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Responses to Information Requests

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4 June 2021

IND200628.E

India: First Information Reports (FIRs), including requirements and procedures to file an FIR; whether a complainant can obtain a copy; appearance and security features; whether FIRs are centralized and included in police databases, including the Crime and Criminal Tracking Network and Systems (CCTNS) (2019–May 2021)

Research Directorate, Immigration and Refugee Board of Canada

1. Overview

According to the website of the Bureau of Police Research and Development (BPR&D) [1] of India's Ministry of Home Affairs (MHA), an FIR is a report on the "first information" about a cognizable offence received at a police station (India 4 Jan. 2019). The same source notes that offences in the *Code of Criminal Procedure* are divided between cognizable and non-cognizable offences [2]; for cognizable offences, which include theft, robbery, murder and rape, the police can file FIRs and arrest an accused without a warrant, while for non-cognizable offences, which include "mostly" minor offences, the police cannot file FIRs or investigate without instruction from the court (India 4 Jan. 2019). In an interview with

the Research Directorate, an independent lawyer in New Delhi practicing criminal law at the Supreme Court of India similarly indicated that FIRs are reports of "serious offences," which allow for an arrest without a warrant (Lawyer 1 May 2021).

The *Code of Criminal Procedure* provides the following:

155. Information as to non-cognizable cases and investigation of such cases.—

1. When information is given to an officer in charge of a police station of the commission within the limits of such station of a non-cognizable offence, he shall enter or cause to be entered the substance of the information in a book to be kept by such officer in such form as the State Government may prescribe in this behalf, and refer the informant to the Magistrate.
2. No police officer shall investigate a non-cognizable case without the order of a Magistrate having power to try such case or commit the case for trial.
3. Any police officer receiving such order may exercise the same powers in respect of the investigation (except the power to arrest without warrant) as an officer in charge of a police station may exercise in a cognizable case.
4. Where a case relates to two or more offences of which at least one is cognizable, the case shall be deemed to be a cognizable case, notwithstanding that the other offences are non-cognizable.

156. Police officer's power to investigate cognizable case.—

1. Any officer in charge of a police station may, without the order of a Magistrate, investigate any cognizable case which a Court having jurisdiction over the local area within the limits of such station would have power to inquire into or try under the provisions of Chapter XIII.
2. No proceeding of a police officer in any such case shall at any stage be called in question on the ground that the case was one which such officer was not empowered under this section to investigate.
3. Any Magistrate empowered under section 190 may order such an investigation as above-mentioned. (India 1973, bold and italics in original)

The website of the BPR&D indicates that, according to the *Code of Criminal Procedure*, a police station is required to record complaints of non-cognizable offences in the "General Diary," called "N.C." and adds that a copy of the entry can be provided to the complainant (India 4 Jan. 2019).

Sources indicate that the police investigation of a complaint begins once the FIR is registered (India 4 Jan. 2019; Safecity n.d.a; *The Indian Express* 28 Oct. 2020). According to Safecity [3], upon completion of their investigation, police will file a charge sheet (*challan*) with their findings (Safecity n.d.a). The same source reports that if there is enough proof, the case will proceed to court and if not, the police may close the case "after justifying their reasons in court" (Safecity n.d.a). Similarly, the *Indian Express*, an Indian English-language newspaper, states that the police will first determine whether the allegations are "genuine" before gathering

evidence and filing a charge sheet against the alleged perpetrators; if the police find "no evidence to substantiate [the] allegations," they will "summarise" or close the case (*The Indian Express* 28 Oct. 2020).

2. Requirements and Procedures to Register an FIR

Sources state that any individual that has information about a crime can register an FIR (India 4 Jan. 2019; Safecity n.d.a; Deswal 17 Aug. 2019), including the victim, a relative of the victim, an eyewitness, or a bystander (Deswal 17 Aug. 2019). Sources indicate that the complainant should file an FIR at the police station with jurisdiction over the area where the crime occurred (India 4 Jan. 2019; Assam n.d.) or the police station "closest to the location of the crime" (Safecity n.d.a). Sources note that if the crime was committed outside of the jurisdictional area of the police station registering the FIR, a Zero FIR will be filed, and the case will be transferred to the appropriate police station (India 20 Dec. 2019; Deswal 17 Aug. 2019).

The website of the Punjab Police indicates that a crime can be reported by telephone, by mail or in person (Punjab n.d.a). The website of BPR&D notes that if the complaint was given by telephone, the complainant should proceed to the police station to register the FIR (India 4 Jan. 2019). The same source states that the complainant should file the FIR with the "most" senior police officer available at the police station, known as the officer-in-charge or the duty officer, which is usually the Station House Officer (SHO) or the SHO's subordinate above the rank of a constable (India 4 Jan. 2019).

Sources indicated that for some types of offences, the FIR can be filed online [in some states (Law Firm 2 May 2021)] (Law Firm 2 May 2021; Lawyer 1 May 2021). The lawyer stated that online complaints, or e-FIRs, are "usually registered against unknown individuals," such as in cases of property theft, and noted that there is a "special portal for registering stolen items" (Lawyer 1 May 2021). In correspondence with the Research Directorate, a law firm with offices in New Delhi, Mumbai and Bengaluru [Bangalore], whose practice areas include criminal law, indicated that once an e-FIR has been registered, a copy with "the stamp and seal of the police authority" is made available online "immediately" (Law Firm 2 May 2021). Corroborating information could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

Section 154(1) of the *Code of Criminal Procedure* provides the following:

Every information relating to the commission of a cognizable offence, if given orally to an officer in charge of a police station, shall be reduced to writing by him or under his direction, and be read over to the informant; and every such information, whether given in writing or

reduced to writing as aforesaid, shall be signed by the person giving it, and the substance thereof shall be entered in a book to be kept by such officer in such form as the State Government may prescribe in this behalf:

... (India 1973)

According to the law firm, the procedure to register an FIR is as follows:

- The complainant must visit the police station "nearest" to the location of the crime and provide all the information they have on the offence.
- In accordance with section 154 of the *Code of Criminal Procedure*, the complaint can be given in writing or orally. If the information is provided verbally, the police officer must record the complaint in writing, then read the information back to the complainant.
- The complainant must sign the FIR.
- The complainant must be provided with a copy of the FIR "as proof" (Law Firm 2 May 2021).

The website of the BPR&D notes that the FIR must be recorded by the police officer in "the book maintained for this purpose by the [s]tate [g]overnment" (India 4 Jan. 2019). The lawyer stated that a notice is sent to the accused once an FIR is filed (Lawyer 1 May 2021). The law firm indicated that once the FIR is filed, its content cannot be altered; however, additional information can be provided to the police after registering an FIR (Law Firm 2 May 2021).

Sources indicate that it is mandatory for the police to register an FIR (Safecity n.d.a; Deswal 17 Aug. 2019; CHRI and AALI 28 Sept. 2020, 10) if the information provided relates to a cognizable offence (Deswal 17 Aug. 2019; CHRI and AALI 28 Sept. 2020, 10). Guidelines posted on the website of the West Jaintia Hills Police in Meghalaya state notes that the Supreme Court of India issued the following guidelines for registering FIRs in *Lalita Kumari v. Government of Uttar Pradesh*:

- (i) Registration of FIR is mandatory under Section 154 of the Code, if the information discloses commission of a cognizable offence and no preliminary inquiry is permissible in such a situation.
- (ii) If the information received does not disclose a cognizable offence but indicates the necessity for an inquiry, a preliminary inquiry may be conducted only to ascertain whether cognizable offence is disclosed or not.
- (iii) If the inquiry discloses the commission of a cognizable offence, the FIR must be registered. In cases where preliminary inquiry ends in closing the complaint, a copy of the entry of such closure must be supplied to the first informant forthwith and not later than one week. It must disclose reasons in brief for closing the complaint and not proceeding further.

...

(vii) While ensuring and protecting the rights of the accused and the complainant, a preliminary inquiry should be made time bound and in any case it should not exceed 7 days. The fact of such delay and the causes of it must be reflected in the General Diary entry.

(viii) Since the General Diary/Station Diary/Daily Diary is the record of all information received in a police station, we direct that all information relating to cognizable offences, whether resulting in registration of FIR or leading to an inquiry, must be mandatorily and meticulously reflected in the said Diary and the decision to conduct a preliminary inquiry must also be reflected, as mentioned above. (Meghalaya n.d.)

The lawyer similarly indicated that when a complaint is received at a police station, the police conduct a preliminary investigation to ensure that it is not a "malicious" complaint and added that there are cases of "false complaints" (Lawyer 1 May 2021).

Media sources from 2016 indicate that in a ruling on a petition from the Youth Bar Association of India, the Supreme Court of India ordered all states and union territories to begin publishing FIRs on their websites within 24 hours of registration [by 15 November 2016 (*The Indian Express* 8 Sept. 2016)], although "sensitive cases" are exempt from this requirement (*The Indian Express* 8 Sept. 2016; *The Hindu* 18 Oct. 2016). In *Youth Bar Association of India v. Union of India and Others, Writ Petition (Crl.) No. 68 of 2016*, the Supreme Court of India issued the following orders:

...

(d) The copies of the FIRs, unless the offence is sensitive in nature, like sexual offences, offences pertaining to insurgency, terrorism and of that category, offences under [the Protection of Children from Sexual Offences] POCSO Act and such other offences, should be uploaded on the police website, and if there is no such website, on the official website of the State Government, within twenty-four hours of the registration of the First Information Report so that the accused or any person connected with the same can download the FIR and file appropriate application before the Court as per law for redressal of his grievances. It may be clarified here that in case there is [*sic*] connectivity problems due to geographical location or there is some other unavoidable difficulty, the time can be extended up to forty-eight hours. The said 48 hours can be extended maximum up to 72 hours and it is only relatable to connectivity problems due to geographical location.

(e) The decision not to upload the copy of the FIR on the website shall not be taken by an officer below the rank of Deputy Superintendent of Police or any person holding equivalent post. In case, the States where District Magistrate has a role, he may also assume the said authority. A decision taken by the concerned police officer or the District Magistrate shall be duly communicated to the concerned jurisdictional Magistrate.

...

(k) The directions for uploading of FIR in the website of all the States shall be given effect from 15th November, 2016. (India 7 Sept. 2016)

The lawyer noted that there is a different website in each state to access an FIR (Lawyer 1 May 2021). The same source stated that sometimes there is a delay ranging from several days to several weeks before the FIR is posted (Lawyer 1 May 2021). Corroborating information could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

3. Whether a Complainant Can Obtain a Copy

Section 154(2) of the *Code of Criminal Procedure* provides that "[a] copy of the information as recorded under sub-section (1) shall be given forthwith, free of cost, to the informant" (India 1973, italics in original). The lawyer noted that the police are "duty bound" to provide a copy of the FIR once it is registered; however, the complainant must collect the copy from the police station in person (Lawyer 1 May 2021). The same source added that except for "sensitive" cases, such as rape, all FIRs are uploaded to the CCTNS, which is accessible to the complainant and the accused (Lawyer 1 May 2021). For information on the CCTNS, see Response to Information Request IND200626 of May 2021. According to the website of the Punjab Police, it is the right of the complainant to get one copy, free of charge, of the FIR "immediately" from the police station where the FIR was registered (Punjab n.d.a). The website of the Assam Police indicates that a complainant can ask for a copy of an FIR or download the FIR from the CCTNS website with a number provided upon registering the FIR (Assam n.d.).

According to sources, complainants do not face difficulties obtaining a copy of the FIR (Lawyer 1 May 2021; Law Firm 2 May 2021). The lawyer indicated that FIRs are in the "public domain" and are accessible by anyone, whether or not they have ties to the case; for example, journalists can access FIRs (Lawyer 1 May 2021). The law firm stated that a third-party can access FIRs through the website of the relevant police department or state government (Law Firm 2 May 2021). The lawyer noted that the accused is entitled by law to a copy of the FIR but added that they are aware of instances in which the accused was not provided a copy of the complaint (Lawyer 1 May 2021).

4. Appearance and Security Features

Sources indicated that FIRs are uniform in appearance across India; however, the language of the FIR may vary (Law Firm 2 May 2021; Lawyer 1 May 2021). The lawyer stated that "most" FIRs registered in Delhi and other metropolitan areas are in English (Lawyer 1 May 2021). The law firm noted that FIRs do not need to be registered in or translated into English (Law Firm 2 May 2021).

The lawyer indicated that the officer-in-charge "usually" signs the hardcopy FIR, while the digital copy is not signed (Lawyer 1 May 2021). The law firm stated that the FIR does not have a letterhead, but it should have the seal and stamp of the police station and the signature of the officer who registered the FIR (Law Firm 2 May 2021).

The English original and French translation of a blank FIR form [in digital format (Executive Director 10 May 2021)], also known as Integrated Form 1 (IF1), provided on the website of the Puducherry Police, are attached to this Response (Attachment 1). A sample of an FIR completed in English, provided by the lawyer, along with a translation into French, and the English and French translation of Hindi text, are attached to this Response (Attachment 2). The law firm provided another sample FIR to the Research Directorate, which is similar in appearance to Attachment 2.

5. Refusal to Register an FIR

Sources indicate that individuals face difficulties in filing FIRs (Freedom House 3 Mar. 2021, Sec. F2; Kaura 30 Jan. 2020). A report by the Commonwealth Human Rights Initiative (CHRI) [4] and the Association for Advocacy and Legal Initiatives (AALI) [5] on the challenges faced by rape survivors in accessing justice indicates that out of 14 cases of sexual assault in Uttar Pradesh state presented in the report, FIRs of rape were registered in 11 cases; for those 11 cases, the registration delay ranged from 2 to 228 days; the police filed the FIRs after complaints to "senior police officers" in 6 cases, and in the remaining cases, the FIRs were registered after a court order (CHRI and AALI 28 Sept. 2020, 1). A circular issued by Delhi's Commissioner of Police to all Delhi police indicates that a respondent in a 2019 High Court of Delhi case approached multiple police stations and was unable to register their complaint (India 20 Dec. 2019). The same source states that police officers who do not register an FIR for a cognizable offence will face "prosecution" or "departmental action or both" (India 20 Dec. 2019). A 2019 article in the *Hindu*, an Indian English-language newspaper, notes that the Director General of Police in Andhra Pradesh issued a circular directing police to register Zero FIRs if a case falls outside of the station's jurisdiction; this decision came after family members of a sexual assault and murder victim were not able to file an FIR at a police station because the crime occurred outside its jurisdictional area (*The Hindu* 3 Dec. 2019).

5.1 Recourse

Section 154(3) of the *Code of Criminal Procedure* provides the following:

Any person aggrieved by a refusal on the part of an officer in charge of a police station to record the information referred to in sub-section (1) may send the substance of such information, in writing and by post, to the Superintendent of Police concerned who, if satisfied

that such information discloses the commission of a cognizable offence, shall either investigate the case himself or direct an investigation to be made by any police officer subordinate to him, in the manner provided by this Code, and such officer shall have all the powers of an officer in charge of the police station in relation to that offence. (India 1973, italics in original)

The BPR&D website indicates that if a police station refuses to file an FIR, a complaint can be mailed to the Commissioner of Police or to the Assistant Commissioner or Deputy Commissioner of the relevant jurisdiction, and, if it is determined that the information relates to a cognizable offence, an FIR will be registered; if an FIR is still not filed, a complaint can be sent to the state's Home Ministry or a Court Magistrate or a corruption complaint can be made against the police officers responsible (India 4 Jan. 2019). The CHRI and AALI report notes that legal remedies include sending a complaint in writing to the District Superintendent of Police, who can order the officer-in-charge to register the FIR, or asking a Judicial Magistrate to issue a court order instructing the police to register the FIR (CHRI and AALI 28 Sept. 2020, 12).

6. Whether FIRs Are Centralized and Included in Police Databases

Sources indicated that FIRs are kept in hardcopy and in digital form (Lawyer 1 May 2021; Law Firm 2 May 2021). In correspondence with the Research Directorate, the Executive Director of the South Asia Terrorism Portal (SATP) and the Institute for Conflict Management (ICM) [6] stated that "[p]olice [s]tations increasingly maintain FIRs [in] the Integrated Investigation Form digital format," as recommended by the National Crime Records Bureau (NCRB) [7] (Executive Director 10 May 2021).

The law firm stated that there is a "centralized" database of FIRs and added that digital FIR data is "normally" kept on the CCTNS (Law Firm 2 May 2021). The lawyer indicated that except for some "sensitive cases," such as rape and sexual assault, all FIRs are "uploaded to a central system linked to the CCTNS" which "feed[s]" into the national system (Lawyer 1 May 2021). The website of the Punjab police indicates that the NCRB, which manages the CCTNS, has developed a Core Application Software (CAS), which is divided into two components: "CAS (Centre) and CAS (State)" (Punjab n.d.b). The Executive Director of the SATP and ICM noted that "CAS (Centre) is maintained by the NCRB as the national database" to facilitate information exchange between states, union territories and the central government (Executive Director 10 May 2021). The same source added that every state and union territory has its own CAS, known as CAS (State) (Executive Director 10 May 2021).

India's CCTNS Pro-Active Governance and Timely Implementation (Pragati) [8]
 dashboard provides the following statistics on police stations entering FIRs into the CAS
 system, as of 1 April 2021:

	State or Union Territory	Total Number of Police Stations	Stations Entering FIRs into CAS Only		Stations Generating FIRs on Paper Before Entering into CAS		Stations Generating FIRs Only on Paper - Number
			Number	Percent	Number	Percent	
1	Andaman and Nicobar Islands	23	23	100	0	0	0
2	Andhra Pradesh	1019	1019	100	0	0	0
3	Arunachal Pradesh	96	93	97	3	3	0
4	Assam	335	335	100	0	0	0
5	Bihar	894	0	0	894	100	0
6	Chandigarh	17	17	100	0	0	0
7	Chhattisgarh	454	454	100	0	0	0
8	Daman and Diu and Dadra and Nagar Haveli	7	7	100	0	0	0
9	Delhi	209	209	100	0	0	0
10	Goa	43	43	100	0	0	0
11	Gujarat	729	729	100	0	0	0
12	Haryana	364	364	100	0	0	0
13	Himachal Pradesh	148	148	100	0	0	0

	State or Union Territory	Total Number of Police Stations	Stations Entering FIRs into CAS Only		Stations Generating FIRs on Paper Before Entering into CAS		Stations Generating FIRs Only on Paper - Number
			Number	Percent	Number	Percent	
14&15	Jammu and Kashmir and Ladakh	228	0	0	228	100	0
16	Jharkhand	519	519	100	0	0	0
17	Karnataka	1057	1057	100	0	0	0
18	Kerala	564	564	100	0	0	0
19	Lakshadweep	16	15	94	1	6	0
20	Madhya Pradesh	1068	1068	100	0	0	0
21	Maharashtra	1120	1120	100	0	0	0
22	Manipur	102	0	0	102	100	0
23	Meghalaya	70	0	0	70	100	0
24	Mizoram	39	0	0	39	100	0
25	Nagaland	65	0	0	65	100	0
26	Odisha	620	618	100	0	0	2
27	Puducherry	54	54	100	0	0	0
28	Punjab	422	422	100	0	0	0
29	Rajasthan	894	894	100	0	0	0
30	Sikkim	28	1	4	27	96	0
31	Tamil Nadu	1541	1541	100	0	0	0
32	Telangana	841	841	100	0	0	0

	State or Union Territory	Total Number of Police Stations	Stations Entering FIRs into CAS Only		Stations Generating FIRs on Paper Before Entering into CAS		Stations Generating FIRs Only on Paper - Number
			Number	Percent	Number	Percent	
33	Tripura	84	0	0	84	100	0
34	Uttar Pradesh	1764	1764	100	0	0	0
35	Uttarakhand	159	159	100	0	0	0
36	West Bengal	598	459	77	0	0	139
	Total	16191	14537	90	1513	9	141
	Average			76		23	

(India 1 Apr. 2021, 15)

Sources report that FIRs uploaded to the CCTNS can be searched by police from another state (Lawyer 1 May 2021; Law Firm 2 May 2021). The CCTNS Pragati dashboard as of 1 April 2021 reports that 92 percent of police stations across India can search the national database of the CCTNS (India 1 Apr. 2021, 3).

This Response was prepared after researching publicly accessible information currently available to the Research Directorate within time constraints. This Response is not, and does not purport to be, conclusive as to the merit of any particular claim for refugee protection. Please find below the list of sources consulted in researching this Information Request.

Notes

[1] According to a press release from India's Ministry of Home Affairs (MHA), the Bureau of Police Research and Development (BPR&D) is responsible for promoting "excellence in policing," conducting "speedy and systematic study of police problems," and employing science and technology in policing practice (India 27 Aug. 2020).

[2] A list of cognizable and non-cognizable offences can be found in the First Schedule of the *Code of Criminal Procedure, 1973*, which is available online (India 1973).

[3] Safecity is a platform that aggregates crowdsourced data on sexual harassment and abuse in public spaces (Safecity n.d.b). It is the "flagship program" of the Red Dot Foundation Group, a non-profit that leverages data and technology to "make cities safer by encouraging equal

access to public spaces for everyone" and for women in particular (Safecity n.d.b).

[4] According to the report on barriers to accessing justice for rape survivors by the Commonwealth Human Rights Initiative (CHRI) and the Association for Advocacy and Legal Initiatives (AALI), CHRI is a non-profit organization based in New Delhi with offices in the UK and Ghana, which focuses on access to justice and access to information and "advocate[s], engage[s] and mobilize[s] around human rights issues in Commonwealth countries" (CHRI and AALI 28 Sept. 2020, 2).

[5] The CHRI and AALI report states that AALI is a "women-led and women-run human rights organization" based in India, focused on protecting and promoting the rights of women, children and other marginalized communities (AALI 28 Sept. 2020, 3).


[6] The South Asia Terrorism Portal (SATP) is an online database focusing on "terrorism and low intensity warfare in South Asia" (SATP n.d.a). The SATP is a project of the New Delhi-based Institute for Conflict Management (ICM), which is a non-profit organization focusing on "evaluation and resolution of problems of internal security in South Asia" (SATP n.d.b).

[7] According to its website, the National Crime Records Bureau (NCRB) of India's MHA serves as a "repository of information on crime and criminals" and is responsible for the Crime and Criminal Tracking Network and Systems (CCTNS) (India 8 Sept. 2020).

[8] The website of the Punjab police notes that the Government of India monitors the implementation of the CCTNS through the Pro-Active Governance and Timely Implementation (Pragati) mechanism (Punjab n.d.b).

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Additional Sources Consulted

Oral sources: Associate professor at a US university who has conducted research on policing in India; The Centre for Internet and Society; Common Cause; Indian Police Foundation; lawyer and researcher in India who studies emerging technology and has written about the Crime and Criminal Tracking Network and Systems (CCTNS); postdoctoral fellow at a US university who has conducted research on policing and crime in South Asia; professor at a US university who has conducted research on criminal justice in India; three lawyers in India whose practice areas include criminal law.

Internet sites, including: Australia – Department of Foreign Affairs and Trade; *The Criminal Law Review*; *The Diplomat*; ecoi.net; Indian Law Watch; Indian Legal Solution; Kerala – Kerala Police; Law Times Journal; Legal Service India; Odisha – Citizen Portal, Koraput District; Singh Lawyers; UN – Refworld.

Attachments

1. India. N.d.  Form – IF1 – (Integrated Form): First Information Report. [Accessed 10 May 2021]
2. India. 2020. Sample of a First Information Report (FIR). Sent to the Research Directorate by a lawyer in New Delhi, 1 May 2021.

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