

**A CRITICAL ANALYSIS OF THE ENFORCEMENT AGENCIES AND INVESTIGATIONS  
IN INDIA: AN APPRAISAL**

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**Abstract**

They're great for preventing the exponential growth of crime that we've seen in recent years. We need a successful and efficient investigative procedure to rid society of evil and provide a safe environment for people to live in without worrying about criminal activity. An investigator's day is filled with a wide variety of investigations.

The first and foremost are criminal investigations. The precise history of criminal investigations is unclear, although they likely originated in a very primitive form alongside the first judicial proceedings. The investigative bodies have broad discretionary authority under the law to conduct their investigations. The police have the legal authority to conduct an investigation under Chapter XII of the Criminal Procedure Code.

It is only by allowing the police to do their job and the judiciary to do its job that we can achieve a balance between individual freedom and the appropriate observance of law and order.

**Keywords:** Legal System, Investigation Agencies, Enforcement Agencies. Judicial System

**1. Introduction**

A legal system, as stated in this article, is a body of laws and rules designed to ensure that all members of a society may freely pursue their own interests while also providing for their common safety. When compared to other species, however, the biggest danger to a human's health, safety, and possessions comes not from other humans but from members of his own species. Indigenous male communities in prehistoric cultures developed defenses against other male communities. These antiquated tools lost their effectiveness as civilisation progressed. Rights were established, obligations were outlined, and mechanisms of enforcement were made available via the legal system. Since man is a social entity, he needs to interact with other social beings to ensure his own survival. It's possible for there to be both 'in his interest' and 'not in his interest' issues. From this point on, law enforcement has an active part to play. They're organizations that try to keep the peace between warring groups. There are many different kinds of "Law Enforcement Agencies." One of them consists of organizations that conduct investigations. They have also been dubbed "Special Investigating Agencies," a more specific phrase. Because of the complexity of the problems they solve, they are known as Special Investigating Agencies.

When it comes to maintaining order in India, a wide variety of government entities are responsible. The agencies help the states carry out their mandates and report to the Union Ministry of Home Affairs at the federal level. The majority of police responsibilities in India rest with the individual states and territories due to the federal form of the Indian Constitution, which treats law and order as a matter for the State. In addition, the State Government oversees the Metropolitan Police Departments that serve the largest cities. The Indian Police Services is made up of all of the highest-ranking police personnel from all of the different state police forces and federal organizations.<sup>1</sup>

**2. Concept of Investigation in Law Enforcement Agencies**

Crime and other forms of loss are just two of the many challenges that a complex community must deal with. It is necessary to conduct probes into incidents of theft, fraud, terrorism, and accidents. The inquiry is a time-consuming and difficult process. Simply said, an investigation is a methodical search for information that is then reported on. It comes from the Latin word *vestigere*, meaning "to

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<sup>1</sup> Wikipedia, (the free encyclopedia) Last visited on April 14th, 2022

track or trace," and refers to a methodical investigation.<sup>2</sup> The inquiry is a fact-finding mission, somewhat dissimilar to academic study. It encompasses several different academic specializations. It involves many different fields, including law, science, communication, and more. It calls for a curious mind and careful consideration of every angle. The fact that cops often have to play many roles—from expert to criminal investigator—makes it challenging for them to conduct their jobs well.

In most cases, police officers have less time for mundane investigations. Now, however, we need to define Investigation. To successfully prosecute a case, investigators must master "the art of uncovering concealed truths to connect together diverse pieces of evidence." There is still room for improvement in the investigative capabilities of law enforcement organizations because of the need for specialized knowledge and expertise. Because of this, the Malimath Committee cited the 154th report of the Law Commission, which called for the division of the investigative agency and the law enforcement apparatus.:-

1. It will bring investigation agencies under the protection of the judiciary and reduce external influences.

2. It will reduce the possibility of unjustified and unwarranted prosecution.

3. It will result in speedier investigations and disposal of cases.

4. It will increase the expertise of investigation officers.

5. Investigating police in plain clothes will have greater rapport with police. The word —Investigation has been defined in the Criminal Procedure Code (Criminal Procedure Code (Cr.P.C.)<sup>3</sup>—all the proceedings under this code for the collection of evidence conducted by a police officer or by any person (other than a Magistrate) who is authorized by a Magistrate on this behalf.

Although the law does not explicitly require a First Information Report (FIR) to be filed before an investigation can begin, this phase of the process consists mostly of verifying the case's facts and circumstances. It is a matter of truth that investigations may begin prior to the filing of a First Information Report (FIR).

The public has a high bar for response times in cases of major crime. Only by zeroing in on the precise areas of study can a quick and thorough investigation be conducted. Therefore, there are three key aspects of an investigation that must be prioritized for success: 1. Gathering evidence at the site of the crime and other relevant locations. Information gathered through questioning or interviews. Third, thorough notes are made with the legal system in mind. Time spent on preparing and coordinating the many components of an inquiry is time well spent. It has to be carefully orchestrated.

### **2.1 Definition of investigation**

(1) The state of having begun an inquiry. 2. a deep or diligent investigation of anything in order to get to the bottom of it. Third, an investigation is a formal and official process in which great care is taken to uncover the truth about a matter that is both difficult and concealed. There are many different words that mean "investigate," but here are few that are similar. According to the Thesaurus, the word "investigation" implies (a) to look into anything that is unusual or suspicious.

### **2.2 The work of inquiring into something thoroughly and systematically.**

Any of these expressions may be used to convey the notion of making an attempt to learn more about something. Examining anything methodically is an organized effort to learn more about it or put it to some kind of test, and it usually involves putting it on display for others to see. As in, a checkup with the doctor. An inquiry is a kind of investigation in which questions are asked rather than evidence being examined or inspected. Research entails an in-depth examination that takes time and effort.

## **3. Law Enforcement Agencies**

### **3.1. Local Law Enforcement Agencies**

They have no jurisdiction outside the city where they are employed e.g. police force.

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<sup>2</sup> Bennet & Hess, 2004, p. 4

<sup>3</sup> Criminal Procedure Code, 1973 (2 of 1974) Sec. 2(h).

### **3.2. State Law Enforcement Agencies**

Law enforcement officials in the maritime and port industries have statewide authority. The mission of the Border Patrol is to protect the nation's borders by enforcing immigration laws and conducting surveillance of border states. In general, the word "law enforcement" refers to any system put in place to encourage conformity with the law by the systematic pursuit of finding and punishing those who break such laws and norms. More often, government entities that monitor or conduct surveillance in order to discover and deter different illegal actions, investigate criminal cases, and capture people who break the law, are referred to as enforcement agencies. Any country has its own police force, and each individual state inside that country could also have its own force.

Similarly, a country or state may have many law enforcement agencies dedicated to combating a particular sort of crime, such as economic offenses, drug-related crimes, etc. Remember that the term "policing" encompasses much more than simply the act of enforcing the law.

### **3.3 Central Agencies are:-**

1. Central Bureau of Investigation (CBI)
  2. Border Security Force (BSF)
  3. India Income Tax Department
  4. Central Industrial Security Force
  5. Central Reserve Police Force
  6. Directorate of Revenue Intelligence
  7. Indo-Tibetan Border Police (ITBP)
  8. National Security Guards (NSG)
  9. National Investigating Agency (NIA)
  10. Railway Protection Force (RPF)
  11. Special Protection Group
  12. Seema Suraksha Bal
  13. Narcotics Control Bureau (NCB)
  14. National Central Bureau (Interpol), New Delhi. Then comes the organizations under the central government. They are:-
1. Bureau of Police Research & Development (BPR&D)
  2. National Crime Records Bureau (NCRB)
  3. Central Forensic Science Laboratory (CFSL)
  4. National Institute of Forensic Sciences (NIFC)
- Further the law enforcement agencies have been classified based on security, intelligence/investigation and Armed Police Forces. Let us look into the classification based on security.

### **4. Problems and Challenges Faced by Enforcement Agencies**

Our nation's law enforcement personnel are on the front lines of the battle against crime, and they do a tough and hazardous job with competence and commitment. However, they are continuously faced with remarkable new problems while having less resources at their disposal. Consequences in law enforcement that were both significant and growing became apparent over time.

It has been common practice for police officials throughout India to ask politicians for leniency while dealing with criminal cases. "The rule of law in contemporary India, the frame upon which justice rests, has been eroded by the rule of politics," David Bayley said. Monitoring institutions in the name of democracy has weakened the mechanisms upon which a fair criminal justice system is built. The constitution of India created a federal structure, which creates additional difficulties for law enforcement. Considering that maintaining public order and policing are State responsibilities, it is only appropriate that this matter be brought up in the legislature when police seem to be failing in their duties.

The Government Judgements from the federal level and the states vary. Therefore, it is challenging for law enforcement officials to meet the needs of both parties. As time passes, criminal activity and

lawlessness tend to worsen. A nation with a well-functioning justice system is one in which its citizens are free to go about their daily lives without worrying about being victimized by or reporting criminals to the authorities.

There has been a consistent increase in criminal activity over the decades. Crime is the greatest danger facing contemporary civilizations, surpassing even war itself. The failure to properly record criminal incidents is a major hindrance to the effectiveness of law enforcement. The effects on law enforcement are devastating. According to the National Police Commission's 4th Report, "this malpractice of non-registration arises from several factors, including the extraneous influences and corruption that operate in the system, in addition to the disinclination of the staff to take on the additional load of investigational work amid heavy pressure of several other duties."

We believe that the political executive in State Govt. is anxious about keeping the recorded crime figures low so that they can claim in front of State Legislatures, the public, and the press that crime is well controlled and is even going down as a result of "efficient" police administration under their charge. Police chiefs and other top cops find it simple and expedient to go along with the government's plan to use statistics to gauge crime rates and evaluate their own department's effectiveness.

Therefore, this mentality penetrates the whole chain of command and is mirrored at the police stations in their hesitation and unwillingness to register cases if and when crimes are brought to their attention. According to a study of police society connections, getting a complaint lodged with the police requires the involvement of a political figure right from the start.

The poll results reveal the terrible state of working circumstances for law enforcement agents, who are trapped in the tangle of politicians and other powerful individuals. There is also a problem with law enforcement since there are too many laws. Our legal code has several archaic and unworkable provisions. Criminals lack the sense of deterrence necessary since they may get out of jail after committing even the most horrific crimes by paying relatively little costs.

Despite the officer's best efforts, crime and criminal activity continue to rise despite his 24-hour efforts. When he witnesses the same thief walking free after paying a few rupees, all of his efforts seem futile. It's bad for morale, which in turn reduces the effectiveness of law enforcement. It is not merely the role of the police to enforce the law; doing so is a way of life.

We must appreciate that being a police officer is not a walk in the park, and that officers often make personal sacrifices and inconveniences in order to do their jobs. Attempts by law enforcers to alter existing laws or procedures would always lead them into conflict with the same institutions that enacted them. Choosing to work as a law enforcement officer is difficult and perhaps risky. Keeping the peace requires police to be on the job constantly, so they can't afford to take any time off.

#### **4.1 Technical challenges<sup>4</sup>**

These are technology-related challenges which are faced by law enforcement agencies. Where a hacker disrupts a traffic control at a local airport or a child pornographer sends computer files over the internet or when credit card numbers are stolen from a company engaged in e-commerce, investigators must locate the source of communication. They have to trace the —electronic trail leading from the victim to the perpetrator in almost every case.

To succeed in identifying and tracing global communications, investigators have to work across the border, not only with one's counterpart but also with industry to preserve critical evidence such as log files, emails etc. before it is altered or deleted. Besides, while less sophisticated cyber criminals may leave electronic —fingerprints, more experienced criminals know how to conceal their tracks in cyberspace. Internet telephony, strong encryption and wireless and satellite communication and other technological advances have made it possible for international criminals and terrorists to target victims in unprecedented ways.

One of the problems/challenges faced by enforcement agencies is cybercrime. The use of computers has grown exponentially during the last few years. Financially networks, communication systems, and power stations depend on computers. It is therefore not surprising that computer technology is

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<sup>4</sup> 12th International Senior Seminar

involved in a growing number of crimes. These are generally taken to include theft of computer services, software piracy and the alteration and theft of electronically stored information, extortion committed with the help of computers, obtaining unauthorized access to records from banks, credit card issuers or customer reporting agencies, traffic in stolen passwords and transmission of destructive viruses or commands.

With the physical growth of the internet over the past few years, several new generation crimes affecting the LAN, WAN and Internet such as theft of information piracy, forgery, counterfeiting, dissemination of offensive materials, and terrorism have also grown. Hacking computers, network breaches, copyright, piracy, software piracy, and child pornography are some of the new terms in the average criminal investigator's dictionary.

Highly intelligent persons commit these new generation crimes leaving hardly any trace and making investigation complicated. Computer crimes are now a matter of growing concern. Traditional barriers to crime faced by criminals are being obliterated by digital technologies. In a digital world, there are no state or international borders. Bits of information flow effortlessly around the globe. In the past, the culprit had to be physically present to commit a crime. Robbing a bank or an armoured vehicle of cash would pose problems of transportation and storage whereas the transfer of money poses no such problems in the digital world. Cyber crimes have become a reality in India too. Law enforcement agencies today face several challenges in the investigation of such cases.

#### **4.2 Legal challenges**

A legal framework that allows for the discovery and prosecution of offenders is necessary for deterring and punishing cyber criminals. However, there are legal obstacles for law enforcement since the laws defining computer offenses and the legal instruments required to pursue criminals utilizing the internet sometimes lag behind social and technical advances. As a result of UNGA resolution A/RES/51/162 from January 30, 1997, India has passed the Information Technology Act of 2000. Digital signature, electronic governance attribution, acceptance and dispatch of electronic documents, secure electronic records, etc. are all discussed in further detail in the Information Technology Act of 2000.

If the electronic transactions are conducted using "public key cryptography," then the Electronic Signatures will be legitimate and enforceable. The Act defines two categories of criminal offenses, namely, violations and computer-related crimes. However, those who commit Information Technology crimes face imprisonment as well as fines or perhaps the death sentence. Additionally, the Indian Penal Code, the Indian Evidence Act, the Banker's Book Evidence Act, and the R.B.I. Act have all been updated to make it easier to investigate and prosecute cybercrime. 48 c) Difficulties in Operation The requirement for high-tech criminal activity.

#### **4.3 Operational Challenges**

When law enforcement is confronted with computer crimes, they require access to high-tech crime teams that can react quickly, investigate thoroughly, and provide a hand. Adequate training is required to make the police cyber-sensitive. Police, forensic scientists, attorneys, and computer programmers or system administrators all need to work together to solve a computer crime. Because of their lack of technical expertise, law enforcement may be unable to properly investigate the case. While many programmers have a deep understanding of computers, networks, and how they function, they may be less familiar with the legal procedure necessary to present evidence in court.

Even while forensic scientists and law enforcement officials both have experience with physical evidence, the former may not know what to look for in digital evidence or how to use traditional forensic techniques. The rise in cybercrime, however, means that law enforcement agencies must acquire the expertise to process digital evidence, utilize it to develop leads in investigations, and recognize when to bring in outside help. It is not enough for attorneys to just know where to look for digital evidence; they must also be able to defend it against common arguments and decide whether or not it is acceptable in court.

In order to analyze digital evidence in support of an inquiry, even forensic experts must become thoroughly conversant with all of its facets. Recently, the CBI established a dedicated cybercrime research and development team, which keeps in touch with the FBI, Interpol, and other foreign



police agencies to exchange information and expertise about the investigation of cybercrime. This operation is supported by Central Bureau of Investigation (CBI) agents who teach state police frequently via periodic regional training sessions to impart their knowledge and skills.

### **5. Conclusion & Suggestions**

According to Webster's, we know that law enforcement is "the branch of government charged with enforcing the law." Whether you believe the police to be friendly or hostile is based purely on faith. Any news article or public opinion poll will show that law enforcement agencies, including the police, have a poor image. A guy may go to any depths, but even the police "Quentin Crisp" is above him. This suggests that people have lost trust in law enforcement, which is a serious problem. They are seen as dishonest, bribe-seeking, careless, indifferent, and ineffective. While police enforcement may argue that this picture is overblown, the reality is that public indifference is real and public confidence in law enforcement continues to be damaged. The police should abandon the habit of always being late on the scene.

1. Areas where khap panchayats are active need further care. These sham tribunals flourish because to people's mistrust in the real judicial system. The rule of law should be created, and the judiciary should operate exclusively in its light.
2. There should be strong support for the creation of Fast Track Courts to guarantee that offenders get the negative pleasure of serving lengthy prison terms.
3. Last but not least, contemporary scientific methods of investigating crimes are crucial to advance the functioning of investigation agencies, and hence are essential for successful investigation by the enforcement authorities. The recommendations of the Draft National Anti-Corruption Strategy must be studied and put into action.