NQM) for the P.A. following charges held proved against them:

"High handed behaviour and un becoming member of the disciplinary force that he along with other Police Constables assaulted and caused grievous injuries to one Thiru Punniamoorthy, S/o Villappan of Thalyamangalam Village on 24.10.89 @ 10.00 hours"

But the appellate authority (viz. the Deputy Inspector General of Police, Tiruchi) who has expressed his concurrence with the Punishing Authority has taken a lenient view on some extraneous consideration (showing importance to the members of family who have been affected) modified the punishment as "Reduction in time scale of pay for 2 years for 2 stages without cumulative effect". The Government consider that such lenient views will not be conducive to the maintenance of discipline in the Police Force and hence suitable instructions have to be issued to the Unit Officers to refrain from issuing such orders on the basis of some extraneous considerations. I am, therefore, to request that suitable instructions in this regard may be issued to

all the Unit Officers and a copy of instructions issued to them may be sent to Government for reference.

Yours faithfully,

Sd/-xxx
for Special Secretary to Government.

Copy to:

Public (Law and Order A) Department, Madras-600 009.

Police III, IV and V Sections.

SF/SCs

/True Copy/

SECTION OFFICER

Sl.No.26

Copy of:

GOVERNMENT OF TAMIL NADU

Public (law & order-A) Department,
Secretariat, Chennai-9.

Letter No.2204/93-1, dated 12.1.1994.

From

Thiru T.V.Venkataraman, IAS.,
Chief Secretary to Government.

To

All Collectors,
All Revenue Divisional Officers,
Director General of Police, Madras.4.

Sir,

Sub: Law and Order – Custodial crimes – Enquiries under PSO
145 – Further guidelines – Issued.

Ref : Letter No. 6185/90-2, Public (Law & Order-A) Department,
dated 10.12.1990.

In the Government letter cited instructions were issued to the effect that the enquiry officer should complete the enquiry under PSO 144(3)/145 expeditiously and submit to the Collector within **30 days** from the date of the incident and **10 days** extended to the Collectors to process the case. As such, it was specified that the enquiry report should reach the Government from the Collector within **40 days** from the date of the incident.

2. The matter has been further examined in depth and it has now been decided to revive the time schedule as below for submitting the enquiry reports under Police Standing Order 144(3)/145.

i) The enquiry officer should complete the enquiry expeditiously and submit the report to the District Collector concerned **within 20 days from the date of incident.** The enquiry report should be a full fledged one inclusive of the Chemical Analysis report of the viscera of the deceased. The enquiry officer should also arrive at a definite conclusion as to the delinquents involved in the incident.

ii) The District Collector should process the case and send his report within **10** days from the date of receipt of the report from the enquiry officer concerned to the Government in Public Department with his specific recommendations based on the findings of the enquiry officer. Thus the report should reach the Government positively within 30 days from the date of the incident.

3. The Government have further decided to formulate the following guidelines in respect of custodial crimes.

i) Assistance from the local police to complete the enquiry:

The District Police officials like the Superintendent of Police should co-operative with District Magistrate to complete the enquiry reports expeditiously. i.e., by ensuring the presence of witnesses, policemen involved etc., before the enquiry officer **concerned at the stipulated time and schedule.** Failure on the part of District Police officials to co-operate and provide the assistance sought by the Enquiry Officer concerned will be viewed very seriously.

ii) Inspection of the place of custodial death by the enquiry officer concerned.

As per sub-section (i) of section 176 of Cr.P.C. when any person dies while in the custody of police the nearest Magistrate empowered to hold the inquest shall hold an inquiry into the cause of death either instead of, or in addition to the investigation held by the police officer. Since the nearest Executive Magistrate is statutorily required to hold an enquiry into the cause of death in the custody of police, the said Executive Magistrate should inspect immediately the place of occurrence of death in police custody and collect all available material evidences connected with the incident so that he can commence and complete the enquiry speedily.

iii) Suspension of police officers:

In case of death in custody or prima-facie rape which are specifically proved against any police personnel, the accused police personnel may be arrested by the officers superior in rank than that of the police officer, alleged to have committed the offence and having jurisdiction over the police station under the relevant sections of the IPC before the enquiry under Police Standing Order 145 is held. The Police Personnel shall be suspended as per rules from the service immediately and a copy of the FIR and other relevant materials passed on to the concerned Revenue Divisional Officer for enquiry under PSO 145.

iv) Conduct of periodical meetings by the Senior Police Officers:

The Director General of Police/Superintendent of Polices should conduct periodical meetings with the subordinate police officers **to monitor all cases of deaths in police custody**. They should impress on them about the need for an attitudinal change towards the accused kept in lock-up. Programmes should also be arranged to impart training to the subordinate police officers as to how to treat the accused in a humane way and to avoid excesses while under custody.

4. The receipt of this letter should be acknowledged immediately.

Your faithfully,

Sd./xxx-
For Chief Secretary to Government.

Copy to:

Public (Law & Order-E) Department,
Home Department, Madras-9
The Law Department, Madras-9
The Secretary to Chief Minister, Madras -9

/True Copy/

SECTION OFFICER

Sl.No.27**Copy of:****G.O.124, Judl.,20, April, 1927****PSO-75**

When an officer, whose conduct is under inquiry, is on leave and without sufficient cause fails to obey a verbal or written order requiring him to attend the inquiry on a specified date, he will be liable to have his leave cancelled and to be suspended and treated as having absconded with the accusation or accusations hanging over him. It is incumbent on the delinquent officer, whether he is under suspension or on leave, to leave his address with the District Police Officer or the officer conducting the inquiry, any change of addresses being duly communicated. Service of orders should be directed to the address furnished by the delinquent officer whose responsibility, which can be pointed out to him at the time, is to see that he makes proper arrangements to receive any communication. If he does not receive the orders, the failure to attend the inquiry would then be his and he will be liable to be dealt with as stated above. If he claims that he was unable on account of ill-health to attend the inquiry, his claim will be rejected unless it is supported by a medical certificate issued by his medical attendant, and if the officer conducting the inquiry requires it, by a certificate of the District Medical Officer or the nearest gazetted Government Medical Officer available before whom he may be directed to appear by that officer. If, however, he is clever enough not to carry his effort to the extent of having the proceedings against him closed for the reason that he is treated as absconding, a sure method of

serving orders on him would be at the time he comes to a police station or a District Police office to receive his pay. The officer conducting the enquiry must arrange for the service of the orders at the time the delinquent is paid.

Sl.No.28**Copy of:****INQUEST REPORT**

1. Name, Caste, calling and residence of persons comprising the panchayat.
2. Deceased's name, sex, age, Caste, Calling Father's name and residence
3. By whom first found dead, when and where
4. By whom last seen alive, where and when and in whose company
5. Height, colour and descriptive marks
6. Married or single? If a female, was she the only wife?
7. State of corpse if any wounds, particulars thereof and list of all property found on the corpse.
8. Minute description of exact spot where corpse was found, if in water depth thereon.

If in a well:

- (a) is the well public or private Property? If the latter to whom does it belong?
- (b) Is it near a public road or path-way
- (c) Has it a parapet wall and float?
10. If violence, apparently by what weapon?
- 11.(a) If any person suspected who and why?
- (b) Has the deceased insured in any Company?
- 12.If corpse is not sent for Medical Examination why?
- 13.If corpse is sent for what purpose and on whose order and number of constable who went with it (The date and hour, when the body is sent would also be given here)

14. By whose orders corpse was buried or burnt.

15. Opinion of the Panchayatdars as to the cause and manner of death.

16. Signature of such of the Panchayatdars concerning the above opinion.

1.

2.

3.

4.

5.

17. Inquest Officer's signature

18.(a) If name and residence of the deceased are unknown state what steps have been taken to ascertain the same. Have proclamations been sent.

(b) Have finger prints of deceased been taken and sent to Finger Print Bureau.

19. to 25 Railway Police:

20. Duration of Investigation:

Investigation commenced at:

Investigation closed at:

Sub Divisional Magistrate &
Revenue Divisional Officer .

/True Copy/

SECTION OFFICER

Sl.No.29**ACT NO. III OF 1869****PASSED BY THE GOVERNOR OF FORT ST.GEORGE IN COUNCIL**

(Received the assent of the Governor on the 9th March, 1869, and of the Governor General on the 23rd April 1869 and takes effect from the 1st June, 1869)

An Act to empower Revenue Officers to summon persons to attend at their cutcherrie for the settlement of matters connected with Revenue Administration.

PREAMBLE

WHEREAS it is found that the Revenue Administration of the country is retarded, because Revenue Officers, namely Collectors, Sub-Collectors, Assistant Collectors, Tahsildars, Deputy Tahsildars are not made competent, by express provision of law, to issue summonses for the attendance of persons, or the production of documents in certain cases in which it is their duty to hold investigations; It is hereby enacted as follows:

1. Revenue Officer empower to summon persons to appear or to produce any document before them.

Collectors, Sub-Collectors, Assistant Collectors, Deputy Collectors, Tahsildars and Deputy Tahsildars shall have power to summon all persons resident within the District whose evidence may appear to them to be necessary for the investigation of any matter in which they are authorized to hold an inquiry, and also to require the production of any document relevant to the matter under inquiry which may be in the possession or under the control of such persons.

2. Terms of Summons:

Such summons shall be in writing, and authenticate the signature and seal of the officer by whom it is issued. It shall require the persons summoned to appear before the said officer at a stated time and place, and shall specify whether his attendance is required for the purpose of giving evidence, or to produce a document, or for both purposes and, any particular document, the production of which is required, shall be described in the summons with convenient certainty.

Mode of service of summons:

The summons shall be served personally on the persons summoned or if he cannot be found, it may be left for him with some adult member of his family residing with him, or with the head of the village in which he lives.

4. Persons summoned to produce documents, may send them by a third party;

Any person may be summoned to produce a document, without being summoned to give evidence, and any person summoned merely to produce a document, shall be deemed to have complied with the summons, **if he cause** such document to be produced, instead of attending personally to produce the same.

5. When personal attendance of witnesses may be dispensed with, and procedure in such cases.

When the person, whose evidence may be required, is unable, from sickness or infirmity, to attend before the officer issuing the summons, or is a person whom by reason of rank or sex it may not be

proper to summon, the officer issuing the summons may, of his own motion, or on the application of the party whose evidence is desired, dispense with the appearance of such person, and order him to be examined by a subordinate deputed by such officer for the purpose.

(Printed under the authority of the Governor of Fort St. George in Council by the Superintendent of the Government press, Madras)

Sl.No.30**30) MADRAS ACT NO.V OF 1893****PASSED BY THE GOVERNOR OF FORT ST.GEORGE IN COUNCIL**

(Received the assent of His Excellency the Governor on the 8th April and of His Excellency the Governor-General on the 25th August, 1893, the Governor General's assent was first published in the Fort St.George Gazette on the 10th October, 1893).

An Act for facilitating enquiries into matters connected with the administration of the Revenue and into the conduct of Public Servants.

PREAMBLE

WHEREAS it is expedient to make further provision to facilitate enquiries into matters connected with the administration of the Revenue and into the conduct of Public Servants; it is hereby enacted as follows:

Local extents:

1. This Act extends to the whole of the Presidency of Madras.

OFFICER DEPUTED TO MAKE ENQUIRES INVESTED WITH CERTAIN POWERS:

2. The Government may, by order, invest any officer deputed by it to make an enquiry into any matter connected with the administration of the Revenue or into the conduct of any public servant as such with power to summon any person to appear before such officer or to produce any document or thing in the possession or under the control of such person the production of which, in the opinion of such officer, is necessary to the conduct of such enquiry.

3. APPLICATION OF CERTAIN PORTIONS OF MADRAS ACT III OF 1869:

The provisions of Sections 2,3, 4 and 5 of Madras Act III of 1869 shall mutatis mutandis, apply to summonses issued under this Act.

EXAMINATION OF WITNESS:

4. Any officer making an enquiry under this Act may examine orally any person supposed to be acquainted with the matter under enquiry or any fact relevant thereto, and may reduce into writing any statement made by the person so examined.

Such person shall be bound to answer truly all questions relating to such matter put to him by such officer, other than questions the answers to which would have a tendency to expose him to a criminal charge or to a penalty or forfeiture.

STATEMENT OF WITNESSES NOT TO BE USED AS EVIDENCE IN CERTAIN CASES:

No such statement, when taken in the absence of a public servant whose conduct is under enquiry, shall be used as evidence against such public servant in any judicial proceeding.

Sl.No.31**EXTRACT OF POLICE STANDING ORDER 150, 151 & 152.****150. INQUIRY IN CASES OF DEATH OR INJURY CAUSED BY POLICE OR SUFFERED IN POLICE CUSTODY AND IN CASES WHERE POLICE OR PUBLIC SERVANTS USE FIRE-ARM IN SUPPRESSING A RIOT OR IN SELF-DEFENCE.—**

(1) Cases of (a) death or grievous hurt alleged to have been caused by Police Officer whether in his public or private capacity or to have occurred to any person while in Police custody, and (b) torture, i.e. all cases of hurt or more serious injury inflicted by a Police Officer for the purpose of extorting a confession or information, should always be inquired into by a magistrate. In other cases an officer who has taken a personal part in the investigation of an offence should be precluded from investigating into charges of ill-treatment on the part of the Police in connection therewith. However, Superintendents and their subordinate officers of and above the rank of Deputy Superintendent of Police may make a quick general enquiry into any such incident to enable them to report at once the facts so ascertained to the Director General of Police even though they might have received reports of the investigation personally made by their subordinates.

(G.O.Ms.No.1421, Home (police VI) 7th May 1980.)

(2) When any person dies while in Police custody an immediate report should be made to the nearest Magistrate empowered to hold inquests detailing the facts and circumstances so far as known and the body should be preserved for inspection by the said magistrate. **(G.O. 506,**

Public,(Police) 24th Sept. 1929.)

Note:-- Superintendents of police should send brief reports to the Director-General of Police by Radio or Telegram immediately allegations of Police torture are made of death in Police custody occurs. This should be followed up with a detailed report expeditiously.

(3) In every case in which Police use fire arms or receive information regarding the use of fire arms by a Public Servant in suppressing a riot, or in self defence, an express report or telegram whichever is quicker, shall be sent to the Revenue Divisional Officer and District Collector. In this report the number of persons killed or injured, if any, shall be stated.

On receipt of such express report, the Collector of the district shall order an enquiry by an Executive Magistrate, except where the incident is so trivial in nature as obviously not necessitate any such special enquiry. Even in respect of such trivial cases, the Collector should obtain the orders of Government to dispense with the magisterial enquiry.

(4)(a) The Director-General of Police will send his first report to the Government immediately on the occurrence of any death in Police custody.

(G.O. Ms.2305, Home, 1st September 1970.)

(b) The Collector will send a follow up report in detail to the Government on such incidents, accompanied by the relevant records of enquiry of the Revenue Divisional Officers.

(c) This procedure indicated above will apply also to cases of deaths in judicial custody (when the deceased was under judicial custody at the time of death.)

151. PROCEDURE IN RESPECT OF CHARGES OF TORTURE BY THE POLICE OR OF DEATH OR GRIEVOUS HURT CAUSED BY THE POLICE.—

(1) The following procedure is prescribed in respect of allegations of torture or of causing death or grievous hurt or other serious offences against the person made against Police officials. In cases of allegation of rape or commission of an unnatural offence, such as enquiry shall be held irrespective of the fact whether the act or acts – committed was in the course of duties or outside the sphere of duties.

(G.O.226, Home, dt. 18th August 1977).**(2) Mufassil.—**

(a) An officer of and above the rank of Assistant or Deputy Superintendent of Police to whom a complaint of such an offence is made or who otherwise hears of such an occurrence should immediately make a general enquiry into the occurrence and should also report the case at once to

the Revenue Divisional Officer concerned. Any such enquiry should be subject to the instructions in paragraph (3) below.

(b) When information of the Commission of any such offence is received by a Police Officer below the rank of Assistant or Deputy Superintendent of Police, he should not make any regular investigation himself but should at once report the case to the Revenue Divisional Officer and the Assistant or Deputy Superintendent of Police to whom he is subordinate and send a copy of such report to the Superintendent of Police.

(3)(a) On receiving information about any such occurrence either from a Police Officer as indicated in paragraph (2) above or otherwise, a preliminary enquiry into the occurrence should be conducted by the Revenue Divisional Officer or such other officer as may be appointed for the purpose. The enquiry will be of non-judicial character and more in the nature of an investigation in order to fix the responsibility, if any, on individual Police Officers and to see whether there is a prima-facie case for launching a criminal prosecution or other proceedings against anyone concerned. While an appeal can be issued to the public to come forward to testify at the enquiry, the proceedings of the enquiry should not be given wide publicity.

(b) There is no objections to an officer of and above the rank of Assistant or Deputy Superintendent of Police being associated with such an enquiry but there should be no parallel investigation by the Police once the magisterial enquiry has started, and any information gathered by an officer of and above the rank of Assistant or Deputy Superintendent of Police should be promptly reported to the officer holding the magisterial enquiry. The latter

should complete the enquiry in the manner indicated in paragraphs (4) and (5) below.

(4) When a complaint of torture has been filed **in the Court of a Judicial Magistrate** by the affected party, the officer conducting the enquiry under paragraph (3) above should not terminate it but should continue it and arrive at his own findings on the individual responsibility, if any, of each Police Official. He should, however, keep such findings confidential, pending the result of the judicial enquiry or trial emanating from the complaint. On the completion of such judicial enquiry he should decide on the further course of action to be followed in the light of the judicial decision and take appropriate steps.

(5)(a) When the affected party files no such complaint in the court of a Judicial Magistrate, the officer holding the magisterial enquiry should complete his investigation and arrive at specific findings as required under paragraph (3)(a) and submit a report to the Government through the Collector, if he is subordinate to the Collector, otherwise direct to the Government, who will pass final orders in the further course of action to be taken.

(b) Whenever an Officer who conducts an enquiry under the above Order, finds that the Police Official concerned has been guilty of some other offence not coming under this order, he should forward the report of enquiry to the Government through the Collector, if he is subordinate to the Collector, otherwise direct to the Government, who will transfer the record of enquiry to the Director-General of Police for further action.

(G.O. 4344, Home, dated 12.12.1961)

(6) City of Chennai.—

The procedure prescribed in paragraphs (2) to (5) will apply mutatis mutandis in respect of the charges of the same nature against the Police in the City of Chennai, with the modification that the reference to the Revenue Divisional Officer in those paragraphs will be construed as referring to the Personal Assistant to Collector of Chennai.

(7) General.—

When complaints of torture, etc., against a Police subordinate are received by a Police Officer either in the mufussal or in the City through telegram from non-official sources or anonymous or pseudonymous petitions and letters, or even by vague rumour, the officer receiving the same should immediately inform the Revenue Divisional Officer concerned in the mufussal and the Personal Assistant to the Collector of Chennai in the city of Chennai of the fact that a complaint has been received and that he is trying to verify the veracity or authenticity of the information and that the result of the verification will be communicated to him as early as possible. He should not however register the complaint as a First Information Report until after such verification.

(8) It is left to the officer concerned either to wait for the result of the Police verification of the authenticity of the information or cause such verification as he considers necessary to be made. The officer concerned should not however start the preliminary enquiries under paragraph (3) above, before satisfying himself as to the authenticity of the anonymous or pseudonymous communications containing the complaints.

(9) Such cases are referred to in paragraph (2) (a) and (b) above should receive special mention in Part I of the Weekly Report prescribed in Police Standing Order No.143, Volume I by the Joint or Assistant or Deputy Superintendent of Police concerned and the Superintendent of Police in the mufussal and the Assistant Commissioner and the Deputy Commissioner in the City of Chennai.

(10) **Minor Injuries.**—

The following procedure is prescribed for enquiry in cases of attack and of minor injuries caused by the Police

(G.O. Ms.608, Home, 18th March 1974).

(a) **In the mufassal.**—

The person concerned may prefer a complain in person to the Executive Magistrate having jurisdiction over the area and such Magistrate should hold a preliminary enquiry and take such further steps as he deems necessary. If the Executive Magistrate considers that there is prima facie case and detailed enquiry is necessary, he should send up proposal to the Additional District Magistrate-I and obtain specific orders from him before commencing the detailed enquiry.

(b) **In the City of Chennai**

In so far as Chennai City is concerned the powers of conducting the preliminary enquiry and of giving concurrence for the detailed enquiry shall vest with the Personal Assistant to the Collector of Chennai and the Collector, Chennai respectively.

(11) In all cases, where a formal enquiry is held after obtaining the concurrence of the District Magistrate or the Collector of Chennai the enquiry report shall be sent to Government in the Public (General-A) Department.

(G.O. Ms.No.603, Home, dated 18th March 1974).

152. COMMISSION TO BE APPOINTED IN SPECIAL CASES.—

(1) Where a Sessions Court, or the High Court, records its opinion that a special inquiry into the conduct of the Police is necessary, an inquiry will be publicly conducted by a Commission appointed by Government and consisting of two officers, of whom one has had judicial experience and neither belongs to the Police Department. Should, however, sufficient evidence be available without the investigation of the special commission, to justify the institution of criminal proceedings forthwith, that course should at once be taken.

(2) The appointment of a Special Commission will not take the place of a departmental inquiry, which should be made in all cases where further evidence is required, but such departmental inquiry should be preliminary and ancillary to the special inquiry or the criminal prosecutions, and all evidence available, whether derived from the Police Officer's inquiry or otherwise, should be laid before the Special Commission or the Criminal Court.

Sl.No.32

Copy of:

**Letter to all Chief Secretaries on the reporting of custodial
deaths/rapes within 24 hours**

No.66/SG/NHRC/93

National Human Rights Commission
Sardar Patel Bhavan
New Delhi

14 December, 1993

From
R.V.Pillai
Secretary General

To
Chief Secretaries of all States
and Union Territories

Sir/ Madam,

The National Human Rights Commission at its meeting held on the 6th instant discussed the problems of custodial deaths and custodial rapes. In view of the rising number of incidents and reported attempts to suppress or present a different picture of these incidents with the lapse of time, the Commission has taken a view that a direction should be issued forthwith to the District Magistrates and Superintendents of Police of every district that they should report to the Secretary General of the Commission about such incidents within 24 hours of occurrence or of these officers having come to know about such incidents. Failure to report promptly would give rise to presumption that there was an attempt to suppress the incident.

2. It is accordingly requested that the District Magistrates/ Superintendents of Police may be given suitable instructions in this regard so as to ensure prompt communication of incidents of custodial deaths/ custodial rapes to the undersigned.

Yours faithfully,

Sd/-

(R.V.Pillai)

/True Copy/

Sl.No.33

Copy of:

GOVERNMENT OF TAMIL NADU

Public (Law & Order-A) Dept.,
Secretariat, Madras-9.

LETTER NO.2363/L & O-A/1993-1, DATED 3.1.1994

From

Thiru T.V.VENKATARAMAN, I.A.S.,
CHIEF SECRETARY TO GOVERNMENT

TO

ALL DISTRICT COLLECTORS/
SUPERINTENDENTS OF POLICE (W.E.)

Sir,

Sub: Law and Order – National Human Rights Commission –
Furnishing report to the Secretary General of
Commission on custodial crimes/rapes within 24 hours
Regarding.

Ref: 1) From the Secretary General, National Human Rights
Commission, New Delhi

2) Lr.No.66/SG/NHRC/93, dated 14.12.1993.

* * *

I am directed to enclose a copy of the letter cited received from Secretary General, National Human Rights Commission, New Delhi and request that a report on incidents of custodial deaths/rapes may be sent to Secretary General of National Human Rights Commission within 24 hours of occurrence or of these incidents having come to the notice of the District Magistrates/ Superintendents of Police.

2. Failure to report promptly to the Secretary General will be viewed seriously as it would give rise to presumption that there was an attempt to suppress the incident.

3. All correspondence intended to the Human Rights Commission shall be addressed to the Secretary General, National Human Rights Commission, Sardar Patel Bhavan, Parliament Street, New Delhi, marking a copy of the letter to the Chief Secretary to Government/Secretary, Public Department, Madras-9. The telephone number of the Commission is as under:

Chairman -310891

Secretary General- 310879

The receipt of this letter should be acknowledged immediately.

Yours faithfully,

Sd./- x x x

for Chief Secretary to Government

Copy to:

The Personal Secretary to Chief Secretary, Madras-9

The Personal Secretary to Secretary, Public Department, Madras-9

The Secretary, Home Department, Madras-9

The Director General of Police, Madras-4

The Public (SC) Department, Madras-9

The Public (Law & Order-E) Department, Madras-9.

/True copy/

SECTION OFFICER

Sl.No.34

Copy of:

GOVERNMENT OF TAMIL NADU

ABSTRACT

Post-mortem examination in respect of deaths in Police custody and in Jails – video filming of Postmortem examination – Orders – issued

Health and Family welfare Department

G.O.Ms. No.584

Dated the 6.12.1996.
Masi 20, Easwara,
Tiruvalluvar Andu, 2028.

Read:

- 1) From the Chairman, National Human Rights Commission, New Delhi Ref. No.216/CH/NHRC-95, dt.10.8.95.
- 2) From the Director of Medical Education, Chennai, Lr. No.81048/G2/95, dated 26.10.95 and 15.3.96.
- 3) From the Director of Medical and Rural Health Services, Chennai, Lr. No.84277/P&D.II/4/95, dt.5.11.95 and 19.12.95.
- 4) From the Director General of Police, Chennai, Letter R.C. No.249025/ Conf (z)/95, dt.28.11.95.
- 5) From the Director of Forensic Science, Chennai, Lr. No.A2/17504/95, dt.22.11.95 and 7.12.95.

ORDER:-

The Chairperson, National Human Rights Commission, Delhi has stated that incidents of deaths in police lock up and in Jails are increasing, that a systematic attempt is being made to suppress the truth and post-mortem report thereon is merely the police version of the incident. The Commission has, therefore, requested that Video filming of postmortem may be introduced with effect from 1.10.95 though it will involve extra cost, since human life is more valuable than the cost involved.

2. The Director General of Police, Director of Medical Education, Director of Medical and Rural Health Services and Director of Forensic Science were consulted in the matter. After careful examination, the Government direct that all post-mortem examinations done in respect of deaths in police custody and in Jails shall be video-filmed and the video cassette be sent to the National Human Rights Commission along with the Post-mortem report. The video equipments that have been supplied to every police District shall be utilized for the above purpose and the scientific Assistant in charge Mobile Forensic Science Laboratory at the District level shall be summoned and to assist in recognizing and recording above materials and observations available in the scene of crime.

3. This order issues with the concurrence of Home Department/Public Department- vide their U.O. Nos. 12256/Pr.V/96-1, dt.25.11.96 and No.12724/L&O-A/96-1.

(By order of the Governor)

R. POORNALINGAM
Secretary to Government.

To
The Director of Medical and Rural Health Services, Chennai-6.
The Director of Medical Education, Chennai-5.
The Director General of Police, Chennai-2.
The Director of Forensic Science, Chennai-2.
The Inspector General of Prisons, Chennai-2.
The Chairperson, National Human Rights Commission,
Sardar Patel Bhavan, New Delhi-1.

Copy to:
All District Collectors.
The Home Department, Chennai-9.
The Public (L&O) Department, Chennai-9.
Chief Minister;s Office, Chennai-9.
sf/scs

/Forwarded /By Order/

Sd./- xxx
SECTION OFFICER

Sl.No.35

Copy of:

Letter to all Chief Secretaries clarifying that not only deaths in police custody but also deaths in judicial custody be reported

F.No.40/3/95-LD

National Human Rights Commission

June 21, 1995

From
R.V.Pillai
Secretary General

To
Chief Secretaries of all States
and Union Territories

Sir/ Madam,

Vide letter No.66/SG/NHRC/93 dt. December 14, 1993, you were requested to give suitable instructions to DMs/SPs to ensure prompt communication of incidents of custodial deaths/ custodial rapes.

2. A perusal of the reports received from DMs/SPs in pursuance of the above mentioned communication reveals that reports are received in the Commission from some of the States, only on deaths in police custody. The objective of the Commission is to collect information in respect of custodial deaths in police as well as judicial custody. May I, therefore, request you to have instructions sent to all concerned to see that deaths in judicial custody are also reported to the Commission within the time frame indicated in my letter of December 14, 1993?

Yours faithfully,

Sd/-XXX

(R.V.Pillai)

Sl.No.36

COPY OF:

GOVERNMENT OF INDIA

LETTER NO.40/11/97-LD, DATED:16thOCTOBER,1997

From

Thiru R.C.Jain,
Registrar (Law),
National Human Rights Commission,
Sardar Patel Bhawan,
New Delhi-110 001.

To

The Chief Secretaries of all States and
Union Territories (by name)

Sir/Madam,

Vide letter No.66/SG/NHRC/93, dated 14.12.1993 addressed to the Chief Secretaries of all States / Union Territories, the Commission had directed all District Magistrates/ Superintendents of Police to report about the incidents of custodial deaths and custodial rapes within 24 hours of the occurrence or coming to know of such incidents.

Pursuant to the said directions, the Commission has been receiving intimations in regard to most of such incidents but it has been found that the information that is normally received is generally brief and sometimes followed by a more detailed report. Scrutiny of such intimations/reports has shown that all relevant information is not furnished and, therefore, the Commission has to call for further information. With a view to ensure that all relevant information with regard to these incidents is received by the Commission, a format of "Information Sheet for custodial death cases reported to the National Human Rights Commission" (copy enclosed herewith) has been devised by the Commission for the use of the concerned authority (s) while sending the report with regard to the incidents of custodial deaths.

It is, therefore, requested that the concerned authority (s) in your State/Union Territory may be given appropriate instructions so as to ensure that henceforth the report of the incident of custodial deaths is sent to the Commission in the enclosed format.

Receipt of this communication may be acknowledged and action taken in this behalf be intimated to the Commission at the earliest.

Yours faithfully,
Sd/ (R.C.JAIN)
Registrar.

Encl: As above

/True Copy/

SECTION OFFICER

Sl.No.37

Copy of:

GOVERNMENT OF TAMIL NADU

MOST IMMEDIATE

Public (Law & Order-A) Dept.,
SECRETARIAT, MADRAS-9.

LETTER NO.7621/L&O/97-1, DATED 24.10.97

From

Thiru S.Ramasundaram, IAS,
Secretary to Government

To

All Collectors (w.e.)
All Superintendents of Police (w.e.)
The Commissioners of Police,
Chennai/Madurai/Coimbatore/Tiruchirappalli/Tirunelveli/Salem. (w.e.)

Sir,

Sub: Law and Order – National Human Rights Commission –
Furnishing report to the Secretary General of the Commission
on custodial crimes/rapes within 24 hours – Further
instructions – Issued - Regarding.

- Ref : 1) Govt.Letter No.2363/Public (L & O.A) Department,
dated 3.1.94.
2) Govt. Letter No.4877/93-1,Public (L & O.A) Department,
dated 28.3.94.
3) From the Secretary General, NHRC, Lr.F.No.40/3/95-LD,
dated 22.6.95.
4) Govt. Letter No.7282/95-1/Public (L & O.A) Department,
dated 29.6.95.
5) From the Registrar (Law), NHRC, Letter.No.40/11/97-LD,
dated 16.10.97.

* * *

I am directed to state that instructions were issued by the Government in the reference first cited to the effect that a report on the incidents of custodial deaths, rapes should be sent to the Secretary General of the National Human Rights Commission within 24 hours of occurrence or of those incidents having come to the notice of the Collectors or Superintendents of Police. It

has also been specified therein that failure to report promptly to the National Human Rights Commission would be viewed seriously as it would give rise to the presumption that there was an attempt to suppress the incidents.

2. The Government have again reiterated the above instructions in their letter second cited.

3. The National Human Rights Commission has now stated in their reference fifth cited (copy enclosed) that the Commission has been receiving intimations in regard to most of such incidents, but it has been found that the information that is normally received is generally brief and sometimes followed by a more detailed report and that the scrutiny of such intimations/reports has shown that all relevant information are not furnished, and therefore, the Commission has to call for further information. Therefore, with a view to ensure that all relevant information with regard to these incidents are received by the Commission, a format of "Information Sheet for custodial death cases reported to the National Human Rights Commission" has been devised by the Commission for the use of the concerned authority while sending the report with regard to the incidents of custodial deaths. A copy of the format is available along with the enclosed letter of the National Human Rights Commission.

4. I am therefore to request you to send the reports on custodial deaths or rapes to the National Human Rights Commission using this format prescribed by it in future without fail and within the time limit prescribed in the Government letter first cited.

5. The receipt of this letter should be acknowledged immediately.

Yours faithfully,

for Secretary to Government.

Copy to:

The Director General of Police, Chennai-2
The Secretary, Home Department, Chennai-9
The Public (L&O.E)/(SC) Department, Chennai-9

Sl.No.38**COPY OF:****GOVERNMENT OF TAMILNADU****ABSTRACT**

Post Mortem Report Form – Adoption of Model Autopsy forms and change of inquest procedure in death in custody cases – Orders issued.

Health And Family Welfare Department

G.O.Ms.No. 91

Dated 4.3.1998
Easwara, Masi 20
Tiruvalluvar Andu, 2028.

Read:

- 1) From the Secretary General, National Human Rights Commission, New Delhi, letter dt.29.8.1997.
- 2) From the Secretary, Public Department, D.O. letter No.6744/L&O.A/97-2, dated.10.11.1997.
- 3) From the Director of Medical Education, D.O. letter No.101876/G2/97, dated.18.12.1997.
- 4) From the Director of Medical and Rural Health Services, Letter No.119050/P&D.II/4/97, dt.19.12.97.

ORDER:

The Secretary General, National Human Rights Commission in his letter first read above has stated that the Autopsy Report forms now in use in the various States, are not comprehensive and, therefore, do not serve the purpose and also give scope for doubt and manipulation and that the Commission, has, therefore, decided to revise the autopsy form to plug the loopholes and to make it more incisive and purposeful. The Commission, after ascertaining the views of the States and discussing with the Experts in field and taking into consideration, though not entirely adopting the U.N. Model Autopsy protocol, has prepared a Model Autopsy form. The Commission has recommended the Government to prescribe the Model Autopsy Form and the Additional procedure for inquest to be followed in the State with immediate effect.

2.The Director of Medical and Rural Health Services and the Director of Medical Education have been addressed for their remarks in the matter. The Director of Medical and Rural Health Services has opined that the suggestions of the National Human Rights Commission may be accepted in to. The Director of Medical Education has suggested certain modifications in the Form.

3. After careful examination on the suggestion of the Director of Medical Education and the Director of Medical and Rural Health Services, the Government have decided to accept the recommendation of National Human Rights Commission, New Delhi. Accordingly Government direct that the Director of Medical Education/Director of Medical and Rural Health Services/Director of Public Health and Preventive Medicine/Director General of Police to adopt the Model Autopsy Form and the additional procedure for inquest as appended to this order for autopsy on deaths occurring in Jail /Police custody.

(By Order of the Governor)

N. SUNDARADEVAN
SECRETARY TO GOVERNMENT

To

The Director of Medical Education, Chennai.5.

The Director of Medical and Rural Health Services, Chennai.6.

The Director of Public Health and Preventive Medicine, Chennai.6.

The Director General of Police, Chennai.2.

Cop to:

The Secretary to Government, Public (L&O) Department, Chennai.9.

/Forwarded/ by order/

Sd/-xxx
(S. Joseph Selvaraj)
Section Officer

MODEL POST MORTEM REPORT FORM

(Read Carefully the instructions at Appendix 'A')

Name of Institution-----

Post Mortem Report No----- Date-----

Conducted by Dr-----

Date and Time of receipt of the
body and Inquest papers for Autopsy-----

Date and Time of Commencement
of Autopsy -----

Time of Completion of Autopsy-----

Date and Time of examination of the –dead body
at Inquest (as per Inquest Report) -----

Name and address of the person -----

Video recording the Autopsy-----

Note: The tape should be duly sealed, signed and dated and sent to the
National Human Rights Commission, Sardar Patel Bhawan, Sansad Marg, New
Delhi.

Case Particulars

1. (a) Name of deceased and as entered in the Jail or Police record-----
(b) S/O, D/O, W/O-----
(c) Address -----

2. Age (Approx): ----- Years; Sex: Male / Female

3. Body brought by (Name and rank of Police Officials)
(i) -----
(ii) -----
of Police Station -----

4. Identified by (Names and Addresses of relatives/persons acquainted)
(i) -----
(ii) -----

HOSPITAL DEAD BODIES – (Particulars as per hospital records)

Date and time of Admission in Hospital-----

Date and time of Death in Hospital-----

Central Registration No. of Hospital-----

SCHEDULE OF OBSERVATIONS

A. General

- (1) Height ----- Cms
- (2) Weight -----Kgs
- (3) Physique
 - (a) Lean/Medium/Obese
 - (b) Well built/Average built/ Poor-built /Emaciated

(4) Identification features (if body is unidentified)

(i) -----

(ii) -----

(iii) Finger prints be taken on separate sheet and attached by the
Doctor

(5) Description of clothes worn – important features.

(6) Postmortem changes:

(a) As seen during inquest:

- Whether rigor mortis present-----

- Temperature (Rectal)-----

-Others-----

(b) As seen at Autopsy-

(7) (a) External general appearance-

(b) State of eyes

(c) Natural orifices

B. External Injuries:

(Mention Type, Shape, Length X Breadth & Depth of each injury and its relation to important body landmark. Indicate which injuries are fresh and which are old and their duration).

Instructions

- (i) Injuries be given serial number and mark similarly on the body diagrams attached.
- (ii) In stab injuries, mention state angles, margins direction inside body
- (iii) In fire arm injuries, mention about effects of fire also

Internal Examination**1. HEAD**

- (a) Scalp Findings
- (b) Skull (Describe fractures here & show them on body diagram enclosed)
- (c) Meninges, meningeal spaces & Cerebral Vessels
(Hemorrhage & its locations, abnormal smell etc. be noted)
- (d) Brain findings & Weight (Weight -----gms)
- (e) Orbital, nasal & aural cavities -findings

2. NECK

- Mouth, Tongue & Pharynx
- Larynx & Vocal cords
- Condition of neck tissues
- Thyroid & other cartilage conditions
- trachea

3. CHEST

- Ribs and Chest wall
- Oesophagus
- Trachea & Bronchial Tree

- Pleural Cavities -B-
- L-

Lungs findings & Weight Right -----gms Left -----gms.
 -Pericardial Sac
 -Heart findings & Weight
 -Large blood vessels

4. ABDOMEN

- Condition of abdominal wall
- Peritoneum and Peritoneal cavity
- Stomach (wall condition, contents & smell) (Weight -----gms)
- Small intestines including appendix
- Large intestines & Mesenteric vessels
- Liver including gall bladder (Weight-----gms)
- Spleen (Weight-----gms)
- Pancreas
- Kidneys finding &Weight Right -----gms & Left -----gms
- Bladder & Urethra
- Pelvic cavity tissues
- Pelvic Bones
- Genital organs (Note the condition of vagina, scrotum, presence of foreign body, presence of fetus, semen or any other fluid, and contusion, abrasion in and around genital organs)

5. SPINAL COLUMN & SPINAL CORD (TO BE OPENED WHERE INDICATED)

OPINION

- (i) Probable time since death (keep all factors including observations at inquest)
- (ii) Cause and manner of death – The cause of death to the best of my knowledge and belief is:-
 - (a) Immediate cause –
 - (b) Due to-
 - (c) Which of the injuries are ante mortem/postmortem and duration if ante mortem?
 - (d) Manner of causation of injuries.
 - (e) Whether injuries (individually or collectively) are sufficient to cause death in ordinary course of nature or not?
- (iii) Any other

SPECIMENS COLLECTED & HANDED OVER (PLEASE TICK)

- (a) Viscera (Stomach with contents, small intestine with contents, sample liver, kidney
(one half of each), spleen, sample of blood on gauze pie (dried), any other viscera,
Preservative used)
- (b) Clothes
- (c) Photographs (video cassettes in case of custody deaths, Finger print etc.)
- (d) Foreign body (like bullet, ligature etc)
- (e) Sample of preservative in cases of poisoning.
- (f) Sample of seal
- (g) Inquest papers (mention total numbers & initial them)
- (h) Slides from vagina, semen or any other material.

PM report in original, -----inquest papers, dead body, clothings and other articles

(mention there)duly sealed (Nos.-----) handed over to police official

No----- of PS -----

whose signatures are herewith-----

Signature-----

Name of Medical Officer-----
(in block letters)

Designation-----
SEAL

APPENDIX –‘A’**INSTRUCTIONS TO BE FOLLOWED CAREFULLY FOR DETENTION OR TORTURE**

Sl. No.	Torture Technique	Physical Findings
	<u>Beating</u>	
1	General	Scars, Bruises, Lacerations, Multiple fractures at different stages of healing, especially in unusual locations, which have not been medically treated
2	To the soles of the feet , or fractures of the bones of the feet	Haemorrhage in the soft tissues of the soles of the feet in ankles Aseptic necrosis.
3	With the palms on both ears simultaneously	Ruptured or Scarred tympanic membranes, injuries to external ear
4	On the abdomen, while lying on a table with the upper half of the body unsupported (“operating table”)	Bruises on the abdomen. Back injuries. Ruptured abdominal viscera
5	To the head Haematomas.	Cerebral cortical atrophy. Scars, skull fractures. Bruises.
	<u>Suspension</u>	
6	By the wrists	Bruises or scars about the wrists. Joint injuries
7	By the arms or neck	Bruises or Scars at the site of binding . Prominent lividity in the lower extremities.

8	By the ankles	Bruises or scars about the ankles. Joint injuries
9	Head down, from a horizontal pole placed under the knees with the wrists bound to the 'Jack'	Bruises or scars on the anterior forearms and backs of the knees marks on the wrists and ankles
10.	<u>Near Suffocation</u> Forced immersion of head in often contaminated "wet submarine".	Faecal material or other debris in the mouth pharynx, trachea, esophagus of lungs, Intro-thoracic petechiae.
11	Tying of a plastic bag over the head ("dry submarine")	Intro - thoracic Petechiae
	<u>Sexual abuse</u>	
12	Sexual abuse	Sexually Transmitted Diseases pregnancy injuries to breasts external genitalia, vagina, anus or rectum.
	Forced posture	
13	Prolonged standing	Dependent adema, Petechias in low extremities
14	Forced straddling of a bar ("Saw horse")	Perineal or Scrotal haematomas
	Electric shock	

15	Cattle prod	Burns, appearance depends on the age of the injury. Immediately, spots, vesicles, and /or black exudates within a few weeks; circular, reddish macular scars. At several month small, white, reddish or brown spots resembling telangieotasian.
16	Wires connected to a source of electricity	
17	Heated metal skewer inserted into the anus	Per-anal or rectal burns
	<u>Miscellaneous</u>	
18	Dehydration	Vitreous humor electrolyte abnormalities.
	Animal bites (spiders, insects, rats, mice, dogs).	Bite marks

/True Copy/

Sd/-xxx
(S. Joseph Selvaraj)

Section Officer

Sl.No.39

Copy of:

GOVERNMENT OF TAMIL NADU

ABSTRACT

Postmortem examination in respect of deaths in police custody and in Jails –
Video filming of postmortem examination – Orders – Amendment – Issued.

Health and Family Welfare (Z1) Department

G.O. Ms.No.224

Dated: 28.11.2002

Read again:

- 1) G.O. Ms. No.584 Health & Family Welfare Department
Dated: 6.12.1996

Read also:

- 2) From the Chairperson, National Human Rights Commission
D.O. No.312/99 –PRP Dated :21.12.01
- 3) From the Director of Medical Education Lr. No.70356/92/02,
Date: 23.8.02.
- 4) From the Director of Medical and Rural Health Services
Lr.871/IC/3/2002, Dated: 23.8.2001.

ORDER:

In Government Order first read above, orders have been issued to the effect that all the postmortem examinations done in respect of deaths in police custody and in Jails shall be video-filmed and cassette be sent to National Human Rights Commission along with the postmortem report. The video equipments that have been supplied to every police District shall utilized for the above purpose and the Scientific Assistant in charge of Mobile Forensic Science Laboratory of the District level shall be summoned to assist in recognizing and recording clue materials and observations available in the scene of crime.

2) The Chairperson, National Human Rights Commission has now stated that an analysis on the cases of custodial death reported to the Commission during the last five years by various states has highlighted the need for re-examination of the instructions on videography in cases of death in jails from the aspect of their utility and the practical difficulties pointed out by some of the jail authorities. A scrutiny of the reports has revealed that, while death in police custody is very often a result of custodial violence, majority of deaths reported from jails are due to illness aggravated by negligence in giving proper treatment. Although the Commission views the postmortem examination as essential even in such cases, it feels the requirement of videography of the examination can be relaxed to some extent. The Commission has, therefore, decided to modify its earlier instructions. Accordingly, they suggested that the instructions regarding videography of postmortem examination in respect of death in police custody would remain in force as before. However, the requirement of videography of postmortem examination in respect of death in jail would be applicable only in following cases:-

- i) Where the preliminary inquest by the Magistrate has raised suspicion of some foul play.
- ii) Where any complaint alleging foul play has been made to the concerned authorities or there is any suspicion of foul play.

3) The Government have examined the suggestions made by the National Human Rights Commission in detail and proposed to accept them and to issue necessary amendment.

4) Accordingly, in partial modification of the orders issued in the Government Order first read above, the Government direct the requirement of videography of postmortem examination in respect of death in jail would be applicable only in the following cases:-

- i) Where the preliminary inquest by the Magistrate has raised suspicion of some foul play.
- ii) Where any complaint alleging foul play has been made to the concerned authorities or there is any suspicion of foul play.

5) This order issues with the concurrence of Home Department/Public Department vide their U.O. No.114288/Pol-13/2002-1, Dated 25.11.2002 and U.O.No.14670/L&O-A/2002-1, Dated 28.11.2002.

(By Order of the Governor)

Girija Vaidyanathan
Secretary to Government.

To
The Director of Medical Education, Chennai-10
The Director of Medical and Rural Services, Chennai-6
The Director General of Police, Chennai-4
The Director of Forensic Science, Chennai-4
The Additional Director General of Prisons, Chennai-4
The Chairman, National Human Rights Commission Sardar Patel Bhavan, New Delhi-110 001.

Copy to:
All District Collectors
Home/Public (L&O) Departments
The Senior Personal Assistant to Minister for Health, Chennai-9
The Senior Personal Assistant to Minister for Public Works Department and Prohibition and Excise Department, Chennai-9.
Chief Minister's Office, Chennai-9.

/Forwarded/ By Order/

Sd/-xxx
Section Officer

Sl.No.40

Copy of:

Letter to Chief Ministers / Administrators of all States/ Union Territories regarding the modified procedure to be followed in cases of deaths in police encounters

Dr.Justice A.S.Anand
Chairperson
National Human Rights Commission
(former Chief Justice of India)

2nd December, 2003

Dear

Death during the course of a police action is always a cause of concern to a civil society. It attracts criticism from all quarters like Media, the general public and the NGO sector.

The police does not have a right to take away the life of a person. If, by his act, the policeman kills a person, he commits an offence of culpable homicide not amounting to murder, unless it is established that such killing was not an offence under the law. Under the scheme of criminal law prevailing in India, it would not be an offence if the death is caused in exercise of right of private defence. Another provision under which the police officer can justify causing the death of a person, is Section 46 of the Criminal Procedure Code. This provision authorizes the police to use reasonable force, even extending up to the causing of death, if found necessary to arrest the person accused of an offence punishable with death or imprisonment for life. Thus, it is evident that death caused in an encounter if not justified would amount to an offence of culpable homicide.

The Commission while dealing with complaint numbers 234 (1 to 6) / 93-94 and taking note of grave human rights issue involved in alleged encounter deaths, decided to recommend procedure to be followed in the cases of encounter death to all the States. Accordingly, Hon'ble Justice Shri M.N.Venkatachaliah, the then Chairperson National Human Rights Commission, wrote letter dated 29/3/1997 to all the Chief Ministers recommending the procedure to be followed by the States in "**cases of encounter deaths**" (**copy enclosed for ready reference***).

Experience of the Commission in the past six years in the matters of encounter deaths has not been encouraging. The Commission finds that most of the States are not following the guidelines issued by it in the true spirit. It is of the opinion that in order to bring in transparency and accountability of public servants, the existing guidelines require some modifications.

Though under the existing guidelines, it is implicit that the States must send intimation to the Commission of all cases of deaths arising out of police encounters, yet some States do not send intimation on the pretext that there is no such specific direction. As a result, authentic statistics of deaths occurring in various States as a result of police action are not readily available in the Commission. The Commission is of the view that these statistics are necessary for effective protection of human rights in exercise of the discharge of its duties.

On a careful consideration of the whole matter, the Commission recommends following modified procedure to be followed by the State Governments in all cases of deaths in the course of police action:-

- A. When the police officer in charge of a police station receives information about the deaths in an encounter between the police party and others, he shall enter that information **in the appropriate register**.
- B. Where the police officers belonging to the same police station are members of the encounter party, whose action resulted in deaths, it is desirable that such cases are made over for investigation to some other independent investigating agency, such as **State CBCID**.
- C. Whenever a specific complaint is made against the police alleging commission of a criminal act on their part, which makes out a cognizable case of culpable homicide, an FIR to this effect must be registered under appropriate sections of the I.P.C. Such case shall invariably be investigated **by the State CBCID**.
- D. A Magisterial Inquiry must invariably be held in all cases of death which occur in the course of police action. The next of kin of the deceased must invariably be associated in such inquiry.

- E. Prompt prosecution and disciplinary action must be initiated against all delinquent officers found guilty in the magisterial enquiry/police investigation.
- F. Question of granting of compensation to the dependents of the deceased would depend upon the facts and circumstances of each case.
- G. No out-of-turn promotion or instant gallantry rewards shall be bestowed on the concerned officers soon after the occurrence. It must be ensured at all costs that such rewards are given/recommended only when the gallantry of the concerned officer is established beyond doubt.
- H. A six monthly statement of all cases of deaths in police action in the State shall be sent by the Director General of Police to the Commission, so as to reach its office by the 15th day of January and July respectively. The statement may be sent in the following format along with post-mortem reports and inquest reports, wherever available and also the inquiry reports:
 - 1. Date and place of occurrence :
 - 2. Police station, district :
 - 3. Circumstances leading to deaths :
 - i. Self defence in encounter
 - ii. In the course of dispersal of unlawful assembly
 - iii. In the course of effecting arrest
 - 4. Brief fact of the incident:
 - 5. Criminal Case Number:
 - 6. Investigating Agency:
 - 7. Findings of the magisterial Inquiry/Enquiry by senior officers:
 - a. disclosing in particular names and designations of police officials, if found responsible for the death; and
 - b. Whether use of force was justified and action taken was lawful.

It is requested that the concerned authorities of the State are given appropriate instructions in this regard so that these guidelines are adhered to both in letter and in spirit.

With regards,

Yours sincerely,

(A.S.Anand)

Sl.No.41

Copy of:

GOVERNMENT OF TAMIL NADU

Public (HR) Department,
Secretariat, Chennai-9.

Letter No.10346/HR/2004—2, Dated : 04.03.2004

From
Thiru. T. Pitchandi, I.A.S.,
Secretary to Government.

To
The Director General of Police
Chennai-4.
The Additional Director General of Police (Administration)
Chennai-4.

Sir,

Sub: National Human Rights Commission – Complaint on
Human Rights Violations – Report and comments from
the Senior Police Officials – Instructions issued.

Ref: From the Director General (Inv), National Human
Rights Commission letter No. NHRC – 5(1)/MISC/2003-
INV, dated 17.2.2004.

I am directed to state that the Director General (Investigation), National Human Rights Commission has informed that the reports / comments from the Senior Police officials are called for by the Commission on the complaints regarding human rights officials get the matter enquired by the Junior officers and forward the report to the Commission without any comments. It is observed that this is not a proper way of dealing with the matter. The National Human Rights Commission desires that in such cases the senior officer should examine the report of the junior officers and make their own comments while forwarding the report to the Commission.

2. I am request you to ensure that all such cases referred to by the Commission are examined by you / Senior Officers with reference to the report of the junior officers and your comments sent to the National Human Rights Commission while forwarding the reports of the junior officers to the Commission.

3. The receipt of this letter should be acknowledged immediately.

Yours faithfully,

for Secretary to Government.

Copy to:
The Secretary to Government,
Home Department, Chennai-9.
The National Human Rights Commission

Sl.No.42

Copy of:

GOVERNMENT OF TAMIL NADU

Public (L&O-A) Department,
Secretariat, Chennai-9.

Letter No.1888/L&O-A/2003-5, Dated: 13.9.2004

From
Thiru. T. Pitchandi, I.AS.,
Secretary to Government.

To
All District Collectors

Sir,

Sub: Law and Order – PSO enquiry reports called for by
NHRC/SHRC – Certain instructions – Reg.

Ref: Government Letter No.2363/L&O-A/93-1,
dated 3.1.1994.

Please refer to the Govt. letter cited wherein instructions have been issued to the effect that instances of custodial deaths/rapes etc., should be intimated to the Secretary General of NHRC within 24 hours of occurrence. The Commission on receipt of such reports, calls for the following documents subsequently.

1. Inquest report,
2. Postmortem report,
3. Video graph of postmortem,
4. Final medical opinion of doctors, and
5. Magisterial enquiry report.

The above reports are called for by the Commission either directly from the District Collectors or from the Government in public department. All the above documents except the magisterial enquiry report can be sent to the Commission immediately. It will be appropriate if the magisterial enquiry report is sent to the Commission along with an action taken report after a decision is taken by the Government on the enquiry report.

2. You are, therefore, requested to send the inquest report, postmortem report, video graph of postmortem and the final medical opinion of doctors as and when called for by the NHRC/SHRC (i.e. except magisterial enquiry report) and to inform the Commission that the magisterial enquiry report will be sent to the Commission by the Government along with the action taken report after final orders are passed by the Government on the enquiry report.

3. The receipt of this letter may be acknowledged early.

Yours faithfully

Sd/-xxx
Secretary to Government.

Copy to:
The Home Department,
Chennai-9.

/True Copy/

Section Officer

Sl.No.43

Copy of:

GOVERNMENT OF TAMIL NADU

Home (Pol-16) Department,
Secretariat, Chennai-9.

Letter No.116200/Pol-16/2004-2, Dated: 21.2.2005

From
Thiru Pavan Raina, I.A.S.,
Principal Secretary to Government.

To
All Collectoros
All Superintendents of Police
All Commissioner of Police

Sir,

Sub: National Human Rights Commission – Direction on
furnishing of report to National Human Rights Commission
on custodial deaths within 24 hrs. – Communicated

Ref: (1) Government Lr. No.2363/L&O-A/1993-1 Public.
dt.3.1.94
(2) Government Lr. No.7621/L&O-A/1997-1 Public,
dt.24.10.97.
(3) From Director General, National Human Rights
Commission, Lr. No.1(2)/2004-Co-ord, dt.29.10.04.

I am directed to invite a reference to the Government letters cited. The National Human Rights Commission in its reference cited has observed the following.

It is sometimes noticed that where the death of a person in police of judicial custody occurs while in transit from the concerned police station nor jail to hospital or court or else if he happens to die after reaching hospital the case of such death is not intimated to the Commissioner promptly. The Commission is deeply concerned about such lapse and it takes an adverse view whenever it is detected. It is therefore, once again requested that necessary instructions may be given to all concerned to avoid such lapse and ensure that the intimation of all types of custodial death is promptly sent to the Commission within 24 hours of occurrence.

2. I am , therefore, to request you to ensure that the intimation reports of all types of custodial deaths are sent to the Government within 24 hours of occurrence.

3. The receipt of this communication may be acknowledged.

Yours faithfully,

(R. ANGANAN)
Under Secretary to Government.

for Principal Secretary to Government.

Copy to:
The Director General of Police,
Chennai-4.

The Director General (INV)
National Human Rights Commission,
Sardar Patel Bhavan, Sansad Marg.
New Delhi.

The Public (L&O) Department, Chennai-9.

/True Copy/

SECTION OFFICER

Sl.No.44

Copy of:

GOVERNMENT OF TAMIL NADU

Public (L&O-A) Department,
Secretariat, Chennai-9.

Letter No.7083/L&O-A/2003-6, Dated: 29.6.2005

From

Thiru. G. Ramakrishnan, I.A.S.,
Secretary to Government.

To

The Additional Director General of Prisons,
Chennai-8.

All District Collectors,

Sir,

Sub: Law & Order – Enquiry under PSO151 – Certain instruction to avoid delay in sending enquiry reports to the Government – Certain instructions – Issued – Fixing time limit to send the report to the Government Instruction on the procedure to be followed.

Ref: 1. Govt. Letter No.2363/L&O-A/1993, Public (L&O-A) Department, dated 03.1.1994.
2. Govt. Letter No.5127/L&O-A/99-6, Public (L&O-A) Department, dated 22.12.1999.

A review of receipt of records by Government on deaths in police custody / rape by police and prison deaths etc., was done and it was noticed that in many cases of deaths in custody, there has been a lot of delay in sending even initial intimation of such incidents to the Government. In a few cases such initial intimation is not at all received. The following instructions are therefore issued:

I) In cases of death in police custody / rape instructions have been issued as early as in 1994 in the Government letter first cited to report to National Human Rights Commission, within 24 hours of occurrence of these incidents having come to the notice of the District Magistrate / Superintendent of Police. Similarly, the District superintendents of Police are requested to report such incidents to the District Collectors and to the Government in Public (Law and Order) Department within 24 hours of occurrence. In cases of deaths of remand prisoners in Central Prisons / hospitals, the ADGP of Prisons is requested to issue instructions to the Superintendents of Central Prisons to inform such deaths to the District Collectors concerned and to the Government in Public (L&O) Department within 24 hours of occurrence.

II) On receipt of reports on such incidents, the District Collector concerned has to take immediate action to order PSO 151 enquiry into cases of deaths in police custody / rape by police and Magisterial enquiry / PSO 151 enquiry into cases of deaths of remand prisoners in prisons / hospitals and send a copy of the proceedings ordering enquiry to the Government in Public (L&O) Department.

III) The Government has already issued instructions to all the District Collectors specifying 30 days time limit for submission of enquiry reports in cases of deaths in custody / rape by police / prison deaths in the Government letter second cited. These instructions have been reiterated on and again. This timeframe has been seldom followed. The District Collectors are therefore requested to ensure that the magisterial enquiry reports are sent to the Government within 30 days from the date of occurrence as per the existing instructions.

The above instructions should be followed scrupulously.

2. The receipt of this letter may be acknowledged early.

Yours faithfully,

for Secretary to Government

Copy to:

The Director General of Police,
Chennai-4.

/True Copy/

SECTION OFFICER

Sl.No.45

Copy of:

GOVERNMENT OF TAMIL NADU

Office Order No16, Dated: 29.6.2005

Sub: Law and Order – Enquiry under PSO 151 – Delay in passing final orders on the enquiry reports – Certain instructions are issued.

Ref: O.O.No.6/ Public (L&O-A) Department, dated 18.2.2004.

Please refer to the instructions issued in the office order cited.

2. In addition to the above instructions, with a view to avoid delay in getting the enquiry reports from the District Collectors and the delay in passing final orders on the enquiry reports sent by the District Collectors, the following instructions are issued.

i. A register has already been maintained in Public (Law and Order)

Department to make entries of deaths in police custody / rape in custody / prison deaths. In addition to making entries in this register, separate files should be opened in Public (Law and Order) Dept. immediately on receipt of reports from the District Collectors, Superintendents of Police and Superintendents of Central Prisons to monitor the receipt of enquiry reports from the concerned District Collectors.

ii. Enquiry reports into incidents of deaths in custody / rape by Police / Prison deaths should be obtained from the District Collectors within 30 days from the date of the incident as per the existing instructions by taking effective follow up action and by sending reminders.

iii. As soon as magisterial enquiry / PSO 151 enquiry reports are received in Government, the Law and Order section concerned should ensure that the reports are examined expeditiously, additional particulars if any, required obtained from the District Collector concerned and the file circulated to the decision making authority in complete shape within 2 months from the date receipt of reports and final orders issued within 3 months/

The above instructions should be followed scrupulously and failure if any noticed will be viewed seriously.

3. The receipt of the above instructions should be acknowledged.

G. RAMAKRISHNAN,
SECRETARY TO GOVERNMENT.

To

All the Staff and Public (L&O) Department
The Under Secretary to Government,
Public (L&O) Department,
Chennai-9.

Sl.No.46

Copy of:

GOVERNMENT OF TAMIL NADU

Public (L&O-A) Department,
Secretariat, Chennai-9.

Letter No.10951/L&O-A/2005-1, Dated:13.10.2005

From
Thiru.G. Ramakrishnan, I.A.S.,
Secretary to Government.

To
All District Collectors,
Chennai, Coimbatore ,Cuddalore, Dharmapuri, Dindigul, Erode,
Kancheepuram, Kanniyakumari, Karur, Krishnagiri, Madurai, Nagapattinam,
Namakkal, Nilgris, Perambalur, Pudkkottai, Ramanathapuram, Salem,
Sivaganga, Thanjavur, Theni, Thoothukudi, Tiruchirappalli, Tirunelveli,
Tiruvallur, Tiruvannamalai, Tiruvarur, Vellore, Villupuram, Virudhunagar.

Sir,

Sub: Law and Order – PSO enquiry reports called for by
NHRC/SHRC – Certain instructions – Reg.

Ref: Government Letter No.1888/L&O-A/2003-5, dated
13.9.2004

Please refer to the instructions issued by the Government in the letter
cited.

2. In the Government letter cited you were requested to send to the
NHRC, New Delhi, all the reports relating to deaths in police custody/prison
deaths called for by the Commission except the magisterial enquiry report is
under examination of the Government and that as soon as a decision is taken
by the Government a copy of the same along with action taken report will be
sent to the Commission. In order to avoid delay in sending the magisterial
enquiry, report to the Commission, it has now been decided to send this report
also to the Commission if and when called for by it along with the other
reports.

3. Therefore, in slight modification of the instruction issued in the Government letter cited above, I am to request you to send copy of the magisterial enquiry report also to the National Human Rights Commission along with the other reports if and when called for by it.

Yours faithfully,

sd./-xxx
for Secretary to Government.

/True Copy/

SECTION OFFICER

Sl.No.47

Copy of:

GOVERNMENT OF TAMIL NADU

Public (L&O-A) Department,
Secretariat, Chennai-9.

Letter No.11084/L&O-A/2007-1, Dated : 13-11.2007

From
D. Jothi Jagarajan, I.A.S.,
Secretary to Government,

To
All Collectors / All Superintendents of Police,
All Commissioner of Police,
The Director General of Police, Chennai-4.

Sir,

Sub: Law & Order – National Human Rights Commission – Directions on furnishing of report to National Human Rights Commission on custodial deaths within 24 hours – Instructions – Reiterated.

- Ref: 1. Govt. Letter No. 2363/L&O-A/1993-1, Public (L&O-A) Department, Dated : 03.01.1994.
2. Govt. Letter No.7921/L&O-A/1997-1, Public (L&O-A) Department Dated: 24.10.1997.
3. Government Letter No.118200/Pol-16/2004-2, Home Department , Dated: 21.02.2005.

I am directed to invite attention to the references cited wherein Government have issued instructions to report all types of custodial deaths to the National Human Rights Commission within 24 hours of its occurrence. It has been noticed that the above instructions are not being scrupulously followed resulting in expression of displeasure by the Hon'ble National Human Rights Commission. In an instance, the Collector of a District has not sent the report to the NHRC by Fax within 24 hours on ground that there arose a law and order situation over the custodial death of the victim and the RDO was busy sorting out the problem and this resulted in delay in holding the inquest over the dead body and consequential report to Collector and NHRC. Such explanation may not be acceptable to NHRC. **The report to NHRC should take precedence over all other issues.**

2. I am, therefore, to request that strict instructions may be issued to all concerned to avoid such lapses and ensure that the intimation of all types of custodial deaths is promptly sent to the Commission within 24 hours of occurrence by Fax /email followed by speed post. Failure to follow the instructions in this regard will be viewed seriously by the Government.

Yours faithfully,

for Secretary to Government

/True Copy/

SECTION OFFICER

