



POLICE REFORMS: WAY FORWARD

COMPLAINT REDRESSAL MECHANISM AND OTHER OPERATIONAL MATTERS



Law and Justice Commission of Pakistan



POLICE REFORMS: WAY FORWARD





AL-Qura'an

“O you who believe! Stand out firmly for justice, as witnesses to Allah, even if it be against yourselves, your parents, and your relatives, or whether it is against the rich or the poor...”

(Surah An- Nisa, 135)



Quaid's Quote

“Do your duty as servants to the people and the State, fearlessly and honestly. Service is the backbone of the State. Governments are formed, governments are defeated, Prime Ministers come and go. Ministers come and go, but you stay on, and, therefore, there is a very great responsibility placed on your shoulders.”

(Address to Civil Officers in Peshawar, 14th April 1948)



PREFACE

On 8 May, 2010, the Hon'ble Chief Justice of Pakistan held a meeting with a select group of retired Inspectors General of Police and serving IGPs of the four Provinces and the ICT. In his introductory remarks, the Hon'ble Chief Justice highlighted the issues of police ailments, especially the flaws in investigation and ineffective police accountability. He also spoke about the critical role of police as an important component of the criminal justice system.

The flawed investigations create lacunae that could be exploited by the defence team during the trial process and were a decisive factor in the high rate of acquittal of offenders. In turn, these acquittals lay open the judiciary and for that matter the entire criminal justice system to strong criticism. It was therefore deemed extremely important to take corrective measures so as to improve the performance of the police. The Hon'ble Chief Justice of Pakistan also asked the participants to highlight the deficiencies in the current legal regime for reformation of the criminal justice system (CJS) as a whole.

The views of the participants on this important issue were sought and they were asked to extend their support for addressing such pressing matters and to furnish their recommendations for improving the situation. Agreeing with the views expressed by the Hon'ble Chief Justice, the participants raised certain important issues meriting urgent intervention for bringing about a fundamental transformation of the CJS in general and the police in particular. The Hon'ble Chief Justice of Pakistan announced formation of a Police Reforms Committee comprising all the participants, and, upon the suggestion of the Committee, the undersigned was nominated as the Convener.

Referring to absence of a standard police law that obligates the Government to establish adequately resourced independent police forces, the participants emphasized that such a statutory instrument was a *sine qua non* for police if it were to strictly work to promote rule of law and serve the community better.

Commenting on the abysmal state of policing, the Chief Justice asked the participants to propose the way forward for securing an independent, fair, effective and accountable police service.

Concluding the meeting, the Hon'ble Chief Justice stressed that "it is a payback time to

posterity and judiciary will leave no stone unturned to reform the criminal justice system to extend justice to the citizens, especially victims of crime.” He noted that the “provision of speedy justice and relief to the citizens of Pakistan was need of the hour. Hence the Committee shall work on reforms on (police-related) criminal laws on immediate basis.”

A notification (Annex A) constituting the PRC under the aegis of Law and Justice Commission of Pakistan (LJCP) in pursuance of the aforesaid meeting was accordingly issued by the Law and Justice Commission of Pakistan.

The Terms of Reference of PRC span seven key topics, namely-

- i. Model Police Law
- ii. Police Accountability
- iii. Improvement in investigation
- iv. Alternate Dispute resolution
- v. Urban Policing
- vi. Combating Terrorism by CJS
- vii. Legislative reforms

These topics were assigned to seven groups of officers to examine the issues. They were requested to come up with concrete recommendations. The seven groups completed their reports after intense and exhaustive deliberations on each topic, having discussed various aspects of their respective ToRs with stakeholders and also holding workshops and consultative meetings to develop feasible and practical proposals and recommendations to address the policing problems. The verdicts by the Superior Judiciary on key aspects of policing were also examined in detail and kept in view while writing the report.

The PRC held four full house meetings and many sub-committee sessions to finalise its work. PRC is of the view that proposed Model Police Law provides the basis for bringing a positive transformation in policing. Such a transformation is critical to effective enforceability of fundamental rights guaranteed in the Constitution. Its impact will be all encompassing and profound and will ensure relief to the common man.

I would like to express my gratitude to the Hon'ble Chief Justice of Pakistan for the trust reposed in the members of PRC and for giving us an opportunity to be part of the far-reaching change agenda that has been initiated by the Supreme Court to mitigate the sufferings of the common man.

I am indebted to the PRC members for their untiring efforts in completing the task at hand, especially Dr. Shoaib Suddle for his stimulating and insightful discussions on the Model Police Law.

Special thanks are due to Dr. Muhammad Raheem Awan, Secretary Law and Justice Commission of Pakistan and his staff for their time and help.

The PRC would also like to acknowledge the valuable contribution of officers from different provinces especially Mr. Shahzada Sultan, DIG/HQs and Mr. Ahsan Abbas, CPO Rawalpindi from the Punjab Police, Mr. Zulfiqar Larik, DIG from the Sindh Police, Mr. Muhammad Yousaf Malik, DIG from Bolochistan Police, Mr. Alam Shinwari, DIG from KP Police and Mr. Nasir Satti, DIG and Mr. Kamran Adil, SSP from the ICT Police who actively assisted in compilation of the report. Finally, thanks go to Mr. Badar ul Hassan and Mr. Muhammad Shafqat Azeem from the National Highways and Motorway Police (IT department) who provided secretariat support in preparing this report.

Afzal Ali Shigri

QPM,PPM

Convener
Police Reforms Committee

GLOSSARY OF TERMS

ACRONYM	DESCRIPTION
ACLC	Anti-Car Lifting Cell
ADR	Alternate Dispute Resolution
ATA	Anti-Terrorist Act
ATC	Anti-Terrorism Court
CFMS	Case File Management Section
CFS	Cellular Forensic Section
CJS	Criminal Justice System
CMS	Complaints Management System
CNSA	Control of Narcotic Substances Act Of 1997
CPLCs	Citizen-Police Liaison Committees
CPO	Central Police Office
CrPC	Criminal Procedure Code
CSIS	Crime Scene Investigation Section
CTD	Counter Terrorism Department
DCJCCs	District Criminal Justice Coordination Committees
DRC	Dispute Resolution Council
FIA	Federal Investigation Agency
FIR	First Information Report
FM	Frequency Modulation
GSM	Global System for Mobile
HCBA	High Court Bar Association
I.O	Investigation Officer
IAB	Internal Accountability Branch
IC3	Internet and Computing Core Certification
JoP	Justice of Peace
LJCP	Law & Justice Commission of Pakistan
MQS	Minimum Quality Standards
NJPMC	National Judicial Policy Making Committee
PAFIS	Pakistan Automated Fingerprint Information System
PBC	Pakistan Bar Council
PCA	Police Complaints Authority

ACRONYM

DESCRIPTION

PCrLJ	Pakistan Criminal Law Journal
PJC	Provincial Justice Committee
PLD	Pakistan Legal Decisions
PPC	Pakistan Penal Code
PPO	Provincial Police Officer
PROMIS	Police Record Office Management Information System
PSC	Public Service Commission
PTC	Police Training College
PTV	Pakistan Television
SCBA	Supreme Court Bar Association
TG	Trainers Guide
TNA	Training Needs Assessment
TOE	Table of Equipment
ToT	Training of Trainers

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EXECUTIVE SUMMARY

Chapter 1- Model Police Law

The Executive Summary attempts to elucidate the contours of a modern Police Law. The first question that came before the PRC was the constitutionality of Police Law in Pakistan. A brief survey of constitutional evolution of Police Law in Pakistan, particularly since 1947, was carried out. The record evinces that the federal nature and the role of federation in dispensing criminal justice has remained constitutionally protected. The question of constitutionality of Police Act, 1861 essentially was rarely posed in so many words before any constitutional Court in Pakistan. If and when, it did occur, it was peripheral to some other issue except in the case of Zafarullah Khan v/s Federation of Pakistan (2002), wherein it was declared that Police Order 2002 was intra vires the Constitution. The defining characteristics of Police Order 2002 include political neutrality, democratic control and effective accountability of Police in addition to making the Police organization administratively independent, highly specialized community service institution.

After the 18th Constitutional Amendment, the insatiable appetite of the Provincial Governments to control police has led to multiplicity of Provincial Police laws, without proper appreciation of the jurisprudence expounded by the Superior Judiciary or considering the importance of fair and effective enforcement of fundamental rights of the people as guaranteed in the Constitution. At the moment, except Punjab, Sindh, Balochistan and Khyber Pakhtunkhwa (KP) have introduced their separate Police Laws. Going through successive constitutional instruments and the legislative schemes in overseas legislations, and considering the opinion rendered by eminent jurists, the PRC is of the view that Police Law being relatable to “criminal law, criminal procedure and evidence” falls within the legislative domain of both the Federation and the Provinces, subject to the primacy of the Federal legislation over the Provincial legislation (Article 143 of the Constitution).

As the path to the rule of law can only be trodden through constitutionalism, the constitutional role of the Federation in dispensation of criminal justice can't be underestimated. The PRC, after examining the Police Order 2002 with a fresh mind has endeavoured to venture what the Model Police Law 2018 should provide by way of the requisite uniformity and standardization of police institutional structures. It is PRC's view that the Police Order 2002, after necessary amendments, fits the requirements of recent landmark judicial pronouncements as well as the latest international policing principles. Keeping in view the spirit of the Police Order 2002 and various judgments of the Superior Judiciary, necessary

and suitable amendments have been proposed by way of deletion and addition in the existing Police Order 2002. The proposed amendments aim at ensuring that the Model Police Law allows necessary administrative, operational and financial authority along with commensurate responsibility to the police command, with a view to transforming police into a fair and effective instrument of rule of law.

The PRC believes that transforming Pakistan Police is a work-in-progress that needs persistent ownership as well as trust both of the Courts and the public at large. The PRC looks forward to continued assistance to the Hon'ble Supreme Court of Pakistan, in its untiring efforts to substantially improve the enforceability of fundamental rights of the citizens.

Chapter 2- Police Accountability

Police accountability is as important as independent and professional police. The complaints that constitute the subject matter of police accountability include failure of police to register cases, harassment, abuse of police power, defective investigation, misapplication of law, frequent demands for change of investigation and failure by police to submit evidence-based challans that meet the test of beyond reasonable doubt. To redress citizen complaints against the police, the judiciary acts as an external accountability mechanism. Conferred with the administrative powers of justice of peace under section 22-A of Criminal Procedure Code, 1898, the district judiciary complements the work of police by providing relief to the aggrieved people. Other statutory mechanisms of external accountability of police include Ombudsman and Independent Police Complaints Authorities though the latter is yet to be operationalised. In so far as the internal accountability instruments are concerned, the Report notes that departmental action under the efficiency and disciplinary rules is the main plank of internal accountability. The disciplinary regime has been further strengthened through the Internal Accountability Branches/Units comprising dedicated officers. The Report concludes that efficacy of external accountability mechanisms is more in providing independent fora to the aggrieved citizens; otherwise the internal accountability mechanisms are generally more efficient and effective.

Chapter 3- Improving Quality of Investigations

Quality investigations are a prerequisite of the detection model of policing. However, on ground the investigations are deficient in many respects. The Report proposes several changes, including organizational changes that if implemented in letter and spirit can significantly improve the quality of investigation. Advocating functional specialization, the Report recommends separate hierarchy of investigation in the province to be headed by an Additional Inspector General of Police and assisted by a Deputy Inspector General (Investigation) and four

Assistant Inspectors General of Police in charge of administration, crime, legal matters and forensics. The Addl. IGP (Investigation) shall be further assisted by a Director of Statistics besides other support staff. The Report envisions a complete separation of public order duties from the investigative function down to the level of police station with separate and adequate budgetary provision. Not only will the proposed functional specialization improve the quality of investigation, but also coordination and cooperation with the prosecution department. For investigation of organized and heinous crimes like kidnapping for ransom, terrorism, human smuggling, dacoity, robbery and homicide, the Report recommends Special Investigation Units. The Report also deals with ancillary matters like specialized training facilities, curriculum development, cost of investigation and witness protection programmes, in addition to underscoring the need to expand the use of information technology and scientific evidence to improve the quality of investigation. Finally, the Report recommends an overhaul and expansion of the extant forensic laboratories that must be accredited and operationally autonomous and independent. The Chapter concludes by stating that the required reform measures need to be backed by statutory instruments that promote rule of law and fairness as required under the Constitution of Pakistan.

Chapter 4- Revamping Urban Policing

The growing urbanisation poses special challenges for policing. The latest census shows urban rural proportion at 1:2 (32.5% and 67.5% respectively). Chapter 3 deals with revamping of urban policing in ten cities including the federal capital Islamabad and provincial capitals of Karachi, Lahore, Peshawar and Quetta. Giving a blueprint of urban policing organizations, the Report proposes an Additional Inspector General of Police as police chief of an urban centre. Owing to the peculiar chemistry and challenges of urban centres, the Report proposes urban police organizations to be highly specialized having separate heads of functional wings like administration, operations, public order, investigation, security, internal accountability, traffic, community relations and information technology to assist the police chief in efficiently carrying out his responsibilities. Instead of existing police stations organised principally to cater to the needs of rural policing, there should be police divisions in urban centres headed by an officer of the rank of Superintendent of Police. The proposed police division shall normally be an amalgam of several existing police stations and catering to up to half a million population. There shall be dedicated units dealing with administration, operations, investigation, law and order and community relations. The change management in urban cities will also require well-trained professional police officers who are open to latest ideas and practices of modern policing.

Chapter 5- Alternate Dispute Resolution (ADR)

Chapter 4 deals with much needed Alternate Dispute Resolution (ADR). Beginning with a brief

survey of the legal framework dealing with ADR, it spans the salient features of the Arbitration Act, 1940, the Conciliation Ordinance, 1961, the Small Claims and Minor Offences Courts Ordinance, 2001, the Punjab Consumers Protection Act, 2004, the Alternate Dispute Resolution Act, 2017, Section 89-A of the Code of Civil Procedure, and relevant local government laws. The survey is aimed to show that the idea of ADR is not new to our legal system and there is ample justification of extending its scope to our policing laws. The Report next examines the practice of ADR in the provinces. In KP, Section 73 of the KP Police Act, 2017, deals with establishment of Dispute Resolution Councils (DRCs) as an institutional alternate mechanism to resolve specified contentious matters between citizens. The comparison between the ADR through DRCs and ADR through Courts clearly evinces the pros and cons of the two approaches. The upshot of the comparison is that the DRC approach is much easier and cheaper to implement. The Report, however, cautions that whereas societies of KP and Balochistan are more comfortable with the idea of DRC, the provinces of Punjab and Sindh need due adaptation of this concept.

Chapter 6- Criminal Justice System Effectiveness and Anti-Terrorism Act Cases

Police is at the frontline in dealing with the terrorism cases, yet the rate of success in prosecution of terrorism cases is abysmally low. As required by the terms of reference, this Chapter starts with 'diagnosis' of weak areas. It notes that there is 'hardly any study that analyses the national data to diagnose what ails the Criminal Justice System (CJS) generally and the anti-terrorism regime specifically'. It, however, cites studies by individuals and organizations to substantiate the point that there is training gap particularly in relation to terrorism cases. According to one study, about 95% of cases registered in the Punjab were, strictly speaking, not terrorism cases. The Report also shows that hugely varying conviction rates in terrorism cases are being claimed by the Provinces (61% in Punjab, 4% in Sindh and 30% in KP). The Report next details shortcomings in the anti-terrorism legal regime; the major weaknesses being 'loose' and 'liberal' application of terrorism definition in cases that are amply covered in the general penal law or special laws, inclusion of special offences to deal with 'suicide attacks', 'attempt to do suicide attacks', 'weapons of mass destruction' (on the model of the US law), 'crossing of provincial boundaries to commit terrorism', strict liability offences for possession of minimum quantity of explosives, quantity based sentencing in cases of explosives (on the model of narcotics law), attacks on security installations, and treatment of explosives and arms-related offences as terrorism offences instead of offences under a separate special law. The need to provide for special provisions to deal with abetment, aid and assistance in the Anti-Terrorism Act, 1997 is also highlighted. On procedural side, the Report recommends providing enabling provisions for investigating agencies to collect information about a 'person's travel, residence, telephone calls, financial transactions' and any other relevant information. Additionally, the Report recommends amending the law of evidence to accord primacy to circumstantial evidence in

terrorism cases as compared to testimonial evidence. The Report presents a roadmap comprising short-term and long-term measures to enhance effectiveness of the CJS. The short-term measures include specialized training of investigators and prosecutors. In the long-term, there is need for a well-resourced and well-equipped federal CTD. The Chapter concludes with the recommendation that reforms relating to terrorism law must be institutionalized to remain sustainable and continuous.

Chapter 7- Legislative Reforms

The police do not work in isolation; they remain subject to many a substantive and procedural law. This Chapter principally relates to identifying legislative reforms in criminal laws other than Police Law (which has been separately covered at the beginning of the Report). The Chapter specifically highlights six areas that need consideration of policymakers to enhance effectiveness and efficiency of our system of policing. Policing as a sub-category of 'criminal law and criminal procedure' is the first of these areas. The scope of policing within the federation, which is claimed to fall exclusively in provincial domain, needs to be properly understood in the light of Articles 142(b), 143, 148, 232, 240 and 241 of the Constitution. The second is active role of specialists in decision making processes relating criminal justice system. The non-specialists, owing to delegated legislation, tend to decide matters often in general terms. Thirdly, there is a delink between law-making and budget allocation. New legislation is introduced without properly working out the financial implication of proposed legislative measures, which leads to non-implementation or lacklustre implementation of many a new law. Fourthly, timely rewriting and updating the delegated police legislation (i.e. the Police Rules) is often non-existent with the result that there is hardly any meaningful change in the anachronistic policing practices. Fifthly, the scope of Article 70 of the Qanoon-e-Shahadat Order, 1984, needs to be expanded to provide for primacy of scientific evidence. Lastly, the law relating to preventive and investigative powers of police (Chapters XIII and XIV of the Code of Criminal Procedure, 1898) needs to be adequately updated.

Chapter 1

MODEL POLICE LAW

1.1 TERM OF REFERENCE

- *Draft a Model Police Law to meet the challenges of the 21st century policing that ensures the Police to be politically neutral, democratically controlled, effectively accountable, administratively and operationally autonomous and highly specialized professional community service institution.*
- *The model law should ensure uniformity and standardization of institutional structures, functional specialization and grant administrative, operational and financial authority along with responsibility to the Police command across the board in the federation and the Provinces.*
- *Examine all the Supreme Court and High Courts' verdicts on Police law-related issues, especially in the context of the 18th constitutional amendment and recommend uniform application of law in the federation and the Provinces.*

1.2 INTRODUCTION

In any discussion on policing, it is inevitable to examine the law that deals with issues such as police organisation, police role and duties, relationship of police with the government, police autonomy, police misconduct, police brutality, police corruption, and police accountability.

In his meeting with retired and serving Inspectors General of Police, the Hon'ble Chief Justice of Pakistan at length dealt with the issue of widespread violation of fundamental rights by the police, which in turn was generating lot of avoidable workload for the Superior Judiciary.

In view of centrality of a uniform and standard police law to the quality of policing, the PRC held extensive discussions both on evolution of police laws in Pakistan and essential concomitants of a Modern Police Law.

1.3 OBJECTIVES AND CONSTITUTIONALITY OF POLICE ACT 1861

Historically, the British established the present police organization in the Indian sub-continent in the aftermath of *Mutiny* of 1857. The overriding objective of the policing model established under the Police Act 1861 – like the Royal Irish Constabulary created under the Constabulary Acts of 1822 and 1836 – was not to establish rule of law but to keep the natives on a tight leash.

Hallmarks of the 1861 policing model included-

- anachronistic legal and institutional framework
- arbitrary and whimsical management of police
- politicised and controlled investigations
- corruption and use of third degree
- ineffective accountability mechanisms
- severe under-resourcing
- poor professionalism
- adversarial police-public relationship

Though the Police Act 1861 was a central Act, the Provinces were allowed freedom to adopt it. However, once so adopted, the Provincial government did not have the competence to amend it. Under Section 46 of the Police Act 1861, the Provinces merely had authority to make rules consistent with the Act.

Under the Government of India Act 1935, the “Police” as a subject was included as entry 3 of List II (Provincial Legislative List), and *criminal law, criminal procedure and evidence* respectively included as entry 1, entry 2 and entry 5 of List III (Concurrent Legislative List). After independence, the same arrangement was continued under the Indian Independence Act of 1947.

Under the 1956 Constitution, though “Police” continued to figure as entry 3 of the Provincial List, the subjects of *criminal law, criminal procedure and evidence* were subsumed into single entry No. 1: *Criminal law, including the law of evidence and procedure* of the Concurrent List. The Police Act 1861 continued as an *existing* law under Article 224 of the 1956 Constitution.

The Constitution of 1973 provided only two Legislative Lists, namely Federal Legislative List and Concurrent Legislative List. Unlike the scheme of 1956 Constitution, and following the scheme of Government of India Act 1935, the Concurrent Legislative List of 1973 Constitution split the generic subject of criminal law into three separate entries: *Criminal law* (entry 1), *Criminal procedure* (entry 2) and *Evidence* (entry 4). Though the Provincial Legislative List did not figure in the 1973 Constitution, the constitutional status of Police Act 1861 did not undergo any change. [Article 268(1) of the 1973 Constitution *continued in force* the Police Act 1861 as an *existing* law, *unless* altered, repealed or amended by the *appropriate* authority.]

Several post-1973 legislative actions by the Federal and Provincial governments suffice to establish the correct constitutional status of the Police Act 1861. The Punjab Government, vide Act VII of 1975, introduced a *Punjab-specific* amendment in Section 7 of the Police Act 1861, bringing the power to compulsorily retire a negligent Police officer of subordinate rank within the scope of Section 7 of Police Act 1861. The Punjab Government, through the Police (Punjab Amendment) Ordinance VIII of 1984, again amended the Police Act 1861 [Section 30(3)]. Likewise, the Sindh Government, vide Sindh Ordinance XLII of 1984, added a *local* amendment specific to Sindh only. More relevantly, the **Federal Government, vide the Federal Laws (Revision and Declaration) Ordinance 1981, declared the Police Act 1861 as a valid Federal law.**

In *Inspector General of Police and others v. Mushtaq Ahmed Warraich and others* [PLD 1985 SC 159], the matter before the Hon'ble Supreme Court was whether seniority of police officials from Constable to Deputy Superintendent rank was to be determined under the Police Act 1861, *a special law*, or the Punjab Civil Servants Act 1974, *a general law*.

After observing-

- (i) police having been excepted under Article 8(3)(a) of the Constitution could not be treated at par with other civil servants;
- (ii) police laws being out of the applicability of fundamental rights obviously showed a different treatment meted out to the Police force qua the Constitutional dispensations because of special nature of Police duties and the requirement of maintenance of discipline for proper maintenance of law and order;
- (iii) at the time when the Constitution was enacted it laid the foundation for the *continued* application of the Police Act 1861 and the rules framed thereunder;

the apex Court held that Police Act 1861 was applicable law in the subject case.

However, through a judicial *obiter dictum*, the Hon'ble Supreme Court observed: "Police being within the legislative competence of the provincial legislature, the Police Act 1861 was a provincial law." Observing further that *appropriate* Legislature relevant to Police Act 1861 was Federal Parliament, as also Provincial Assemblies, the Supreme Court added a caveat that its observation about the Police Act 1861 being a Provincial law was *without* assessing the efficacy of Articles 143 and 148 of the Constitution.

Arguably, the Hon'ble Supreme Court might have observed that legislative competence over the Police Act 1861 fell in the – concurrent – jurisdiction of both Parliament and

Provincial Assemblies, had it got the benefit of the scheme of the Federal and Provincial amendments made in the Police Act 1861 from 1975 to 1981 and of the declaration by the Federal Government, under the Federal Laws (Revision and Declaration) Ordinance 1981, that the Police Act 1861 was a valid Federal law.

The Federal Government, vide Ordinance II of 1985, again amended the Police Act 1861, adding sub-section (6) to its Section 15-A.

In 2001, vide C.E. Order No. 7, the Federal Government yet again introduced several amendments of fundamental significance in the Police Act 1861, before finally *repealing* the Police Act 1861 on 13th August, 2002.

The upshot of the above discussion is that had the framers of the 1973 Constitution intended to transfer the legislative jurisdiction over the Police Act 1861 entirely to the Provincial domain, they would have defined the “existing laws” [Article 268(7)] appropriately differently. Even the Provinces would have strongly agitated at the Federation's periodic 'intrusions' in their *exclusive* legislative domain. The fact is that the Provinces at no time objected to the amendments carried out in the Police Act 1861 by the Federal Government.

Here, it is relevant to refer to the jurisprudence developed in India over the matter of constitutionality of Police Act 1861. In Sagar Mal v. the State [AIR 1951 All 816], while observing that the Police Act 1861 was passed when there was no representative Government in India and it had been *continued to remain in force* under Article 372(1) of the 1950 Constitution of India – akin to Article 268(1) of 1973 Constitution of Pakistan – the Allahabad High Court held that Article 246 of the Constitution of India [Pakistan Constitution's Article 142] did not apply to the Police Act 1861 which was already *in existence*, and therefore the constitutionality of Police Act 1861 could not be attacked on the ground that it being a Central Act was no longer a valid Act in any particular State. As the same judicial view has prevailed across India, the constitutionality of the Police Act 1861 is a long settled issue.

1.4 GENESIS OF POLICE ORDER 2002

The Federal Government promulgated the Police Order 2002 on 14th August 2002, after repealing the Police Act 1861. In order to understand the fundamental changes effected by the Police Order 2002, let's compare the preambles of Police Act 1861 and the Police Order 2002. The preamble of Police Act 1861 reads as:

“WHEREAS it is expedient to re-organize the Police and to make it a more efficient instrument for the prevention and detection of crime.”

In contrast, the preamble of the Police Order 2002 reads as follows:

“WHEREAS the Police has an obligation and duty to function according to the Constitution, law and democratic aspirations of the people;

AND WHEREAS such functioning of the Police requires it to be professional, service-oriented, and accountable to the people;

AND WHEREAS it is expedient to redefine the Police role, its duties and responsibilities;

AND WHEREAS it is necessary to reconstruct the Police for efficient prevention and detection of crime, and maintenance of public order.”

Specific provisions of the Police Order 2002 relevant to the present discussion include:

Article 3: Attitude and responsibility of Police towards the public.

Article 4: Duties of the Police.

Article 8: Organization of Police on functional basis.

Article 9: Government's *superintendence* over Police to be so exercised as to ensure that Police performs its duties efficiently and strictly in accordance with law.

Article 10: The direction and control of Police vests in Provincial Police Officer.

Article 11: Provincial Police Officer empowered to exercise administrative and financial powers as *ex-officio* Secretary to the Provincial Government.

Article 12: Security of tenure.

Articles 37-96: Politically-neutral Public Safety Commissions provided for ensuring independence and transparency of appointments, transfers and postings of senior Police officers.

Articles 97-108: Effective and credible accountability of Police through independent Police Complaints Authorities.

Article 109: District Criminal Justice Coordination Committees provide institutional framework for systemic inter-agency coordination between the heads of district Judiciary, Police, Prosecution, Prisons and other criminal justice stakeholders.

Articles 138-154: Offences and Punishments (Article 153 makes certain offences cognizable, notwithstanding any to the contrary contained in the Code of Criminal Procedure 1898).

Articles 155-157: Offences by and Punishments for Police Officers. Imprisonment up to three years provided for violating any duty under Article 4, up to five years for *vexatious entry, search, arrest, seizure of property, torture*, etc. and up to one year for *unnecessary delay in producing arrested persons in courts*.

Article 159: National Police Management Board provides statutory platform for dealing with matters such as strategic management and planning, development and standardisation of police administration (e.g. standards of recruitment, appointment, promotions, transfers, tenure, discipline, SOPs based on internationally accepted good practices), standardisation of police equipment, organized crime, inter-provincial crime, crime having international dimensions.

Article 163: Advice and assistance to International Organizations or any other body engaged in investigation of criminal cases outside Pakistan.

Article 164: Inter-Provincial coordination of police-related matters.

Article 168: Citizen Police Liaison Committees, inter alia, for promoting positive police-public interaction.

In nutshell, the Police Order 2002 places a statutory obligation on the Police to function as an instrument of rule of law, in fulfilment of fundamental rights and democratic aspirations of the people. The Police Order 2002 seeks to improve professionalism, efficiency, integrity and accountability of Police. The overarching key principles the Police Order 2002 anchors include de-politicization of police, transformation of police from a public-frightening force to a public-friendly service organization, security of tenure to police key appointment holders, administrative and financial autonomy of Inspector General Police, functional specialization, effective accountability, capacity building and continuous professional development of police. The independent bodies like Public Safety Commissions at national, provincial and district levels; independent Police Complaints Authorities; National Police Management Board; and Citizen-Police Liaison Committees aim to achieve fair, effective and accountable policing across Pakistan.

1.5 POLICE ORDER 2002: PRESENT STATUS

Taking a retrograde step, the Sindh and Balochistan Governments repealed the Police Order under Sindh (Repeal of the Police Order 2002 and Revival of the Police Act 1861) Act 2011, and the Balochistan Police Act No. X of 2011 respectively. Ostensibly this was done under cover of the 18th Constitutional Amendment.

The Khyber Pakhtunkhwa (KP) Assembly, on 24th January 2017, also passed its own version of Police Act 2017 (Act No. II of 2017). Though largely based on the core policing principles set out in the Police Order 2002, the KP Police Act 2017 introduced a novel legislative scheme that distinguishes between *Provincial Legislative Field* and *Federal Legislative Field*, without actually giving a precise definition what each Field meant. Repealing the Police Order 2002 to the extent of *Provincial Legislative Field*, the KP

Government seems to have exercised caution to avoid the repugnancy provision under Article 143 of the Constitution.

As far as Punjab is concerned, it is the only Province that has retained the Police Order, with amendments. However, the constitutionality of repeal of Article 184 of the Police Order 2002, vide the Punjab Police Order 2002 (Amendment) Act 2013, is yet to be tested. Article 184 of Police Order 2002 provides legislative competence to the Provinces to *amend, vary or modify* any provision of the Police Order 2002 on the basis of their *specific requirements and circumstances*, subject to approval of the Prime Minister, *not* the competence to *repeal* any provision of the Police Order.

The Sindh (Repeal of the Police Order 2002 and Revival of the Police Act 1861) Act 2011 was challenged by several civil society organizations in the Sindh High Court. In judgment dated 07-09-2017 in CP No. D-7097 of 2016 and CP No. D-131 of 2017 the Division Bench of the Sindh High Court held that in their view the Sindh (Repeal of the Police Order 2002 and Revival of the Police Act 1861) Act 2011, in its *pith and substance* being un-relatable to criminal law, criminal procedure and evidence, was *intra vires* the Constitution.

It may be noted that when challenged in Writ Petition No. 16244/2002 (Zafarullah Khan v. Federation of Pakistan), the Lahore High Court, relating the Police Order 2002 to criminal law, criminal procedure and evidence, had held the Police Order 2002 *intra vires* the Constitution. Rejecting the prayer, Mr. Justice Tasaddaq Husain Jilani (as he then was) held:

This country is being run by a written Constitution. Criminal Law is included in Concurrent List of the 4th Schedule...The Police Order 2002 primarily is relatable to the enforcement of the criminal law and policing; therefore, it would squarely fall within the said List. That being so, the Police Order 2002 is not ultra vires of the Constitution of Pakistan.

Reverting back to the Sindh High Court judgement dated 07-09-2017, in a landmark interpretation and application of the human rights approach – articulated by the House of Lords in the Ghaidan case – to the Sindh (Repeal of the Police Order 2002 and Revival of the Police Act 1861) Act 2011, the Court concluded that *autonomy of command and independence of operation in the police force was sine qua non* for fair and effective enforcement of fundamental rights guaranteed in the Constitution.

Leaving the matter of constitutionality of Police Order 2002 wide open, the Division

Bench of the Sindh High Court observed:

“[W]e have touched upon only some aspects of the very many problems relating to policing, the police force and the law and order situation. The reform of the police force, the revival of proper and effective policing, the regaining and restoration of law and order, and the enforcement of fundamental rights in the fullest sense is an on-going exercise and a work-in-progress. The problems and issues are many, and may need to be treated again in fresh petitions and other proceedings. However, if this judgement proves to be but one link in that chain, it is hopefully a step in the right direction (if we may mix metaphors a bit).”

[para 102]

The Balochistan High Court in Order dated 15-01-2018 in CMA No. 112 of 2018 (in CP No. 48 of 2013) likewise held that *full administrative and financial autonomy* of Inspector General Police was critical to an *independent and depoliticized police service*. The Court issued several specific directions for the purpose.

In Writ Petition No.5973 of 2017 ['Muhammad Razzaq and Another Versus Federation of Pakistan and Others'] filed in Lahore High Court for ensuring meaningful implementation of Police Order 2002, the Court, through Order dated 12.05.2017, directed the Government to appoint, within a month, a new Provincial Police Officer (PPO) as per procedure provided in Article 11(1) of Police Order 2002. The Court further directed the Government to strictly observe the PPO's tenure of three years as provided in Article 12 of the Police Order and to constitute Provincial and District Public Safety Commissions as provided in Article 37 and Article 73 respectively of the Police Order 2002.

Though the Government appointed anew PPO, it was done without recourse to the statutory procedure laid down in Article 11(1) of the Police Order 2002. As regards the establishment of Provincial and District Public Safety Commissions, the Court's directions have remained unimplemented. There are several petitions filed in the Lahore High Court for *letter and spirit* implementation of Police Order 2002 that are pending adjudication.

Oddly enough, the Federal Government also has, since 2015, continued to dilly-dally in bringing into force the Police Order 2002 in the Federal capital. Under Article 1(3) of Police Order 2002, it is mandatory for the Federal Government to enforce the Police Order 2002 from the day the local governments are established in Islamabad Capital Territory. A Writ Petition No. 3403/2017 seeking enforcement of Police Order 2002 is

pending adjudication in Islamabad High Court.

Without prejudice to the final determination of the constitutional status of the Police Order 2002, the Federal and Provincial Governments have not shown political will to implement the Police Order 2002 in *letter and spirit*. Nor have they begun to tame their insatiable thirst for unfettered political control over the police. The recent judicial pronouncements declaring autonomy of police command and independence of policing operations as necessary conditions for fair and effective enforcement of fundamental rights are indeed a rude shock to the vested interests opposed to rule of law and good governance.

1.6 18TH AMENDMENT AND CONSTITUTIONALITY OF POLICE ORDER 2002

The Parliament, vide the Constitution (Seventeenth Amendment) Act, 2003, dated December 31, 2003, amending Article 270AA(1) of the Constitution, validated the Police Order 2002 (C. E. Order No. 22 of 2002), and also placed the Police Order 2002, for a period of six years, in Sixth Schedule of the Constitution. The Sixth Schedule contained over thirty laws that could not be amended by the Parliament, without prior sanction of the President.

In 2010, the Parliament passed the Constitution (Eighteenth Amendment) Act, 2010, dated 20th April, 2010, with the consensus of all political parties represented in the Parliament. The Eighteenth Amendment is relevant, in several respects, to the constitutionality of Police Order 2002.

Firstly, the Eighteenth Amendment affirmed the Parliament's legislative competence over the Police Order 2002. Had the Parliament intended otherwise, the C. E. Order No. 22 of 2002 would have been either *included* in the purview of amended Article 270AA(1) or specifically *excluded* from the scope of Article 270AA(2).

Secondly, the Eighteenth Amendment deleted the Sixth Schedule of the Constitution, leading to a misconception in certain quarters that the Parliament had impliedly transferred the Police Order 2002 to the *exclusive* legislative domain of the Provinces. In actual fact, entry 35 relating to the Police Order 2002 stood deleted from the Sixth Schedule on 31st December, 2009, due to the sunset clause of the Seventeenth Amendment, not due to the Eighteenth Amendment that came into force on 20th April, 2010. Even otherwise, the deletion of the Sixth Schedule only meant that the Parliament henceforth was free to *amend* the laws included in the Sixth Schedule *without* prior

sanction of the President.

Thirdly, the Eighteenth Amendment did away with the Concurrent Legislative List that contained 47 entries, including *criminal law* (entry 1), *criminal procedure* (entry 2), and *evidence* (entry 4). However, the Eighteenth Amendment protected the overriding legislative competence of the Parliament over the police-related entries on *criminal law*, *criminal procedure* and *evidence* by appropriately amending Article 142(b) of the Constitution. Had the Parliament intended to transfer these subjects to the *exclusive* non-enumerated legislative domain of the Provinces, it would have repealed the Article 142(b) altogether.

Fourthly, under the Eighteenth Amendment, the Parliament relocated entry 40 of Federal Legislative List (Part I) as entry 10 of Federal Legislative List (Part II). This entry relates to *extension of the powers and jurisdiction of members of a Police force belonging to any Province to any area in another Province*. Bringing a police-related matter within the purview of the Council of Common Interests [Article 154(1)], and reading with entry 18 of Federal Legislative List (Part II), this relocation expands the scope of institutionalized inter-Provincial consultation on police-related matters, including matters incidental or ancillary thereto.

Fifthly, introducing a new entry 32: "International treaties, conventions and agreements..." in Federal Legislative List (Part-I), the Eighteenth Amendment brought the police- and crime-related international instruments squarely within the exclusive legislative domain of the Federal Government. These instruments include: 1963 Convention on Offences and Certain Other Acts Committed on Aircraft, 1971 Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, 2010 Convention on the Suppression of Unlawful Acts Relating to International Civil Aviation, 1973 Convention on the Prevention and Punishment of Crimes Against Internationally Protected Persons, 1979 International Convention against the Taking of Hostages, 1991 Convention on the Making of Plastic Explosives for the Purpose of Detection, 1997 International Convention for the Suppression of Terrorist Bombings, 1999 International Convention for the Suppression of the Financing of Terrorism, 2005 International Convention for the Suppression of Acts of Nuclear Terrorism, United Nations Convention against Transnational Organised Crime, United Nations Convention against Corruption, and United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances. Entry 3 in Federal Legislative List (Part-I) deals with matters of extradition, including the surrender of criminals and accused persons to Governments outside Pakistan. Reading with entry 59 (*incidental or ancillary* matters) of

Federal Legislative List (Part-I), it becomes clear that a range of police-related matters fall in the Federal Legislative List (Part-I). Police cooperation with International Organisations is also specifically covered under Article 163 of the Police Order 2002. In a landmark judgement, the Hon'ble Supreme Court in Civil Appeals No. 1583-1598 of 2014 has held that Parliament can legislate on a Provincial matter if the Provincial matter is relatable to matters included in entries 3 and 32 of the Federal Legislative List (Part I), read with incidental or ancillary – expanded – relatability provided under entry 59. The same ratio would apply to Police Order 2002, even if, for argument sake, police is taken to fall in the exclusive Provincial legislative domain.

Lastly, adding a new entry 13: “Inter-provincial matters and coordination” in Part-II of Federal Legislative List, the Eighteenth Amendment has, for the first time, provided clear constitutional basis to inter-provincial coordination of law and order matters. Incidentally, Article 164 of the Police Order 2002 provides statutory basis to inter-provincial coordination by the Federal Government.

In conclusion, the Eighteenth Amendment has had no adverse effect on the concurrent status of the Police Order 2002. If anything, the relevant new entries in the Federal Legislative List (Part I) actually strengthened the status of the Police Order 2002 as a Federal law.

1.7 CONSTITUTIONALITY OF OTHER POLICE-RELATED FEDERAL LAWS

The matter of constitutionality of Police Order 2002 is critically linked with the constitutionality of other police-related Federal laws. For instance, under the 1956 Constitution, entry 3 of Provincial List related to “Police, including Armed Police, Railway and Village Police.” In the 1973 Constitution, whereas “Railways” figures as entry 1 of Federal Legislative List (Part II), the field *Railway Police* does not figure anywhere. If *Railway Police* is taken to fall exclusively within the non-enumerated Provincial legislative domain and not taken as a matter *incidental or ancillary to Railways*, then Pakistan Railways Police Act 1977, like the Police Order 2002, would likely be held *ultra vires* the Constitution. The same shall hold for the Federal Investigation Act 1974, the Anti-Terrorism Act 1997, and National Accountability Ordinance 1999, *unless* entries in the Federal Legislative List and subjects taken to be in the non-enumerated Provincial domain are *harmonised* by the Superior Judiciary, as done ingeniously in the recent Supreme Court verdict relating to Industrial Relations Act 2012.

The PSP is an All-Pakistan Service common both to the Federation and the Provinces. Constituted under Article 240 of the Constitution, the PSP comprises officers of the rank

of Inspector General, Additional Inspector General, Deputy Inspector General, Senior Superintendent, Superintendent, and Assistant Superintendent. While the Inspector General heads the Police in a Province and is appointed by the Federal Government, in consultation with the Provincial Government, PSP officers holding senior staff and field assignments assist him in the discharge of his duties. The Assistant Superintendents recruited through the Federal Public Service Commission are trained centrally at the National Police Academy. Promotions, disciplinary matters and inter-provincial transfers of PSP officers are dealt with by the Federal Government (Establishment Division).

The constitutionality of PSP was challenged in Peshawar High Court in W.P. No. 3151-P/2014, inter alia, on the ground that post-18th Amendment all matters relating to police stood transferred to the provincial legislative domain and hence there was no justification for continuation of Police Service of Pakistan as an All-Pakistan Service. However, rejecting the petition, the Peshawar High Court held the Police Service of Pakistan *intra vires* the Constitution.

In India, the jurisprudence developed in relation to Police Act 1861 since coming into force of the 1950 Constitution has consistently held that the legislative distribution under Article 246 (akin to Pakistan Constitution's Article 142) does not apply to pre-independence – *existing* – laws [AIR 1951 All 816, ILR (1952) 1 All 816]. With regard to new laws, the example of National Investigation Agency (NIA) established under National Investigation Agency Act 2008 is apt. The law empowers NIA to investigate any terrorism-related incident across India, even without the consent of relevant State Government. NIA Act 2008 when challenged in Bombay High Court [2014(1) Bom. C.R.(Cri.)135] was held *intra vires* the Constitution on the ground that entries 1 and 2 of List III (Concurrent Legislative List), namely, *criminal law* and *criminal procedure*, being in the concurrent legislative domain, provide the Union Government necessary legislative competence to legislate on such matters.

1.8 INTERWOVEN NATURE OF CRIMINAL LAW, CRIMINAL PROCEDURE, EVIDENCE AND POLICE LAW

When we talk of crime, we talk of Police, we talk of criminal law, we talk of criminal procedure, we talk of law of evidence, we talk of police law. Whilst criminal law defines a crime and prescribes the punishment, the police conduct investigation under the criminal procedure code and the law of evidence, and bring the offender before court for trial and punishment. Black's Law Dictionary defines police as an agency charged with the prevention, detection, and punishment of crimes [Sixth Edition, p. 1156]. The intertwined and overlapping nature of police law, criminal law, criminal procedure, and

law of evidence gets evident when we compare relevant provisions under the Police Act 1861, the Government of India Act 1935, the 1956 Constitution, the 1973 Constitution, and the Police Order 2002:

- (i) Section 6 of Police Act 1861 at one time dealt with magisterial powers of police officers. The Section was repealed by the Code of Criminal Procedure 1882. Likewise, Sections 13, 14, 15 and 15-A of Police Act 1861, until 1981, were subject to the Code of Criminal Procedure 1882. The Code of Criminal Procedure 1882 had also amended Sections 24, 26 and 35 of Police Act 1861. On coming into force of the Federal Laws (Revision and Declaration) Ordinance 1981, the Code of Criminal Procedure 1882 was replaced with the Code of Criminal Procedure 1898. Similarly, Section 37 of Police Act 1861 was subject to both Pakistan Penal Code 1860 and the Code of Criminal Procedure 1898. These provisions show clear relatability of criminal law and criminal procedure with the police law.
- (ii) As noted, the Government of India Act 1935 contained three entries relating to *Criminal Law*, *Criminal Procedure* and *Evidence* respectively at Sr. No. 1, 2 and 5 of List III (Concurrent Legislative List). As against this, the Concurrent List of 1956 Constitution included these three subjects in a single generic entry (Sr. No. 1) which reads as *criminal law, including the law of evidence and procedure*. In other words, the 1956 Constitution *subsumed* the related fields of *criminal procedure* and *evidence* in the single generic field of *criminal law*. However, reverting to the scheme of Government of India Act 1935, the 1973 Constitution listed *criminal law*, *criminal procedure and evidence* separately under entry 1, 2 and 4 respectively of the Concurrent Legislative List.
- (iii) A substantial part of Code of Criminal Procedure 1898 (Chapters IV, V, VI, VII, VIII, IX, X, XI, XII, XIII, XIV, XXXIX) relates to the functioning of police. The police apply the Pakistan Penal Code. The Qanun-e-Shahadat Order 1984 (Articles 38, 39, 40) regulates confessions before the police. The Police Order 2002 includes Chapters XVI and XVII respectively on *Offences and Punishments*, and on *Offences by and Punishments for Police Officers*. Not only do these two chapters of Police Order 2002 fall within the *criminal law*, the trials relating to these offences are regulated by the Code of Criminal Procedure 1898. Article 153 of Police Order 2002 even overrides the Code of Criminal Procedure 1898 by making the offences falling under Articles 148 to 152 cognizable. Significantly, Chapter XI of Police Order 2002 specifically caters for inter-agency coordination between different sub-systems of the Criminal Justice System, i.e. judiciary, police, prosecution and prison services.

- (iv) “It is indeed well known that the provisions of the Police Act are meant to *supplement* the provisions made in other *connected* Acts and are to be read with them, for instance, the Indian Penal Code, the CrPC, the Indian Evidence Act, the Arms Act, etc.” wrote K. K. Singh (1997) in *The Police Acts*, p. x.
- (v) As stated, the Lahore High Court in Writ Petition No. 16244/2002 (Zafarullah Khan v. Federation of Pakistan) held that the Police Order 2002 was primarily relatable to the enforcement of the criminal law.
- (vi) Examples of *intertwined* police and criminal justice laws from the UK include the Police and Criminal Evidence Act 1984, the Criminal Justice Act 1988, the Criminal Justice and Public Order Act 1994, the Police Act 1996, Terrorism Act 2000, the Police Reform Act 2002, the Criminal Justice Act 2003, the Police and Justice Act 2006, and the Policing and Crime Act 2017.

Evidently, a close linkage exists, both nationally and internationally, between criminal law, criminal procedure and evidence and police laws.

1.9 STANDARD AND UNIFORM POLICE LAW: A MATTER OF GREAT PUBLIC IMPORTANCE

The Constitution defines the entire structure of the state in a manner that it revolves around the fundamental rights and principles of policy. Side by side, the administrative and judicial structures are designed to enforce fundamental rights of every citizen without compromising the security of the State. Under Article 148(3) of the Constitution, it is the *duty* of the Federation to protect every Province against external aggression and *internal disturbances and to ensure that the Government of every Province is carried on in accordance with the provisions of the Constitution*. The Federation's *duty* to maintain peace and order cannot be effectively fulfilled in the presence of fragmented police laws.

Fragmented police laws and poor policing are recipe for disaster, particularly when police are confronted with serious crime challenges, including terrorism. Can law enforcement effectiveness be achieved if the agency charged with maintenance of law and order operates under archaic organisational structures? Or its interfacing with the public lacks credibility and trust? Or it violates fundamental human rights guaranteed under the Constitution with impunity? If police law is not uniform across Pakistan, the non-discriminatory enforcement of fundamental rights will remain merely a pipe dream.

Under Article 149 of the Constitution, the executive authority of every Province shall be

so exercised as not to impede or prejudice the exercise of the executive authority of the Federation. The routine maintenance of peace and order being a shared responsibility of the Federal and Provincial Governments, the unilateral repeal of the Police Order 2002 by Sindh, Balochistan, KP and Punjab, in varying degrees, contravenes Articles 137, 143, 148(1) and 149 of the Constitution.

In the backdrop of 9/11, a growing number of countries have revisited their laws relating to peace and order, as also the organizational structures of police. In the US, the FBI has been given a whole range of new powers, in addition to the creation of Homeland Security as a new Department. President Obama in July 2016 even called for “Federalizing” the Nation's Police Force through standardized training and professional development across the US. In Scotland, eight independent police forces were merged into a single national Police Service in April 2013. Law enforcement in Belgium underwent a fundamental structural reform in 2001. The reform led to an integrated police service structured on the Federal and Local levels and made up of the Federal Police and the Local Police. In Germany, there are powerful voices for reforming German Police and establishing a single judicial system across Europe. Malaysia, a Federation, already has a single National Police. In India, as noted, an independent National Investigation Agency, with mandate to take up investigation of any terrorism-related case, even without concurrence of the concerned State, was established in the aftermath of Mumbai terrorist attacks of 2008.

Here, the example of Nepal is particularly pertinent. The 2015 Constitution of Nepal is the newest Constitution in the world. The Constitution has changed Nepal from a unitary form of government to a Federal Parliamentary System. Nepal's Police Force is administered under the Police Act 1861. The Constitution includes only matters relating to provincial police administration and peace and order in the State Legislative List. Matters relating to operations, supervision and coordination of functions being responsibility of the Nepal Police, Armed Police Force and National Investigation Department are provided for, under Article 268, in the Federal law. The Constitution has three Lists and the Police Act 1861 is a subject *exclusively* reserved for the Federal jurisdiction. Two Constituent Assemblies took several years to finalise the Constitution (First Constituent Assembly: 2008-2012, Second Constituent Assembly: 2013-2015). The whole exercise received a wide range of support by UNDP and many other international agencies.

Whilst integration and harmonization of police and criminal laws across countries and regions is gaining pace, we see a reverse trend in Pakistan. Multiple 'Police Acts' based

mostly on outdated principles of colonial administration have made the policing system of Pakistan more and more fragmented. It is critical that a standard law enforcement system across Pakistan is put in place to enable police to effectively meet the daunting challenges of terrorism and serious organized crime. Needless to say, a modern police law is crucial to promoting enhanced international cooperation in mutual legal assistance matters.

Without uniform and updated criminal laws: penal, procedural, evidential and police-related, it is well-nigh impossible to achieve effectiveness and efficiency across an increasingly fragmented criminal justice system. Pakistan has long suffered due to a variety of criminal justice systems in vogue in its different parts, specifically FATA, PATA, B Area of Balochistan, and tribal area of district Rajan Pur (Punjab). Past attempts at reforming the archaic systems have failed at the hands of vested interests and lack of political will on part of the ruling elite. Extension of police jurisdiction in B Area, comprising 95 per cent of Balochistan, was initiated in 2003 and completed in 2007 under a Federal grant of over Rs 10 billion. However, this once-in-a-century-reform was soon reversed. It is internationally recognized that the way forward to fight exceptional terrorism and organised crime challenges is through fair, effective and accountable criminal justice systems operating under standard criminal law statutes and procedures, not through fragmented structures anchored on a variety of different laws.

1.10 ENFORCEABILITY OF FUNDAMENTAL RIGHTS: RECENT JUDICIAL VERDICTS AND POLICE ORDER 2002

The PRC has examined the following landmark judgements of the Superior Judiciary, particularly in the context of the necessity of a fair and accountable police service for effective enforceability of fundamental rights:

- (i) Supreme Court Judgement in Suo Motu Notice No.16/2011
- (ii) Supreme Court Judgement in Civil Petition No.1282/2014
- (iii) Sindh High Court Judgement in CP No. D-7097/2016 and CP No. D-131/2017
- (iv) Balochistan High Court Order in CMA No. 112/2018 (CP No. 48/2013)
- (v) Lahore High Court Interim Orders in WP No. 5973/2017

The Superior Judiciary's directions / guidelines / observations on fair and accountable policing as a prerequisite for effective enforceability of fundamental rights include:

- (i) That the police force being the principal law enforcing agency needed to be depoliticised and strengthened so that it could, with full commitment, dedication, zeal and zest, perform its bounded duty as mandated under the law. [Suo Motu Notice No. 16/2011]

- (ii) *That a functioning criminal justice system is directly linked to the enforcement and realization of various fundamental rights of citizens such as Article 9, 10, 10A, and 14. We can no longer stand idle as the nation suffers.* [Civil Petition No. 1282/2014]
- (iii) That a majority of cases coming before the apex Court was concerned, one way or the other, with police abuse of powers and inefficiency. [Civil Petition No. 1282/2014]
- (iv) That without addressing police abuse of power and its inefficiency, it was not possible to stem the rising tide of cases of human rights violations coming before the superior judiciary. [Civil Petition No. 1282/2014]
- (v) *That there is need for reforms of policing and the police force for law and order to be properly established, which is a sine qua non for the rule of law and which, in turn, enables fundamental rights to be fully and properly enjoyed.* [CP No. D-7097/2016 and CP No. D-131/2017]
- (vi) That independent accountability forums like National and Provincial Public Safety Commissions and Police Complaints Authority created pursuant to Police Order 2002 were either inactive or non-existent. [Civil Petition No. 1282/2014]
- (vii) That it is discouraging to note that after the passage of the 18th Amendment, the Provinces of Sindh and Balochistan abandoned the Police Order and shifted to a policing regime which is reminiscent of colonial times where the police was used to keep the 'natives' on a tight leash. [Civil Petition No. 1282/2014]
- (viii) *That there must be autonomy of command and independence of operation in the police force. The police hierarchy, acting through the Inspector General, must have control over its own affairs especially insofar as postings and transfers of are concerned (but certainly not limited to that) and outside interference, whether by the Provincial Government or any body or authority thereof or otherwise (including any minister of any rank) must come to an end.* [CP No. D-7097/2016 and CP No. D-131/2017]
- (ix) *That power of postings and transfers at all levels, including PSP officers, vests only in the Inspector General of Police and it cannot be exercised elsewhere in the executive branch, whether the Provincial Government or any authority or body (including the Chief Minister).* [CMA No. 112/2018 in CP No. 48/2013]
- (x) That the Government to strictly observe the Provincial Police Officer's tenure of three years as provided in Article 12 of the Police Order 2002 and to constitute Provincial and District Public Safety Commissions as provided in Article 37 and Article 73 respectively of the Police Order 2002. [Interim Orders in WP No. 5973/2017]

1.11 EXPERT VIEWS ON THE CONSTITUTIONALITY OF POLICE ORDER 2002

With a view to seeking expert guidance on the issue of constitutionality of a standard police law for Pakistan, in the backdrop of the Eighteenth Amendment, the PRC members based in Islamabad held meetings with two eminent jurists of the country. The upshot of these meetings is that Police Order 2002 being relatable to *criminal law, criminal procedure and evidence* is a valid Federal law falling within concurrent legislative competence of both "*Majlis-e-Shoora (Parliament) and Provincial Assemblies*. In the view of jurists, the Police Order 2002 stands upon the same legal pedestal as the Code of Criminal Procedure 1898, Pakistan Penal Code 1860 or the Qanun-e-Shahadat Order 1984. Therefore, the power of a Provincial Assembly to *amend, vary or modify* Police Order 2002 is subject to *repugnancy* provision of Article 143 of the Constitution. However, a judicial declaration from the Hon'ble Supreme Court of Pakistan will be needed to emphatically resolve the contentious issue of the constitutionality of the Police Order 2002.

1.12 QUESTIONS OF LAW

In view of the discussion herein above, the questions of law needing to be addressed are as follows:

- (i) Whether the legislative competence of "police" is concurrent i.e. in both the Federal and Provincial domain?
- (ii) Whether the Sindh (Repeal of the Police Order 2002 and revival of the Police Act 1861) Act 2011, the Balochistan Police Act No. X of 2011, Punjab Police Order (Amendment) Act 2013, Punjab Police Order (Amendment) Act 2017, and Khyber Pakhtunkhwa Police Act 2017 are intra vires the Constitution?
- (iii) Whether Police Order 2002 is relatable to criminal law, criminal procedure and evidence under Article 142(b) of the Constitution? If so, whether Provincial amendments in the Police Order are subject to repugnancy test under Article 143 of the Constitution?
- (iv) Whether police-related Federal laws like Federal Investigation Act 1974, Pakistan Railway Police Act 1977, Anti-Terrorism Act 1997, and National Accountability Ordinance 1999 are intra vires the Constitution?

1.13 CONCLUSION

The efficient, fair and uniform enforceability of fundamental rights as guaranteed in the Constitution cannot be achieved unless Police perform its functions strictly in accordance with law under a uniform standard Police Law for the entire country. The PRC is of the considered view that the Superior Judiciary's directions / observations relevant to a de-politicized, professional and accountable police service necessary for

proper enforcement of fundamental rights are largely included in the Police Order 2002 (Appendix-I). The directions / observations of Superior Judiciary not covered by the Police Order 2002 and the good practices developed elsewhere since the promulgation of Police Order 2002 have been listed separately (Appendix-II) for inclusion as proposed amendments / additions in the Police Order 2002. Needless to say that all man-made laws need periodic amendments / improvements, in order to meet the emerging challenges of a fast changing society. It may be clarified that PRC supports the Sindh High Court judgement in C.P. No. D- of 2016 and C.P. No. D-131 of 2017 to the extent of its interpretation of the Police Act 1861, the Government of Sindh's Rules of Business 1986 or the powers of the Inspector General of Police vis-à-vis the Provincial Government.

1.14 WAY FORWARD

- (i) Should the legislative competence over Police Order 2002 be held to fall in the concurrent jurisdiction, the Police Order 2002 would stand restored in all four Provinces of Pakistan. In that eventuality, the Law and Justice Commission of Pakistan may refer the amendments proposed in Police Order 2002 and placed at Appendix II to the Ministry of Law and Justice to consider issuance of a Presidential Ordinance. Once the Ordinance is issued, the Police Order 2002 will become the Police Act 2018 for the entire country.
- (ii) Should the legislative competence over the Police Order 2002 be held to fall in the exclusive Provincial jurisdiction, the Model Police Law 2018 shall be referred to the Provinces by the Law and Justice Commission for issuance of separate Ordinances by respective Governments. However, the Presidential Ordinance relating to amendments in Police Order 2002 will suffice for Islamabad.
- (iii) As past efforts at reforming police have failed due to lack of political will on part of the ruling elite, as also resistance from vested interests, the Hon'ble Chief Justice of Supreme Court may consider constituting an Implementation Bench of the apex Court to monitor progress of implementation of Model Police Law on monthly basis.

Chapter 2

POLICE ACCOUNTABILITY

Term of Reference: *Recommend internal and external accountability mechanisms to address the public complaints against the Police. Departmental institutional arrangements and external oversight mechanisms should be clearly spelt out to reduce pressure on the judiciary that is inundated with public complaints against the Police.*

2.1 COMPLAINTS AGAINST POLICE: CONCERNS OF SUPERIOR JUDICIARY

The Hon'ble Lahore High Court in a landmark judgment by Mr. Justice Iftikhar Hussain Chaudhry, Chief Justice, Mr. Justice Asif Saeed Khan Khosa and Mr. Justice Sheikh Abdul Rashid clearly spelt out the role of Justice of Peace / ex-officio Justice of Peace and concerns of the judiciary, as regards complaints against the Police. The salient features of the judgment cited as PLD 2005 Lahore 470 on Writ Petition Nos. 11862, 14415, 17169 and 16453 of 2004 pronounced on 1st June 2005 are summarized below.

2.1.1 Who is Justice of Peace:

Justice of Peace is an institution conceived and conjured up centuries ago mainly to assist the Police and the other law enforcing agencies in maintaining peace in the society. It originated in England and had been introduced by the British in some of their colonies. During their rule over the Indo-Pak sub-continent the British had also introduced the concept of Justices of the Peace in the local system of governance and conservation of the peace. On November 21, 2002 ex-officio Justices of the Peace in Pakistan were conferred an additional role through promulgation of the Criminal Procedure (Third Amendment) Ordinance (Federal Ordinance No. CXXXI of 2002).

2.1.2 The Powers of Justice of Peace in Pakistan:

The major powers of Justice of Peace under Section 22-A CrPC include:

- i. To make an arrest in circumstances enumerated in Sections 54 & 55, CrPC and to hand over custody of the arrested person to the officer in charge of the nearest Police Station;
- ii. To call upon any member of the Police force on duty to aid him in arresting or preventing the escape of a person involved in commission of a cognizable offence;
- iii. To call upon any member of the Police force on duty to aid him in the prevention of crime, breach of the peace or disturbance of the public tranquillity;
- iv. To issue a certificate of identification of a person, to verify any document and to

- attest any document;
- v. To issue appropriate directions to concerned Police authorities under Section 22-A (6) of CrPC as an ex-officio Justice of Peace on a complaint regarding:
- Non-registration of criminal case;
 - Transfer of investigation from one Police officer to another; and
 - Neglect, failure or excess committed by a Police authority in relation to its functions and duties.

2.1.3 The Duties of a Justice of Peace:

The duties of justice of peace under Section 22-B CrPC include:

- i. To make inquiries and to report in writing to the nearest Magistrate and to the officer in charge of the Police Station whenever he receives information of an occurrence of any incident involving a breach of the peace or of commission of any offence within his local area;
- ii. If the information received by him is in respect of commission of a cognizable offence then to also prevent any interference with the place of occurrence or removal of anything there from;
- iii. To render assistance to a Police officer, if so required in writing by him, making an investigation in respect of any offence within the relevant local area;
- iv. To record any statement, if so required in writing by a Police officer making an investigation in respect of any offence within the relevant local area, made under expectation of death by a person in respect of whom a crime is believed to have been committed.

2.1.4 Discussion:

Arguments of all parties resulted in clarification of certain vague areas as regards power and authority of justice of peace under CrPC:

- i. A Justice of the Peace or an ex-officio Justice of the Peace in Pakistan performs functions that are administrative and ministerial in nature and not judicial in character;
- ii. The superior Courts of Pakistan having Constitutional, legal, supervisory and inherent judicial jurisdiction, have consistently and consciously refrained from directly interfering with investigation of a criminal case by the Police;
- iii. It is a well-established principle that where investigation is mala fide or without jurisdiction, the High Court under Article 199 of the Constitution is competent to correct such proceedings and pass necessary orders, to ensure justice and fair play;
- iv. It is within jurisdiction of Section 22-A (6) CrPC that an ex-officio Justice of the

- Peace can issue appropriate directions to the Police authorities concerned on the basis of complaints regarding: non-registration of a criminal case; transfer of investigation from one Police officer to another; and neglect, failure or excess committed by a Police authority. However, such directions to the concerned Police authorities to attend to the grievance of the complaining person in accordance with the relevant law an ex-officio Justice of the Peace cannot arrogate to himself the power of redressing the actual grievance itself;
- v. Under Section 22-A(6), CrPC an ex-officio Justice of the Peace is to perform the role of a facilitator and that of a bridge or a conduit between the complaining persons and the Police authorities concerned and the jurisdiction under Section 22-A(6), CrPC does not allow an ex-officio Justice of the Peace to put on the mantle of a higher Police authority himself, and to start exercising all those executive powers himself which the relevant law has vested in the concerned Police authorities.

2.1.5 Complaints against Police:

Common complaints against the Police identified include:

- i. Harassment by the Police: Complaints about harassment by the Police in the absence of any criminal case having been registered against the aggrieved person in an extreme case of highhandedness and totally unjustified harassment the ex-officio Justice of the Peace may issue a direction to the relevant Police authority to register a criminal case against the delinquent Police officer;
- ii. Failure of the Police to Register a Criminal Case: Complaints regarding failure of the Police to register a criminal case despite commission of a cognizable offence having been reported to it –the use of the word "may" in Section 22-A(6), CrPC clearly shows that the jurisdiction of an ex-officio Justice of the Peace in that regard is discretionary in nature;
- iii. Failure to add appropriate Penal provisions to FIR: Complaints pertaining to failure by the investigating officer to add appropriate penal provisions to an FIR or a cross-version of the accused party – such complaints are not uncommon but they are normally not worthy of being taken with any degree of seriousness by an ex-officio Justice of the Peace;
- iv. Failure to Record a Cross-version: Complaints about failure by the investigating officer to record a cross-version of the accused party– an ex-officio Justice of the Peace should call for comments of the investigating officer explaining as to why he has not recorded the version of the accused party and if such comments confirm the complaint that despite having been approached in that regard by the accused party, the investigating officer has not recorded the version of the

- accused party, then a direction may be issued by the ex-officio Justice of the Peace to the investigating officer to do the needful or in the alternative the Superintendent of Police (Investigation) of the relevant Districts ensure that the needful is done by the investigating officer without further ado;
- v. Failure to Arrest an accused Person nominated in FIR: Complaints regarding failure to arrest an accused person nominated in the FIR or in the cross-version of the accused party –under Section 22-A (1), CrPC a Justice of the Peace has the jurisdiction to exercise all those powers of arrest in the relevant local area which powers are available to a Police officer referred to in Section 54 & 55 CrPC. The powers of arrest in both the said sections are the same but they relate to different situations;
- vi. Seeking Transfer of Investigation: Complaints pertaining to unfair, biased and improper investigation and seeking transfer of the investigation:
- (a) The complaints about unfair, biased and improper investigation and seeking transfer of investigation of the relevant criminal case are generally the most frequent complaints that are filed before the ex-officio Justices of the Peace under Section 22-A(6), CrPC and are often subject matter of Writ petitions filed before superior Courts and therefore, this area has also emerged for serious and detailed consideration;
- (b) By virtue of the provisions of Article 18(5) of the Police Order, 2002 a District Police Officer cannot interfere with the process of investigation. According to Article 18(6) of the Police Order, 2002 the first change of investigation can, in areas other than the Capital City District, be ordered only by the Additional Inspector General of Police (Investigation Branch) and that too only after deliberations and recommendations by a Board headed by an officer not below the rank of Senior Superintendent of Police and including two Superintendents of Police, one being in charge of the investigation in the concerned District. According to the same Article second change of investigation may only be allowed with the approval of the Provincial Police Officer (Inspector General of the Police in a Province) or the Capital City Police Officer, as the case may be;
- (c) It had already been observed above that an ex-officio Justice of the Peace cannot step into the shoes of a competent Police authority so as to himself pass an order transferring investigation of a criminal case and that his role in this regard is confined only to get the process started under Article 18(6) of the Police Order, 2002;

station has been caught up in an urban jam. The SHO, the kingpin of this rural system, has barely been able to manage the growing chaos.

The Police leaders have sought to address this failure through constant replication of the same anachronistic Police station: By and large the response to urban growth has been more Police stations with ever-smaller jurisdictions. Even the Police Order did not address this rural-Police-station-in-an-urban-centre conundrum. It sought to create a specialised investigation branch at each Police station without correcting the fundamental problem with its design. The solution lies in less, and not more, Police stations.

Each urban centre shall have one Police station for roughly 250,000 to 500,000 citizens called a Police Division. By this standard, Lahore shall have 20-25 Police Divisions instead of the current 88 Police stations. The area of three to four present Police stations with the right geographic contiguity shall be merged to form one Police Division.

A Superintendent of Police, with effective administrative and financial powers, shall head each Police Division. If Lahore is taken as an example, implementation of this design will see the current six divisions replaced with 20-25 Divisions where the Superintendents will have greater resources and more effective authority over the resources, albeit in a smaller, more manageable jurisdictions.

The present Police Stations will become reporting centres with front desks and any other investigation/ operations/ logistics functions.

The Police Division shall comprise several functional sections, each headed by an ASP or DSP. The sections shall perform specialised functions independently under the command of the Superintendent. The following sections are proposed (Please see **Annex-J** for a full organisation chart):

4.3.1 Administration Section

This section shall effectively form the office of the Superintendent of the Division. It shall be responsible for accounts, finance, logistics, establishment, buildings and services. Accounts and finance work will require preparation of budget estimates, management of yearly funds allocation and maintaining appropriate records for audit and other scrutiny.

Logistics work shall include maintenance and storage of all moveable property of the government in use of the Division.

This section shall ensure proper use, maintenance and storage of all items from body armour and weapons to photocopiers and office supplies.

This section shall ensure optimal use of the human resource in the Division. It shall maintain service records, assist with career planning, ensure objective performance evaluation and regulate training.

The section shall also be responsible for maintenance of all official buildings in the Division. It shall also facilitate operation of citywide IC3 and other technological services.

4.3.2 Operations Section

It shall be responsible primarily for prevention of crime. It shall in effect be the public face of the Police Division. It shall implement preventive policies and procedures. It shall plan and execute local prevention activity, particularly foot and mobile patrolling. It shall be responsible for effective deployment of first responders (e.g. Dolphin Squad in Lahore). It shall operate the *malkhana* (safe room) and lockup of the Division.

The section shall perform all regulatory functions pertaining to use of thoroughfares and public spaces. It shall regulate explosive and dangerous substances as required by the Explosives Act and other laws and government regulations.

It shall administer the front desks for a pleasant and professional interaction with citizens. The front desks shall issue certificates and reports to citizens and exchange any other useful information with them.

The Operations Section staff shall also be responsible for arrest of proclaimed offenders, Court absconders, military deserters and persons liable to be apprehended under preventive sections of the CrPC. Maintenance of History Sheets of criminals, record of those on schedule IV of ATA and their surveillance shall also be the responsibility of Operations Section.

4.3.3 Investigation Section

It shall carry out investigation of all cases registered for offences arising from regulatory functions of Police and offences related to local law and order. The PPO may determine from time to time the type of offences that shall be investigated by the Investigation Section of the Police division under the Operations Wing.

The Investigation Section staff shall act as second responders to a scene of crime and a case shall be registered on a complaint/ *istaghasa* despatched from the scene by these second responders in the respective Police division. It shall also maintain the Police station records. The Investigation Section shall maintain a close liaison and continuous exchange of information with the Investigation Wing.

The officers posted to the investigated section shall preferably be specially trained and certified investigation officers. They shall not be employed to perform a duty other than investigation.

4.4.4 Law & Order Section

This section shall deal with local matters of law and order like minor gatherings, social events and impromptu protests at a small scale. It shall gather and maintain information on local issues and persons that may impact law and order. It shall collaborate closely with Law and Order Wing of the District to exchange information about on-going and expected events. It shall maintain anti-riot readiness and equipment to ensure timely response to an emerging situation.

4.4.5 Community Relations Section

The section shall maintain liaison with all citizen bodies, associations and unions etc. in residential and commercial areas. It shall work to design and implement community policing initiatives. It shall implement the policies and programmes designed by the Community Relations Wing of the district. It shall have the primary responsibility for implementing neighbourhood watch and commercial watch programmes. It shall support ADR initiatives and CPLCs in their operation.

4.4 CONCLUSION

The design for the urban district and the Police station may vary from time to time and place to place, but there is no denying the fact that urban policing now requires a major departure from the existing policing paradigm. There is a need to develop specialisations, city-wide commands along with policing at divisional level that will grow and mature over time to provide the policing performance that is the need of the day.

Training and stakeholders' inclusion is key for change management. This model will not be easy to implement as it suggests radical changes in the system, roles and functions. It will require planning and excellent communication strategy within Police and among the public to avoid risk of disbelief and strong reaction from the proponents of status quo.

Chapter 5

ALTERNATE DISPUTE RESOLUTION (ADR)

Term of Reference: *Recommend Alternate Dispute Resolution (ADR) mechanism by examining the efficacy of Dispute Resolution Committees (DRCs) in KP at Police station, sub-division, district, division, regional and provincial levels.*

5.1 INTRODUCTION

Dispute resolution is a fundamental requirement of all societies. In the ancient times, tribal elders would ensure that there is an order in the society by redressing grievances of the victim. Slowly and gradually the State took over the function of citizen's security and structured formal legal systems for this purpose. The objective of justice systems was to create a crime-free environment in which all citizens could live their lives in a peaceful manner.

It is however, argued that justice in itself is punitive in nature. It punishes the guilty but does not remove the discord. Its design structure does not focus on resolving disputes; it awards punishment that may or may not resolve the dispute. In order to make it fair and transparent, lengthy and cumbersome processes are adopted that cause inordinate delays which are often the reason of a retributive behavior.

ADR is a concept of “Multi-door Court house” where litigants have a choice regarding the mode in which dispute resolution best fit their needs. ADR includes all types of negotiation, conciliation, mediation, or arbitration systems. Various studies around the world have proved that ADR reduces litigation and cost. There is a strong argument that dispute resolution systems and mechanisms are substitute to full-scale court processes. Alternate Dispute Resolution (ADR) is generally perceived as a new concept in the realm of justice, which is not true. Mankind knows dispute resolution from pre historic times. Providing justice has grown out of dispute resolution that is the end objective of a state and the society.

Unfortunately, our priorities are lopsided. We spend ridiculously large amounts of physical, human and financial resources on ensuring justice than resolving disputes. We have not developed our age-old societal structures of dispute resolution like Jirga and Panchayat. We allowed these forums to operate in the “informal justice sector” without any state or societal regulatory controls that gave rise to arbitrary, whimsical and unconstitutional decisions frequently trampling fundamental human rights. Except for

the very recent past, ADR does not find any place in our legal system that is based on English Common law. ADR has the potential to become a legal process that empowers the parties to opt for a choice that is more creative and offers flexible, effective and economical solutions.

This paper intends to study the concept of ADR for the purpose of introducing it as a prelude to the criminal justice system (CJS). Apart from other legal instruments already available in our laws, the current paper will study the concept of Dispute Resolution under the Alternate Dispute Resolution Act, 2017.

5.1.1 Available ADR Mechanisms

Following are the ADR mechanisms already available in the domestic laws of Pakistan:

- i. The Arbitration Act, 1940
 - ii. The Conciliation ordinance, 1961
 - iii. The Local Government Ordinance, 2001
 - iv. The Small Claims and Minors Offences Courts Ordinance, 2001.
 - v. The Punjab Consumers Protection Act, 2004.
 - vi. The Code of Civil Procedure (Amendment) Ordinance No. XXXIV of 2002.
 - vii. The Alternate Dispute Resolution Act, 2017
-
- i. The Arbitration Act, 1940

This is the most commonly used law to which parties to a dispute refer to for amicable settlement of their disputes. One of the major intentions of this law is to curtail litigation in courts to submit existing or future differences between the parties.

The Act provides for three classes of arbitration:

 - Arbitration without court intervention (Chapter II, sections 3-19);
 - Arbitration where no suit is pending, (but through court) (Chapter III, section 20);
 - Arbitration in suits (through court) (Chapter IV, sections 21-25).
 - ii. The Conciliation ordinance, 1961

This Ordinance provides for the establishment of Conciliation Courts for settling disputes through conciliation. The Ordinance extends to both Civil and Criminal Laws. The Act strictly prohibits (Sec 16) the legal counsels from appearing on behalf of the parties before any Conciliation Court that portrays the true spirit of amicable dispute resolution.

Part 1, section A and Part 2 section A of Schedule I to the Ordinance provides a list of criminal matters that can be referred to and settled by the Conciliation Courts.

Civil matters are dealt with in light of Part 1, section B and Part 2, section B of Schedule I, wherein issues pertaining to recovery of money due on contract, recovery of and compensation for wrongfully taking/damaging movable property are provided that may be referred to the Conciliation Court.

iii. The Local Government Ordinance, 2001

The Local Government Ordinance 2001 provides for amicable dispute resolution through Musalihat Anjuman (Conciliation Committee) at the Union Council level. Sections 102–106 under Chapter XI of the Ordinance encourage “amicable settlement of disputes...through mediation, conciliation, and arbitration”. But the subsequent legislations like Sindh Local Government Act 2013 do not provide this mechanism.

iv. The Small Claims and Minor Offences Courts Ordinance, 2001.

The Small Claims and Minor Offences Ordinance 2002 has introduced a detailed system of accessing to mediation, including the appointment of mediators for small claims on both civil and criminal nature. However, while it has provided details with regards to the processes on the civil side, it fails to do so for the criminal side, referring it to the Criminal Procedure Code 1898, that does not have the necessary level of detail. The Criminal Procedure Code 1898 is only relevant with regards to the process of compounding offences under Section 345 of the Code in relation to the Small Claims and Minor Offences Ordinance 2002.

The Small Claims and Minor Offences Court Ordinance intends to establish a court, where value of the small claims suit is less than Rs.100,000 and the punishment for minor offences is less than three years. The purpose of the law is to “provide legal cover to amicable modes of settling disputes between parties in an easy and expeditious manner.

The court maintains a panel of arbitrators, mediators and conciliators, prepared by the respective High Court in consultation with the District Judge and President of the local bar association. In the event of failure of ADR proceedings, the court shall proceed to determine the suit through prescribed summary procedure, ordinarily to be decided within 60 days.

- v. The Punjab Consumers Protection Act, 2005.
The Punjab Consumers Protection Act, 2005 provides for mandatory use of ADR for resolution of consumer disputes. The Consumer Tribunal adopts alternate methods of dispute resolution including mediation, conciliation etc.

- vi. The Code of Civil Procedure (Amendment) Ordinance No XXXIV of 2002 (Sec 89 A).
Section 89-A authorizes the courts to secure expeditious disposal of a case by adopting ADR methods, including mediation and conciliation, with the consent of the parties, wherever deemed necessary.

- vii. The Alternate Dispute Resolution Act, 2017
This Act has recently been passed by the parliament that particularly deals with the 'out of court settlement' between parties to a dispute. At present this law is applicable only to the Islamabad Capital Territory.

Following is the scheme of the Act:

Chapter 1 – Civil Matters.

Subject to the exceptions mentioned in section 3, this chapter, not only requires civil courts to refer every civil matter mentioned in the schedule for ADR but also require government, after consultation with the high court, to notify in the official gazette a panel of neutrals. The chapter further lays down the procedure for appearance of parties before neutrals, ADR proceedings and settlement.

Chapter II – Compoundable Offences

This chapter deals with referral of compoundable offences specified in section 345 CrPC to the ADR for facilitation of compounding of such offences.

Chapter III – Panchayat System

This chapter confers legal status on panchayat, at par with ADR, to facilitate amicable settlement of civil disputes and also compound offences under this Act.

Chapter IV – Miscellaneous

In this Chapter provisions concerning cost and fee of ADR, utilization of services of an evaluator, penal costs, savings etc. are mentioned. Moreover, through its non-obstante clause under section 21, the Act gives overriding effect to its

provisions on other laws.

Schedule to the Act -

The schedule enumerates matters of civil nature falling within the scope and competence of ADR.

5.1.2 Present Status of ADR in provinces of Pakistan:

- **ADR in Punjab**

ADR in Punjab has mostly been in the informal domain. Different modes are prevalent in different parts and almost all of it is without any laid down rules or judicial oversight. There are numerous complaints of illegal and unconstitutional decisions that are scandalous in nature. Such decisions violate the fundamental/human rights and bring bad name to the state and the society internationally.

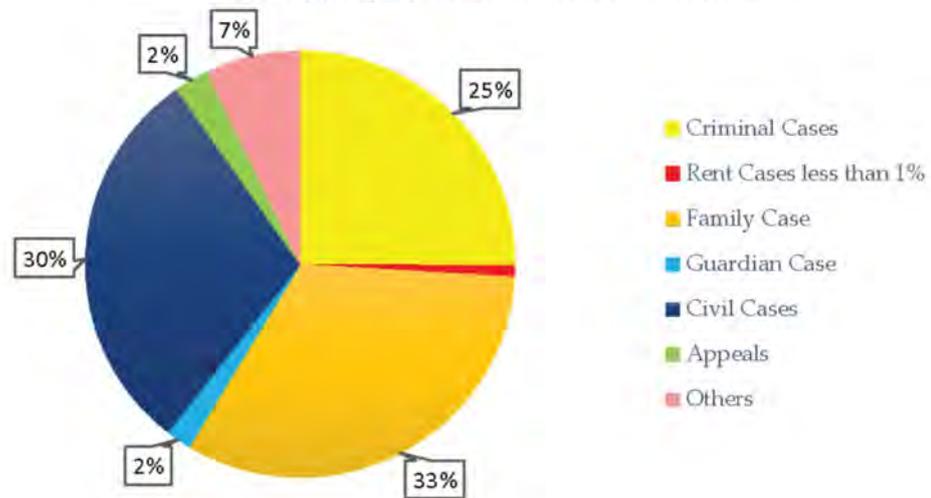
The only way to control the adverse effects of the informal ADR is to regulate and supervise it through the legal and administrative regime. The courts will have to play a key role both in administering ADR and overseeing its dispensation. There are two options for quick and speedy disposal of the workload falling in the ADR domain; increase the number of judges or make the working conditions conducive for early disposal of cases.

Syed Mansoor Ali Shah, the then Chief Justice of Lahore High Court took a highly welcome initiative in establishing 36 ADR Centers in all districts of Punjab for early disposal where parties are willing to reach a settlement.

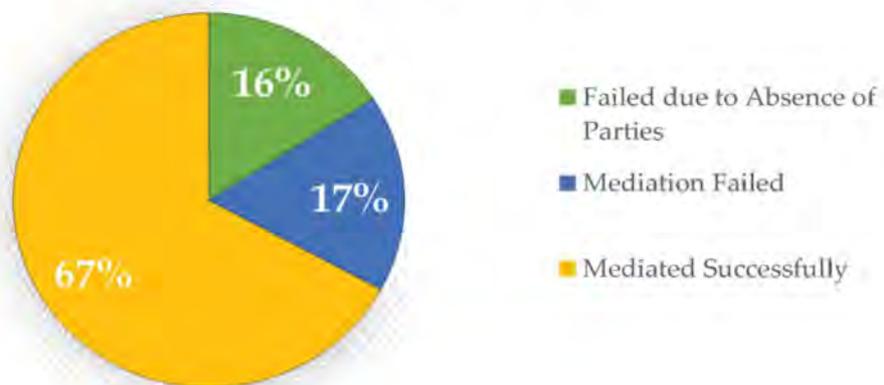
The existing law allows the parties to move the court hearing their case, to settle the matter through the ADR Centers. Once they exercise this option, the remaining process becomes easy and the cases are decided in a matter of 30/60 days without incurring much costs. The judges in the ADR centers are trained by the Punjab Judicial Academy to help parties reach a settlement.

A consolidated ADR Report from June 2017 to May 2018, published on the official website of the Lahore High Court, demonstrates the following situation:

Category of Cases Referred



Mediation Success Rate



- **ADR in Sindh**

The traditional ADR in Sindh is centuries old, which includes *Panchayats, Jirgas, and faislo or Suleh*. The word *faislo* has various meanings encompassing resolution of a dispute, a settlement, a decision and a judgment. *Faislo* is used not only to resolve civil matters, but also to settle matters of long standing enmities in tribal feuds.

In *Mst. Shania Vs SHO Pano Akil* case, reported in 2004 P.Cr.LJ, the High Court of Sindh has laid down that all kinds of trials and decisions conducted under the

Jirga system in Sindh are banned, and anyone involved irrespective of the position he or she holds, will be charged with the contempt of court.

The detractors of informal justice system demand for strengthening of the ADR in the formal justice system. They accuse the arbitrators functioning on ethnic, tribal, caste, and male-dominated norms. Such forums completely ignore the females as a participant, complainant, witness and member of the jury.

The ADR mechanism of the court-annexed bodies, i.e. arbitration councils, minor offence courts, reconciliation courts in Sindh have not been exploited to its full potential. The government has neither made enabling legislation or has created necessary structures.

The current practice of selecting the arbitrators is limited only to lawyers (through District Bar Associations) and retired judges. In most cases such names are recommended by District Bar Associations/Bar Bodies whose affiliations are with office bearers or the lawyers who have voted for them. Resultantly, experienced lawyers belonging to rival panels are missed and *Saalis* selection becomes biased. The process should also include retired teachers, police officials, revenue officials, and councilors etc.

The Judicial officers generally follow the litigation procedure instead of resorting to mediation. The annual statistics reveal that most of the judicial officers who were imparted training on ADR have not referred cases for ADR.

Sindh High Court has recently notified first Court Annexed Mediation Centre at Sindh Judicial Academy, which is a welcome step. More such mediation centers need to be established. However, this Center will only take up the civil nature cases under section 89-A of Civil Procedure Code, 1908.

Chapter VII (Public Relationship) Section 42 of Draft Sindh Police Act 2018 deals with the formation of Dispute Resolution Committees (DRC) to be notified by the Deputy Commissioners and chaired by Assistant Commissioners. If previous experience is any indicator, police handles ADR in criminal cases much better, therefore, this draft law should be structured on the model of the DRCs in KPK.

- **ADR in KPK before Police Act 2017**

As already discussed, Alternate Dispute Resolution mechanism works as a

supplement to the formal judicial system as is the case in most parts of the world. The objective is to provide cheap, speedy and efficacious justice in petty disputes. In 2008, the then IGP KPK formed Muslahiti Committees at the level of Police Stations. Although this concept had the legal sanction of the Local Government law, the Police took the lead. The objective of the committees was to resolve such disputes that are likely to lead to breach of peace. The disputes were referred with mutual consent of the parties.

Performance of the committees from 2011 to 2014

Year	Criminal			Civil		
	Complaints lodged	Resolved	Referred to Court	Complaints lodged	Resolved	Referred to Court
2011	24459	20055	4404	10324	9669	655
2012	12923	12145	778	7152	6606	546
2013	13870	13347	523	6628	6044	584
2014	4699	4593	106	2114	1967	147

The performance of these Committees led to a bill sponsored by the Home & Tribal Affairs Department, titled as MUSALEHATI JIRGA BILL, 2013. This law provided an alternate dispute forum both for civil and criminal nature disputes and gave a role to the Revenue and police officials.

The Musalehati Jirga processed compoundable criminal offences and matrimonial disputes upon a complaint made by a husband or wife. All Jirga members dealt with the cases and disposed them off within 30 days. Disputes could be brought to the Jirga through a written application or verbally by either party that was reduced into writing by the convener.

In case the parties did not reach to a compromise, the Jirga would impartially facilitate the filing of an FIR or a court case and may also conduct its own investigation and give its opinion.

- **ADR under the KP Police Act 2017**

Sec 73 of the KPK Police Act 2017 provides for "Dispute Resolution Council". *The Provincial Police Officer for out of Court amicable settlement of petty nature cases, may constitute, Dispute Resolution Councils at District, Sub-Division or Police Station level, which shall consist of such number of members and shall*

conduct its business in such a manner as may be prescribed:

Provided that the Dispute Resolution Councils already constituted by the Provincial Police Officer shall be deemed to have been validly constituted and all the actions taken, decisions made or order passed by such Dispute Resolution Councils shall be deemed to have been validly taken, made or passed under this Act.

Explanation: *For the purpose of this section, petty nature case means and includes a small, minor, of less or inconsiderable importance and affected amity in the society or any cause leading towards provocation, which may lead to a criminal offence.*

The Provincial Police Officer KPK framed detailed rules to ensure neutrality, fairness and smooth functioning of the DRC system on the following broad guidelines:

- Selection of the DRC members

The District Police Chief in consultation with the civil society request prominent and well-reputed personalities of the community to join the Council. Any person interested in becoming a member to offer his services voluntarily. The District Police Chief, has discretion to enlist such person in the panel after due verification.

- Structure of Dispute Resolution Council

- a. A DRC to have 21 members including professionals, retired judges, retired civil and military officers, educationists, religious scholars, journalists, local/tribal elders and businessmen.
- b. The DRCs operates in Police stations in a dedicated Jury Room established for their functioning. Police officer(s) appointed as support staff, maintain record of working and decisions of the Council. The Council function in close liaison with the concerned SDPO/of the Sub-Division.

- Working Modalities of the Council

- a. The Council takes up only those applications which have been referred to it through Police. The Council cannot take any case on its own, however, may recommend the applicant to the police.
- b. If any party has any reservation on decision of the DRC it may apply

- to the DPO for review.
- c. A 5-member review panel, other than the original decision members, reviews the finding in such situation.
- d. A Police Liaison Officer of the rank of ASI or above will be appointed by the DPO for helping the coordinator in record keeping and other issues of the Council.
- **Responsibilities of the Police Coordinator**
 - a. Summoning both the parties and ensuring their attendance before the DRC.
 - b. Recording statements of the parties and documenting the proceedings.
 - c. Providing guidance/advice to the panel members on legal issues.

Employing the age-old customary techniques of Jirga and Panchayat, coupled with the modern techniques of conciliation and mediated-arbitration, the DRC panels strive for amicable resolution of all such disputes forwarded by police authorities where the disputant parties agree to get their disputes resolved through DRCs

Performance of DRCs since 2014

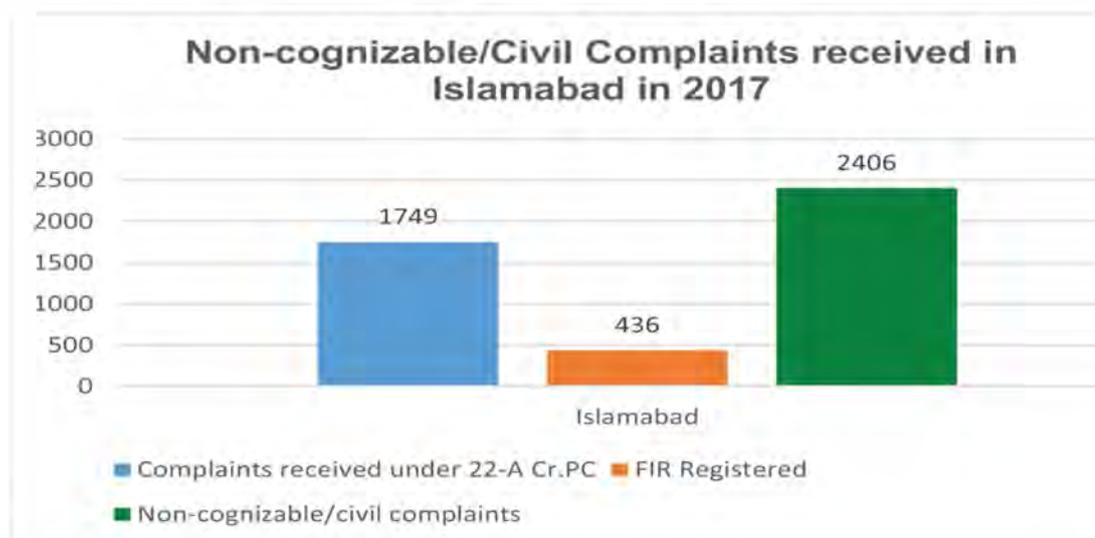
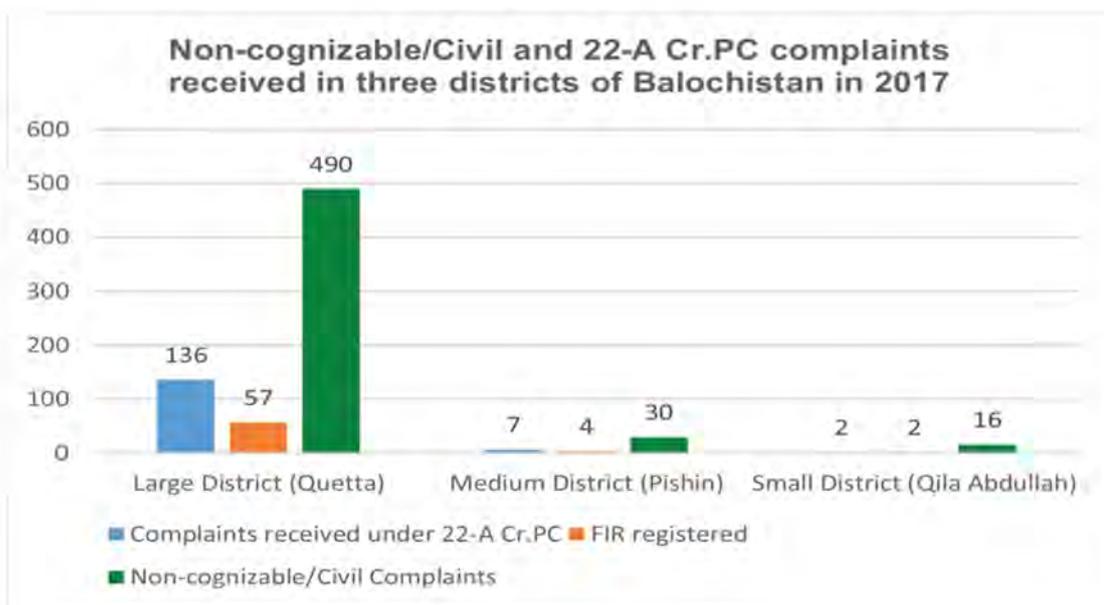
	01.01.18 To 30.04.18	01.01.17 To 31.12.17	01.01.16 To 31.12.16	01.01.15 To 31.12.15
Total Cases	2192	8722	4628	802
Compromised	1307	6573	3702	598
Legal Action	163	1016	751	174
Under Process	722	1133	175	30

5.1.3 Non-Cognizable/Civil Complaints and ADR

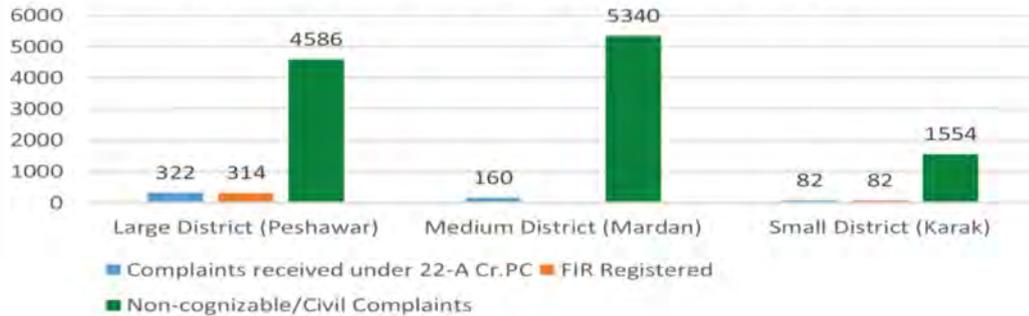
An effort has been made to understand the utility of the ADR through the volume of complaints being received in the police and court system at the district level in each province. All the provincial police forces were requested to provide the number of complaints pertaining to non-cognizable and civil nature cases that they have to deal with at the police station. Three districts (large, medium and small size) from each province were selected for this purpose.

Another fall out of a victim's complaint not being registered is that a number of the complainants approach the Sessions Courts and Justices of Peace for registration of FIRs under Sec 22-A of the CrPC. This generates legal battles between the police, courts and the complainants resulting in a lot of wastage of time, energy and financial resources. This exercise affects the reputation of the government and the police adversely and erodes the confidence of the citizen in the state.

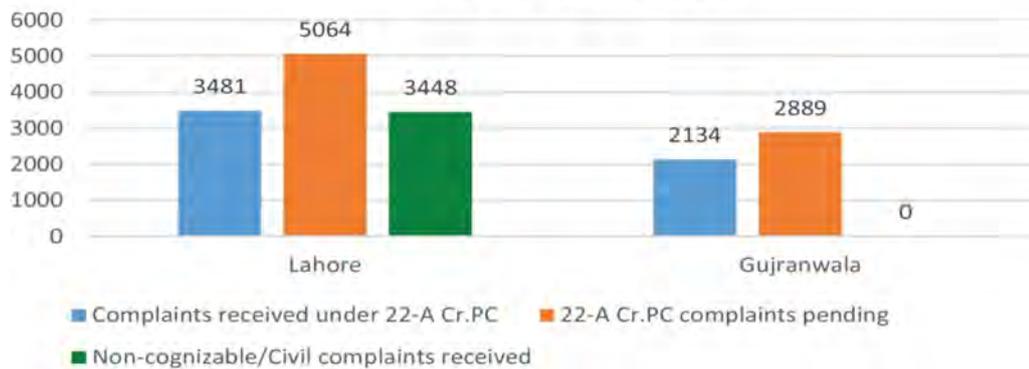
Following charts reflect the situation in each province:



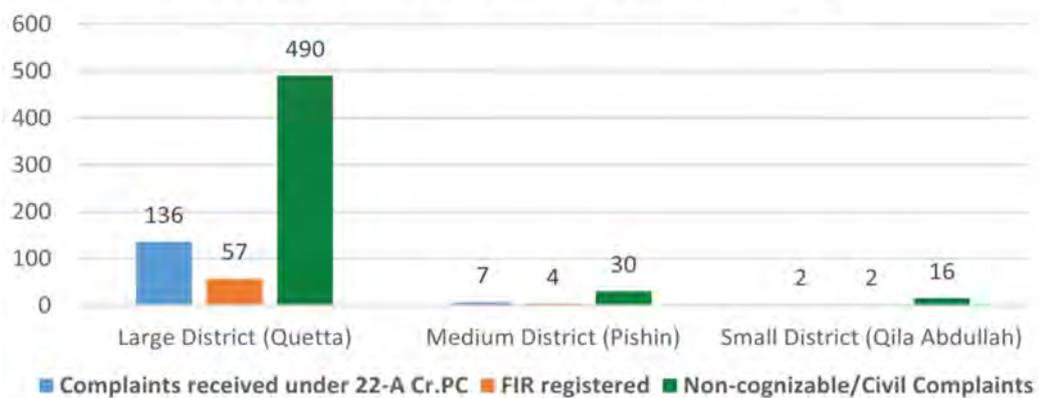
Non-cognizable/Civil and 22-A Cr.PC complaints received in three districts of KPK in 2017

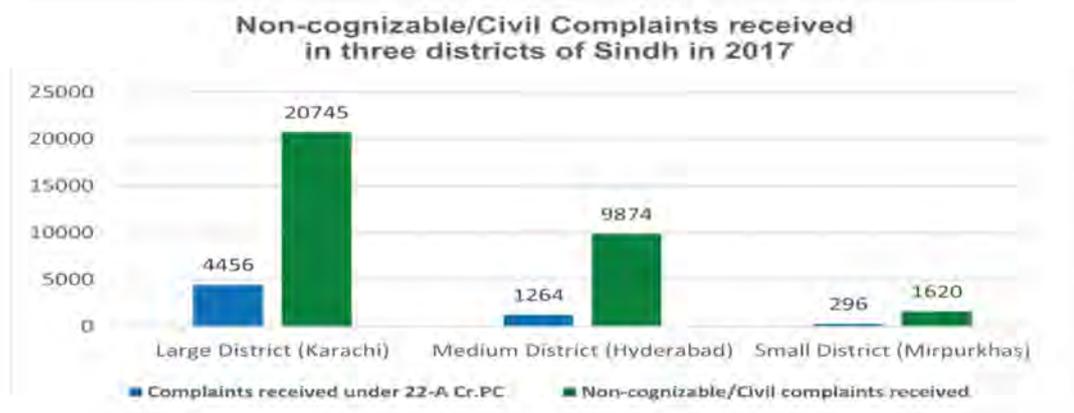


Non-cognizable/Civil Complaints received in two districts of Punjab in 2017



Non-cognizable/Civil and 22-A Cr.PC complaints received in three districts of Balochistan in 2017





Cases Registered Under 22-A & 22-B CrPC (2011-2017) in Punjab

	Cases Registered	Accused			Cases Cancelled	Cases Challenged	Under Inv.	Decided by the Court		Conviction Rate (%)
		Total	Held Innocent	Challenged				Convicted	Acquitted	
2011	38943	65019	12984	49482	11994	26649	15	2522	7466	9
2012	36071	57402	12865	41289	11622	23204	10	2856	8394	12
2013	32885	50696	10961	36198	9816	22245	21	2244	7034	10
2014	32932	51285	11021	36463	9862	22115	22	2431	8305	11
2015	30910	48354	11300	34672	8541	21479	28	2349	6768	11
2016	28428	44575	9887	32184	7944	19950	197	2141	5803	11
2017	23994	38331	9250	25544	6409	30578	1773	1339	3174	4

The above situation clearly indicates that the issue of civil nature complaints that are regarded as 'non-cognizable by police are a substantial workload in all the districts; big or small. Handling these complaints involves a process that is more or less equal to the investigation of an average crime. This process entails a lot of malpractices, high handedness and corruption at the police station level that in turn creates a bad image of the police. Yet the victim still opts to go to the police station than legal forums like courts available for the redressal. If the distinction of cognizable and non-cognizable is removed from the law and a robust mechanism of ADR is provided at PS/Sub Division level, a vast majority of these complaints will be resolved quickly with less costs and before them turning into ugly enmities.

Perusal of the above chart clearly suggests that a large number of cases are being registered through 22 A & 22 B CrPC by the Sessions Courts and JoPs. However,

what is alarming is that approximately 50% cases are either cancelled (30%) or acquitted (19%). The percentage of “convicted to challaned cases” during the last 7 years have remained 12% or less. Such a high percentage of cancelled or acquitted cases and low conviction rate is an indicator that recourse to action under 22 A or 22 B before a JoP/Sessions Court is not a solution to the problem. On the contrary, referring such complaints to an organized system of ADR will be less costly and more efficient.

ADR through DRCs vs ADR through Courts

According to the proponents of the DRCs, ADR through the Act of 2017 is fraught with following challenges:

- Sec 3 of the ADR Act 2017 mandates that a case shall be first instituted before the court. The authority of referral rests with the courts and not the parties.
- This will burden the courts with petty issues and result in delays and further pendency.
- It involves remunerations to be paid to the neutrals whereas the parties are generally very poor. The concept of DRC is based on voluntary service to the community.
- Establishing ADR through courts require huge costs and infrastructure whereas the DRCs are almost free of costs and can easily be operationalised.
- The ADR Act 2017 involves appointment of neutrals by the court and referral of parties from court to the neutrals and back which is time consuming.
- The character of the ADR is disposal through 'Award' that may or may not 'resolve' the dispute.
- Section 18 of the Act debars against an appeal or revision that may be justified/required due to some mistake of law or facts.
- The court makes nomination of the Panel of Neutrals. They are not volunteers for the job who generally have knowledge of the facts and circumstances in case of DRCs

Some of these arguments are very cogent and need to be addressed in the law. But equally important point to be kept in mind is the societal sanction behind the concept of DRCs. The society in the provinces of KPK and Baluchistan is generally tribal and clan based. The dispute resolution through the Jirga is the way of life in these societies. But the situation in the provinces of Punjab and Sindh is completely different where the society is becoming more and more urbane and individualistic. The rural culture is also more feudal which is controlled by a powerful individual or family who also heavily influences the state structures like police. In this background the dispute resolution has to be controlled through the formal structures of laws and rules.

The supporters of DRCs acknowledge that there are gaps in the system that need to be bridged for a transparent and sustainable dispute resolution. For instance;

- If a party does not accept the decision, some sort of legal provision is required for enforcement of the decisions of the DRCs.
- Majority disputes relate to land disputes that require availability of land records and active assistance of the land revenue staff to resolve the issue on merits.
- Eligibility criteria for members of the DRCs require more clarity.
- The existing practice of DRC selection has very little space for the women representation that need to be improved.
- Functioning of DRCs can be improved if issues are framed and only those specific points are adjudicated upon.

There can be many approaches to organize dispute resolution mechanism in the society. There can be a uniform system under a federal law or separate laws for each province keeping in view the peculiarities of that province. However, there is no denying the fact that ADR is a requirement of the society and that of the criminal justice system of our country.

The issue needs to be addressed at two levels; a) the minor cases of civil and criminal nature that enter the court system and can be decided through a structured ADR law; b) the non cognizable and civil nature complaints that police are not legally allowed to entertain and for which the citizen runs from pillar to post for redressal. Our existing ADR laws intend to deal with the former while the DRC attempts to deal with the latter.

5.2 PROPOSED ADR MODEL

The critical question that needs answer is how to bring both the streams into the legal fold and yet keep them simple and easily accessible for the common man? The KPK model has largely conferred the jurisdiction to police through section 73 of the Police Act, 2017. Since the Jirga or the DRC model has wide acceptance in the KPK and Baluchistan provinces, it would be unfair to deny the police in these two provinces to benefit from this practice. In KPK, the Police Act of 2017 already provides legal cover to the DRCs but the police law for Baluchistan should also be amended to provide cover to this practice. It is further recommended that the ADR Act of 2017 (currently applicable only to Islamabad) may also be extended to the provinces of KPK and Baluchistan for dealing with the civil and criminal cases of minor nature, which can be referred by the courts to ADR Centers for dispute resolution.

However, under the existing social and political culture in the provinces of Sindh and

Punjab, the practice of DRCs cannot be recommended straightaway. These provinces could consider the establishment of DRCs through their respective police laws in the light of their peculiar circumstances. The ADR Act of 2017 may, however, be extended to both these provinces and rigorously followed for resolution of petty disputes. This will certainly leave gaping holes in addressing the non-cognizable and civil complaints of the citizens. As already suggested, the distinction of cognizable and non-cognizable should be revisited by the legislature for making all offences cognizable by police. Once such offences enter the legal system, they should be referred to the ADR Centers by the courts. Therefore, instead of providing legal regime for ADR under police laws, ADR centers may be established in every district at sub division level

Chapter 6

CRIMINAL JUSTICE SYSTEM EFFECTIVENESS AND ANTI TERRORIST ACT CASES

Term of Reference: *Carry out diagnosis of weak areas in CJS in combating terrorism; provide a roadmap to enhance effectiveness of CJS for dealing with ATA cases; evaluate existing laws for their efficacy while recommending measures to effectively combat terrorism and violent extremism.*

6.1 INTRODUCTION

It is generally accepted that there are two models to deal with the challenge of terrorism i.e. the war model and the criminal justice model. In the war model, the military plays the lead role and follows the norms of war in dealing with terrorists and terrorism affected areas. In the criminal justice model, the Police play the lead role and the criminal justice system is the main instrument to deal with the terrorist threat. In Pakistan, we are following the war model in the insurgency-hit areas like former FATA and the criminal justice model to deal with incidents of terrorism in the rest of the country. International experience indicates that the most effective way to deal with terrorism, particularly in a democratic state, is to follow the criminal justice model. It follows that, the effectiveness of our criminal justice system in arresting and convicting the terrorists, is likely to be a crucial determinant of our success in dealing with the terrorist threat in the long run.

For the last many years, terrorism has been the most serious threat to internal security in Pakistan. In fact, the year 2013 was the worst year ever in Pakistan, as far as the number of terrorist attacks and casualties are concerned. During that year, Pakistan was the third worst affected country in the world, after Iraq and Afghanistan, with 1933 terrorist attacks in which 2345 were killed and 5035 injured.¹ After effective action by the government in 2014, the situation improved considerably. Consequently, in 2017, the number of terrorist attacks went down to 370 in which 815 people were killed and 1736 injured.² No mean achievement indeed, made at no small cost to the military and civilian law enforcement agencies. The moot point is whether this improvement is sustainable or not? Extensive research indicates that Police and civilian agencies have been more effective in defeating terrorist organizations than the military.³ In the context of Pakistan, it can be said that since this reduction of terrorism is more due to the military and para military intervention, an ad hoc arrangement, than to capacity building of the

components of the criminal justice system, it is not likely to be sustained. To address the reform in Criminal Justice System (CJS), this paper is divided into four parts: the need to diagnose the weak areas of the CJS on the basis of research and data analysis, an evaluation of the effectiveness of the existing laws related to terrorism, a road map of the capacity building of the criminal justice system and the way forward.

6.2 EVIDENCE BASED DIAGNOSIS OF WEAK AREAS OF THE CRIMINAL JUSTICE SYSTEM

It goes without saying that in our society, generally speaking, scientific research and data analysis rarely form the basis of public policy formulation process. Nothing brings this out more clearly than the meagre budgets allocated to research and data analysis and lack of attention to the respective research and development units within different organizations. The impact of the lack of evidence-based diagnosis on the quality of our policies is not difficult to imagine. Existing prescriptions to improve the working of the components of the criminal justice system i.e. Police, prosecution and the Courts are no exception and are mostly based on partial data analysis, anecdotes or personal opinions and perceptions of the decision makers. There is hardly any study that analyses the national data to diagnose what ails the CJS generally and the anti-terrorism regime specifically, on the basis of which recommendations of reforms can be made. However, there are few random studies carried out at the provincial level, which help identify weak areas of the CJS.

6.2.1 Existing Research at the Provincial Level

A study of some of the existing research projects carried out to analyse certain aspects of the criminal justice system indicates a shocking state of affairs, about the efficacy of the criminal justice system in dealing with cases of Anti-Terrorism Act [ATA]. One such study carried out in KP for the years 2015, 2016 and 2017 indicated that, on an average, 48% of the cases of ATA sent up by the Police to the Anti-Terrorist Courts, were discharged by the Courts.⁴

Another study, which helps to understand the reasons of this high number of discharge of cases, highlighted some of the deficiencies of the investigating officers posted in CTD/KP. Most of the IOs posted in CTD/KP had not been given any specialized training in dealing with investigation of terrorism cases, indicating a serious gap in Police training programs in KP.⁵ Moreover, an overwhelming number of the IOs were not aware of the provisions of the Investigation of Fair Trial Act, which prescribes the legal procedure for the IOs of cases of ATA, to intercept communication of the terrorists, so that it becomes an important piece of admissible evidence.⁶

Another study was carried out by a Police officer to identify the reasons for acquittal of terrorism cases in Punjab from 1990 to 2009. 178 judgments of acquittals were analysed which broadly identified three types of reasons of acquittal i.e. defects in the FIR, flawed investigation and problems at prosecution stage.⁷

A similar study carried out by another Police officer on cases registered under the ATA in the Punjab Province, points out to the frequent application of the ATA to crimes like gang rape, multiple murders etc., which are, strictly speaking not terrorism cases. In fact, the study highlighted, that only 4.6 percent of the cases registered under ATA in Punjab during the years 2005 to 2011, were about bomb explosions and suicide bombings, the signature offences of terrorism. Thus, almost 95 percent of cases registered by the Police in Punjab during these years were not, strictly speaking, cases of terrorism.⁸

The same research also indicated that the average rate of conviction in ATA cases by the Courts in Punjab, during 2005-2011 was only 14 %.⁹ What can be the deterrence value to the terrorists, of a criminal justice system, where 86 % of the terrorists arrested by the Police, after lot of effort, putting their lives at stake, end up walking out of the prisons, without any conviction?

These statistics are a very damning evidence of the ineffectiveness of the existing regime to deal with ATA cases where almost half the cases of terrorism, investigated and challaned by the Police were summarily disposed-off by the Courts. This highlights the need, not only to have regular analysis of the judgments of the ATCs but also joint training of Police, prosecutors and the ATCs.

It is interesting to note that after the CJP formed the Police Reforms Committee to give recommendations to the Law and Justice Commission for Police Reforms a quick survey was conducted. The provincial CTDs were asked to share the latest conviction figures in terrorism cases. It transpired that the conviction rate has improved in Punjab during 2016-2017 to 61%, in Sindh it had gone down to 4 % and in KP it was found to be 30%.¹⁰ While it is better in Punjab and abysmal in Sindh, there is a need to improve the rate of conviction in all the Provinces. It must be, however, preceded by a thorough analysis of the judgments to specify the reasons of large-scale acquittals. Punjab can possibly share the best practices it used to improve its rate of conviction in ATA cases.

6.3 A REVIEW OF THE EXISTING ANTI-TERRORISM LAWS OF PAKISTAN

With the evolving terrorist activity in Pakistan over time, the criminal justice system has tried to evolve accordingly but always with some lag. The intent of the system has been

to cover the changing type of terrorist offences, make punishments stricter, raise the conviction rates, try the terrorism cases speedily, and enable the law enforcement agencies to effectively investigate and prosecute the acts of terrorism. But even today, the intent of the system is not fulfilled and the objectives remain elusive. Conviction rates are low, trials are delayed, investigation quality is less than satisfactory and prosecution is slack. Law enforcement agencies still have to face the dilemma of effective response within the bounds of law, ensuring procedural justice while working to achieve the substantive justice. System's credibility and capabilities can be enhanced only through swift and certain punishment while ensuring procedural justice. There is a consensus on the fact that all parts of the CJS (Criminal Justice System) are not working satisfactorily. Investigation is not being done in a professional manner on scientific lines. Prosecution is not strong and consistent. There are unduly long delays in completion of trials because of absence of an effective case flow management system and various other reasons including non-cooperation of private lawyers. The result is that the CJS is performing much below par and has nominal deterrence value for the terrorists. Since the terrorism related laws form the framework within which the components of the CJS has to work, it is imperative that a periodical exercise is carried out to evaluate the implementation of such laws on the ground and to assess the extent to which these laws are effective in combating terrorism.

6.3.1 Reforms required in ATA 1997:

The basic law governing the Anti-Terrorism regime in Pakistan is Anti-terrorism Act 1997. Following are the areas requiring reform in this law;

The loose definitions of "terrorism" and "terrorist act" have resulted in considerable ambiguity as well as the application of the Act, in many cases where it should not have been applied. Many cases like murder and attempted murder, which can and should ordinarily be covered by the general criminal law under the Pakistan Penal Code (PPC), have been registered under the ATA, whenever some sensationalism has been attached to the surrounding circumstances. This has been possible due to the loose wording in the Act. However, in many such cases, the real motive appears to be a wish on the part of the complainants or the Police to ensure a higher legal sanction with the possibility of severer punishment which is more probable under the Act. Some new categories of offences, like acid throwing on women and kidnapping for ransom, have been added to the Act because of this desire for a stricter penalty for these offences. An indirect consequence of the liberal application of the Act is that real acts of terrorism, (which really should be covered under the Act) receive less stringent treatment than required for such heinous acts. A better approach would be to exclude from the ambit of the Act

those offences which are already adequately covered by the PPC – such as murder and attempted murder – and to introduce special legislation for distinct offences like acid throwing on women with provision for higher punishments and stricter procedural safeguards. This would result in better prosecution under the ATA for, what can be termed as, purely terrorism cases, thus enhancing the deterrent effect of the Act.

This section identifies five areas that are particularly inadequate in terms of the legislative framework required to deal with the evolving trends in and nature of terrorist threats.

6.3.2 Defining new offences:

There is a need to revise the Act to cater for new types of crimes that have emerged in the last five years. Following are the issues that need special emphasis in this respect. New types of crimes that need to be included in and comprehensively defined by the Act include suicide attack, conspiracy or planning for a suicide attack, suicide bombing, armed insurgency, and planning to cause widespread disaffection against the State. In addition, the definitions of “terrorism” and “terrorist act” also need to be improved so that any attack attempting to or resulting in large scale destruction or widespread damage falls within their ambit. Further, a special section on 'weapons of mass destruction' needs to be introduced along the lines of U.S. law which defines such attacks in a separate category to reinforce both their different nature and the gravity of their consequences.¹¹

The Act does not provide for a special category of federal offences unlike the laws in the U.S. which have such categories of offences.¹² Crossing provincial boundaries for an act of terrorism, transportation of explosives,¹³ and planning acts of terrorism across provincial boundaries through use of explosives are examples of the kinds of terrorist acts that should be placed under the umbrella of a new category of federal offences in the Act. These offences should not be limited to investigation by the provincial Police forces since it is not possible for a Province to take cognizance of the entire chain of events which is inter-provincial.

There is a need to create a strict liability offence for possession of a minimum quantity of explosives and for harbouring people with such explosives. Anyone found to be in illegal possession of explosives beyond a certain quantity should be subject to minimum and maximum penalties prescribed by law. Although the Act already provides a presumption of proof against the accused for possession of explosive substances, it should include a distinct offence of possession of such materials *per se*. A relevant example is the strict

liability crime of possession of narcotics under the Control of Narcotic Substances Act of 1997 (“CNSA”).¹⁴ The CNSA enhances the penalties in tandem with the increasing quantity of narcotics in possession of an accused. This scheme should be followed in terms of provision of enhanced punishments in proportion to the increase in the quantity of explosives possessed. The U.S. Federal Sentencing Guidelines also take a similar approach in enhancing the level of punishment in a manner commensurate with an increase in the quantity of explosives possessed by the suspected terrorist.¹⁵ For example, if the possession of a kilo of high explosive entails a punishment of imprisonment of up to five years, possession of more than ten kilos may entail death or life imprisonment. In fact, one can reasonably argue that possession of explosives is a much more heinous offence than possession of narcotics due to a much higher potential for causing damage to the society. Keeping in view our recent history, this offence should entail a much higher degree of societal opprobrium in the form of stricter punishments.

A special category of offences for attacks on security installations, armed forces, and law enforcement agencies and their facilities should be created. Any symbol of national importance should be included in this category. Attacks on the Sri Lankan cricket team, GHQ, Tehran Naval Base, Police Academies in Manawa and Sargodha, and Federal Investigation Agency (“FIA”) buildings underscore the importance of having such a separate category. The U.S. law includes such special categories like attack, kidnapping or assassination of the President, the Vice President or any member of the staff of the President or the Vice President.¹⁶

There is no provision in the Act to cater for attacks on highly sensitive installations or infrastructure.¹⁷ There is a need to create a special category of offences covering attempts to take over or damage an installation or building related to national security like nuclear installations and installations related to critical national infrastructure like dams, transmission wires, pipelines, etc.¹⁸ The spectre of attacks using chemical, biological or unconventional weapons has haunted several countries in the world in the recent past.¹⁹ A separate provision needs to be made for such attacks.

Recoveries of explosives and weapons are covered under the Explosives Act 1884, the Explosive Substances Act 1908²⁰ and the Pakistan Arms Ordinance 1965,²¹ respectively, and are not offences under the Act. This practically means that possession of arms, even if they are high calibre or automatic weapons, is only punished with small terms of imprisonment or modest fines. Historically, the Courts have been very reluctant in awarding punishments under the Arms Ordinance and this tradition carries over even into cases that are registered under the Act. Therefore, possession of arms in relation to

terrorist acts does not result in as heavy a penalty as it deserves. Similarly, the Explosive Substances Act is an antiquated law that does not adequately provide for new types of explosives and modes of preparation. There is a need to define in the Act the new offences of possession of weapons and explosives connected with terrorism, thus bringing the provisions in the old legislation with required modifications into the fold of the Act.

6.3.3 Enhancing penalties:

There are several offences, which are not adequately treated or do not entail sufficient penalties in the Act. There are some types of explosives the possession of which should entail exemplary punishments like the death penalty. These include suicide vest, anti-personnel mines, RPGs, rockets, anti-aircraft guns, etc. Such enhancement of penalties would ensure a measure of deterrence that is much needed in the circumstances. Possession of higher amounts of explosives and weapons should entail higher penalties. In addition, there is a need to convert offences of possession of explosives and weapons to strict liability crimes under the Act, provided there is a sufficient nexus with a terrorist plan or attack. Attacks on persons and places having national symbolic significance, defence-related facilities, and nationally important installations or infrastructure including nuclear facilities, should entail special penalties with a minimum punishment of life imprisonment and a maximum punishment of death. Such special penalties can also be extended to the unauthorized possession of nuclear, chemical or biological weapons. Penalties for all newly defined offences should be stricter, with clearly delineated legislative guidelines for minimum punishments in order to ensure deterrence. The Act should make provision for compulsory confiscation of all properties in favour of the State of persons convicted of terrorist attacks, with further enhanced penalties for repeat offenders of heinous offences under the Act.

6.3.4 Assistance, aid and abetment in terrorism:

Terrorist acts, in their modern form, require the active collaboration and assistance of several perpetrators for achieving their goals. Similarly, in the absence of an enabling environment in terms of people and resources, terrorist acts have a slim chance of success. However, the Act fails to sufficiently take into account these attending circumstances of recruiting and radicalizing people, collecting financial resources and acting in aid and abetment of a particular act of terrorism.

Penalties attached to offences dealing with facilitating terrorism should be much higher. Acts like training suicide bombers, imparting training in preparation of explosives, weapons training, and harbouring terrorists, are some examples of offences in this

category. Similarly, propagation and dissemination of ideas or literature leading to terrorism should also attract more serious penalties.

There is no provision for providing assistance within Pakistan to any international agencies in connection with acts of international terrorism with links in Pakistan. A provision needs to be made with a prescribed mechanism for such assistance. The area of terrorism financing has received a lot of attention worldwide but has largely been neglected in Pakistan. The sources of terrorism financing need to be identified and appropriate provisions need to be made for each source. One of the most obvious sources is donations by individuals or organizations. In several countries' laws,²² such financing, even if done recklessly, is an offence under the law and entails serious penalties. Money Laundering and proceeds of crimes have to be expressly dealt with by the Act.

6.3.5 Powers of law enforcement and investigative agencies:

Law enforcement agencies and Courts are hampered in effective investigations and adjudication of cases due to a lack of legal powers which are necessitated by the very nature of terrorism in recent days and changes in technology. There is a need to provide powers to the Police and other investigating agencies like FIA or Counter Terrorism Department ("CTD") for the monitoring and surveillance of persons, financial transactions and money flows in connection with terrorism. Compulsory reporting and sharing with law enforcement agencies of all relevant information needs to be made an obligation for all financial institutions. The Police or any other investigating agency acting under the Act should be able to request and obtain information about a person's travel, residence, telephone calls, financial transactions or any other relevant information from any source about any named person. Even though in theory the law has given some powers in this respect to the Police, in practice these powers are limited and require several authorizations, thus considerably delaying the process of investigation. Clear powers need to be conferred on the investigation agencies for expedited investigation.

There is a need for an effective victim and witness protection program under the Act, instead of leaving it to the Provinces, as being done now. The Police and the Courts should be empowered to 'take all necessary steps' to ensure that the victims, witnesses, judges, investigation officers and prosecutors are effectively protected in trials of terrorism. These steps could involve image and voice distortion, closed sessions, hidden identity of witnesses and any other measures considered necessary and expedient in the interest of justice and the protection of witnesses.

The Special Courts under the Act should have the power to conduct trials incognito, in appropriate circumstances, in order to protect the identity of the judges, investigating officers and witnesses. This means that where circumstances warrant, the government should be able to authorize a trial which does not involve the judge, witnesses, investigation officers and prosecutors being visible to the accused and is conducted either through one-way video conferencing or one-way glass partition. This is especially relevant in cases where a jail trial is thought expedient.

6.3.6 Procedural issues:

Procedural bottlenecks effectively kill any chances of successful prosecution and conviction in terrorism cases. The provisions contained in the law of evidence and Court rules are antiquated and do not cater for a new reality in the present day. There is a need to amend the law of evidence as well as the Act to make the testimony of Police officers admissible in evidence. This is the case in many countries around the world and is especially important in the context of terrorism cases where witnesses are not forthcoming due to fear and where oral testimony is given a lot of importance. However, necessary amendments are needed in the law of evidence, specifically in the Qanoon-e-Shahadat Order, to take care of the substantive law in addition to the amendments in the Act itself. Further, there is a need to amend the law in order to make circumstantial evidence admissible in terrorism cases. Safeguards need to be built into the Act to ensure that it is not misused. A much more precise definition of “terrorist act” and circumstances where it can be applied need to be provided in the Act to preclude the possibility of abuse. Our traditional criminal law gives a lot of importance to physical presence of the perpetrators at the scene of the crime. The nature of terrorism and more particularly of suicide bombing is such that the presence of all perpetrators on the scene of the crime would be a virtual impossibility. An additional complicating factor is the fact that the main perpetrator, i.e. the suicide bomber, would have died in the act. The person planning the act of terrorism may be in a remote location. It stands to reason that such a person should be the main accused in a case like this. In these circumstances there is a need to come up with a mechanism to do away with the requirement of physical presence at the scene of the crime. There is also a need to move away from the approach of connecting the persons present at the scene of crime to the persons planning the act of terrorism. In such circumstances, the standard of proof required in the Qanoon-e-Shahadat Order should be relaxed and circumstantial evidence should be made admissible. This is important especially if perpetrators sitting in remote locations are to be brought into the net of the law.

6.4 OTHER LAWS RELEVANT TO TERRORISM

A number of laws, besides the ATA, have been enacted by the legislature to deal with different dimensions of terrorism in Pakistan. The Investigation for Fair Trial Act 2013 was enacted in January 2013 to provide for collection of evidence from modern devices including the collection of cell phone data and email communications. The statute's primary intent was to ensure that such forms of communication would be admissible as evidence in the Courts of law since they were not previously admissible in Courts. This was due to the evidence law contained in The Qanun-e-Shahadat Order which was promulgated in 1984 (substantially based on the earlier Evidence Act of 1872) and only treated as admissible documents that were at that time considered to be legal documents, for example written communication. This did not include email communication or any type of electronic communications.²³ Since the law of evidence was not amended after the advent of electronic communications, there was a void in terms of admissibility of evidence in the law that has now been filled through the latest statute.

The Investigation for Fair Trial Act 2013, seeks to empower investigation of cases involving such means and to regulate the investigation and intelligence agencies conducting such investigations. The law, for the first time in Pakistani history, empowers intelligence and law enforcement agencies to conduct surveillance and interception of electronic and cellular phone communication for the purposes of any investigation into an offense. The scope of the reasons for starting an investigation is broad and a reasonable suspicion of involvement in any activity that could lead to a criminal offense is sufficient for an application for a warrant under this law. Even though the grounds for obtaining a warrant are broad, the procedure for obtaining a warrant and conducting an operation under this law is quite cumbersome. The application for a warrant is to be submitted by a senior officer of an intelligence or law enforcement agency. This application has to be approved first by the federal Interior Minister and then by an Hon'ble Judge of the concerned High Court before the surveillance and interception can occur. The warrant is only issued for a limited period of sixty days, which can be extended on application again through the same process. If it is established that there has been an offense under the ATA or four other laws given in the schedule of the Investigation for Fair Trial Act on the basis of such surveillance and interception, a criminal case shall be registered. The material collected under The Investigation for Fair Trial Act 2013 can then be used as evidence in the trial of such a case.

The procedure provided in this law is so cumbersome and impractical that it has practically made the law irrelevant for law enforcement/investigating agencies like

Police and CTD. This is the reason that this law has never been used in practice in Pakistan.

There are some other laws, which though important, have rarely been used by the Police. These include Witness Protection Acts of Sindh, Baluchistan and Punjab or Rehabilitation of Victims of Terrorism Act in Baluchistan, a number of laws regulating the renting of houses etc. A careful analysis of the reasons for inadequate implementation of such laws should be carried out and addressed. Lack of knowledge of all such laws is one major reason for the Police not using these. Most Police Investigating Officers are of the view, that all these laws be clubbed into the ATA. This is likely to lead to greater clarity, ease of use, and more effective application of the law. Also, many laws or their provisions having a bearing on terrorism like Anti Money Laundering Act, Pakistan Electronic Crimes Act, etc. shall become part of one document. This is likely to be, not only, immensely convenient for the IOs as well as the prosecutors and the Courts but also facilitate in meeting the ends of justice.

Similarly, the premier strategic level national body for counter terrorism and counter violent extremism is NACTA, established under NACTA Act 2013. Some of the important provisions of the NACTA Act, are not being implemented. The law clearly lays down that the organization shall be responsible to the Prime Minister, yet the Interior Ministry refuses to let go of it. As per the law, an essential starting point of NACTA has to be a meeting of the Board of Governors, headed by the PM. The Board of Governors (BoG), inter alia, has to approve its budget, issue guidelines to it, approve SOPs etc. but that is not being done. Its main functions include, preparing terrorist threat assessments for the government by collating intelligence from all agencies, develop CT strategies and monitor its implementation, carry out research in terrorism related areas, evaluation of terrorism related laws etc. Due to lack of, even a single meeting of BoG in 5 years, an important body like NACTA, is working much below par and not able to give any strategic direction or unity to the national counter terrorism effort. NACTA can play an important role by serving as the national focal point on enhancing effectiveness of the CJS in dealing with ATA cases.

In the light of the foregoing discussion, it can be asseverated that the need to have a system for a regular review of the laws related to terrorism cannot be postponed any longer. In order to institutionalize regular evaluation of the terrorism related laws, it is necessary to have a senior, credible reviewer, whether a judge of the Supreme Court or a private lawyer, with the exclusive task to examine the laws. UK has set up an institution for this task, called, Independent Reviewer of Terrorism Legislation. The model can be

studied.

6.5 ROAD MAP TO ENHANCE THE EFFECTIVENESS OF CJS DEALING WITH ATA CASES

The road map for enhancing the effectiveness of the CJS vis-a-vis cases of ATA should be broken up into two parts. One, a short term quick start capacity building plan can be implemented, to ensure reasonable improvement of the CJS within 6 months i.e. by the time the military Courts, dealing with cases of terrorism, expire in Jan 2019. Two, a long term action plan to be developed by the Law and Justice Commission, on the basis of comprehensive diagnostic research of weak areas of CJS, in consultation with all the stake holders.

The essential starting point for the short-term plan, in terms of Police, has to be the selection, training and equipping of IOs in the provincial CTDs. The officers to be posted in the CTDs as Investigating Officers should be specially selected out of the existing lot through an evaluation system based on established criteria focusing on general investigation skills, education and knowledge of law. After selection, they may be imparted rigorous training to investigate offences under ATA 1997 and study other terrorism related laws. The training program can be designed to enhance their capability to deal with terrorism cases like preservation of crime scene of a terrorist attack, collection of evidence, interviewing of witnesses and suspects, linking of the terrorist network with the crime, terrorist financing etc. of crucial importance. A portion of training will be joint with the prosecutors focusing on how to work jointly after registration of the FIR. The Police departments and the prosecution shall need to develop their own SOPs as well as sign protocols with each other to reduce in black and white, the roles each have to play in case of a terrorist attack. These IOs shall not be transferrable from the CTD assignment before three years. Enough funds will have to be provided to pay for cost of investigation and all the equipment required for investigation shall have to be procured for them. As far as the time frame is concerned, it is proposed that we take 2 months to make a comprehensive plan, in consultation with the provincial CTDs, for the entire process. Another one month is needed for the selection of IOs in CTD, followed by a 3 months specialized training for investigation cases of terrorism. Thus, this group of specially selected, highly skilled IOs can start working in all the provincial CTDs within a period of 6 months, considerably improving the quality of investigation of ATA cases, resulting in a higher conviction rates in such cases.

The second tier of short-term capacity building program is enhancing capacity of the CJS is to have dedicated prosecutors for successful prosecution. While the respective prosecution departments may be the best judge, how to go about it, it is felt that instead

of attaching prosecutors with each Court, it might be appropriate to allocate their workload on the basis of ATA cases for each of them. At present, only one prosecutor is assigned entire workload in the ATC (Anti-Terrorism Court). Attaching prosecutors with the cases registered would ensure that they are attached with the IOs of the cases right from registration of the FIR. The prosecutor can then guide the IO in preparation of the case file. Hence, joint training of the prosecutors and IOs is considered very useful. Lack of space to meet is a serious problem, which limits the contact between the IO and the prosecutor. One possible option is that after Court hours, they can meet in specified buildings to be provided by the respective CTDs. This would facilitate preparation for next day's proceedings including holding of mock trials to prepare witnesses to give evidence in the Court. One possible option is that new prosecutors can be recruited within 02 months from amongst practicing lawyers. They can be imparted specialized training for prosecuting terrorism cases as well as joint training with the IOs in the next 03 months. Hence, enough prosecutors can be made available to the ATC Courts in next 6 months.

As far as the ATCs are concerned, it is generally acknowledged that certainty of punishment is the most potent deterrent to future crimes. This can be ensured only when there is certainty of trial. Hence, the case flow management in the ATC is essential for holding trial of offenders. Any case may be fixed in Court after any amount of time on its turn but once it comes up for trial, it must be completed within few weeks running on day to day basis. Only by doing this, presence of witnesses can be ensured. For this short duration of trial, all necessary steps can be taken for protection of stakeholders in the trial. In ATCs, the caseload is reasonable and case management system can be enforced as a pilot project. Trials pending indefinitely in the Court discourage witnesses to come forward on multiple hearings and benefit goes to the accused party. Nothing can be achieved in prosecution if certainty of trial is not ensured. This is one of the most difficult tasks these days. Private lawyers are likely to resist it as they are, supposedly, major beneficiaries of the delays in the trial. Courts are already under pressure from the private lawyers and bar councils. Lower judiciary has lost the battle of case management vis-à-vis bar councils. Hence, superior judiciary will have to support the lower judiciary in this regard. Roadmap of this important step depends upon will power of the superior judiciary in freeing lower Courts from clutches of private lawyers. Strong resolve of judiciary and assistance from LEAs can do this job within 06 months. Arrangements can also be made for very short Police, prosecution and ATCs joint training by retired judges/prosecutors/Police officers in the respective judicial academies. Last but not the least, capacity issues of ATCs in terms of security and logistics need to be met on priority basis.

Above are the practical measures which can be implemented within 06 months with little amount of funds. But ownership of these reforms must be taken by the Executive and Judiciary. High Court's monitoring committee, headed by the In-charge Judge of ATCs and having members from all stakeholders, is already working. There is a need to quantify its KPIs for all three stakeholders, i.e., Police, Prosecution and Judiciary. For the success of the above roadmap, all steps must be taken simultaneously. These are connected with each other in such a way that any one step in isolation cannot produce results. After full implementation of all the above steps, strict accountability of the three stakeholders may be ensured for failures to achieve KPIs.

6.5.1 Need for a Federal Counter Terrorism Department.

There is a need for a Federal Counter Terrorism Department. The steps mentioned in the foregoing paragraphs are for investigating cases of terrorism confined to a Province. The existing terrorist networks active in Pakistan are not only inter provincial in nature but also have transnational linkages. The existing Counter Terrorism Wing of Federal Investigation Agency does not seem to be capable of investigating the ATA cases having interprovincial or transnational ramifications. There is no dedicated national CT (Counter Terrorism) Agency to fight these national and transnational terrorist organizations. Provincial CTDs are working in silos to fight the menace. The need to set up a national CTD to deal with cases of terrorism having interprovincial linkages, cannot be over emphasized. Moreover, certain aspects of terrorism like terror financing can only be investigated by a national agency, which can deal with the State Bank and other national financial institutions. It should have concurrent jurisdiction with the provincial CTDs but have the mandate to take up cases of national and transnational terrorism. There are many instances of dedicated national investigation agencies for investigating cases of terrorism, like FBI in US, AFP in Australia and so on.

6.6 RECOMMENDATIONS:

- i. Evidence based diagnosis of the areas of weakness in anti-terrorism regime in Pakistan
 - (a) Law and Justice Commission to consolidate available research on terrorism related issues relevant to the CJS. This would not only give a baseline of existing knowledge on the subject but also highlight the shocking state of affairs in the capability of the CJS to deal with the terrorist threat.
 - (b) Research cell of Law and Justice Commission Pakistan to prepare a National Research Plan and orchestrate the national effort in research on

- ATA related topics, in coordination with research cells of the Police, prosecution and the Courts
- ii. Reviewing laws related to terrorism
 - (a) L&JC to examine clubbing together all laws relating to terrorism, as far as possible, in one major Anti-Terrorism Act
 - (b) Amendments to be made in ATA 1997, have been suggested in the report. L&JC to examine these
 - © Measures to be taken to address the reasons for inadequate implementation of certain laws related to terrorism like Investigation for Fair Trial Act, Provincial Witness Protection Acts and Provincial Victim Rehabilitation Acts in different Provinces and other such laws
 - (d) To institutionalize the evaluation of utility or effectiveness of the laws related to terrorism, the L&JC may appoint a senior lawyer or judge to deal exclusively with terrorism legislation. UK has an Independent Reviewer of Terrorism Legislation.
 - (e) NACTA Act be implemented in letter and spirit
 - iii. Road map for enhancing capacity of the CJS
 - (a) For a quick start, a short-term road map for six months ending Jan 2019, has been suggested. It is based on four pillars i.e. selection and training of personnel of all the components of CJS, better coordination between all components, streamlining the work flow system and meeting of their respective logistics demands .
 - (b) A long term road map may be drawn up by the Law and Justice Commission, on the basis of the proposed scientific diagnostic research of the weak areas of CJS, in dealing with ATA cases. This should be done in consultation with the Police, prosecution and the ATCs.
 - (c) Setting up of a Federal Counter Terrorism Department to investigate cases of terrorism having inter-provincial linkages.

6.7 CONCLUSION

There can be no two opinions on the fact, that to sustain the recent success in combating terrorism in Pakistan, enhancing effectiveness of the CJS is absolutely essential. The CJS reform process outlined above, has to be based on three basic factors i.e. the effort should be simultaneous for all the components. It should be multi-dimensional, addressing all areas of concern and finally, it should be institutionalized to ensure a sustained process of reform. The current L&JC initiative to enhance the efficacy of the anti-terrorism regime, can prove to be the turning point in the State's capability to protect the lives and property of its citizens from the threat of terrorism.

ENDNOTES

- 1 Global Terrorism Index 2017. *Institute for Economics and Peace*, p. 26.
- 2 Pakistan Security Report 2018 (2018). *Pakistan Institute for Peace Studies*. P.2
- 3 Jones, G.S & Libicki, C.S (2008). How Terrorist Groups End: Lessons to Counter Al-Qaeda. *RAND Corporation*.
- 4 Prosecution of Terrorism Offences in Khyber-Pakhtunkhwa (2018). *Research Society of International Law*.
- 5 Skill Assessment of the Investigation Officers Counter Terrorism Department Khyber Pakhtunkhwa Police (2018). *United Nations Office on Drugs and Crime (UNODC)*.
- 6 *ibid*
- 7 Hussain, Ijaz (2013). Why do Terrorism Cases Fail in Court? An Empirical Analysis of Acquittal of ATA Cases in Punjab, Unpublished.
- 8 Hameed, Z (2012). Anti-Terrorism Law published in *Stabilizing Police through Police Reforms*. Asia Society.
- 9 *ibid*
- 10 Figures provided by provincial CTDs
- 11 Title 18 US Code Chapter 113B deals with terrorism and contains a detailed treatment of the subject. 'Weapons of mass destruction' have been specifically defined in § 2332a.
- 12 Title 18 US Code Chapter 113B makes use of the power to regulate inter-state commerce provided under §1958(b)(2) of the Code to create a federal crime of using, threatening or planning to use, or transporting weapons of mass destruction across state boundaries. The federal government not only has federal jurisdiction in such matters but has extra territorial jurisdiction for any act of domestic or international terrorism.
- 13 Title 18 US Code, § 844(d) and (n) deal with transportation of explosives inside as well as outside state boundaries in the U.S.
- 14 Act No XXV of 1997 promulgated on July 11, 1997. Section 9 of this Act prescribes differing levels of punishment varying with the quantity of narcotic substance or drug possessed or transported, etc.
- 15 US Sentencing Guidelines § 2 K 1.3(b)(1)(c). Any offence of unlawful receipt, possession, transportation and prohibited transactions of explosives involves an enhancement of punishment in accordance with the increasing weight of the explosives.
- 16 Title 18 US Code Chapter 84 § 1751. The penalty for causing death of any of the persons in the said section is the punishment of death or life imprisonment with fine. The penalties for lesser offences like kidnapping or attempts at kidnapping, etc., are life imprisonment or imprisonment of up to ten years.
- 17 Title 18 US Code § 2332f deals with bombings of places of public use, government buildings, public transportation systems and infrastructure facilities, and prescribes death or imprisonment for life as punishment for such an offence.
- 18 Title 18 US Code Chapter 11B. This entire chapter deals with offences related to chemical weapons and prescribes punishments of death or imprisonment for life for causing death of any person under such offences.
- 19 Title 18 US Code, Chapter 10. Offences relating to the development, production, stockpiling, transfer, acquisition, retention, possession or any attempt thereto, entail a punishment of imprisonment for life with any amount of fine.
- 20 Act VI of 1908 promulgated on June 8, 1908.
- 21 Act XX of 1965 promulgated on June 8, 1965.
- 22 Australian Criminal Code Act 1995 as amended, Division 103 deals with terrorism financing and makes purposeful or reckless financing of terrorist activities an offence punishable with life imprisonment. Title 18 US Code § 2339C prohibits terrorism financing and makes the offence punishable with imprisonment of up to twenty years. Canadian Criminal Code Sections 83.02, 83.03 and 83.04 deal with terrorism financing and make offences like collection or possession of property for use in terrorism, etc., punishable with imprisonment of up to ten years. The 'International Convention for the Suppression of the Financing of Terrorism,' adopted by the General Assembly of the United Nations in resolution 54/109 of 9 December 1999, is also a possible source of guidance for dealing with terrorism financing.
- 23 The evidence law only defines evidence in two forms i.e. oral evidence in front of Court and documentary evidence. The definition of Documentary evidence does not include electronic communications. Therefore the need was felt for bringing in the new law. See sections 2(1)(b) and 2(1)(c) of the Qanun-e-Shahadat Order 1984. See note ix supra. The Evidence Act 1872 can be seen at <http://indiankanoon.org/doc/1953529/>.

Chapter 7

LEGISLATIVE REFORMS

Term of Reference: *Suggest policing-related amendments/reforms in laws like CrPC, Evidence law, Anti-Terrorism Act etc. and recommend changes in accordance with international best practice.*

7.1 INTRODUCTION

Recommending legislative reforms for Police, in particular, and for the criminal justice, at large, is an extraordinary task; it involves expertise besides experience and depending upon the perspective of a stakeholder and the trust reposed by the system in it, the positions taken on the continuum may differ in large measure. Mindful of these constraints, the Committee does not aspire to recommend legislative reforms in legalese; alternatively, it will aim at identify the thematic areas that may be further deliberated upon by the Law and Justice Commission of Pakistan, which has the statutory mandate²⁴ of addressing and proposing legislation. With thematic identification of legal reforms, the experience and feedback of the Police will be presented in more conceptual manner. The detailed legislative proposals can then be drafted by help of professional draftsmen and after taking other stakeholders in confidence and by inviting their input.

The following select thematic areas may interest the Honourable Court in considering the submissions of the Committee:

7.2 THE ROLE OF THE FEDERATION IN ADMINISTERING THE CRIMINAL JUSTICE

The role of the Federation in administering the criminal justice to the citizens of Pakistan finds its legality from the obligation placed on the State to enforce Fundamental Rights of its citizens²⁵. Article 142(b) of the Constitution of Pakistan clearly reserves a role of the Federation in legislating the laws related to criminal law, criminal procedure and evidence; the legislation in these areas has not been fully devolved to the Provinces. The enabling legislation and conforming interpretation by the Courts need to be ensured as a matter of public policy. The architecture of administration of the criminal justice system in the Provinces did reserve powers for the Federation in the form of transfer/posting of the Advocates General of the Provinces and in transfer/posting of the Inspectors General of Police. The role cannot be abdicated in favour of the Provinces as the constitutional scheme does not support such an approach. The corollary of the issue is the role of the Federation in the policing laws. The policing laws, as they stand

today, exclude, if any, the role of the Federation. The propensity is dangerous and may not favour the internal security of the country, which is already slipping away from the hands of the civilian security organizations; notwithstanding the outstanding contributions of the armed forces, constitutionalism vests the civilian security organizations with the task of ensuring the internal security of the country. The role of the federation, therefore, cannot and should not be excluded from the criminal justice administration at the provincial level.

RECOMMENDATION

The Honourable Court may take up the case in review about the constitutionality of the Police laws in Pakistan and decide the constitutionality of the Police laws in the light of article 142 (b) of the Constitution of Pakistan;

And

The Federation be directed to ensure that, in line with the Constitution of Pakistan, the Police laws in the Provinces should be drafted in a manner that the role of the Federation is not excluded in criminal justice administration. Alternatively, a federal Police law applicable to the whole country may be proposed to be legislated in consultation with the Provinces.

7.3 ENABLING THE SPECIALISTS TO DECIDE MATTERS RELATED TO CRIMINAL JUSTICE

The laws related to the criminal justice system were mostly inherited from the colonial times. Unfortunately, except the judiciary, which asserted its independence, the decision-making fora related to the components of the criminal justice system are occupied by the non-specialists who tend to enjoy authority without taking the responsibility of the matters decided by them. The legal device used by the non-specialists is a 'superintendence' legal provision available in Police, prisons and parole laws. The 'superintendence' provision is then read with the provincial rules of business and the spirit of the laws is undermined by denying the specialists of different fields in the Police, prisons and parole to take their professional decisions; resultantly, a dysfunctional system is in place that has little or no regard for 'reform' and is not willing to move with the pace of social change taking place all over the world. It may be noted that the device is colonial in its nature and purport and needs to be struck down on the ground of enforcing the Fundamental Rights of the citizens.

RECOMMENDATIONThe 'superintendence' clauses in the provincial Police laws may be struck down on the ground that these are inconsistent with the Fundamental Rights of the people of Pakistan. The action can be taken through invoking article 184(3) of the Constitution;

OR

By directing the Law and Justice Commission of Pakistan to examine all the laws related to the criminal justice administration and to recommend to the legislature to repeal the outdated legal provisions.

7.4 SPECIFIC BUDGET ALLOCATION FOR JUSTICE RELATED LEGISLATION

Most often than not, Pakistan is treated as a country with excessive legislation; this might be true. A plain reading of the lists of legislations introduced in the last five years will evince that plethora of legislation has been passed by the federal and provincial legislatures. Unfortunately, the law making and the budget making in the country are not linked as required under the Constitution. For example, the law related to witness protection was passed in all the four Provinces and the responsibility to implement the laws was placed on provincial Police organizations. However, the budgetary allocations were not provided to attend to the legislative requirements resulting in eroding of the trust of the public at large at the capacity of the Police organizations besides increasing the gap between the legislative expectation and on ground implementation. Another illustration of this point is that section 14 of the Punjab Women Protection Authority Act, 2017 provides that an Additional IGP, Women Protection shall be appointed to oversee the work of the Women Protection Centres in the Punjab; no administrative action was taken in this direction as there was no budgetary allocation to implement the same. Such pieces of legislation are in abundance. Juvenile Justice System Ordinance, 2000 (and now the Juvenile Justice System Act, 2018) are other examples of such legislation.

RECOMMENDATION

The Law and Justice Commission of Pakistan may kindly be tasked with study the law making and budget making of the last five years and identify the legislation that has not been backed by budgetary allocation. Based on the study, the Federal and Provincial Governments can be directed to incrementally address the gap to ensure that the spirit of the rule of law is not eroded.

7.5 UPDATING POLICE RULES, 1934

Chapters 25 and 26 of the Punjab Police Rules, 1934 (adopted by all the four Provinces) deal with investigation and arrest respectively. The chapters are outdated and do not envision an independent prosecution. The chapters must be updated and re-written by addressing the latest trends in the investigation and by filling in the gap between the practice and the legislation. The delegated legislation relating to investigation and arrest will help standardize the Police working and will improve the quality of the investigation.

Additional chapters dealing with forensics and evidence handling (collection, preservation, securing, storing and exhibiting) are also required to be added. The model delegated legislations on the subject can be utilized.

RECOMMENDATION

The LJCP has the legal mandate to do this. The Committee proposes that with the representation of all Police organizations and in consultation with prosecution departments, the delegated legislation relating the investigation, arrest, forensics and evidence be updated and necessary additions may be introduced.

7.6 LAW RELATING CHANGE OF INVESTIGATION

The law relating to change of investigation was introduced through the Police Order, 2002.²⁶ With the new provincial Police laws, the law relating the change of investigation has largely been repealed. Whereas the original place for the law relating the change of investigation should have been the CrPC, 1898 (that deals with the definition of 'investigation' and with the incidental matters), the law relating to the change of investigation must be provided to ensure fair investigation. There should be maximum three investigations of a case. Absent the law relating to the change of investigation, the abuse of the criminal justice system increases, which brings bad name to the Police and the provides unbridled discretion to Police. The primary and delegated legislation about the change of investigation must be provided to curtail discretion of Police officers.

RECOMMENDATION

The Committee proposes that the LJCP may kindly be directed to prepare legislative proposals about the law relating to the change of investigation. The Police officers and the prosecutors must be consulted at the time of drafting the law.

7.7 AMENDMENTS IN QANOON-E-SHAHDAT ORDER, 1984

It is often said that Pakistan's criminal justice system relies on the testimonial evidence; the observation, it may be noted, is correct. The law of evidence, in its, article 70 provides that all the facts, except contents of the documents, may be proved by oral evidence. The principle legislated in article 70 of the law of evidence has influenced most of the case law relating to evidence in Pakistan. The article need immediate reform and the law of evidence has to address the electronic and forensic evidence in much more detail. Besides, the law of evidence has to address issues related to multiple cross-jurisdictional proceedings. For example, the evidence exhibited before a Court of competent jurisdiction should be readable before another Court without repeating the whole process.

RECOMMENDATION

The law of evidence must be thoroughly examined by the LJCP in consultation with the Police and prosecution departments. The representatives of the Punjab Forensic Science Agency and the Punjab Safe City Authority must also be included for consultation to the extent of forensic and electronic evidence respectively.

7.8 LAW RELATING POLICE REPORTS UNDER SECTION 173 CR.PC

Section 173 CrPC deals with Police reports after completion of investigation. The law is outdated and needs immediate improvement. It has the following reform aspects:

- i. Different types of reports under section 173 CrPC get categorized differently. For example, the Punjab Police use the terms 'Challan', 'Saqit', 'Adam Pata' and 'Ikhraj' for such reports; on the other hand, Sindh Police use A, B and C categories to address different types of section 173 reports. The variance has to be standardized for certainty of law and in order to check discretion of Police, prosecutors and Courts;
- ii. The statutory time for submission of report under section 173 CrPC is same for a petty offence and for the most heinous; the timelines must be rationalized to ensure that the quality of investigation is not compromised;
- iii. Timelines must be devised for reports by forensic science agency, serologists, handwriting experts and cyber forensic experts. Besides, the categories of section 510 CrPC experts must also be increased to include the latest array of experts dealing with evidence;
- iv. The procedure and guidelines for dealing with each type of report be also provided to Police, prosecution and Courts to minimize their discretion and to increase certainty and predictability of law;
- v. In case of Joint Investigation Team under section 19 of the Anti-Terrorism Act, all the members be bound to sign the JIT report. The procedure and form for the JIT report must be provided through delegated legislation;
- vi. The requirement of the law that all the reports under section 173 CrPC be signed by the officer in charge of a Police station must be reconsidered, and in the places where dedicated officers in charge of investigation are posted, the requirement be accordingly amended;

In addition to the above thematic areas concerning the major legislation of CJS there is also a need to closely examine all the laws that empower Police for enforcement of its provisions. These laws are generally enacted without consulting the Police departments but they entail additional work for Police. It is important to also address this aspect of legislation in addition to the major criminal laws. Mostly these laws are legislated to deal

with societal needs for regulation of new facets of the ever changing social structures and urbanization. It is recommended to devise an institutional arrangement to amend these laws by creating a cell for this purpose in the L & JC. The members of the Police Reforms Committee have offered their services to work voluntarily with the commission for any such exercise. This will not only address the existing needs but will also ensure timely intervention for a changing world that requires the legislations to be updated continuously to meet the emerging challenges of technology in a modern world.

ENDNOTES

24 Section 4 of the Law and Justice Commission of Pakistan Ordinance, 2002.

25 Articles 7 and 8 of the Constitution of Pakistan, 1973.

26 Article 18 of the Police Order, 2002.

SUMMARY OF RECOMMENDATIONS

ACCOUNTABILITY AND OPERATIONAL MATTERS

1. Police Accountability

The Internal Accountability Branches be established at CPO level, headed by Additional IGP in the Provinces and DIG in Islamabad Capital Territory;

- 1) Head of Internal Accountability Branches may act as Police Ombudsmen in the concerned Central Police Offices;
- 2) After Internal Accountability Branches at CPO and Regional levels are established all over the Provinces and ICT, they should be extended to all the districts subject to availability of financial and administrative resources;
- 3) The Provincial Complaint Authorities (PCAs) to be notified by the Federal and concerned Provincial Government, at the earliest;
- 4) The Provincial Justice Committees (PJC) to be made functional with clear composition and mandate to act as potent external accountability mechanism.

2. Improving Quality of Investigations

- 1) Investigation Branch shall be organized according to the organization charts given in the report;
- 2) The PRC recommends that investigation side needs major up-gradation to win public confidence. In this regard the PRC recommends organizational revamping and giving investigation its due place within the Police working;
- 3) The PRC recommends functional specialization with an operationally distinct cadre. It also recommends introduction of the concept of investigation teams, appointment of best Police officers as investigators and establishment of state of the art training institutes with international certification and accreditation. The investigators will lose their individual certification for persistent poor performance and their failure to undergo at least 25-30 hours of continuous professional development courses / trainings on yearly basis;
- 4) The PRC is particularly concerned about abysmally inadequate allocation to meet the cost of investigation which leads to avoidable extortion from public. It is, therefore, recommended that adequate resources be allocated to meet the cost of investigation;
- 5) Investigation shall be carried out by specific teams;

- 6) Forensic teams shall assist investigation teams;
- 7) Officers dealing with investigation shall require training for skill enhancement and certification;
- 8) To safeguard against abuse of powers a due diligence process would be compulsory in accordance with PR26-1 & 26-2 before making arrest;

3. Revamping Urban Policing

- 1) The PRC recommends revisiting the fundamentals of policing model in the light of Police Order, 2002 as well as international best practices in urban policing to address the challenges in an urban setting. One million is an optimal population size for a city to benefit from an urban policing design. Ten cities in Pakistan viz. Karachi, Lahore, Faisalabad, Rawalpindi, Gujranwala, Peshawar, Multan, Hyderabad, Islamabad and Quetta qualify under this criterion.
- 2) In order to restructure policing on functional basis, Police command in the urban districts is recommended to be organized in eight wings viz. Administration, Traffic, Operations, Law & Order, Investigation, Security, Community Relations, and Communications & Technology, each headed by a DIG.

4. Alternate Dispute Resolution (ADR)

It goes without saying that only the higher judiciary in Pakistan has the potential and authority to direct and motivate the lower courts and other state institutions to realize the full potential of the ADR. In order to achieve this following recommendations are made:

- 1) A country wide training program (preferably of 3 years) should aim to train the district judiciary, the police and ADR neutrals etc.
- 2) The Alternate Dispute Resolution Act, 2017, a federal law on the subject may either be extended to the whole of Pakistan or provinces should replicate it.
- 3) The law on DRCs be refined and implemented in KPK and Baluchistan as the concept of Jirga has wide acceptance in the two province.
- 4) Establishment of ADR training centers preferably in the judicial academies under the direct supervision of the Supreme Court and the provincial High Courts.
- 5) Identify and establish “conduct standards” for the personnel conducting ADR and mechanisms for quality assurance.

- 6) Mediation Centers and Institutes of Arbitrators and Mediators need to be established in all provinces.
- 7) The federal and provincial governments should allocate budget and create infrastructure to utilize the arbitration and reconciliation forums in a three year phased program. The budgetary allocation may also include the recurring/operational expenditure.
- 8) The district judiciary should ensure that all judges refer minor offences and disputes to the relevant courts that already exist under the law for the arbitration and reconciliation.
- 9) The superior judiciary should develop strong monitoring mechanisms to ensure that all federal, provincial and judicial authorities discharge their roles and duties as laid down in the existing ADR laws.
- 10) The respective provincial governments and the federal government shall develop rules, SOPs and strong monitoring mechanisms to govern functioning of the ADR, as they would be dealing with the rights and liberties of the citizens. Any step of the procedure not legally covered is likely to create problems in the courts of law.

5. Enhancing Effectiveness of the CJS in Dealing with ATA Cases

- 1) The PRC recommends that the capacity of CJS needs to be substantially enhanced to improve its potential to adequately counter the challenge of terrorism;
- 2) The PRC also recommends to address the issue of multiple laws as the anti-terrorism laws effectiveness;
- 3) The National Counter Terrorism Authority Act, 2014, be implemented in letter and spirit;

LEGISLATIVE REFORMS

- 1) The PRC recommends that the rule of law can best be protected through constitutionalism, which confers legislative role of the federation in Police and policing laws. Hence, it recommends continuity of a uniform federal Police law;
- 2) The PRC looked at the legislative architecture of the laws dealing with criminal justice system. It transpired that the legislative architecture is captured by non-specialists who use superintendence clauses in laws and by doing so the authority is enjoyed by the non-specialists and the responsibility is borne by specialists. The PRC recommends doing away with such legislative architecture, which is colonial in its provenance;
- 3) The PRC appraised latest legislation on women, juveniles and witness protection. To its dismay, it discovered that constitutional relationship between the law

making and budget making is missing. Excessive legislation was introduced without allocating resources for implementation. Resultantly, there are more new laws with no resources, hence eroding the trust of citizens on the fundamental rights and the constitutional dispensation. The PRC recommends linking of law making and budget making especially in the domain of criminal justice;

- 4) The PRC noted that earlier efforts of updating the Punjab Police Rules, 1934 (that have been adopted by all the Police organizations and that deal with many supplementary and allied issues like custody of evidence, arrest, file making etc.) have not been accorded approval by the relevant authorities. The exercise, the PRC, recommends is exhaustive and needs statutory platform for its timely approval. The updated Police rules will provide legal basis for departmental/internal accountability;
- 5) The PRC noted that with the provincial Police legislations, the law of change of investigations as regulated by the Police Order, 2002 was not preserved. The unregulated change of investigation powers in criminal cases are discretionary and often used in arbitrary manner. The PRC recommends that the law be provided to check the discretion;
- 6) The PRC recommends that Article 70 of the Qanoon-e-Shahadat Order, 1984 that provides the legal basis of the testimonial evidence in trials must be amended to upgrade the weightage of scientific evidence;
- 7) With respect to report under Section 173 CrPC, 1898, the PRC recommends:
 - (a) Streamlining types of final report under Section 173 of the CrPC, 1898;
 - (b) Review of timelines for submission of final report, which are same for petty and heinous offences;
 - (c) Timelines for forensic reports must be statutorily provided to ensure timely completion of trials;
 - (d) The relationship between Police and prosecution be statutorily determined in so far as timelines are concerned to ensure timely submission of challans/final reports and to ensure that the responsibility of submission of challan is shared between the Police and the prosecution;
 - (e) The procedure for submission of JIT (constituted under Section 19 of the Anti-Terrorism Act, 1997) report under Section 173 should be statutorily provided;
 - (f) The officer in charge of an investigation, instead of in charge of a Police station, should be statutorily covered for submission of report to expedite and regularize the process.

APPENDICES

APPENDIX-I

THE POLICE ORDER 2002**(C.E. Order No.22 of 2002)***[14 August 2002]**An Order to reconstruct and regulate the police;*

WHEREAS the police has an obligation and duty to function according to the Constitution, law, and democratic aspirations of the people;

AND WHEREAS such functioning of the police requires it to be professional, service-oriented, and accountable to the people;

AND WHEREAS it is expedient to redefine the police role, its duties and responsibilities;

AND WHEREAS it is necessary to reconstruct the police for efficient prevention and detection of crime, and maintenance of public order;

AND WHEREAS the Chief Executive is satisfied that circumstances exist which render it necessary to take immediate action;

NOW, THEREFORE, in pursuance of the Proclamation of Emergency of the fourteenth day of October, 1999, and the Provisional Constitution Order No.1 of 1999, and in exercise of all powers enabling him in that behalf, the Chief Executive of the Islamic Republic of Pakistan is pleased to make and promulgate the following Order:-

CHAPTER I**PRELIMINARY**

- 1. Short title, extent and commencement.**— (1) This Order may be called the Police Order, 2002.
 - (2) It extends to the whole of Pakistan.
 - (3) It shall come into force at once.
- 2. Definitions.**— (1) In this Order, unless the context otherwise requires,—
 - (i) 'Administration' includes management of administrative, operational and financial functions;
 - (ii) 'Capital City Police Officer' means the head of police of a general police area of the capital city district who is not below the rank of Additional Inspector General of Police and is posted under Article 11;
 - (iii) 'City Police Officer' means the head of police of a general police area of the city district who is not below the rank of Deputy Inspector General of Police and is posted under Article 15;
 - (iv) 'Code' means the Code of Criminal Procedure, 1898 (Act V of 1898);
 - (v) 'Commission' means a Public Safety Commission established under this Order at

- the national, provincial, or district level;
- (vi) 'District' means the district as defined in a Local Government Law;
 - (vii) 'District Police Officer' means the head of police of a district who is not below the rank of Senior Superintendent of Police and is posted under Article 15;
 - (viii) 'Federal Law Enforcement Agencies' include Federal Investigation Agency, Pakistan Railway Police, Anti-narcotics Force, Pakistan Motorway and Highway Police, Islamabad Police, Frontier Constabulary, and any other Federal or Provincial organization notified as such by the Government from time to time;
 - (ix) 'General Police Area' means a capital city district, a part of a province, or any territory for which separate police is established under Article 6;
 - (x) 'Government' means the appropriate Government;
 - (xi) 'Head of District Police' means a District Police Officer, City Police Officer or a Capital City Police Officer;
 - (xii) 'junior ranks' means members of the police of and below the rank of Inspector as set out in the First Schedule;
 - (xiii) 'person' includes community, a company, or corporation;
 - (xiv) 'Place' includes—
 - (a) any building, tent, booth or other structure, whether permanent or temporary; and
 - (b) any area, whether enclosed or open;
 - (xv) 'place of public amusement' means any place where music, singing, dancing or game or any other amusement, diversion, or recreation or the means of carrying on the same is provided etc. to which the public are admitted either on payment of money or with the intention that money may be collected from those admitted;
 - (xvi) 'place of public entertainment' means any place of boarding and lodging to which public are admitted by any person owning, or having any interest in, or managing, such place;
 - (xvii) 'Provincial Police Officer' means head of the police of a general police area of the rank of Inspector General of Police posted under Article 11;
 - (xviii) 'Police Officer' means a member of the police who is subject to this Order;
 - (xix) 'Police or Police Establishment' means the police referred to in Article 6 and includes—
 - (a) all persons appointed as special police officers or additional police officers under this Order; and
 - (b) all other employees of the police;
 - (xx) 'prescribed' means prescribed by rules made under this Order;
 - (xxi) 'property' means any moveable property, money or valuable security;
 - (xxii) 'public place' means any place to which the public may have access;
 - (xxiii) 'rules' means rules made under this Order;

- (xxiv) 'schedule' means a schedule to this Order;
- (xxv) 'senior ranks' means members of the police above the rank of Inspector as set out in the First Schedule;
- (xxvi) 'street' includes any highway, bridge, way, causeway, arch, road, lane, footway, square, alley or passage, whether or not it is a thoroughfare and to which the public have access, whether permanently or temporarily; and
- (xxvii) 'vehicle' includes any conveyance of any description mechanically propelled or otherwise.

(2) All references in respect of District Superintendent of Police in any law in force shall mean Head of District Police posted under Article 11 and Article 15.

CHAPTER II RESPONSIBILITIES AND DUTIES OF THE POLICE

3. Attitude and responsibilities of police towards the public.— It shall be the duty of every police officer to—

- (a) behave with the members of the public with due decorum and courtesy;
- (b) promote amity;
- (c) guide and assist members of the public particularly the poor, disabled or physically weak and children who are either lost or find themselves helpless on the streets or other public places; and
- (d) aid individuals who are in danger of physical harm particularly women and children.

4. Duties of police.— (1) Subject to law, it shall be the duty of every police officer to—

- (a) protect life, property and liberty of citizens;
- (b) preserve and promote public peace;
- (c) ensure that the rights and privileges, under the law, of a person taken in custody, are protected;
- (d) prevent the commission of offences and public nuisance;
- (e) collect and communicate intelligence affecting public peace and crime in general;
- (f) keep order and prevent obstruction on public roads and in the public streets and thoroughfares at fairs and all other places of public resort and in the neighbourhood of and at the places of public worship;
- (g) regulate and control traffic on public roads and streets;
- (h) take charge of all unclaimed property and to prepare its inventory;
- (i) detect and bring offenders to justice;
- (j) apprehend all persons whom he is legally authorised to apprehend and for whose apprehension, sufficient grounds exist;
- (k) ensure that the information about the arrest of a person is promptly communicated to a person of his choice;

- (l) enter and inspect without a warrant on reliable information any public place, shop or gaming-house where alcoholic drinks or narcotics are sold or weapons are illegally stored and other public places of resort of loose and disorderly characters;
 - (m) obey and promptly execute all lawful orders;
 - (n) perform other duties and exercise powers as are conferred by this Order, the Code or any other law for the time being in force;
 - (o) aid and co-operate with other agencies for the prevention of destruction of public property by violence, fire, or natural calamities;
 - (p) assist in preventing members of public from exploitation by any person or organized groups;
 - (q) take charge of lunatics at large to prevent them from causing harm to themselves or other members of the public and their property; and
 - (r) prevent harassment of women and children in public places.
- (2) Police officer shall make every effort to—
- (a) afford relief to people in distress situations, particularly in respect of women and children;
 - (b) provide assistance to victims of road accidents;
 - (c) assist accident victims or their heirs or their dependants, where applicable, with such information and documents as would facilitate their compensation claims; and
 - (d) cause awareness among the victims of road accidents of their rights and privileges.
- (3) It shall be the duty of a police officer to lay information before a competent court and to apply for a summons, warrant, search warrant or such other legal process as may, by law, be issued against any person suspected of committing an offence.
- 5. Emergency duties of police with regard to essential services.**— (1) The Government may, in an emergency, by notification in the official Gazette, declare any specified service to be an essential service to the community.
- (2) Upon a declaration being made under clause (1) and so long as it remains in force, it shall be the duty of every police officer to obey any lawful order given by a senior police officer in relation to the declaration.

CHAPTER III

CONSTITUTION AND ORGANIZATION OF THE POLICE

6. Separate police establishment for each general police area.— The Government shall maintain a separate police establishment for every general police area.

7. Constitution of police.— (1) The police establishment for each general police area shall consist of such numbers in the senior and junior ranks and have such organization as the Government may from time to time determine.

(2) The recruitment criteria, pay and allowances and all other conditions of service of the

police shall be such as the Government may from time to time determine.

(3) The recruitment in the police other than ministerial and specialist cadres shall be in the rank of Constable, Assistant Sub-Inspector and Assistant Superintendent of Police:

Provided that selection for direct recruitment in the rank of Assistant Sub-Inspector shall be through the appropriate Public Service Commission and shall not exceed twenty-five percent of total posts in that rank:

Provided further that 25% of the quota for departmental promotions to the rank of Assistant Sub-Inspector, shall be filled, subject to rules, through selection by the appropriate Public Service Commission from graduate Constables or Head Constables, respectively of clean record.

(4) The recruitment in the rank of Assistant Superintendent of Police shall be through the Federal Public Service Commission on all Pakistan basis.

(5) The recruitment in the rank of Constable and Assistant Sub-Inspector shall be on the basis of the district of domicile which for all service matters shall be their administrative unit up to the rank of Deputy Superintendent of Police and only such officers shall be posted to their district of domicile for field assignments.

There will be no such bar on the posting of officers of other districts for investigation, traffic, security, reserve, and intelligence duties. Subject to rules, Inspectors and Deputy Superintendents of Police shall be promoted on the basis of provincial seniority.

(6) Every police officer while on police duty shall have all the powers and privileges of a police officer throughout Pakistan and be liable to serve at any time in any branch, division, bureau and section.

8. Police to be organized on functional basis.—(1) The police establishment constituted under Article 7 shall, as far as practicable, be organised on functional basis into branches, divisions, bureaus and sections.

(2) The branches, divisions, bureaus and sections referred to in clause (1) may include—

- (a) Investigation;
- (b) Intelligence;
- (c) Watch and Ward;
- (d) Reserve Police;
- (e) Police Accountability;
- (f) Personnel Management;
- (g) Education and Training;
- (h) Finance and Internal Audit;
- (i) Crime Prevention;
- (j) Crime against Women;
- (k) Traffic Planning and Management;
- (l) Criminal Identification;

- (m) Information Technology;
- (n) Transport;
- (o) Research and Development;
- (p) Legal Affairs;
- (q) Welfare;
- (r) Estate Management.

(3) The specialist investigators shall be operationally responsible to the officer in-charge of the investigation branch.

(4) Every police officer shall be liable for posting to any branch, division, bureau and section, or anywhere in or outside the police.

(5) Posting to any specialist branch, division, bureau or section shall be subject to necessary training and experience in accordance with the rules.

9. Superintendence of police.– (1) The superintendence of police throughout a general police area shall vest in the appropriate Government.

(2) The power of superintendence under clause (1) shall be so exercised as to ensure that police performs its duties efficiently and strictly in accordance with law.

10. Administration of the police.– (1) Administration of police in a general police area shall vest in the Provincial Police Officer, Capital City Police Officer or City Police Officer posted under Article 11, or Article 15, as the case may be.

(2) The Provincial Police Officer, Capital City Police Officer and City Police Officer, as the case may be, shall exercise such powers and perform such functions and duties and shall have such responsibilities as may be provided by or under this Order and any other law for the time being in force.

(3) The police officers mentioned in clause (1) may for direction and control issue standing orders not inconsistent with the Order or rules made hereunder for the efficient functioning of the police.

(4) Provincial Police Officer shall prepare a provincial annual policing plan for review by the Provincial Public Safety Commission. The plan shall include–

- (a) objectives of policing;
- (b) financial resources likely to be available during the year;
- (c) targets; and
- (d) mechanism for achieving these targets.

11. Posting of Provincial Police Officer, Capital City Police Officer and Head of Federal Law Enforcement Agency.–(1) The Provincial Government shall, out of a panel of three police officers recommended by the National Public Safety Commission from a list provided by the Federal Government, post a police officer of the rank of Inspector General of Police as Provincial Police Officer of the Province:

Provided that before a police officer is posted as Provincial Police Officer under clause (1), the Federal Government shall place his services at the disposal of the Provincial Government.

(2) The Federal Government in the case of Islamabad Capital Territory and the Provincial Government in the case of Capital City District shall post a police officer not below the rank of Additional Inspector General of Police as Capital City Police Officer out of three officers recommended by the National Public Safety Commission, or on the recommendation of the Provincial Police Officer, as the case may be.

(3) The Federal Government shall, out of a panel of three suitable police officers recommended by the National Public Safety Commission post head of a Federal Investigation Agency, Pakistan Railway Police, Pakistan Motorway and Highway Police and Frontier Constabulary.

(4) During temporary absence of the police officers mentioned under clause (1) and clause (2) the next senior officer may exercise all or any of the powers, perform all or any of the functions and duties, and discharge all or any of the responsibilities of the Provincial Police Officer, or Capital City Police Officer, as the case may be.

(5) The Provincial Police Officer, posted under clause (1) shall have administrative and financial powers as *ex-officio* Secretary to the Provincial Government and other powers under this Order, or any other law for the time being in force and Islamabad Capital City Police Officer posted under clause (2) shall have the same administrative and financial powers.

(6) Subject to job description of each post under the rules, the police officers mentioned in clauses (1) and (2) may, by a general or special order, empower any officer subordinate to him to exercise and perform all or any of the powers, functions or duties to be exercised or performed under this Order.

12. Term of office of Provincial Police Officer, Capital City Police Officer and Head of a Federal Law Enforcement Agency.— (1) The term of office of Provincial Police Officer, Capital City Police Officer and Head of a Federal Law Enforcement Agency posted under Article 11 shall be three years from the date of his posting.

(2) The Provincial Government, with agreement of Provincial Public Safety Commission and the Capital City Public Safety Commission may transfer the Provincial Police Officer or Capital City Police Officer before the expiry of his tenure, as the case may be.

(3) The Provincial Government or the respective Public Safety Commission may initiate the case of premature transfer of the officers mentioned in clause (2) for unsatisfactory performance of duties.

(4) The Federal Government may with the agreement of National Public Safety Commission transfer Islamabad Capital City Police Officer and Head of a Federal Law Enforcement Agency before the expiry of his tenure.

(5) The Federal Government or the National Public Safety Commission may initiate premature transfer of the officer mentioned in clause (4) for unsatisfactory performance of duties:

Provided that before premature transfer of the officers mentioned in clause (3) and clause (5) the appropriate Commission shall give the concerned officer an opportunity of being heard in person.

(6) The Federal Government may, with the agreement of the National Public Safety Commission, recall a Provincial Police Officer or the Capital City Police Officer.

13. Posting of Additional Inspectors General of Police.— The Government may post such number of Additional Inspectors General of Police to assist the Provincial Police Officer, or Capital City Police Officer, as the case may be, in the efficient performance of his duties as it may deem fit, in consultation with the Provincial Police Officer, or Capital City Police Officer, as the case may be.

14. Appointment of experts.— (1) The Government may, on recommendation of the appropriate Public Service Commission, appoint one or more experts to assist the Provincial Police Officer and Capital City Police Officer or City Police Officer.

(2) The qualifications, eligibility, terms and conditions of service of experts shall be as prescribed.

15. Posting of City Police Officer and District Police Officer.— (1) The Provincial Police Officer may post a City Police Officer for a city district notified as a general police area and the District Police Officer in a district within a general police area in consultation with the Government.

(2) The term of office of City Police Officer or District Police Officer, as the case may be, shall be three years from the date of his posting.

(3) The City Police Officer or District Police Officer may be transferred before completion of normal tenure of three years on specific grounds such as inefficiency and ineffectiveness with the concurrence both of the Zila Nazim and the District Public Safety Commission, after he has been heard in person by the District Public Safety Commission.

16. Administration of police in a district.— (1) Subject to this Order, the administration of police throughout a district, other than a capital city district and a city district, shall vest in a District Police Officer posted under Article 15.

(2) The District Police Officer may delegate any of his powers and functions conferred on him to a Superintendent of Police, Assistant or Deputy Superintendent of Police posted under Article 17.

(3) The Capital City Police Officer and the City Police Officer shall have administrative and financial powers of the head of an attached department.

(4) A Capital City Police Officer posted under Article 11 and a City Police Officer posted under Article 15 shall exercise the powers vested in them under clause (3) above and Article 10 subject to the operational control by the Provincial Police Officer.

17. Posting of Deputy Inspector General, Senior Superintendent, Superintendent, Assistant Superintendent, Deputy Superintendent.— (1) Subject to this Order, the Government shall post

in consultation with Provincial Police Officer, or Capital City Police Officer, as the case may be, for any part of a general police area or for police headquarters, such number of Deputy Inspectors General of Police as it may deem fit.

(2) Provincial Police Officer or the Capital City Police Officer shall post Senior Superintendents, Superintendents, Assistant and Deputy Superintendents of Police in the general police area.

(3) Every officer posted under clause (1) and clause (2) shall exercise and perform such powers, functions and duties, as assigned to him under this Order, or any other law for the time being in force.

18. Posting of head of investigation. - (1) The head of investigation in a general Police area other than the Capital City District or the City District shall be of the rank of Additional Inspector General of Police.

(2) The head of investigation in a Capital City District or City District shall not be below the rank of Senior Superintendent of Police.

(3) The head of investigation in a District shall not be below the rank of Superintendent of Police and shall be responsible to his own hierarchy subject to general control of the District Police Officer.

(4) All registered cases shall be investigated by the investigation staff in the district under the supervision of the head of investigation:

Provided that the Government may, by a special or general order, may entrust investigation of offences under Local and Special Laws as defined in the Pakistan Penal Code and punishable with imprisonment for a term not exceeding three years with or without any other punishment, to the police station staff.

(5) The District Police Officer shall not interfere with the process of investigation. The head of investigation shall however keep the District Police Officer informed of the progress of all cases which have a bearing on public order. The District Police Officer shall provide full support to the Head of investigation in the performance of his duties.

19. Appointment of Director of Police Communications etc.— Subject to rules, Provincial Police Officer, or Capital City Police Officer, or City Police Officer, as the case may be, may appoint Director of Wireless, Motor Transport and Computer for the whole of the general police area or for any part thereof and such number of officers and staff as may be determined from time to time.

20. Posting of heads of police training institutions.— (1) The Federal Government shall post a police officer of the rank of Inspector General of Police as Commandant of the National Police Academy.

(2) Provincial Police Officer or Capital City Police Officer may post an officer not below the rank of Deputy Inspector General of Police as Commandant of the police training college and an

officer not below the rank of Senior Superintendent of Police as Principal of each police training school within the general police area under his charge.

21. Constitution of regions and divisions etc. - (1) The Provincial Police Officer may with the approval of the Government constitute police regions.

(2) Within the budgetary allocations, Provincial Police Officer Capital City Police Officer or the City Police Officer as the case may be, may:

- (a) divide districts into police divisions, sub divisions and police stations;
- (b) sub-divide the police stations into police posts; and
- (c) define the limits and extent of such-divisions, sub divisions, police stations and police posts:

Provided that the limits and extent of such divisions, police stations and police posts shall, as far as practicable, be coterminous with the limits of Tehsils, or Town in a city district and Unions.

(3) A police region under clause (1) shall be headed by a police officer not below the rank of Deputy Inspector General of Police:

Provided that where the size of police establishment is more than ten thousand the region shall be headed by a police officer not below the rank of Additional Inspector General of Police.

(4) A police division shall be under an officer not below the rank of a Superintendent of Police; a police sub-division under an officer not below the rank of an Assistant or Deputy Superintendent of Police; and a police station shall be under an officer of the rank of Inspector of Police.

Provided that an officer of the rank of Assistant Superintendent of Police may be posted as head of a police station, assisted by Inspectors as officer incharge in selected police stations.

22. Transfer to other police establishment.— Subject to rules, the appropriate Government may transfer any police officer appointed under this Order from police constituted for one general police area to another.

23. Appointment of junior ranks.— Subject to rules, Head of District Police shall be the appointing authority for junior ranks.

24. Oath or affirmation by members of police.— (1) Every member of the police shall on appointment make and subscribe before Provincial Police Officer or Capital City Police Officer or City Police Officer, or head of a training institution, an oath or affirmation according to the form set out in the Second Schedule.

(2) Assistant Superintendents of Police shall make and subscribe to the said oath or affirmation before Commandant, National Police Academy.

25. Certificate of appointment.— (1) Officers of junior ranks shall on appointment receive a certificate in the form provided in the Third Schedule. The certificate shall be issued under the seal of such officer as Provincial Police Officer or Capital City Police Officer or City Police Officer

may by general or special order direct.

(2) A certificate of appointment shall become null and void whenever the police officer named therein ceases to belong to the police.

26. Suspension of police officer.– (1) Subject to rules, the authority or an officer authorised in this behalf by the authority shall have power to suspend a member of police.

(2) The powers and functions vested in a member of police shall remain suspended while such officer is under suspension:

Provided that notwithstanding his suspension such member shall not cease to be a member of police and shall continue to be subject to the control of the same authorities to which he would have been, but for his suspension.

27. General powers of Provincial Police Officer etc.– Subject to this Order and rules made there-under, Provincial Police Officer and Head of District Police, as the case may be, shall within their respective spheres of authority, direct and regulate all matters of recruitment, training, postings, transfers, promotions, arms, drill, discipline, clothing, distribution of duties, and any other matter concerning the efficient fulfilment of duties by the police under his control.

28. Powers of Provincial Police Officer, Capital City Police Officer and City Police Officer concerning police accounts.– (1) Provincial Police Officer, Capital City Police Officer or City Police Officer shall have authority to investigate and regulate all matters of accounts connected with the police and all persons concerned shall be bound to give reasonable aid and facilities in conducting such investigation and to conform to his orders consequent thereto.

(2) The power of Provincial Police Officer, Capital City Police Officer and City Police Officer to regulate accounts under clause (1) shall be without prejudice to the Auditor General's authority to audit police accounts.

29. Appointment of special police officers.– (1) Subject to rules, Head of District Police may appoint special police officers for special purposes or occasions when the police available to him is not sufficient to assist the police under his command.

(2) Every special police officer so appointed shall, on appointment–

(a) receive a certificate in the prescribed form;

(b) have the same powers, and immunities and be liable to the same duties and responsibilities and be subject to the same authorities as a regular police officer.

30. Appointment of additional police.– (1) City Police Officer and District Police Officer subject to the approval of the Provincial Police Officer, and Capital City Police Officer may appoint additional police officers of such rank and for such time as he may deem fit for the purposes stated in their employment orders.

(2) Every additional police officer so appointed shall on appointment–

(a) receive a certificate in a form approved by Provincial Police Officer or Capital City Police Officer or City Police Officer, as the case may be;

(b) be vested with all or any of the powers, privileges and duties of a police officer;

(c) be subject to orders of the Capital City Police Officer, City Police Officer and District Police Officer.

(3) The employment of additional police may be made at the request of any person reasonably requiring such police and the cost of such employment shall be recovered in such manner as provided under this Order or rules made there under.

31. Ministerial staff etc.— (1) Subject to rules, Provincial Police Officer, Capital City Police Officer and City Police Officer, as the case may be, may appoint ministerial staff and other employees to assist the police.

(2) Any person employed under clause (1) shall be under the direction and control of Provincial Police Officer, Capital City Police Officer, or City Police Officer, as the case may be.

(3) The powers of direction and control referred to in clause (2) shall include the powers of discipline and dismissal.

(4) Subject to rules, Provincial Police Officer, Capital City Police Officer or City Police Officer, as the case may be, may delegate his powers and authority under this Article to an officer of appropriate rank.

CHAPTER IV

RESPONSIBILITIES OF THE HEAD OF DISTRICT POLICE

32. Policing Plan.— (1) Head of District Police shall prepare an annual Policing Plan consistent with Provincial Policing Plan wherever applicable in consultation with the Zila Nazim in the prescribed manner.

(2) The Policing Plan shall include—

- (a) objectives of policing;
- (b) financial resources likely to be available during the year;
- (c) targets; and
- (d) mechanism for achieving these targets.

(3) Head of District Police shall obtain the approval of the plan from the appropriate Public Safety Commission and send copies of the approved plan to Zila Nazim, Tehsil or Town Nazim, Provincial Government, Provincial Public Safety Commission and Provincial Police Officer and in case of Islamabad Capital Territory to Zila Nazim, Islamabad District Public Safety Commission, National Public Safety Commission and Federal Government.

(4) Head of District Police shall prepare a report on the policing of the district during the year and send it to the District Public Safety Commission by end of August.

33. Relationship of District Police with Zila Nazim etc.— (1) Subject to the provisions of this Order, Head of District Police shall be responsible to the Zila Nazim for police functions under this Order but shall not include administration of the district police, investigation of criminal cases and police functions relating to prosecution, which shall rest with the police:

Provided that Zila Nazim may visit a police station to find out if any person is under unlawful

detention and in appropriate cases may also direct action in accordance with law having regard to the facts and circumstances of the case.

(2) In case of a difference of opinion between the Zila Nazim and the Provincial Government on any matter concerning the district police, the decision of the Provincial Government shall prevail.

34. Police support to Government functionaries, etc.– (1) Any functionary of the Federal Government, Provincial Government, any statutory body or any body or corporation owned, set up or controlled by any such Government or in which such Government has a controlling share or interest, District Government, Tehsil or Town Municipal Administration or Union Administration, or Cantonment Board may for the discharge of his official duties which in his opinion require police assistance, ask for police support from the concerned police authority of the area and such authority shall provide the requisite support:

Provided that, if for any reason, the police authority is unable to provide the police support requested under this clause it shall forthwith bring the matter through its channel of command to the notice of Head of District Police who shall make arrangement for provision of police support and, where he is unable to provide such support, he shall inform the Zila Nazim accordingly:

Provided further that before making a report to the higher officer, each officer in the chain of command shall make an effort to provide the requisite police support:

Provided also that where any police officer is of the opinion that the request for police support is unnecessary, unlawful or *mala fide*, he shall, through his channel of command, report to Head of District Police who may seek recourse to the appropriate Public Safety Commission and in that case the decision of the Public Safety Commission shall prevail.

(2) Where the Zila Nazim so directs, the District Coordination Officer shall be responsible for coordination of police support by Head of District Police to the District Government, Tehsil Municipal Administration, Union Administration and Cantonment Board in exigencies threatening law and order, natural calamities and emergencies.

(3) In case of an unlawful or *mala fide* order issued by any authority, the Head of District Police shall seek recourse to the appropriate Public Safety Commission whose decision shall prevail.

35. Responsibility on complaints of neglect and excesses by police.– (1) Where the Zila Nazim on the basis of any complaint or information has reason to believe that any police official has committed an act of neglect, failure or excess, or the Union Public Safety Committee on its own motion or on receipt of a complaint from an aggrieved person reports to the Zila Nazim about police neglect, failure or excess, the Zila Nazim may direct Head of District Police to take remedial measures, including registration of First Information Report in a cognizable offence in appropriate cases within the period specified by him and the Zila Nazim shall inform the appropriate Public Safety Commission accordingly.

(2) Head of District Police or the concerned competent authority shall immediately take remedial measures, and may suspend the concerned official where necessary, initiate an enquiry and take appropriate action in accordance with law.

(3) Head of District Police shall without delay inform the Zila Nazim and appropriate Public Safety Commission of the action taken by him pursuant to the directions given under clause (1) and forward a copy of the final report of enquiry within forty five days of such directions.

36. Reference to Police Complaints Authority.— Head of District Police and Head of Federal Law Enforcement Agency shall inform the Provincial Police Complaints Authority or the Federal Police Complaint Authority, as the case may be, of any incident or a complaint of rape, death or serious injury to any person in police custody.

CHAPTER V

DISTRICT PUBLIC SAFETY COMMISSION

37. Establishment.— The Provincial Government shall establish a District Public Safety Commission in each district consisting of 8,10 or 12 members depending upon the area and population of the district.

38. Composition.— (1) Half of the members of the District Public Safety Commission shall be elected by the Zila Council, from amongst its councillors on the basis of each member casting only one vote in favour of any contesting candidate through secret ballot.

(2) The other half comprising independent members shall be appointed by the Governor from a list of names recommended by the District Selection Panel.

(3) One third of both the elected and the independent members of the District Public Safety Commission shall be women.

(4) The Naib Zila Nazim shall request the Chairperson of the District Selection Panel to conduct the election of the members of the District Public Safety Commission referred to in clause (1).

(5) The appointment of members shall be notified in the official Gazette.

39. Appointment of Chairperson.— (1) The Chairperson shall be elected by the members from amongst themselves annually alternating between independent and elected members.

(2) The Chairperson shall preside over the meetings of the Commission.

40. Meeting in the absence of the Chairperson.— In the absence of the Chairperson the District Public Safety Commission shall elect one of its member to preside over a meeting.

41. Selection of independent members.— (1) There shall be a Selection Panel for independent members consisting of District and Sessions Judge who shall be its Chairperson and one nominee each of the Provincial Government and the District Government:

Provided that such nominee shall not be elected representative or public servant.

(2) The selection of independent members shall be by consensus.

(3) The selection process shall be completed within thirty days from the commencement of the selection process.

(4) Independent members shall be of impeccable integrity and proven professional competence in such fields as social work, law, administration, education, corporate sector, etc.

42. Functions of the Selection Panel.— The selection panel shall invite applications or nominations from the public for selection of independent members, and after interviewing eligible and willing candidates, forward names of persons twice the number of appointments to be made to the Governor of the Province.

43. Selection criteria of independent members.— A person shall be disqualified from becoming a member of District Public Safety Commission if he—

- (a) is an activist of any political party or has held any representative office or has remained a public servant in the six months immediately preceding such appointment;
- (b) is found suffering from physical or mental incapacity or illness;
- (c) is declared a bankrupt, loan defaulter or tax evader;
- (d) is not a citizen of Pakistan;
- (e) holds an office of profit in the service of Pakistan;
- (f) is in the service of any statutory body or any other body which is owned or controlled by the Government or in which the Government has a controlling share or interest;
- (g) has been dismissed, removed or compulsorily retired from the service of Pakistan on grounds of corruption or any other form of misconduct;
- (h) is convicted of a criminal offence;
- (i) has any conflict of interest; or
- (j) is involved in activities prejudicial to the ideology, interest, security, unity, solidarity, peace and integrity of Pakistan and its people, and the good order and harmony of society.

44. Functions of the District Public Safety Commission.— The District Public Safety Commission shall perform the following functions including those related to complaints against the police:-

- (a) approve an annual Local Policing Plan prepared by the District Police Officer in consultation with the Zila Nazim setting out the arrangements for the policing during the year:

Provided that such Policing Plan shall include—

- (i) a statement of the financial resources expected to be made available by the Provincial Government; and
 - (ii) performance targets for the year and their delivery mechanism;
- (b) evaluate the delivery of performance targets contained in the Local Policing Plan on quarterly basis and send half-yearly reports to Zila Nazim, Tehsil Nazim, Provincial Government, Provincial Public Safety Commission and Provincial Police Officer;
 - (c) encourage police-public cooperation;

- (d) provide recourse to District Police Officer or City Police Officer for reporting against any unlawful or *mala fide* order or request for police support from any authority received by him or any officer subordinate to him and give a decision thereon which shall prevail;
- (e) refer the matter in writing to the Provincial Government for appropriate action where the District Public Safety Commission is satisfied that a collusive relationship detrimental to the interest of the people exists between the Zila Nazim and District Police Officer or City Police Officer:

Provided that before making such report the District Police Officer or City Police Officer and the Zila Nazim shall be given an opportunity to be heard in person to explain their respective positions;

- (f) direct the District Police Officer or City Police Officer as to disposal of unclaimed property under clause (4) of Article 135.
- (g) direct the District Police Officer or City Police Officer in writing, where the District Public Safety Commission has reasons to believe that the head of the police station has unjustifiably refused or avoided to register any First Information Report, to conduct an inquiry into the matter and cause the registration of the First Information Report under section 154 of the Code, if any cognizable case is made out from the allegations of the complainant and report to the District Public Safety Commission within forty-eight hours the action taken by him;
- (h) on receipt of a complaint of excess by a police officer—
 - (i) direct the District Police Officer or City Police Officer in writing to take appropriate action and submit a report within a specified period; or
 - (ii) conduct a fact finding enquiry through two or more of its members, and in case the complaint is found correct, send its report and direct District Police Officer to suspend the defaulting police officer and take departmental action against him in accordance with the rules;
 - (iii) report the matter to the Provincial Police Officer, Provincial Government or the Police Complaints Authority for appropriate action if the District Police Officer does not submit a report or take action on the direction given by the District Public Safety Commission;
- (i) direct the District Police Officer in writing to enquire into a complaint of neglect in general or by a functionary of a district police and take appropriate action and report within the specified period.
- (j) on a complaint of excess committed by any member of Federal Law Enforcement Agency and civil armed forces acting in support of the district police, require the appropriate authority of the concerned department in writing to take remedial action and report within a specified period. If no action is taken by the concerned authority, a reference may be made by the District Public Safety Commissions to the head of concerned

organization or the Federal Complaints Authority for appropriate action.

45. Terms of members of the District Public Safety Commission.– (1) The term of office of a member shall be three years unless he resigns at any time before the expiry of his term or ceases to be a member of the Zila Council.

(2) No member shall be eligible for a second term.

(3) Members shall be paid TA and DA for attending meetings, as per rules.

(4) Independent members may be paid honoraria as per rules.

(5) Members shall be Justices of Peace within the district in accordance with the Code.

46. Removal of members.– The Governor on his own volition or on the recommendation of the District Public Safety Commission may remove a member from office if he–

(a) ceases to be a citizen of Pakistan;

(b) is found suffering from physical or mental incapacity or illness;

(c) is guilty of misconduct;

(d) is found to have dealt with any matter in which he had a conflict of interest;

(e) is convicted of a criminal offence;

(f) is declared a bankrupt, loan defaulter or tax evader;

(g) is involved in activities prejudicial to the ideology, interest, security, unity, solidarity, peace and integrity of Pakistan and its people, and the good order and harmony of society;

(h) brings the District Public Safety Commission into disrepute;

(i) fails to attend its three consecutive meetings without any reasonable cause.

47. Meetings and conduct of business of the District Public Safety Commission.– (1) The business of the District Public Safety Commission shall be conducted by the Commission in a meeting.

(2) The meeting may be convened by the Chairperson or on the requisition of three members.

(3) Quorum for a meeting of the District Public Safety Commission shall be two third of its total membership.

(4) Members shall attend meetings of the Commission as and when required for which at least a week's notice, with agenda, shall be given. There shall be minimum of one meeting in a month provided an emergency meeting may be held at a short notice not exceeding twenty four hours.

(5) Decisions of the Commission shall be by simple majority.

(6) District Police Officer or City Police Officer or in their absence their deputy may be invited to attend a meeting, which he shall attend.

(7) The Commission may invite any expert for consultations on specific issues.

(8) The Commission may frame rules of procedure for the conduct of business.

48. Secretariat.– (1) The Government shall establish a permanent secretariat of the District Public Safety Commission.

(2) The Secretariat shall be headed by an officer of BPS 17 who shall be appointed in consultation with the Commission by the Provincial Government.

(3) The Secretariat shall consist of such number of officers and staff as the Government may, in consultation with the Commission, determine from time to time.

CHAPTER VI

CAPITAL CITY DISTRICT PUBLIC SAFETY COMMISSION

49. Establishment.– The Provincial Government shall establish a Capital City District Public Safety Commission in each district consisting 12 members depending upon the area and population of the district.

50. Composition.– (1) Three members of the Capital City District Public Safety Commission shall be elected by the Zila Council, from amongst its councillors on the basis of each member casting only one vote in favour of any contesting candidate through secret ballot.

(2) Three members shall be nominated by the Speaker of the Provincial Assembly from amongst its members two from the treasury and one from the opposition in consultation with the Leader of the House and the Leader of the Opposition.

(3) The remaining six members shall be independent members and shall be appointed by the Governor from a list of names recommended by the Capital City District Selection Panel.

(4) One third of both the elected and independent members of the Commission shall be women.

(5) The Naib Zila Nazim shall request the Chairperson of the Capital City District Selection Panel to conduct the election of the members of the Capital City District Public Safety Commission referred to in clause (1).

(6) The appointment of members shall be notified in the official Gazette.

51. Appointment of Chairperson.– (1) The Chairperson shall be elected by the members from amongst themselves annually alternating between independent and elected members.

(2) The Chairperson shall preside over the meetings of the Commission.

52. Meeting in the absence of the Chairperson.– In the absence of the Chairperson the Capital City District Public Safety Commission shall elect one of its member to preside over a meeting.

53. Selection of independent members.– (1) There shall be a Selection Panel for independent members consisting of Chief Justice of High Court who shall be its Chairperson and one nominee each of the Provincial Government and the District Government:

Provided that such nominee shall not be elected representative or public servant.

(2) The selection of independent members shall be by consensus.

(3) The selection process shall be completed within thirty days from the commencement of the selection process.

(4) Independent members shall be of impeccable integrity and proven professional competence in such fields as social work, law, administration, education, corporate sector, etc.

54. Functions of the Selection Panel.– The Selection Panel shall invite applications or nominations from the public for selection of independent members, and after interviewing eligible and willing candidates, forward names of persons twice the number of appointments to be made to the Governor of the Province.

55. Selection criteria of independent members.– A person shall be disqualified from becoming a member of District Public Safety Commission if he–

- (a) is an activist of any political party or has held any representative office or has remained a public servant in the six months immediately preceding such appointment; or
- (b) is found suffering from physical or mental incapacity or illness; or
- (c) is declared a bankrupt, loan defaulter or tax evader; or
- (d) is not a citizen of Pakistan; or
- (e) holds an office of profit in the service of Pakistan; or
- (f) is in the service of any statutory body or any other body which is owned or controlled by the Government or in which the Government has a controlling share or interest; or
- (g) has been dismissed, removed or compulsorily retired from the service of Pakistan on grounds of corruption or any other form of misconduct; or
- (h) is convicted of a criminal offence; or
- (i) has any conflict of interest; or
- (j) is involved in activities prejudicial to the ideology, interest, security, unity, solidarity, peace and integrity of Pakistan and its people, and the good order and harmony of society.

56. Functions of the Capital City District Public Safety Commission.– The Capital City District Public Safety Commission shall perform the following functions of Public Safety and Complaints Authority:-

- (a) approve an annual Local Policing Plan prepared by the Capital City Police Officer in consultation with the Zila Nazim setting out the arrangements for the policing during the year:

Provided that such Policing Plan shall include–

- (i) a statement of the financial resources expected to be made available by the Provincial Government; and
 - (ii) performance targets for the year and their delivery mechanism;
- (b) evaluate the delivery of performance targets contained in the Local Policing Plan on quarterly basis and send half-yearly reports to Zila Nazim, Tehsil Nazim, Provincial Government, Provincial Public Safety Commission and Provincial Police Officer;

- (c) encourage police-public cooperation;
- (d) provide recourse to Capital City Police Officer for reporting against any unlawful or *mala fide* order or request for police support from any authority received by him or any officer subordinate to him and give a decision thereon which shall prevail;
- (e) refer the matter in writing to the Provincial Government for appropriate action where the Capital City District Public Safety Commission is satisfied that a collusive relationship detrimental to the interest of the people exists between the Zila Nazim and Capital City Police Officer:
Provided that before making such report the Capital City Police Officer and the Zila Nazim shall be given an opportunity to be heard in person to explain their respective positions;
- (f) direct the Capital City Police Officer as to disposal of unclaimed property under clause (4) of Article 135.
- (g) direct the Capital City Police Officer in writing, where the Capital City District Public Safety Commission has reasons to believe that the head of the police station has unjustifiably refused or avoided to register any First Information Report, to conduct an inquiry into the matter and cause the registration of the First Information Report under section 154 of the Code, if any cognizable case is made out from the allegations of the complainant and report to the Capital City District Public Safety Commission within forty-eight hours the action taken by him;
- (h) on receipt of a complaint of excess by a police officer—
 - (i) direct the Capital City District Police Officer in writing to take appropriate action and submit a report within a specified period; or
 - (ii) conduct a fact finding enquiry through two or more of its members, and in case the complaint is found correct, send its report and direct Capital City District Police Officer to suspend the defaulting police officer and take departmental action against him in accordance with the rules;
 - (iii) report the matter to the Provincial Government or the Police Complaints Authority for appropriate action if the Capital City District Police Officer does not submit a report or take action on the direction given by the Capital City Public Safety Commission;
- (i) direct the Capital City District Police Officer in writing to enquire into a complaint of neglect in general or by a functionary of a district police and take appropriate action and report within the specified period;
- (j) on a complaint of excess committed by any member of Federal Law Enforcement Agency and civil armed forces acting in support of the district police, require the appropriate authority of the concerned department in writing to take remedial action and report within a specified period. If no action is taken by the concerned authority, a reference may be made by the Capital City District Public Safety Commission to the head of

concerned organization or the Federal Complaints Authority for appropriate action.

57. Terms of members of the Capital City District Public Safety Commission.— (1) The term of office of a member shall be three years unless he resigns at any time before the expiry of his term or ceases to be a member of the Provincial Assembly or the Zila Council.

- (2) No member shall be eligible for a second term.
- (3) Members shall be paid TA and DA for attending meetings, as per rules.
- (4) Independent members may be paid honoraria as per rules.
- (5) Members shall be Justices of Peace within the district in accordance with the Code.

58. Removal of members.— The Governor on his own volition or on the recommendation of the Capital City District Public Safety Commission may remove a member from office if he—

- (a) ceases to be a citizen of Pakistan;
- (b) is found suffering from physical or mental incapacity or illness;
- (c) is guilty of misconduct;
- (d) is found to have dealt with any matter in which he had a conflict of interest;
- (e) is convicted of a criminal offence;
- (f) is declared a bankrupt, loan defaulter or tax evader;
- (g) is involved in activities prejudicial to the ideology, interest, security, unity, solidarity, peace and integrity of Pakistan and its people, and the good order and harmony of society;
- (h) brings the Capital City District Public Safety Commission into disrepute;
- (i) fails to attend its three consecutive meetings without any reasonable cause.

59. Meetings and conduct of business of the Capital City District Public Safety Commission.—

(1) The business of the Capital City District Public Safety Commission shall be conducted by the Commission in a meeting.

(2) The meeting may be convened by the Chairperson or on the requisition of three members.

(3) Quorum for the meeting of the Capital City District Commission shall be two-third of its membership.

(4) Members shall attend meetings of the Commission as and when required for which at least a week's notice, with agenda, shall be given. There shall be minimum of one meeting in a month provided an emergency meeting may be held at a short notice not exceeding twenty four hours.

(5) Decisions of the Commission shall be by simple majority.

(6) Capital City Police Officer and in his absence his deputy may be invited to attend a meeting which he shall attend.

(7) The Commission may invite any expert for consultations on specific issues.

(8) The Commission may frame rules of procedures for the conduct of business.

60. Secretariat.— (1) The Government shall establish a permanent secretariat of the Capital City District Public Safety Commission.

(2) The Secretariat shall be headed by an officer of BPS 17 who shall be appointed in consultation with the Commission by the Provincial Government.

(3) The Secretariat shall consist of such number of officers and staff as the Government may, in consultation with the Commission, determine from time to time.

CHAPTER VII

ISLAMABAD DISTRICT PUBLIC SAFETY COMMISSION

61. Establishment.— The Federal Government shall establish Islamabad District Public Safety Commission for Islamabad Capital Territory consisting of 12 members.

62. Composition.— (1) Three members of the Islamabad District Public Safety Commission shall be elected by the District Council, from amongst its councillors on the basis of each member casting only one vote in favour of any contesting candidate through secret ballot.

(2) Three members shall be nominated by the Speaker of National Assembly from amongst its members two from the treasury and one from the opposition in consultation with the Leader of the House and the Leader of the Opposition.

(3) The remaining six members shall be independent members and shall be appointed by the President from a list of names recommended by the Islamabad District Selection Panel.

(4) One third of both the elected and independent members of the Islamabad District Public Safety Commission shall be women.

(5) The Naib Zila Nazim shall request the Chairperson of the Islamabad District Selection Panel to conduct the election of the members of the Islamabad District Public Safety Commission referred to in clause (1).

(6) The appointment of members shall be notified in the official Gazette.

63. Appointment of Chairperson.— (1) The Chairperson shall be elected by the members from amongst themselves annually alternating between independent and elected members.

(2) The Chairperson shall preside over the meetings of the Commission.

64. Meeting in the absence of the Chairperson.— In the absence of the Chairperson, Islamabad District Public Safety Commission shall elect one of its member to preside over a meeting.

65. Selection of independent members.— (1) There shall be a Selection Panel for independent members consisting of Chief Justice of the High Court who shall be its Chairperson and one nominee each of the Federal Government and the District Government:

Provided that such nominee shall not be elected representative or public servant.

(2) The selection of independent members shall be by consensus.

(3) The selection process shall be completed within thirty days from the commencement of the selection process.

(4) Independent members shall be of impeccable integrity and proven professional competence in such fields as social work, law, administration, education, corporate sector, etc.

66. Functions of the Selection Panel.– The selection panel shall invite applications or nominations from the public for selection of independent members, and after interviewing eligible and willing candidates, forward names of persons twice the number of appointments to be made to the President.

67. Selection criteria of independent members.– A person shall be disqualified from becoming a member of Islamabad District Public Safety Commission if he–

- (a) is an activist of any political party or has held any representative office or has remained a public servant in the six months immediately preceding such appointment; or
- (b) is found suffering from physical or mental incapacity or illness; or
- (c) is declared a bankrupt, loan defaulter or tax evader; or
- (d) is not a citizen of Pakistan; or
- (e) holds an office of profit in the service of Pakistan; or
- (f) in the service of any statutory body or any other body which is owned or controlled by the Government or in which the Government has a controlling share or interest; or
- (g) has been dismissed, removed or compulsorily retired from the service of Pakistan on grounds of corruption or any other form of misconduct; or
- (h) is convicted of a criminal offence; or
- (i) has any conflict of interest; or
- (j) is involved in activities prejudicial to the ideology, interest, security, unity, solidarity, peace and integrity of Pakistan and its people, and the good order and harmony of society.

68. Functions of Islamabad District Public Safety Commission.– The Islamabad District Public Safety Commission shall perform the following functions of Public Safety and Complaints Authority:-

- (a) approve an annual Local Policing Plan prepared by the Capital City Police Officer in consultation with the Zila Nazim setting out the arrangements for the policing during the year:
Provided that such Policing Plan shall include–
 - (i) a statement of the financial resources expected to be made available by the Federal Government; and
 - (ii) performance targets for the year and their delivery mechanism;
- (b) evaluate the delivery of performance targets contained in the Local Policing Plan on quarterly basis and send half- yearly reports to Zila Nazim, Tehsil Nazim, Federal Government and National Public Safety Commission;
- (c) encourage police-public cooperation;

- (d) provide recourse to Capital City Police Officer for reporting against any unlawful or *mala fide* order or request for police support from any authority received by him or any officer subordinate to him and give a decision thereon which shall prevail;
- (e) refer the matter in writing to the Federal Government for appropriate action where the Islamabad District Public Safety Commission is satisfied that a collusive relationship detrimental to the interest of the people exists between the Zila Nazim and Capital City Police Officer:
 - Provided that before making such report the Capital City Police Officer and the Zila Nazim shall be given an opportunity to be heard in person to explain their respective positions;
- (f) direct the Capital City Police Officer as to disposal of unclaimed property under clause (4) of Article 135;
- (g) direct the Capital City Police Officer in writing, where the Islamabad District Public Safety Commission has reasons to believe that the head of the police station has unjustifiably refused or avoided to register any First Information Report, to conduct an inquiry into the matter and cause the registration of the First Information Report under section 154 of the Code, if any cognizable case is made out from the allegations of the complainant and report to the Islamabad District Public Safety Commission within forty-eight hours the action taken by him;
- (h) on receipt of a complaint of excess by a police officer—
 - (i) direct the Capital City Police Officer in writing to take appropriate action and submit a report within a specified period; or
 - (ii) conduct a fact finding enquiry through two or more of its members, and in case the complaint is found correct, send its report and direct Capital City Police Officer to suspend the defaulting police officer and take departmental action against him in accordance with the rules;
 - (iii) report the matter to the Federal government or the Federal Police Complaints authority for appropriate action if the Capital City Police Officer does not submit a report or take action on the direction given by the Islamabad District Public Safety Commission;
- (i) Direct the Capital City Police Officer in writing to enquire into a complaint of neglect in general or by a functionary of a district police and take appropriate action and report within the specified period;
- (j) on a complaint of excess committed by any member of Federal Law Enforcement Agency and civil armed forces acting in support of the Islamabad district police, require the appropriate authority of the concerned department in writing to take remedial action and report within a specified period. If no action is taken by the concerned authority, a reference may be made by the Islamabad District Public Safety Commission to the head

of concerned organization or the Federal Complaints Authority for appropriate action.

69. Terms of members of the Islamabad District Public Safety Commission.— (1) The term of office of a member shall be three years unless he resigns at any time before the expiry of his term or ceases to be a member of the National Assembly or the Zila Council.

(2) No member shall be eligible for a second term.

(3) Members shall be paid TA and DA for attending meetings, as per rules.

(4) Independent members may be paid honoraria as per rules.

(5) Members shall be Justice of Peace within the district in accordance with the Code.

70. Removal of members.— The President on his own volition or on the recommendation of Islamabad District Public Safety Commission may remove a member from office if he—

(a) ceases to be a citizen of Pakistan;

(b) is found suffering from physical or mental incapacity or illness;

(c) is guilty of misconduct;

(d) is found to have dealt with any matter in which he had a conflict of interest;

(e) is convicted of a criminal offence;

(f) is declared a bankrupt, loan defaulter or tax evader;

(g) is involved in activities prejudicial to the ideology, interest, security, unity, solidarity, peace and integrity of Pakistan and its people, and the good order and harmony of society;

(h) brings the Islamabad Public Safety Commission into disrepute;

(i) fails to attend its three consecutive meetings without any reasonable cause.

71. Meetings and conduct of business of the Islamabad District Public Safety Commission.—

(1) The business of Islamabad District Public Safety Commission shall be conducted by the Commission in a meeting.

(2) The meeting may be convened by the Chairperson or on the requisition of three members.

(3) Quorum for the meeting of the Commission shall be two-third of its membership.

(4) Members shall attend meetings of the Commission as and when required for which at least a week's notice, with agenda, shall be given. There shall be minimum of one meeting in a month provided an emergency meeting may be held at a short notice not exceeding twenty four hours.

(5) Decisions of the Commission shall be by a simple majority.

(6) Capital City Police Officer or in his absence his deputy may be invited to attend a meeting which he shall attend.

(7) The Commission may invite any expert for consultations on specific issues.

(8) The Commission may frame rules of procedure for the conduct of business.

72. Secretariat.— (1) The Government shall establish a permanent secretariat of Islamabad District Public Safety Commission.

(2) The Secretariat shall be headed by an officer of BPS 17 who shall be appointed in consultation with the Commission by the Government.

(3) The Secretariat shall consist of such number of officers and staff as the Government may in consultation with the Commission, determine from time to time.

CHAPTER VIII

THE PROVINCIAL PUBLIC SAFETY COMMISSION

73. Establishment.— There shall be a Provincial Public Safety Commission, consisting of twelve members and the *ex-officio* Chairperson.

74. Composition.— (1) Half of the members of the Provincial Public Safety Commission shall be nominated by the Speaker of the Provincial Assembly from amongst its members three each from the treasury and opposition in consultation with the Leader of the House and the Leader of the Opposition:

Provided that at least two members shall be women.

(2) The other half comprising independent members shall be appointed by the Governor from a list of names recommended by the Provincial Selection Panel:

Provided that at least two members shall be women.

(3) Notwithstanding any thing contained in clause (1), independent members appointed under clause (2) shall constitute the Provincial Public Safety Commission when the Provincial Assembly is not in existence.

(4) The appointment of members shall be notified in the official Gazette.

75. Appointment of Chairperson.— (1) The Provincial Home Minister will be the *ex-officio* Chairperson of the Provincial Public Safety Commission.

(2) The Chairperson shall preside over the meetings of the Provincial Public Safety Commission.

76. Meeting in the absence of the Chairperson.— In the absence of the Chairperson, the Provincial Public Safety Commission shall elect one of its member to preside over a meeting.

77. Selection of independent members.— (1) There shall be a Selection Panel for independent members consisting of Chief Justice of the High Court who shall be its Chairperson and one nominee each of the Governor and the Chief Minister:

Provided that such nominee shall not be elected representative or public servant.

(2) The selection of independent members shall be by consensus.

(3) The selection process shall be completed within thirty days from the commencement of the selection process.

(4) Independent members shall be of impeccable integrity and proven professional competence in such fields as social work, law, administration, education, corporate sector, etc.

78. Functions of the Selection Panel.— The selection panel shall invite applications or

nominations from the public for selection of independent members, and after interviewing eligible and willing candidates, forward names of persons twice the number of appointments to be made to the Governor.

79. Selection criteria of independent members.— A person shall be disqualified from becoming a member of Provincial Public Safety Commission if he—

- (a) is an activist of any political party or has held any representative office or has remained a public servant in the six months immediately preceding such appointment;
- (b) is found suffering from physical or mental incapacity or illness;
- (c) is declared a bankrupt, loan defaulter or tax evader;
- (d) is not a citizen of Pakistan;
- (e) holds an office of profit in the service of Pakistan;
- (f) is in the service of any statutory body or any other body which is owned or controlled by the Government or in which the Government has a controlling share or interest;
- (g) has been dismissed, removed or compulsorily retired from the service of Pakistan on grounds of corruption or any other form of misconduct; or
- (h) is convicted of a criminal offence;
- (i) has any conflict of interest; or
- (j) is involved in activities prejudicial to the ideology, interest, security, unity, solidarity, peace and integrity of Pakistan and its people, and the good order and harmony of society.

80. Functions of the Provincial Public Safety Commission.— (1) Subject to this Order, the Provincial Public Safety Commission shall—

- (a) provide guidelines on the policy of the government to Provincial Police Officer and Capital City Police Officers for promoting integrity, efficiency and effectiveness of police;
- (b) take steps to prevent the police from carrying out any unlawful or *mala fide* orders or directions from any authority to any functionary of the police throughout the Province and in case such orders are brought to the notice of the commission it shall have the powers to intervene and its decision shall prevail; and
- (c) facilitate the establishment and functioning of Citizen Police Liaison Committees in accordance with Article 168.

(2) Without prejudice to its role under sub-section (1) the Commission shall perform the following specific responsibilities—

- (a) co-ordinate the functioning of Public Safety Commissions within the Province;
- (b) recommend to the Government premature transfer of Provincial Police Officer before completion of normal tenure of three years for unsatisfactory performance of duties:

- Provided that before making such recommendation the Provincial Public Safety Commission shall give the concerned police officer an opportunity to be heard in person;
- (c) recommend to the government for grants to various police establishments within the province, for enhancing their capability to handle public order;
 - (d) assist the police establishment in securing assistance from other police establishments and law enforcement agencies by approaching the other Provincial and National Public Safety Commissions;
 - (e) determine in consultation with the Provincial Police Officer objectives for the policing of the Province for each financial year;
 - (f) oversee the implementation of the Provincial Policing Plan prepared by Provincial Police Officer and approved and published by the Provincial Government. The plan shall include—
 - (i) a statement of the financial resources expected to be made available by the Government; and
 - (ii) performance targets for the year and their delivery mechanism;
 - (g) evaluate the delivery of performance targets on quarterly basis;
 - (h) require the Provincial Police Officer to submit by end of August each year a general report in a manner prescribed by the Provincial Public Safety Commission which shall be published;
 - (i) submit an annual report to the Government and the Provincial Assembly that shall include the following:-
 - (i) an abstract concerning performance of the Provincial Public Safety Commission during the year;
 - (ii) a report on the functioning of the Police Establishments;
 - (iii) a report on matters connected with general law and order in the Province;
 - (j) recommend reforms for modernization of laws and procedure in respect of police, prosecution, prisons and probation service;
 - (k) evaluate the performance of the District and Capital City Public Safety Commissions on annual basis. If on the basis of the evaluation conducted by the Provincial Public Safety Commission, the performance of the Commission is found unsatisfactory, it may recommend the dissolution of such Commission and on dissolution of the Commission the Government shall reconstitute the same in accordance with the provisions of this Order within forty five days of such decision;
 - (l) conduct enquiry on the recommendation of a Zila Council through a resolution passed by two third majority of its total membership for the dissolution of the relevant Public Safety Commission on grounds of unsatisfactory performance of

- the said commission, establish veracity or otherwise of the grounds of recommendation for rejection or onward transmission to the Provincial Government for the dissolution of the said Public Safety Commission. Where the government dissolves the relevant Public Safety Commission it will reconstitute the same in accordance with the provisions of this Order within forty five days of such decision;
- (m) perform functions of the relevant Public Safety Commission during the period it stands dissolved;
 - (n) consider the proposals made by Provincial Police Officer or National Police Management Board and give its recommendations to the government;
 - (o) recommend essential criminal justice reforms; and
 - (p) perform such other functions with regard to public order and safeguarding public interest, as may be assigned by the government to it for the purpose under any law for the time being in force including Prosecution, Prisons and Probation services.

81. Terms of members of the Provincial Public Safety Commission.— (1) The term of office of a member shall be the same as that of the Provincial Assembly unless he resigns at any time before the expiry of his term, or ceases to be a member of the Provincial Assembly.

- (2) No member shall be eligible for a second term.
- (3) Members shall be paid TA and DA for attending meetings, as per rules.
- (4) Independent members may be paid honoraria as per rules.
- (5) Members shall be Justices of Peace in accordance with the Code.

82. Removal of members.— The Governor on his own volition or on the recommendation of the Provincial Public Safety Commission may remove a member from office if he—

- (a) ceases to be a citizen of Pakistan;
- (b) is found suffering from physical or mental incapacity or illness;
- (c) is guilty of misconduct;
- (d) is found to have dealt with any matter in which he had a conflict of interest;
- (e) is convicted of a criminal offence;
- (f) is declared a bankrupt, loan defaulter or tax evader;
- (g) is involved in activities prejudicial to the ideology, interest, security, unity, solidarity, peace and integrity of Pakistan and its people, and the good order and harmony of society;
- (h) brings the Provincial Public Safety Commission into disrepute;
- (i) fails to attend its three consecutive meetings without any reasonable cause.

83. Meetings and conduct of business of the Provincial Public Safety Commission.— (1) The business of the Provincial Public Safety Commission shall be conducted by the Commission in a meeting.

(2) The meeting may be convened by the chairperson or on the requisition of three members.

(3) Quorum for the meeting of the Commission shall be two-third of its membership.

(4) Members shall attend meetings of the Commission as and when required for which at least a week's notice, with agenda, shall be given. There shall be minimum of one meeting in a month; provided an emergency meeting may be held at a short notice not exceeding twenty four hours.

(5) The ex officio Chairperson shall not have the right of vote, except in case of a tie.

(6) Decisions of the Commission shall be by simple majority.

(7) The Commission may hold public consultations as and when required.

(8) The Provincial Police Officer and heads of prosecution service, prison and probation departments shall attend meetings of the Commission as non-voting members, when invited.

(9) The Commission may invite any expert for consultations on specific issues.

(10) The Commission may frame rules of procedure for the conduct of business.

84. Secretariat.— (1) The Government shall establish a permanent secretariat of the Provincial Public Safety Commission.

(2) The Secretariat shall be headed by a Director of the rank of Senior Superintendent of Police who shall be appointed by the Provincial Government in consultation with the Commission.

(3) The Secretariat shall consist of such number of officers and staff as the Government may, in consultation with the Commission, determine from time to time.

(4) The Secretariat shall be attached to the Provincial Law Department for purposes of budget and for matters pertaining to the Provincial Assembly.

CHAPTER IX

THE NATIONAL PUBLIC SAFETY COMMISSION

85. Establishment.— There shall be a National Public Safety Commission consisting of twelve members and the ex officio Chairperson.

86. Composition.— (1) Half of the members of the National Public Safety Commission shall be nominated by the Speaker of the National Assembly from amongst its members three each from the treasury and the opposition in consultation with the Leader of the House and the Leader of the Opposition:

Provided that at least one member shall belong to each Province, and to Islamabad Capital Territory:

Provided further that at least two members shall be women.

(2) The other half comprising independent members shall be appointed by the President from a list of names recommended by the National Selection Panel:

Provided that at least one member shall belong to each Province, and to Islamabad Capital

Territory:

Provided further that at least two members shall be women.

(3) Notwithstanding anything contained in clause (1), independent members appointed under clause (2) shall constitute the National Public Safety Commission when the National Assembly is not in existence.

(4) The appointment of members shall be notified in the official Gazette.

87. Appointment of Chairperson.— (1) The Federal Interior Minister will be *ex-officio* Chairperson of the National Public Safety Commission.

(2) The Chairperson shall preside over the meetings.

88. Meeting in the absence of the Chairperson.— In the absence of the Chairperson, the National Public Safety Commission shall elect one of its member to preside over a meeting.

89. Selection of independent members.— (1) There shall be a Selection Panel for independent members consisting of Chief Justice of Supreme Court of Pakistan who shall be its Chairperson and one nominee each of President and Prime Minister:

Provided that such nominee shall not be elected representative or public servant.

(2) The selection of independent members shall be by consensus.

(3) The selection process shall be completed within thirty days from the commencement of the selection process.

(4) Independent members shall be of impeccable integrity and proven professional competence in such fields as social work, law, administration, education, corporate sector, etc.

90. Functions of the Selection Panel.— The selection panel shall invite applications or nominations from the public for selection of independent members, and after interviewing eligible and willing candidates, forward names of persons twice the number of appointments to be made to the President of Pakistan.

91. Selection criteria of independent members.— A person shall be disqualified from becoming a member of National Public Safety Commission if he—

(a) is an activist of any political party or has held any representative office or has remained a public servant in the six months immediately preceding such appointment; or

(b) is found suffering from physical or mental incapacity or illness; or

(c) is declared a bankrupt, loan defaulter or tax evader;

(d) is not a citizen of Pakistan;

(e) holds an office of profit in the service of Pakistan;

(f) is in the service of any statutory body or any other body which is owned or controlled by the Government or in which the Government has a controlling share or interest;

(g) has been dismissed, removed or compulsorily retired from the service of Pakistan on grounds of corruption or any other form of misconduct;

- (h) is convicted of a criminal offence;
- (i) has any conflict of interest; or
- (j) is involved in activities prejudicial to the ideology, interest, security, unity, solidarity, peace and integrity of Pakistan and its people, and the good order and harmony of society.

92. Functions of the National Public Safety Commission.– (1) In the performance of its duties the National Public Safety Commission shall oversee the functioning of the Federal Investigation Agency, Pakistan Railways Police, Anti-narcotics Force, Frontier Constabulary Pakistan Motorway and Highway Police, any other Federal Law Enforcement Agency and Anti-smuggling Wing of Customs exercising police powers.

(2) Facilitate the establishment and functioning of Citizen Police Liaison Committees in accordance with Article 168.

(3) Without prejudice to its role under clause (1), the National Public Safety Commission shall perform the following functions:-

- (a) recommend to the Federal Government panels of three police officers for the appointment of Capital City Police Officer for Islamabad and for the appointment of head of Federal Investigation Agency, Pakistan Railways Police, Pakistan Motorway and Highway Police and Frontier Constabulary;
- (b) recommend to the Provincial Government panels of three police officers for the appointment of a Provincial Police Officer;
- (c) recommend to the Federal Government premature transfer of Capital City Police Officer for Islamabad and head of a Federal Law Enforcement Agency before completion of normal tenure of three years for unsatisfactory performance of duties; provided that before making such recommendation the National Public Safety Commission shall give the concerned officer an opportunity to be heard in person;
 - (d) oversee implementation of plans prepared by heads of the respective law enforcement agencies and approved and published by the Government, setting out arrangements for achieving objectives during the year. The plans shall include—
 - (i) a statement of financial resources expected to be made available by the Government; and
 - (ii) performance targets for the year and their delivery mechanism;
- (e) evaluate the delivery of performance targets on quarterly basis;
- (f) require heads of the relevant Federal Law Enforcement agency to submit to the National Public Safety Commission, by end of August each year, a general report in a manner prescribed by the National Public Safety Commission, which shall be published;
- (g) submit an annual report to the Government and the Parliament that shall include the

- following:-
- (i) an abstract concerning performance of the National Public Safety Commission during the year;
 - (ii) a report on the functioning of the Federal Law Enforcement Agencies; and
 - (iii) a report on matters connected with general law and order in the country;
 - (h) recommend reforms for modernization of laws and procedure in respect of police, prosecution, prisons and probation services;
 - (i) facilitate coordination among the Provincial Public Safety Commissions;
 - (j) evaluate the performance of the Islamabad District Public Safety Commission on annual basis. If on the basis of the evaluation conducted by the National Public Safety Commission, the performance of the Commission is found unsatisfactory, the Government may dissolve the Islamabad District Public Safety Commission and reconstitute the commission in accordance with the provisions of this Order within forty five days of such decision;
 - (k) conduct enquiry on the recommendation of Islamabad Zila Council through a resolution passed by two third majority of its total membership for the dissolution of the Islamabad District Public Safety Commission on grounds of unsatisfactory performance of the said Commission, establish veracity or otherwise of the grounds of recommendation for rejection or onward transmission to the Federal Government for the dissolution of the said Public Safety Commission;
 - (l) perform functions of the Islamabad District Public Safety Commission during the period it stands dissolved;
 - (m) consider the proposals of the National Police Management Board and give its recommendations to the Government; and
 - (n) perform such other functions with regard to public safety and safeguarding interest of the people, as may be assigned by the Government to it for the purpose under any law for the time being in force in particular pertaining to the Prosecution, Prisons and Probation services.

93. Terms of members of the National Public Safety Commission.— (1) The term of office of a member shall be the same as that of the National Assembly unless he resigns or is removed from office at any time before the expiry of his term or ceases to be a member of the National Assembly.

- (2) No member shall be eligible for a second term.
- (3) Members shall be paid TA and DA for attending meetings, as per rules.
- (4) Independent members may be paid honoraria as per rules.
- (5) Members shall be Justices of Peace in accordance with the Code.

94. Removal of members.— The President on his own volition or on the recommendation of

the National Public Safety Commission may remove a member from office if he—

- (a) ceases to be a citizen of Pakistan;
- (b) is found suffering from physical or mental incapacity or illness;
- (c) is guilty of misconduct;
- (d) is found to have dealt with any matter in which he had a conflict of interest;
- (e) is convicted of a criminal offence;
- (f) is declared a bankrupt, loan defaulter or tax evader;
- (g) is involved in activities prejudicial to the ideology, interest, security, unity, solidarity, peace and integrity of Pakistan and its people, and the good order and harmony of society;
- (h) brings the National Public Safety Commission into disrepute;
- (i) fails to attend its three consecutive meetings without any reasonable cause.

95. Meetings and conduct of business of the National Public Safety Commission.— (1) The business of the National Public Safety Commission shall be conducted by the Commission in a meeting.

(2) The meeting may be convened by the Chairperson or on the requisition of three members.

(3) Quorum for the meeting of the Commission shall be two-third of its membership.

(4) Members shall attend meetings of the National Public Safety Commission as and when required for which at least a week's notice, with agenda, shall be given. There shall be minimum of one meeting in a month, provided an emergency meeting may be held at a short notice not exceeding twenty four hours.

(5) The ex officio Chairperson will not have the right of vote, except in case of a tie.

(6) Decisions of the Commission shall be by simple majority.

(7) The Commission may hold public consultations as and when required.

(8) Heads of law enforcement agencies, prosecution service, prison and probation services will attend meetings of the Commission as non-voting members, when invited.

(9) The Commission may invite any expert for consultations on specific issues.

(10) The Commission may frame rules of procedure for the conduct of the business.

96. Secretariat.— National Police Bureau referred to in Article 162 shall function as the secretariat of the National Public Safety Commission.

CHAPTER X

POLICE COMPLAINTS AUTHORITIES

97. Establishment of Federal Police Complaints Authority.— The Government shall establish a Federal Police Complaints Authority for enquiring into serious complaints against the members of Federal Law Enforcement Agencies.

98. Composition.– (1) The Federal Police Complaints Authority shall consist of a Chairperson and six members.

(2) The President shall appoint the Chairperson of the Federal Police Complaints Authority.

(3) The Government shall appoint the members of the Federal Police Complaints Authority on the recommendation of the Federal Public Service Commission.

99. Criteria and terms of the members.– (1) The members of the Federal Police Complaints Authority shall be eminent persons of impeccable integrity with skills, knowledge and experience in such fields as may be specified by the Government.

(2) Persons may be appointed as whole-time or part-time members of the Authority.

(3) A person shall not be appointed for a period of more than three years.

(4) No member or the Chairperson shall be eligible for a second term.

100. Functions of the Federal Police Complaints Authority.– The Federal Police Complaints Authority shall perform the following functions:-

(a) receive from District Public Safety Commission or an aggrieved person in writing on an affidavit complaint of neglect, excess or misconduct against Islamabad Capital Territory Police Officer or any member of any Federal Law Enforcement Agency;

(b) process the complaint and refer the ordinary cases to an appropriate authority for action and report and in serious cases initiate action on its own;

(c) receive from the Islamabad District Public Safety Commission or the Capital City District Police Officer or Head of a Federal Law Enforcement Agency any report of death, rape or serious injury to any person in police custody and take steps to preserve evidence relating to such incident;

(d) request the Chief Justice of the High Court, in serious cases, to appoint a District and Sessions Judge for a judicial enquiry;

(e) appoint in appropriate cases a police officer belonging to the Federal Law Enforcement Agencies who is senior in rank to the officer complained against as an inquiry officer, and supervise the inquiry proceedings;

(f) send a copy of the report to the competent authority and direct him for departmental action based on the findings of the enquiry or registration of a criminal case as appropriate and direct the competent authority to submit a report about the action taken on the findings of the report;

(g) inform the complainant of the outcome of the enquiry in writing as soon as possible;

(h) where the Federal Police Complaints Authority is not satisfied with the order in cases referred under clause (f), it may send a report to the next higher authority for revision of the order by the awarding officer and the process be repeated till it is considered by the final authority;

(i) in case of any frivolous, false or vexatious complaint, initiate legal action against the

- complainant;
- (j) recommend disciplinary action against an enquiry officer for willful neglect or mishandling of an enquiry;
 - (k) prepare and send to the Government an annual report on matters relating generally to its functions, including any matter to which it considers attention of the Government may be drawn by reason of gravity or other exceptional circumstances, for laying the report before Parliament;
 - (l) establish when necessary in consultation with the Federal Government, regional offices anywhere in the country or with the agreement of the Provincial Government designate Provincial Police Complaints Authority or District Public Safety Commission to deal with the complaints of excess or neglect.

101. Secretariat.—(1) The Government shall establish a permanent secretariat of the Authority.

(2) The Secretariat shall be headed by an officer not below BS 19 who shall be appointed in consultation with the Authority.

(3) The organization of the secretariat and functions of officers and staff shall be determined by the Authority.

(4) The secretariat shall consist of such number of officers and staff as the Government may in consultation with the Authority determine from time to time.

(5) The terms and conditions of service of the staff of the Authority shall be determined by the Government in consultation with the Authority.

102. Removal of the members.— The procedure of the removal of the Chairperson and members of the Federal Police Complaints Authority shall be the same as for the members of the Federal Public Service Commission.

103. Establishment of Provincial Police Complaints Authority.— The Government shall establish a Provincial Police Complaints Authority for enquiring into serious complaints against the police.

104. Composition.— (1) The Provincial Police Complaints Authority shall consist of a Chairperson and six members.

(2) The Governor shall appoint the Chairperson of the Provincial Police Complaints Authority.

(3) The Government shall appoint the members of the Provincial Police Complaints Authority on the recommendation of the Provincial Public Service Commission.

105. Criteria and terms of the members.— (1) The members of the Provincial Police Complaints Authority shall be eminent persons of impeccable integrity with skills, knowledge and experience in such fields as may be specified by the Government.

(2) Persons may be appointed as whole-time or part-time members of the Authority.

(3) A person shall not be appointed for a period of more than three years.

(4) No member or the Chairperson shall be eligible for a second term.

106. Functions of the Provincial Police Complaints Authority.— The Provincial Police Complaints Authority shall perform the following functions:-

- (a) receive from District Public Safety Commission or an aggrieved person in writing on an affidavit, complaint of neglect, excess or misconduct against a Police Officer;
- (b) process the complaint and refer the ordinary cases to an appropriate authority for action and report and in serious cases initiate action on its own;
- (c) receive from the District Public Safety Commission or Head of District Police any report of death, rape or serious injury to any person in police custody and take steps to preserve evidence relating to such incident and request the Chief Justice of the High Court under intimation to the Government to appoint a Judge not below the District and Sessions Judge for a judicial enquiry;
- (d) may appoint in appropriate cases a police officer of the same district or of a different district who is senior in rank to the officer complained against as an inquiry officer, and supervise the inquiry proceedings;
- (e) send a copy of the report to the competent authority and direct him for departmental action based on the findings of the enquiry or registration of a criminal case as appropriate and direct the competent authority to submit a report about the action taken on the findings of the report;
- (f) inform the complainant of the outcome of the enquiry in writing as soon as possible;
- (g) where the Provincial Police Complaints Authority is not satisfied with the order in cases referred under clause (e), it may send a report to the next higher authority for revision of the order by the awarding officer and the process be repeated till it is considered by the final authority;
- (h) in case of any frivolous, or vexatious complaint, initiate legal action against the complainant;
- (i) may recommend disciplinary action against an enquiry officer for willful neglect or mishandling of an enquiry;
- (j) prepare and send to the Government an annual report on matters relating generally to its functions, including any matter to which it considers attention of the Government may be drawn by reason of gravity or other exceptional circumstances, for laying the report before Provincial Assembly;
- (k) may in consultation with the Provincial Government establish regional offices anywhere in the Province.

107. Secretariat.— (1) The Government shall establish a permanent secretariat of the Authority.

(2) The Secretariat shall be headed by an officer not below BS 19 who shall be appointed in consultation with the Authority.

(3) The organization of the Secretariat and functions of officers and staff shall be determined by the Authority.

(4) The Secretariat shall consist of such number of officers and staff as the Government may in consultation with the Authority determine from time to time.

(5) The terms and conditions of service of the staff of the Authority shall be determined by the Government in consultation with the Authority.

108. Removal of the members.– The procedure of the removal of the Chairperson and members of the Provincial Police Complaints Authority shall be the same as for the members of the Provincial Public Service Commission.

CHAPTER XI

CRIMINAL JUSTICE COORDINATION COMMITTEE

109. Establishment.– There shall be a Criminal Justice Coordination Committee in a district.

110. Composition.– The Criminal Justice Coordination Committee shall consist of–

- (a) District and Sessions Judge (Chairperson);
- (b) Head of District Police;
- (c) District Public Prosecutor;
- (d) District Superintendent Jail;
- (e) District Probation Officer;
- (f) District Parole Officer;
- (g) Head of Investigation (Secretary).

111. Functions of the Criminal Justice Coordination Committee.– (1) The Criminal Justice Coordination Committee shall–

- (a) keep under review the operation of the criminal justice system and work towards the improvement of the system as a whole;
- (b) promote understanding, co-operation and coordination in the administration of the criminal justice system;
- (c) exchange information and give advance notice of local developments, which may affect other parts of the system;
- (d) formulate co-ordinated priorities and plans to give effect to locally agreed policies;
- (e) raise relevant issues with the appropriate authorities;
- (f) promote the spread of good practices; and
- (g) review the implementation of any decisions taken by the Criminal Justice Coordination Committee.

(2) The meeting of the Criminal Justice Coordination Committee shall be held at least once a month. The secretary of the committee shall record the minutes of the meetings.

CHAPTER XII

REGULATION, CONTROL AND DISCIPLINE OF THE POLICE

112. Rule making by Provincial Police Officer or Islamabad Capital City Police Officer.—Provincial Police Officer, or Islamabad Capital City Police Officer, as the case may be, with the prior approval of the Government, may by notification in the official Gazette, make rules for carrying into effect the provisions of this Order.

113. Punishments.— Subject to the rules, a member of the police may at any time be suspended, dismissed, compulsorily retired, reduced in rank or pay, within a time scale, fined, censured or awarded any other punishment in the prescribed manner.

114. Code of Conduct.— (1) Provincial Police Officer and Capital City Police Officer shall issue Code of Conduct to regulate police practices in respect of—

- (a) the exercise by police officers of statutory powers of stop and search;
- (b) the searching of premises by police officers and the seizure of property found by police officers on persons or premises;
- (c) the detention, treatment and questioning of persons by police officers; and
- (d) the identification of persons by police officers.

(2) Subject to rules, a police officer contravening the Code of Conduct may be awarded one or more punishments provided under Article 113.

115. Police officer at any time liable to be called for duty.— A police officer when off-duty, on leave or under suspension shall be liable to be called for duty.

116. Withdrawal from duty and resignation, etc.— (1) No Police officer shall withdraw from the duties of his office unless expressly allowed to do so in writing by Head of District Police or by some other officer authorised to grant such permission

Explanation.— A police officer who being absent on leave fails without reasonable cause to report for duty on the expiration of such leave shall be deemed within the meaning of this Article to withdraw himself from the duties of his office.

(2) No police officer shall resign his office unless he has given to his superior officer notice in writing for a period of not less than two months of his intention to resign.

117. Police officer not to engage in any other employment.— No police officer shall engage in any private employment while he is a member of the police establishment.

CHAPTER XIII

POWERS TO ISSUE ORDERS

118. Power to issue orders.— The Head of District Police may, in an emergency, for the maintenance of public order or preventing public nuisance, issue orders to give effect to the provisions of any Municipal law, rules or bye-laws for the time being in force.

119. Power to give direction to the public.— Subject to rules, a police officer not below the rank

of a Sub-Inspector may, give such directions as may be necessary to—

- (a) direct the conduct and behaviour or actions of persons constituting processions or assemblies on roads or streets;
- (b) prevent obstructions—
 - (i) on the occasion of processions and assemblies;
 - (ii) in the neighbourhood of places of worship during the time of worship; and
 - (iii) when a street or public place or place of public resort may be thronged or liable to be obstructed;
- (c) keep order on streets, mosques, churches or other places of worship and places of public resort when these may be thronged or liable to be obstructed.

120. Regulation of public assemblies and processions and licensing of same.— (1) Head of District Police or Assistant or Deputy Superintendent of Police may as occasion require, direct the conduct of assemblies and processions on public roads, or in public streets or thoroughfares and prescribe the routes by which and the times at which, such processions may pass.

(2) He may also, on being satisfied that it is intended by any persons or class of persons to convene or collect any assembly in any such road, street or thoroughfare, or to form a procession which would, in his judgement, if uncontrolled, be likely to cause a breach of the peace, require by general or special notice that the persons convening or collecting such assembly or directing or promoting such processions shall apply for a licence.

(3) On such application being made, he may issue a licence specifying the names of the licensees and defining the conditions on which alone such assembly or such procession is to be permitted to take place and otherwise giving effect to this Article:

Provided that no fee shall be charged on the application for, or grant of any such licence.

121. Powers with regard to assemblies and processions violating the conditions of licence.—

(1) Head of District Police or Assistant or Deputy Superintendent of Police or Inspector of Police or an officer in-charge of a police station may stop any procession which violates the conditions of a licence granted under the last foregoing Article, and may order it or any assembly which violates any such conditions as aforesaid to disperse.

(2) Any procession or assembly, which neglects or refuses to obey any order given under clause (1) shall be deemed to be an unlawful assembly.

122. Power to prohibit certain acts for prevention of disorder.— (1) Head of District Police may, whenever and for such time as he may consider necessary but not exceeding two days by notification publicly promulgated or addressed to individuals prohibit in any urban or rural area, the carrying of arms, cudgels, swords, spears, bludgeons, guns, knives, sticks, *lathis* or any other article, which is capable of being used for causing physical violence and the carrying of any corrosive substance or explosives, the carrying, collection or preparation of stones or other missiles or instruments of means of casting or impelling missiles.

(2) If any person goes armed with any article as is referred to in clause (1), such article shall be liable to be seized from him by a police officer.

123. Power to give directions against serious disorder at places of amusement, etc.— (1) For the purpose of preventing serious disorder or breach of the law or imminent danger to those assembled at any place of public amusement or at any assembly or meeting to which the public are invited or which is open to the public, any police officer of the rank of Assistant Sub Inspector or above, present at such place of public amusement, or such assembly or meeting, may subject to such rules, regulations or orders as may have been lawfully made, give such reasonable directions as to the mode of admission of the public to, and lawful conduct of the proceedings and the maintaining of the public safety, at such place of amusement or such assembly or meeting as he thinks necessary and all persons shall be bound to conform to every such reasonable direction.

(2) Every police officer while on duty shall have free access to any place of public amusement, assembly or meeting for the purpose of giving effect to the provisions of clause (1) and to any direction made there under.

124. Erecting of barriers in streets, etc.— Any police officer may in an emergency temporarily close any street or public place through erection of barriers or other means, to prohibit persons or vehicles from entering such area.

125. Power to search suspected persons or vehicles in street, etc.— When in a street or a place of public resort a police officer on reasonable grounds suspects a person or a vehicle to be carrying any article unlawfully obtained or possessed or likely to be used in the commission of an offence, he may search such person or vehicle; and if the account given by such person or possessor of the vehicle appears to be false or suspicious, he may detain such article after recording in writing the grounds of such action and issue a receipt in the prescribed form and report the facts to the officer in-charge of the police station for informing the court for proceeding according to law against the person.

CHAPTER XIV SPECIAL MEASURES FOR MAINTENANCE OF PUBLIC ORDER AND SECURITY

126. Employment of additional police to keep peace.— (1) Capital City Police Officer or City Police Officer and District Police Officer subject to approval of Provincial Police Officer may on application of any person depute any additional number of police to keep the peace, to preserve order, to enforce any provisions of this Order, or any other law, in respect of any particular class or classes of offences or to perform any other duties imposed on the police.

(2) Subject to rules, such additional police shall be employed at the cost of the person making the application.

(3) If the person upon whose application such additional police are employed gives one

week's notice for the withdrawal of the said police, he shall be relieved from the cost thereof at the expiration of such notice.

(4) If there is any dispute on payment, Head of District Police on an application by the aggrieved party may refer the matter to the Government for final decision.

127. Employment of additional police at the cost of organizers, etc.– (1) Whenever it appears to Head of District Police that–

- (a) any large work which is being carried on, or any public amusement, or event at any place is likely to impede the traffic or to attract a large number of people; or
- (b) the behaviour or a reasonable apprehension of the behaviour of the persons employed on any railway, canal or other public work, or in or upon any manufactory or other commercial concern under construction or in operation at any place, necessitates the employment of additional police at such place;

he may depute such number of additional police to the said place for so long as the necessity to employ the additional police shall appear to be expedient.

(2) Subject to rules, the cost of such additional police shall be borne by the organisers of such events or employers of such works or concerns, as the case may be, at rates approved by the appropriate government from time to time.

128. Compensation for injury caused by unlawful assembly.– When any loss or damage is caused to any property or when death or grievous hurt is caused to any person or persons, by anything done in furtherance of the common object of an unlawful assembly, the trial court may determine the amount of compensation which, in its opinion should be paid by members of the unlawful assembly to any person or persons in respect of the loss or damage or death or grievous hurt caused.

129. Recovery of amount payable under Articles 126 and 127.– Any amount payable under Article 126 and Article 127 shall be recovered in the same manner as if it were arrears of land revenue.

130. Recovered amount to go to treasury.– Amounts payable under Article 126 and Article 127 shall be credited to the treasury.

131. Banning of use of dress resembling uniform of police or armed forces.– (1) If Provincial Police Officer or the Capital City Police Officer or City Police Officer is satisfied that the wearing in public, by any member of any body, association or organization, of any dress or article of apparel resembling the uniform worn by police or members of the Armed Forces or any uniformed force constituted by or under any law for the time being in force, is likely to prejudice the security of the state or the maintenance of public order, he may by a special order prohibit or restrict the wearing or display, in public of any such dress or article of apparel by any member of such body or association or organization.

(2) Every order under clause (1) shall be published in the official Gazette.

Explanation.— For the purpose of clause (1) a dress or article of apparel shall be deemed to have been worn or displayed in public if it is worn or displayed in any place to which the public have access.

132. Control of camps, parades, etc.— If Head of District Police is satisfied that it is necessary in the interest of maintenance of public order, he may by a special order prohibit or restrict throughout the district or any part thereof all meetings and assemblies of persons for the purpose of training in the use of arms or taking part in any such camp, parade or procession.

133. Authority of Head of District Police over the village police.— Head of District Police shall for the purpose of carrying this Order into effect, exercise authority and control over village watchmen or village police officers.

CHAPTER XV RESPONSIBILITIES OF POLICE IN RELATION TO UNCLAIMED PROPERTY

134. Police to make inventory of unclaimed property, etc.— It shall be the duty of every police officer to take charge and make inventory of any unclaimed property found by, or made over to him, and furnish a copy of the inventory to Head of District Police without delay, who shall send a copy of the same to District Public Safety Commission.

135. Procedure for disposal of unclaimed property.— (1) Where any property has been taken charge of under Article 134, Head of District Police shall issue a proclamation within fifteen days in the prescribed manner specifying the articles of which such property consists and requiring that any person who may have a claim thereto shall appear before him or some other officer not below the rank of Assistant Superintendent of Police or Deputy Superintendent of Police especially authorised in this behalf and establish his claim within three months from the date of such proclamation.

(2) If the property, or any part thereof, is subject to speedy and natural decay or if the property appears to be of the value of less than one thousand rupees, it may forthwith be disposed off in the prescribed manner under the orders of Head of District Police and the net proceeds of such sale shall be dealt with in the manner provided in Articles 136 and 137.

(3) Where any person who has a claim to the property is required by the proclamation under clause (1) to appear before an officer authorised by the Head of District Police and establish his claim, such officer shall forward the record of the proceedings to the Head of District Police.

(4) Head of District Police shall follow the directions of the District Public Safety Commission in disposal of property under clause (3).

136. Delivery of property to person entitled.— (1) Head of District Police on being satisfied of the title of any claimant to the possession or administration of the property specified in the proclamation issued under clause (1) of Article 135 order the same to be delivered to him.

(2) In case where there is more than one claimant to the same property the matter shall be

referred by the Head of District Police to the competent court.

137. Disposal of property, if no claimant appears.— If no person establishes his claim to such property within the period specified in the proclamation, the property, or such part thereof as has not already been sold under clause (2) of Article 135 shall, with the approval of appropriate Public Safety Commission, be disposed off in the prescribed manner and the proceeds shall be deposited in the treasury.

CHAPTER XVI

OFFENCES AND PUNISHMENTS

138. Causing mischief in street by animal or vehicle.— No person shall cause damage, injury, danger, alarm or mischief in any street or public place by negligent or reckless driving or by driving any vehicle or animal laden with timber, poles or other unwieldy articles through a street or public place contrary to any regulation.

139. Causing obstruction in a street.— No person shall cause obstruction in any street or public place—

- (a) by allowing any animal or vehicle, which has to be loaded or unloaded, or take up or set down passengers, to remain or stand in the street or the public place longer than may be necessary for such purpose; or
- (b) by leaving any vehicle standing or fastening any cattle in the street or the public place; or
- (c) by using any part of a street or public place as a halting place for vehicles or cattle; or
- (d) by causing obstruction in any other manner.

140. Wilful or negligent conduct in respect of dogs.— No person shall in any street or public place—

- (a) let loose any dog wilfully or negligently so as to cause danger, injury, alarm or annoyance; or
- (b) suffer a ferocious dog to be at large without a muzzle; or
- (c) set on a dog to attack any person or horse or other animal.

141. Penalty for offences under Articles 138 to 140.— Any person who contravenes any of the provisions of Articles 138 to 140 shall, on conviction, be punished with fine, which may extend to ten thousand rupees, or, in default of payment, with imprisonment for a term not exceeding thirty days.

142. Suffering disorderly conduct.— Whoever being the keeper of any place of public amusement or public entertainment, knowingly permits or suffers disorderly behaviour or any gambling or any other criminal act, whatsoever, in such place, shall, on conviction be punished with fine which may extend to ten thousand rupees.

143. Penalty for contravening orders, etc. under Article 118.— Whoever contravenes or abets the contravention of any order made under Article 118 or any of the condition of the licence

issued under such regulations shall on conviction be fined up to ten thousand rupees.

144. Penalties for contravention of order, etc. under Article 119 and Articles 122 and 123.–

(1) Whoever contravenes, disobeys, opposes or fails to conform to any order given by a police officer under Article 119, and Article 123 shall, on conviction, be punished with fine, which may extend to ten thousand rupees.

(2) Whoever contravenes a notification or an order made under clause (1) of Article 122 shall be punished with imprisonment for a term which shall not be less than three months but may extend to two years and with fine up to one hundred thousands rupees.

145. Penalty for contravention of orders under Articles 131 and 132.– Whoever contravenes any order made under Article 131 and Article 132 shall, on conviction, be punished with imprisonment for a term, which may extend to three years, or with fine up to one hundred thousand rupees, or with both.

146. Penalty for obtaining employment as a police officer through fraudulent means.– Any person who makes a false statement or a statement which is misleading in material particulars or uses a false document for the purpose of obtaining employment as a police officer shall on conviction be punished with imprisonment for a term which may extend to one year, or with fine up to fifty thousand rupees, or with both.

147. Warning to first offender.– It shall be lawful for Head of District Police or any other officer authorized by him not below the rank of Inspector, to request the relevant court to issue in lieu of prosecution, a warning in writing to the accused in relation to first commission of any offence mentioned in Articles 138 to 140:

Provided that for any subsequent offence mentioned in this Article the offender on conviction will be awarded at least half of the prescribed punishment.

148. Defiling water in public wells, etc.– Whoever shall defile or cause to be defiled water in any public well, tank, reservoir, pond, pool, aqueduct or part of a river, stream, *nullah* or other source or means of water supply, so as to render the same unfit for the purpose for which it is set apart, shall on conviction be punished with imprisonment for a term which may extend to six months or with fine which may extend to thirty thousand rupees, or with both.

149. False alarm of fire, etc.– Whoever knowingly gives or causes to be given a false alarm of fire to the fire brigade or to any officer or fireman thereof shall on conviction be punished with imprisonment for a term which may extend to three months or with fine which may extend to fifteen thousand rupees, or with both.

150. Penalty for contravention of orders made under Article 124.– Whoever contravenes, or abets the contravention of any order made under Article 124 shall, on conviction, be punished with imprisonment which may extend to three months, or with fine which may extend to ten thousand rupees or with both.

151. Penalty for unauthorized use of police uniform.– If any person not being a member of the

police wears without authorisation, the uniform of police or any dress having the appearance or bearing any of the distinctive marks of police uniform, he shall, on conviction, be punished with imprisonment for a term which may extend to three years, or with fine up to one hundred thousand rupees, or with both.

152. Penalty for frivolous or vexatious complaint.— Any person who files a complaint against the police, which on enquiry by the Police Complaints Authority is held frivolous or vexatious, shall be punished on conviction with imprisonment for six months, or with fine, which may extend to fifty thousand rupees, or with both.

153. Certain offences to be cognizable.— Notwithstanding anything contained in the Code, offences falling under Articles 148 to 152 shall be cognizable.

154. Power to try offences summarily.— The court trying offences under this chapter shall have power to try such offences summarily in accordance with the procedure laid down for summary trial in the Code.

CHAPTER XVII OFFENCES BY AND PUNISHMENTS FOR POLICE OFFICERS

155. Penalty for certain types of misconduct by police officers.— (1) Any police officer who—

- (a) makes for obtaining release from service as police officer, a false statement or a statement which is misleading in material particulars or uses a false document for the purpose;
- (b) is guilty of cowardice, or being a police officer of junior rank, resigns his office or withdraws himself from duties without permission;
- (c) is guilty of any wilful breach or neglect of any provision of law or of any rule or regulation or any order which he is bound to observe or obey;
- (d) is guilty of any violation of duty;
- (e) is found in a state of intoxication, while on duty;
- (f) malingers or feigns or voluntarily causes hurt to himself with the intention to render himself unfit for duty;
- (g) is grossly insubordinate to his superior officer or uses criminal force against a superior officer; or
- (h) engages himself or participates in any demonstration, procession or strike or resorts to or in any way abets any form of strike or coercion or physical duress to force any authority to concede anything,

shall, on conviction, for every such offence be punished with imprisonment for a term which may extend to three years and with fine.

(2) Prosecution under this Article shall require a report on writing by an officer authorized in this behalf under the rules.

156. Penalty for vexatious entry, search, arrest, seizure of property, torture, etc.— Whoever,

being a police officer—

- (a) without lawful authority, or reasonable cause, enters or searches or causes to be entered or searched any building, vessel, tent or place;
- (b) vexatiously and unnecessarily seizes the property of any person;
- (c) vexatiously and unnecessarily detains, searches or arrests any person; or
- (d) inflicts torture or violence to any person in his custody;

shall, for every such offence, on conviction, be punished with imprisonment for a term, which may extend to five years and with fine.

157. Penalty for unnecessary delay in producing arrested persons in courts.— Any police officer who vexatiously and unnecessarily delays the forwarding to a court or to any other authority to whom he is legally bound to forward any arrested person, shall, on conviction, be punished with imprisonment for a term which may extend to one year and with fine.

CHAPTER XVIII

NATIONAL POLICE MANAGEMENT BOARD

158. Establishment.— The Federal Government shall establish National Police Management Board.

159. Composition.— The National Police Management Board shall consist of the following heads of the police establishments and the Federal Law Enforcement Agencies:-

- (a) Provincial Police Officers of Punjab, Sindh, NWFP and Balochistan;
- (b) Inspectors General of Railways Police, Pakistan Motorway and Highway Police, Northern Areas and AJK;
- (c) Capital City Police Officers of Islamabad, Lahore, Karachi, Peshawar and Quetta;
- (d) Directors General of Federal Investigation Agency and Anti Narcotics Force;
- (e) Commandants of National Police Academy and Frontier Constabulary;
- (f) Director General of National Police Bureau (Member Secretary); and
- (g) any other member that the Federal Government may nominate.

160. Functions of the National Police Management Board.— The National Police Management Board shall perform the following functions, namely:-

- (a) advise the Federal and Provincial Governments on matters concerning general planning, development and standardisation of administration, education and training, gender sensitisation, communications, criminal identification facilities, criminal statistics and equipment of police and other law enforcement agencies;
- (b) identify and arrange research in the areas of criminology, terrorism, sectarian and ethnic violence, drug trafficking, organised crime, inter-provincial crime, crime having international dimensions, etc.;
- (c) recommend Federal Government grants to various police organizations and Federal Law Enforcement Agencies for enhancing their operational capabilities;

- (d) recommend steps for securing inter-governmental and inter-agency assistance to ensure a comprehensive and cohesive arrangement for crime control and internal security;
- (e) recommend to the Federal and Provincial Governments standards of recruitment, appointment, promotions, transfers, tenure and discipline;
- (f) develop standing operating procedures based on internationally accepted good practices for adoption by the Police and Law Enforcement Agencies in the country to improve their performance; and
- (g) any other duties that the Federal Government may assign to it.

161. Meeting and conduct of business of the Board.— (1) Normally two meetings shall be held in a year. Meetings may, however, be convened by the Secretary of the Board on the requisition by half of the members of the Board.

(2) Quorum for the meeting will be three quarters of the total membership and no participation by proxy shall be allowed.

(3) Members shall attend the meetings as and when required for which at least one month's notice, with agenda shall be given.

(4) The meetings shall be presided over by the senior most member present.

(5) The Board may invite any expert for consultations.

162. National Police Bureau.— (1) A National Police Bureau headed by a Director General not below the rank of Additional Inspector General of Police shall be established.

(2) The National Police Bureau shall function as permanent secretariat of the National Public Safety Commission and the National Police Management Board.

(3) The Government shall determine the organization of the National Police Bureau and provide such number of staff as it may determine from time to time.

(4) The National Police Bureau shall perform research and development functions as assigned to it by the National Police Management Board and the National Public Safety Commission.

(5) Perform such other functions as may be assigned to it by the Government.

(6) The National Police Bureau as secretariat to the National Public Safety Commission shall function independently but for all other functions the Bureau shall be under the Interior Division.

CHAPTER XIX MISCELLANEOUS

163. Provision of advice and assistance to International Organizations etc.— The Police may provide advice and assistance to an International Organization or to any other person or body engaged in investigation of criminal cases outside Pakistan with the permission of the Government.

164. Coordination by Federal Government.— The Federal Government shall coordinate for the

purpose of efficiency in the police administration among general police areas falling under the Federal or the Provincial governments.

165. Constitution of Promotion Boards etc.— Subject to rules, promotion of police officers of the provincial police shall be made on the recommendations of the departmental promotion committees/promotion boards:

Provided that the departmental promotion committees/promotion boards shall be headed by an officer not below the rank of—

- (a) Assistant Superintendent of Police or Deputy Superintendent of Police for promotion to the rank of Head Constable;
- (b) Superintendent of Police for promotion to the rank of Assistant Sub-Inspector and Sub-Inspector;
- (c) Deputy Inspector General of Police for promotion to the rank of Inspector.
- (d) Additional Inspector General of Police for promotion to the rank of Deputy Superintendent of Police; and
- (e) Inspector General for promotion to the rank of Superintendent of Police.

166. Criminal Statistics and reports.— (1) The Provincial Government shall at such times and in such form as the Federal Government may direct, transmit statistic and reports to the Federal Government with respect to officers, offenders, criminal proceedings and the state of law and order in the Province as the Federal Government may require.

(2) The Federal Government shall cause a consolidated abstract of the information transmitted to it under clause (1) to be prepared and laid before the National Assembly.

(3) The Federal Government may require a Provincial Government to submit reports on such matters as may be specified in the requirements on matters connected with police performance.

(4) A requirement under clause (3) may specify the form in which a report is to be submitted.

(5) The Provincial Government may direct the submission of such reports and returns by the Provincial Police Officers and other police officers as it may deem proper and may prescribe the form in which such returns shall be made.

167. Maintenance of Daily Diary at a police station.— (1) A register of Daily Diary shall be maintained at every police station in such form as shall, from time to time, be prescribed and to record therein the names of all complainants, persons arrested, the offences charged against them, the weapons or property that shall have been taken from their possession or otherwise, and the names of the witnesses who shall have been examined.

(2) The District and Sessions Judge of the district may call for and inspect such Diary.

168. Citizen Police Liaison Committees.— The Government may establish Citizen Police Liaison Committees as voluntary, self financing and autonomous bodies, in consultation with National Public Safety Commission or Provincial Public Safety Commission, as the case may

be, for–

- (a) training and capacity building of Public Safety Commission;
- (b) developing mechanism for liaison between aggrieved citizens and police for providing relief; and
- (c) assistance to Public Safety Commissions, Police Complaints Authority and the police for the expeditious and judicious discharge of their duties.

169. Public Safety Fund.– (1) The Government may, by notification in the official Gazette, constitute Public Safety Fund at the Provincial and District levels consisting of–

- (a) Grants made by the Federal Government, the Provincial Government and the District Governments to the police.
- (b) Contributions made in cash or kind by the public for the improvement of police service delivery to be credited to District Public Safety Fund.

(2) The Provincial Government may credit one-half of the sums of the traffic fines to the Provincial Public Safety Fund.

(3) All receipts mentioned in sub-clauses (a) and (b) of clause (1) and clause (2) may be credited to the Provincial or District Public Safety Fund as the case may be under a Head of Account in the Public Account duly authorised by the Controller General of Accounts.

(4) The Fund shall be non-lapsable.

(5) Accounts shall be kept of payments made into or out of this fund, which shall be audited by the Auditor General at the end of each financial year.

(6) The Public Safety Fund at Provincial level shall be operated by the Provincial Public Safety Commission and at the district level by the District Public Safety Commission subject to any rules and regulations made under this Order.

(7) The Public Safety Fund shall be applied for the purpose of–

- (a) improving facilities for public and service delivery at police stations;
- (b) improving traffic police; and
- (c) rewarding police officers for good performance.

170. Officers holding charge of or succeeding to vacancies competent to exercise powers.–

Wherever in consequence of the office of Head of District Police becoming vacant, any officer who holds charge of such post or succeeds either temporarily or permanently to his office under the orders of the competent appointing authority, such officer shall be competent to exercise all the powers and perform all the duties respectively conferred and imposed by this Order on Capital City Police Officer, City Police Officer or District Police Officer.

171. No police officer to be liable to any penalty or payment of damages on account of acts done in good faith in pursuance of duty.–

No police officer shall be liable to any penalty or to payment of damages on account of an act done in good faith in pursuance or intended pursuance of any duty imposed or any authority conferred on him by any provision of this Order or any other law for the time being in force or any rule, order or direction made or given therein.

172. Suits or prosecutions in respect of acts done under colour of duty not to be entertained if not instituted within the prescribed period.— In case of an alleged offence by a police officer, or a wrong alleged to have been done by him or by any act done under colour of duty or in exercise of any such duty or authority of this Order or when it shall appear to the Court that the offence or wrong if committed or done was of the character aforesaid, the prosecution or suit shall not be entertained, or shall be dismissed, if instituted after more than six months from the date of the action complained of.

173. Notice of suit to be given with sufficient description of wrong complained of.— (1) In the case of an intended suit on account of an alleged wrong referred to in Article 172 by a police officer, the person intending to sue shall give two month's notice as prescribed in section 80 of Civil Procedure Code 1908, of the intended suit with sufficient description of the wrong complained of.

(2) The provisions of section 80 of the Civil Procedure Code, 1908, shall *mutatis mutandis* apply to the notice referred to in clause (1).

174. Licences and written permissions to specify conditions, etc.— Any licence or written permission granted under the provisions of this Order shall specify the period, locality, conditions and restrictions subject to which the same is granted and shall be given under the signature of the competent authority.

175. Revocation of licence or permission.— Any licence or written permission granted under this Order may at any time be suspended or revoked by the competent authority after due notice if any of its conditions or restrictions is infringed or evaded by the person to whom it has been granted, or if such person is convicted of any offence in any matter to which such licence or permission relates.

176. When licence or permission is revoked, the grantee would be deemed to be without licence.— When any such licence or written permission is suspended or revoked, or when the period for which the same was granted has expired, the person to whom the same was granted shall, for all purposes of this Order, be deemed to be without a licence or written permission, until the order for suspending or revoking the same is cancelled, or until the same is renewed, as the case may be.

177. Grantee to produce licence and written permission when required.— Every person to whom any such licence or written permission has been granted, shall, while the same remains in force, at all reasonable time, produce the same if so required by a police officer.

178. Public notices how to be given.— Any public notice required to be given under any of the provisions of this Order shall be in writing under the signature of a competent authority and shall be published in the locality to be affected thereby, by affixing copies thereof in conspicuous public places, or by proclaiming the same with beat of drums, or by advertising the same in local newspapers in regional languages and English or Urdu, as the said authority may deem fit, or by electronic media, or by any two or more of these means and by any other means it may think

suitable.

179. Consent of competent authority how to be proved.— Whenever under this Order, the doing or the omitting to do anything or the validity of anything depends upon the consent, approval, declaration, opinion or satisfaction of a competent authority, a written document signed by the competent authority purporting to convey or set forth such consent, approval, declaration, opinion or satisfaction shall be evidence thereof.

180. Signature on notices may be stamped.— Every licence, written permission, notice or other document, not being a summons or warrant or search warrant, required by this Order, or by any rule hereunder, to bear the stamp and the signature of Head of District Police and it shall be deemed to be properly signed if it is a facsimile of the document bearing his signature.

181. Persons interested may apply to annul, reverse or alter any rule or order.— In the case of any rule or order made under an authority conferred by this Order and requiring the public or a particular class of persons to perform some duty or act, or to conduct or order themselves or those under their control in a manner therein described, it shall be competent for any interested person to apply to the authority issuing such rule or order to annul, reverse or alter the rule or order aforesaid on the ground of its being unlawful, oppressive or unreasonable:

Provided that the appropriate government shall exercise jurisdiction for revision against such orders.

182. Notification of rules and regulations in the official Gazette.— Every rule and regulation made under this Order shall be made by notification in the official Gazette.

183. Powers to prosecute under any other law not affected.— Nothing contained in this Order shall be construed to prevent any person from being prosecuted under any other law for the time being in force for any offence made punishable under this Order.

184. Power to amend.— Without prejudice to the power of the Federal Government to amend this Order, any Provincial government may, with the approval of the Chief Executive of the Islamic Republic of Pakistan, amend, vary or modify any provision of this Order relating to the Province on the basis of its specific requirements and circumstances.

185. Repeal and savings.— (1) The Police Act, 1861 (V of 1861), hereinafter referred to as the said Act, is hereby repealed:

Provided that—

- (a) all rules prescribed, appointments made, powers conferred, orders made or passed, consent, permit, permission of licences given, summons or warrants issued or served, persons arrested or detained or discharged on bail or bond, search warrants issued, bond forfeited, penalty incurred under the said Act shall, so far as they are consistent with this Order, be deemed to have been respectively prescribed, made, conferred, given, passed, served, arrested, detained, discharged, forfeited and incurred hereunder;
- (b) all references made to the said Act or in any law or instrument shall be construed as

references to the corresponding provisions of this Order.

(2) Notwithstanding the repeal of the said Act, the repeal shall not—

- (a) affect the validity, invalidity, effect or consequence of anything duly done or suffered under the said Act;
- (b) affect any right, privilege, obligation or liability acquired, accrued or incurred under the said Act;
- (c) affect any penalty, forfeiture or punishment incurred or inflicted in respect of any act or offence committed against the said Act;
- (d) affect any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment as aforesaid;

and any such investigation, legal proceeding or remedy may be instituted, continued or enforced, and any such penalty, forfeiture or punishment may be imposed, as if the said Act has not been repealed; and

- (e) affect any proceeding pending in any court or before any authority under the said Act, and any such proceeding and any appeal or revision arising out of such proceeding shall be continued, instituted or disposed of, as if the said Act had not been repealed.

186. Existing police deemed to be constituted under this Order.— Without prejudice to the provisions contained in Article 185, the police functioning in the Provinces and in Islamabad Capital Territory immediately before the commencement of this Order shall on such commencement be deemed to be police constituted under this Order.

187. Power to remove difficulties.— (1) If any difficulty arises in giving effect to the provisions of this Order, the Government may, by notification in the official Gazette, make such provisions as appear to be necessary or expedient for removing the difficulty:

Provided that no such notification shall be issued after the expiry of two years from the commencement of this Order.

(2) Every notification issued under this Article shall be laid before the Parliament or the Provincial Assembly, as the case may be.

FIRST SCHEDULE SENIOR AND JUNIOR RANKS

[Article 2 (xii) and Article 2 (xxv)]

1. Senior Police Ranks—

- (i) Inspector-General
- (ii) Additional Inspector General
- (iii) Deputy Inspector General
- (iv) Assistant Inspector General/Senior Superintendent
- (v) Superintendent

- (vi) Assistant Superintendent/Deputy Superintendent
- 2. Junior Police Ranks–
 - (i) Inspector
 - (ii) Sub-Inspector
 - (iii) Assistant Sub-Inspector
 - (iv) Head Constable
 - (v) Constable

SECOND SCHEDULE

(ARTICLE 24)

FORM OF OATH OR AFFIRMATION BY MEMBERS OF POLICE

I _____ do hereby swear/solemnly affirm that I shall be faithful and bear true allegiance to Pakistan and to the Constitution of the Islamic Republic of Pakistan; that as member of the Police I shall honestly, impartially and truly serve the people without fear, favour or affection, malice or ill-will; that I will to the best of my ability, skill and knowledge discharge, according to law, such functions and duties as may be entrusted to me as a member of the police and in such a manner as to uphold and protect the dignity and rights of the citizens; that I shall abide by the principles contained in the Code of Conduct for police officers.

THIRD SCHEDULE

(ARTICLE 25)

CERTIFICATE OF APPOINTMENT

SEAL

No _____

Certificate of appointment issued under Article 25 of the Police Order, 2002, Mr. _____ has been appointed _____ and is invested with the powers, functions and privileges of a police officer under Article _____ of Police Order, 2002, in the Capital City District _____/City District _____/District Police/ Area _____ under the charge of Provincial Police Officer/ Capital City Police Officer _____/City Police Officer _____ on this day of _____.

Signature _____

Designation _____

APPENDIX-II

PROPOSED AMENDMENTS IN POLICE ORDER 2002

1. In the preamble, the word "professional" shall be substituted with the words "*professionally competent, politically neutral, operationally, administratively and financially independent*" and Paras 6 & 7 omitted.
2. The word "Section" occurring throughout the Police Order 2002 shall be replaced with the word "*Article*".
3. The word "Order" occurring throughout the Police Order shall be replaced with the word "*Act*".
4. The figure "2002" occurring throughout the Police Order shall be replaced with the figure "*2018*".
5. The words "Zila Nazim" wherever occurring shall be substituted with "*District Head of Local Government*".

CHAPTER I
PRELIMINARY

6. In Article 2(1)(i) after the word "includes" the words "*direction, control and*" shall be added.
7. In Article 2(1)(ii) the figure "11" shall be substituted with figure "*15*".
8. After Article 2(1)(ii) following new clause shall be added and the rest be re-numbered:-
(iii) "City District means a district with a population equal to or more than two million."
9. In Article 2(1)(iii) the words "of a general police area" shall be omitted.
10. After Article 2(1)(vii) following new clause shall be added and the rest be re-numbered:-
(ix) "exigency of service", in relation to posting and transfer, means an urgent or unforeseen situation which, for the reasons to be recorded in writing, requires premature transfer of a Police Officer for performance of specific tasks or duties but not as a replacement for what should be rightly treated as an efficiency and discipline matter;
11. In Article 2(1)(ix) after the word "Province" the words "*the Islamabad Capital Territory*" shall be added.
12. After Article 2(1)(xi) following new clause shall be added and the rest be re-numbered:-
(xiv) 'Head of Unit' means a Police officer not below the rank of Superintendent of

- Police or any other officer heading a self-contained administrative unit with administrative, operational and financial autonomy as prescribed;*
13. After Article 2(1)(xxii) following new clauses shall be added and the rest be re-numbered:-
(xxvi) 'Region' means two or more Districts grouped together and constituted under Article 21;
(xxvii) 'Regional Police Officer' means Head of the Police of a region;
14. In Article 2(1)(xxvi) after the word “temporarily” the word “and” shall be omitted.
15. After Article 2(1)(xxvi) following new clause shall be added and the rest be re-numbered:-
(xxxii) "Superintendence' by the Government means taking decisions on major policy matters only, without directly or indirectly impacting, compromising, affecting, negating, eroding or otherwise curtailing or reducing the administrative and financial autonomy and operational independence of the Police; and.

CHAPTER II

RESPONSIBILITIES AND DUTIES OF THE POLICE

16. In Article 4(1)(b) shall be substituted with the words “*maintain law and order and preserve and promote public peace and security*”.
17. In Article 4(1)(g) after the word “streets” the words “*and issue driving licences*” shall be added.

CHAPTER III

CONSTITUTION AND ORGANIZATION OF THE POLICE

18. In Article 6 the word “Separate” occurring in the heading shall be substituted with the word “*Adequate*” and the words “a separate” in the text shall be substituted with the words “*adequate and well-resourced*”.
19. In Article 7(2), the “” occurring at end of the word “determine” shall be substituted with “,” followed by “*but will be same throughout Pakistan*”.
20. In Article 7(5) shall be substituted as follows:-
“The recruitment in the rank of Constable shall be on the basis of district of domicile and that of Assistant Sub-Inspector on the basis of Police region in which district of domicile of the candidate is located. There will be no bar on the posting of officers of other districts for investigation, traffic, security, reserve, intelligence and other duties. Subject to rules, Inspectors and Deputy Superintendents of Police shall be promoted on the basis of Provincial seniority;
Provided that promotion prospects for all ranks up to promoted Superintendent of Police shall be so regulated as to give them fair and reasonable chances of promotion”.

21. In Article 8(1) before the word “branches” the word “departments” shall be added.
22. In Article 8(2) before the word “branches” the word “departments” shall be added.
23. In Article 8(2)(n) after the word “Transport” the words “and Communications” shall be added.
24. In Article 8(2)(r) after the words “Estate Management” the words “and Infrastructure Development” shall be added.
25. After Article 8(2)(r) following new clauses shall be added: -
- (s) Inspections
 - (t) Logistics and Procurement;
 - (u) Counter Terrorism;
 - (v) Special Branch;
 - (w) Elite Force;
 - (x) Public Relations;
 - (y) Traffic Wardens;
 - (z) Integrated command and Control System/Safe City Project; and
 - (aa) Specialised Protection and Security;
26. After Article 8(5) following two new clauses shall be added: -
- The Provincial Police Officer or the Capital City Police officer Islamabad may establish specialized schools of training as deemed necessary.*
- Subject to Rules, the Provincial Police Officer may establish Metropolitan and Urban Policing systems for capital cities and other cities having population of one million or more.*
27. After Article 9(2) following new clause shall be added:-
- Government will take steps to provide adequate human resources to ensure that working hours of the Police personnel are in conformity with the international standards.*
28. After Article 10(4) following new clauses shall be added: -
- (5) Notwithstanding anything contained in other laws or rules for the time being in force, the Provincial Police Officer or the Capital City Police Officer Islamabad Capital Territory, as the case may be, shall have power to transfer and post officers up to the rank of Additional Inspector General.*
- Provided that the Provincial Police Officer or the Capital City Police Officer Islamabad Capital Territory shall make transfers and postings after giving due consideration to the recommendations of Police Executive Board comprising three senior-most Police officers and Deputy Inspector General Headquarters as the Board's Secretary.*
- (6) There shall be a Police Advisory Board headed by Provincial Police Officer or the Capital City Police Officer Islamabad Capital Territory, as the case may be. The Board shall consist of eight senior-most Police officers. The Provincial Police Officer or the*

- Capital City Police Officer Islamabad Capital Territory, as the case may be, may co-opt any person for advising on efficient and transparent administration and public service delivery.*
29. In Article 11(2) the words “and the Provincial Government in the case of Capital City District” shall be omitted.
 30. In Article 11(2) after the words “Capital City Police officer” the word “*Islamabad Capital Territory*” shall be added.
 31. In Article 11(2) the words “or on the recommendation of the Provincial Police Officer, as the case may be” shall be omitted.
 32. In Article 11(4) after the word “Capital City Police officer” the word “*Islamabad Capital Territory*” shall be added.
 33. In Article 12 after the word “Capital City Police officer” the word “*Islamabad Capital Territory*” shall be added.
 34. In Article 12(6) after the word “Capital City Police officer” the word “*Islamabad Capital Territory*” shall be added.
 35. Article 13 shall be substituted as “*The Provincial Police Officer or Capital City Police Officer Islamabad Capital Territory, as the case may be, may post such number of Additional Inspectors General of Police to assist him, in the Headquarters, or as Head of Unit, or Regional Police Officer or Capital City Police Officer, as the case may be*”.
 36. Article 14(1) shall be substituted as “*The Provincial Police Officer may, on recommendation of the appropriate Public Service Commission, appoint one or more experts to assist him*”.
 37. In Article 15 before the words “City Police Officer” occurring in the heading the words “*Capital City Police Officer,*” shall be added.
 38. Article 15(1) shall be substituted as “*The Provincial Police Officer may post a Capital City Police Officer for a capital city district notified as a general police area, City Police Officer for a city district and the District Police Officer in a district within a general police area*”.
 39. In Article 15(2) before the words “City Police Officer” the words “*Capital City Police Officer,*” shall be added.
 40. Article 15(3) shall be substituted as “*The Capital City Police Officer, City Police Officer or District Police Officer may be transferred before completion of normal tenure of three years on specific grounds such as inefficiency and ineffectiveness or due to exigency of service*”.
 41. Article 16(1) shall be substituted as “*Subject to this Act, the administration of Police throughout a district, other than a capital city district, shall vest in a City Police Officer or District Police Officer, as the case may be, posted under Article 15*”.
 42. Article 16(2) shall be substituted as “*The City Police Officer or District Police Officer,*

as the case may be, may delegate any of his powers and functions conferred on him to a Senior Superintendent of Police, Superintendent of Police Assistant or Deputy Superintendent of Police posted under Article 17”.

43. In Article 16(4) the word “operational” shall be substituted by “**direction and**”
44. Article 17(1) shall be substituted as “**Subject to Rules, the Provincial Police Officer may, after taking into consideration the recommendations of Police Executive Board, post to any Region or for Police Headquarters, such number of Deputy Inspectors General of Police as he may deem fit**”.
45. Article 18 shall be omitted and substituted as follows: -

18. Separation of investigation function, Transfer of investigation, Functions of Provincial Investigation Branch etc. -(1) There shall be separation of investigation from other functions of the Police at Police station level.

(2) Subject to sub-section (3), there shall be a District Investigation Branch in each District, under the supervision of Head of District Investigation Branch, to investigate cases notified by the Provincial Police Officer.

(3) The Provincial Police Officer may notify, through Standing Order, the offences which shall be investigated by the officers in the Police station under the supervision of the Station House Officer of the Police station;

Provided further that cases of murder and such other serious offences as determined by Provincial Police Officer shall be investigated by a team of specialist investigators of the District Investigation Branch;

(4) The District Investigation Branch, other than in the Capital City District, shall be headed by a Police officer not below the rank of a Superintendent of Police and shall consist of such other Police officers as the head of District Police may determine.

(5) In the Capital City District, the District Investigation Branch shall be headed by a Police officer not below the rank of Senior Superintendent of Police and shall consist of such other Police officers as the Capital City Police Officer may determine.

(6) The members of District Investigation Branch shall not form part of any Police station and the District Investigation Branch shall comprise specialized wings, each wing being responsible for investigation of one or more types of cases.

(7) Except in case of an emergency notified by the Provincial Police Officer for a specified period, the members of District Investigation Branch shall not be employed for duties other than investigation.

(8) Within seven working days of the filing of an application, the Head of District Police may, for reasons to be recorded in writing, transfer investigation of a case from the Police Station to the District Investigation Branch.

(9) If the Head of District Police has transferred an investigation, within seven working days of the filing of an application, the Regional Police Officer may, for

reasons to be recorded in writing, transfer investigation of a case from District Investigation Branch to Regional Investigation Branch or a team of investigation officers in that region:

Provided that the Regional Investigation Branch shall be headed by an officer not below the rank of Superintendent of Police.

(10) If the Regional Police Officer has transferred an investigation, the Provincial Police Officer may, within seven (07) days of the filing of an application, for reasons to be recorded in writing, order second transfer of investigation of a case to the Provincial Crimes Branch:

Provided that the investigation in the Provincial Crimes Branch shall be supervised by an officer not below the rank of Deputy Inspector General of Police.

(11) There shall be a Provincial Investigation Branch to be headed by an officer of the rank of Additional Inspector General of Police.

(12) The Additional Inspector General of Police Investigation shall assist the Provincial Police Officer in the supervision of investigations in the Province in the manner prescribed.

(13) The Provincial Police Officer may determine the territorial and functional jurisdiction of Provincial Investigation Branch and each of the unit so established shall be headed by an officer not below the rank of Deputy Inspector General of Police.

(14) Within two years from coming into force of this Act, the Investigating Officers of the Investigation Branch shall get themselves certified from duly approved Investigation Certifiers. In case of misconduct, the Investigating Officer concerned will be decertified, which will be a serious factor that will be taken into consideration at the time of his promotion.

(15) The government shall take steps to make adequate provisions to provide sufficient funds to meet the cost incurred in the investigation of cases, in addition to providing the required forensics backup.

(16) Any officer found involved in motivated or faulty investigations shall be sternly dealt with under the E&D Rules, and in case of serious default, additionally under Chapter XVII of this Act.

(17) The Provincial Police Officer shall take steps to build capacity of the Specialised Investigation Units.

46. In Article 19 the word "computer" shall be substituted with "Information Technology".
47. In Article 21(1) the words "with the approval of the Government" shall be omitted.
48. In Article 21(2) before the word "Capital" the word "and" shall be added.
49. In Article 21(2) the words "City Police Officer as the case may be," shall be

- substituted with “**Regional Police Officer with the approval of the Provincial Police Officer,**”.
50. In Article 21(4) the words “Provided that an officer of the rank of Assistant Superintendent of Police may be posted as head of a Police station, assisted by Inspectors as officer in charge in selected Police stations.” shall be omitted and substituted with the words “**Provided that an Officer not below the rank of Assistant/ Deputy Superintendent of Police shall be posted as Head of an Urban Police Station, assisted by officers of rank not below an Inspector to work in shifts, and an officer not below the rank of Sub-Inspector for Rural Police Stations**”.
51. After Article 21(4) following new clause shall be added: -
“**The term of office for Station House Officer shall not be less than two years unless transferred earlier due to exigency of service or misconduct.**”
52. The Article 22 shall be substituted as follows: -
“**Subject to Rules, the Provincial Police Officers or the Head of Police Islamabad Capital Territory, as the case may be, may mutually agree to allow transfer of officers of junior ranks from one general police area to another**”.
53. In Article 27 after the word “Provincial Police Officer” the words “, **Regional Police Officers, Head of Unit**” shall be added.
54. In Article 28 after the words “City Police Officer” occurring in the heading the words “**and Regional Police Officer**” shall be added.
55. In Article 28(1) after the words “Capital City Police Officer” the words “**and Regional Police Officer, subject to approval of the Provincial Police Officer**” and after the word “investigate,” the words “**order audit or inspection**” shall be added.
56. In Article 28(2) after the word “Capital City Police Officer” the words “, **Regional Police Officer**” shall be added.
57. In Article 32(3) the words “Tehsil or Town Nazim” shall be substituted with “**Tehsil Head of Local Government or Town Head of Local Government, as the case may be**”.
58. In Article 33(2) the words “Provincial Government” occurring for the second time shall be substituted with the words “**Provincial Public Safety Commission**” and the following new clauses shall be added: -
(3) **The Tehsil or Town Council may refer in writing any public complaint relating to Police, through their concerned Head of Local Government, to the relevant Sub-Divisional Police Officer for necessary legal action. The Sub-Divisional Police Officer shall take appropriate legal action on such complaint and report back to the concerned Head of Local Government within fifteen (15) days.**
(4) **The Village Council or Neighbourhood Council may also refer in writing any public complaint relating to Police to the Officer In Charge of local Police Station for necessary legal action. The Officer In Charge shall take appropriate legal action on**

such complaint and report back to the concerned local council within fifteen (15) days.

59. The Article 34(2) shall be omitted and substituted as follows: -
“(2) The District Head of Local Government shall be responsible to ensure that the relevant Local Government Officials provide necessary support to Police during exigencies threatening law and order, natural calamities and emergencies”.

CHAPTER V

DISTRICT PUBLIC SAFETY COMMISSION

60. In Article 38(2) the words “by the Government” shall be omitted.
61. In Article 38(4) the words “Naib Zila Nazim” shall be substituted with *“Head of Secretariat of District Assembly”.*
62. The Article 41(1) shall be substituted with following: -
The District Criminal Justice Coordination Committee shall select the independent members of the Commission.
63. After Article 43(j) following new clause shall be added: -
“(k) has entered into plea bargain or voluntary returns under the National Accountability Bureau Act, 2002; or belongs to any proscribed organization; or has been notified under the Fourth Schedule of the Anti-Terrorism Act, 1997”.
64. In Article 44(e) the word “Government” shall be substituted by the words *“Police Officer”.*
65. Article 44(h)(i) shall be substituted with *“refer the complaint to the District Police Officer or City Police Officer, as the case may be, in writing to take appropriate action and report within two weeks”*
66. In Article 44(h)(ii) the words “and direct” shall be substituted with the word *“to”* and the words “suspend the defaulting Police Officer and” shall be omitted.
67. In Article 44(h)(iii) the words “Provincial Government” shall be omitted.
68. After clause 44(j) following new clauses shall be added:-
(k) conduct public feedback surveys through professionals on the Police performance and Police image;
(l) identify and report to the Head of District Police social problems that require Police attention;
(m) recommend Police resource enhancement measures to the Government or Local Government, as the case may be; and
(n) recommend to the head of District Police creation of a new Police station or Police post in consultation with District Head of Local Government;

69. The Article 45(5) shall be omitted.
70. In Article 48(1) the word "Government" shall be substituted with words "**District Local Government**".
71. In Article 48(2) the words "Commission by the Provincial Government" shall be substituted with words "**District Criminal Justice Coordination Committee**".

Chapter VI

Capital City District Public Safety Commission

72. In Article 50(1) the word "Three" shall be substituted with the word "**Four**".
73. In Article 50(2) the word "Three" shall be substituted with the word "**Two**" and the word "two" shall be substituted with the word "**one**".
74. In Article 50(3) the word "by the Government" shall be omitted.
75. In Article 50(5) the words "Naib Zila Nazim" shall be substituted with the words "**Head of Secretariat of District Assembly**".
76. In Article 53(1) shall be substituted as follows: -
"(1) The Selection Panel for Independent members shall be District Criminal Justice Coordination Committee."
77. After clause 55(j) following new clause shall be added:-
"(k) has entered into plea bargain or voluntary returns under the National Accountability Bureau Act, 2002; or belongs to any proscribed organization; or has been notified under the Fourth Schedule of the Anti-Terrorism Act, 1997".
78. In Article 56(b) the words "Tehsil Nazim" shall be substituted with "**Tehsil Head of Local Government**".
79. In Article 56(e) the words "Government" shall be substituted with the words "**Police Officer**".
80. Article 56(h)(i) shall be substituted with "**refer the complaint to the Capital City Police Officer in writing to take appropriate action and report within two weeks**".
81. In Article 56(h)(ii) the words "and direct" shall be substituted with the word "**to**" and the words "suspend the defaulting Police Officer and" shall be omitted.
82. In Article 56(h)(iii) the words "Provincial Government" shall be omitted.
83. After clause 56(j) following new clauses shall be added:-
(k) conduct public feedback surveys through professionals on the Police performance and Police image;
(l) identify and report to the Head of District Police social problems that require Police attention;
(m) recommend Police resource enhancement measures to the Government or Local Government, as the case may be; and
(n) recommend to the head of District Police creation of a new Police station or Police

- post in consultation with District Head of Local Government;*
84. Article 57(5) shall be omitted.
85. In Article 60(1) the word "Government" shall be substituted with words "*Capital City District Local Government*".
86. In Article 60(2) the words "Commission by the Provincial Government" shall be substituted with words "*Capital City District Criminal Justice Coordination Committee*".

CHAPTER VII

ISLAMABAD DISTRICT PUBLIC SAFETY COMMISSION

87. In Article 62(1) the word "Three" shall be substituted with the word "*Four*".
88. In Article 62(2) the word "Three" shall be substituted with the word "*Two*" and the word "two" shall be substituted with the word "*one*".
89. In Article 60(3) the word "by the President" shall be omitted.
90. In Article 62(5) the words "Zila Naib Nazim" shall be substituted with "*Head of Capital City of Islamabad Capital Territory District Assembly*".
91. Article 65(1) shall be substituted as follows:-
"(1) The Selection Panel for Independent members shall be Islamabad Capital Territory Criminal Justice Coordination Committee."
92. After clause 67(j) following new clause shall be added:-
"(k) has entered into plea bargain or voluntary returns under the National Accountability Bureau Act, 2002; or belongs to any proscribed organization; or has been notified under the Fourth Schedule of the Anti-Terrorism Act, 1997".
93. In Article 68(a) the words "Zila Nazim" shall be substituted with "*District Head of Islamabad Capital Territory Local Government*".
94. In Article 68(b) the words "Tehsil Nazim" shall be substituted with "*Tehsil Head of local Government*".
95. In Article 68(e) the words "Federal Government" shall be substituted with the words "*Islamabad Capital City Police Officer*".
96. Article 68(h)(i) shall be substituted as "*refer the complaint to the Islamabad Capital City Police Officer in writing to take appropriate action and report within two weeks*".
97. Article 68(h)(ii) the words "and direct" shall be substituted with the word "*to*" and the words "suspend the defaulting Police Officer and" shall be omitted.
98. In Article 68(h)(iii) the words "Federal Government" shall be substituted with "*National Public Safety Commission*".
99. After clause 68(j) following new clauses shall be added:-
(k) conduct public feedback surveys through professionals on the Police performance and Police image;

- (l) identify and report to the Head of District Police social problems that require Police attention;
- (m) recommend Police resource enhancement measures to the Government or Local Government, as the case may be; and
- (n) recommend to the head of District Police creation of a new Police station or Police post in consultation with District Head of Local Government;
100. Article 69(5) shall be omitted.
101. In Article 72(1) the word "Government" shall be substituted with words "Islamabad Capital Territory City Local Government".
102. Article 72(2) shall be substituted as "The Secretariat shall be headed by a suitable officer of BPS-17/18 who shall be appointed by the Commission in consultation with the Islamabad Capital City Criminal Justice Coordination Committee."

CHAPTER VIII

THE PROVINCIAL PUBLIC SAFETY COMMISSION

103. In Article 75(1) the word "Home" shall be substituted with the word "Chief".
104. Article 77(1) shall be substituted as "The Independent members of the Commission shall be selected by the Provincial Justice Committee."
105. After clause 79(j) following clause shall be added: -
"(k) has entered into plea bargain or voluntary returns under the National Accountability Bureau Act, 2002; or belongs to any proscribed organization; or has been notified under the Fourth Schedule of the Anti-Terrorism Act, 1997".
106. Article 81(5) shall be omitted.
107. In Article 84(1) the word "Government" shall be substituted by "Capital City Local Government".
108. Article 84(2) shall be substituted as follows: -
"The Secretariat shall be headed a suitable officer of BPS-18/19 who shall be appointed in consultation with the Provincial Criminal Justice Coordination Committee."

CHAPTER IX

THE NATIONAL PUBLIC SAFETY COMMISSION

109. Article 89(1) shall be substituted as "The Independent members of the Commission shall be selected by the Law and Justice Commission."
110. After subsection 91(j) following new clause shall be added:-
"(k) has entered into plea bargain or voluntary returns under the National Accountability Bureau Act, 2002; or belongs to any proscribed organization; or has been notified under the Fourth Schedule of the Anti-Terrorism Act, 1997".

111. Article 93(5) shall be omitted.

CHAPTER X

POLICE COMPLAINTS AUTHORITIES

112. In Article 99(1) the word "Government" shall be substituted by the words "**National Public Safety Commission**"
113. In Article 103, after the word "Authority", the words "**with at least one office in every region**" shall be added.
114. In Article 106(b) the words "ordinary cases" shall be substituted with the word "**case**" and the words "report and in serious cases initiate action on its own" shall be substituted with the words "**monitor progress of proceedings**".
115. In Article 106(c) after the word "Police" occurring for the first time the words "**or from any other sources**" shall be added.
116. In Article 106(d) before the word "Senior" the words "**of impeccable integrity and**" shall be added.
117. In Article 106(e) after the word "report" occurring for the second time, the words "**within one month**" shall be added.
118. In Article 107(2) shall be substituted as "**The Secretariat shall be headed by a suitable officer of BPS-18/19 who shall be appointed by the Authority in consultation with the Provincial Public Safety Commission**".

CHAPTER XI

CRIMINAL JUSTICE COORDINATION COMMITTEE

119. After Article 111(2) following new clause shall be added: -
(3) "Criminal Justice Coordination Committees at Provincial and National level headed by the Chief Justices of High Courts and the Chief Justice Supreme Court respectively shall likewise be established."

CHAPTER XVII

OFFENCES BY AND PUNISHMENTS FOR POLICE OFFICERS

120. In Article 155(2) shall be substituted as follows: -
"Prosecution under this Article in case of junior ranks shall require written authorisation from the Regional Police Officer or an officer of at least BS-21 specifically authorised in this behalf by the Provincial Police Officer. In Case of senior ranks, the relevant Police Complaint Authority shall authorise the prosecution in writing".

CHAPTER XVIII

NATIONAL POLICE MANAGEMENT BOARD

121. In Article 160(f) after the word "performance;" the word "**and**" shall be omitted and after adding the following new clause the subsequent clauses shall be accordingly re-numbered: -
- "(g) manage the administration the policy of the Police Service of Pakistan notwithstanding anything contained in any other law, or rule for the time being in force; and"***

CHAPTER XIX

MISCELLANEOUS

122. In Article 163 after the word "Police" the words "***through the National Police Bureau,***" and after the word "Pakistan" the words "***and may assist the relevant agencies in implementing international conventions relating to crime, criminals and accused persons***" and omit the words "with the permission of the government".
123. In Article 168, the "." appearing at the end of the word "Committees" appearing in the heading, shall be substituted with "***Dispute Resolution Committees, etc.***" and this clause shall be numbered as "***(1)***"
124. In Article 168 the word "Government" shall be substituted with the words "***relevant Public Safety Commission***" and the words "***in consultation with National Public Safety Commission or Provincial Public Safety Commission, as the case may be,***" shall be omitted.
125. In Article 168(a) the words "Public Safety Commission" shall be substituted by the word "***Police***".
126. In Article 168(b) before the word "liaison" the word "better" shall be added and the word "aggrieved" shall be omitted. Similarly, the words "for providing relief" shall also be omitted.
127. Article 168(c) shall be substituted as follows: -
- "providing assistance for the development of criminal justice sub-systems."***
128. A new clause numbered as "***(2)***" shall be added in the following terms: -
- "(2) The Provincial Police Officer or the Head of Police of Islamabad Capital Territory, as the case may be, may establish Dispute Resolution Committees for-***
- (a) establishing and promoting dispute resolution procedures; and***
- (b) resolving disputes through conciliation subject to agreement of both parties."***
129. Articles 184 to 187 shall be appropriately amended after the constitutionality of Police Order 2002 is finally determined.

APPENDIX-III

MODEL POLICE LAW 2018

WHEREAS the police has an obligation and duty to function according to the Constitution, law, and democratic aspirations of the people;

AND WHEREAS such functioning of the police requires it to be professionally competent, politically neutral, operationally, administratively and financially independent, service-oriented, and accountable to the people;

AND WHEREAS it is expedient to redefine the police role, its duties and responsibilities;

NOW THEREFORE, Model Police Law 2018 is hereby enacted.

**CHAPTER I
PRELIMINARY**

1. **Short title, extent and commencement.** – (1) This Act may be called the Police Act, 2018.
 - (2) It extends to the whole of Pakistan.
 - (3) It shall come into force at once.
2. **Definitions.** – (1) In this Act, unless the context otherwise requires, –
 - (i) Administration' includes direction, control and management of administrative, operational and financial functions;
 - (ii) Capital City Police Officer' means the head of police of a general police area of the capital city district who is not below the rank of Additional Inspector General of Police and is posted under Section 15;
 - (iii) City District means a district with a population equal to or more than two million;
 - (iv) City Police Officer' means the head of police of the city district who is not below the rank of Deputy Inspector General of Police and is posted under Section 15;
 - (v) Code' means the Code of Criminal Procedure, 1898 (Act V of 1898);
 - (vi) Commission' means a Public Safety Commission established under this Act at the national, provincial, or district level;
 - (vii) District' means the district as defined in a Local Government Law;

- (viii) District Police Officer' means the head of police of a district who is not below the rank of Senior Superintendent of Police and is posted under Section 15;
- (ix) exigency of service', in relation to posting and transfer, means an urgent or unforeseen situation which, for the reasons to be recorded in writing, requires premature transfer of a Police Officer for performance of specific tasks or duties but not as a replacement for what should be rightly treated as an efficiency and discipline matter;
- (x) Federal Law Enforcement Agencies' include Federal Investigation Agency, Pakistan Railway Police, Anti-narcotics Force, Pakistan Motorway and Highway Police, Islamabad Police, Frontier Constabulary, and any other Federal or Provincial organization notified as such by the Government from time to time;
- (xi) General Police Area' means a capital city district, a part of a province, the Islamabad Capital Territory or any territory for which separate police is established under Section 6;
- (xii) Government' means the appropriate Government;
- (xiii) Head of District Police' means a District Police Officer, City Police Officer or a Capital City Police Officer;
- (xiv) Head of Unit' means a Police officer not below the rank of Superintendent of Police or any other officer heading a self-contained administrative unit with administrative, operational and financial autonomy as prescribed;
- (xv) junior ranks' means members of the police of and below the rank of Inspector as set out in the First Schedule;
- (xvi) person' includes community, a company, or corporation;
- (xvii) Place' includes—
- a. any building, tent, booth or other structure, whether permanent or temporary; and
 - b. any area, whether enclosed or open;
- (xviii) place of public amusement' means any place where music, singing, dancing or

- game or any other amusement, diversion, or recreation or the means of carrying on the same is provided etc. to which the public are admitted either on payment of money or with the intention that money may be collected from those admitted;
- (xix) 'place of public entertainment' means any place of boarding and lodging to which public are admitted by any person owning, or having any interest in, or managing, such place;
- (xx) 'Provincial Police Officer' means head of the police of a general police area of the rank of Inspector General of Police posted under Section 11;
- (xxi) 'Police Officer' means a member of the police who is subject to this Act;
- (xxii) 'Police or Police Establishment' means the police referred to in Section 6 and includes—
- a. all persons appointed as special police officers or additional police officers under this Act; and
 - b. all other employees of the police;
- (xxiii) 'prescribed' means prescribed by rules made under this Act;
- (xxiv) 'property' means any moveable property, money or valuable security;
- (xxv) 'public place' means any place to which the public may have access;
- (xxvi) 'Region' means two or more Districts grouped together and constituted under Section 21;
- (xxvii) 'Regional Police Officer' means Head of the Police of a region;
- (xxviii) 'rules' means rules made under this Act;
- (xxix) 'schedule' means a schedule to this Act;
- (xxx) 'senior ranks' means members of the police above the rank of Inspector as set out in the First Schedule;
- (xxxi) 'street' includes any highway, bridge, way, causeway, arch, road, lane, footway,

square, alley or passage, whether or not it is a thoroughfare and to which the public have access, whether permanently or temporarily;

(xxxii) 'Superintendence' by the Government means taking decisions on major policy matters only, without directly or indirectly impacting, compromising, affecting, negating, eroding or otherwise curtailing or reducing the administrative and financial autonomy and operational independence of the Police; and

(xxxiii) 'vehicle' includes any conveyance of any description mechanically propelled or otherwise.

(2) All references in respect of District Superintendent of Police in any law in force shall mean Head of District Police posted under Section 11 and Section 15.

CHAPTER II

RESPONSIBILITIES AND DUTIES OF THE POLICE

3. Attitude and responsibilities of police towards the public. – It shall be the duty of every police officer to–

- (a) behave with the members of the public with due decorum and courtesy;
- (b) promote amity;
- (c) guide and assist members of the public particularly the poor, disabled or physically weak and children who are either lost or find themselves helpless on the streets or other public places; and
- (d) aid individuals who are in danger of physical harm particularly women and children.

4. Duties of police. – (1) Subject to law, it shall be the duty of every police officer to–

- (a) protect life, property and liberty of citizens;
- (b) maintain law and order and preserve and promote public peace and security;
- (c) ensure that the rights and privileges, under the law, of a person taken in custody, are protected;
- (d) prevent the commission of offences and public nuisance;
- (e) collect and communicate intelligence affecting public peace and crime in general;
- (f) keep order and prevent obstruction on public roads and in the public streets and thoroughfares at fairs and all other places of public resort and in the neighbourhood of and at the places of public worship;
- (g) regulate and control traffic on public roads and streets and issue driving licences;
- (h) take charge of all unclaimed property and to prepare its inventory;
- (i) detect and bring offenders to justice;
- (j) apprehend all persons whom he is legally authorised to apprehend and for whose apprehension, sufficient grounds exist;

- (k) ensure that the information about the arrest of a person is promptly communicated to a person of his choice;
 - (l) enter and inspect without a warrant on reliable information any public place, shop or gaming-house where alcoholic drinks or narcotics are sold or weapons are illegally stored and other public places of resort of loose and disorderly characters;
 - (m) obey and promptly execute all lawful orders;
 - (n) perform other duties and exercise powers as are conferred by this Act, the Code or any other law for the time being in force;
 - (o) aid and co-operate with other agencies for the prevention of destruction of public property by violence, fire, or natural calamities;
 - (p) assist in preventing members of public from exploitation by any person or organized groups;
 - (q) take charge of lunatics at large to prevent them from causing harm to themselves or other members of the public and their property; and
 - (r) prevent harassment of women and children in public places.
- (2) Police officer shall make every effort to—
- (a) afford relief to people in distress situations, particularly in respect of women and children;
 - (b) provide assistance to victims of road accidents;
 - (c) assist accident victims or their heirs or their dependants, where applicable, with such information and documents as would facilitate their compensation claims; and
 - (d) cause awareness among the victims of road accidents of their rights and privileges.
- (3) It shall be the duty of a police officer to lay information before a competent court and to apply for a summons, warrant, search warrant or such other legal process as may, by law, be issued against any person suspected of committing an offence.

5. Emergency duties of police with regard to essential services.— (1) The Government may, in an emergency, by notification in the official Gazette, declare any specified service to be an essential service to the community.

(2) Upon a declaration being made under clause (1) and so long as it remains in force, it shall be the duty of every police officer to obey any lawful order given by a senior police officer in relation to the declaration.

CHAPTER III

CONSTITUTION AND ORGANIZATION OF THE POLICE

6. Adequate police establishment for each general police area— The Government shall maintain adequate and well-resourced police establishment for every general police area.

7. Constitution of police. — (1) The police establishment for each general police area shall consist of such numbers in the senior and junior ranks and have such organization as the

Government may from time to time determine.

(2) The recruitment criteria, pay and allowances and all other conditions of service of the police shall be such as the Government may from time to time determine, but will be same throughout Pakistan.

(3) The recruitment in the police other than ministerial and specialist cadres shall be in the rank of Constable, Assistant Sub-Inspector and Assistant Superintendent of Police:

Provided that selection for direct recruitment in the rank of Assistant Sub-Inspector shall be through the appropriate Public Service Commission and shall not exceed twenty-five percent of total posts in that rank:

Provided further that 25% of the quota for departmental promotions to the rank of Assistant Sub-Inspector, shall be filled, subject to rules, through selection by the appropriate Public Service Commission from graduate Constables or Head Constables, respectively of clean record.

(4) The recruitment in the rank of Assistant Superintendent of Police shall be through the Federal Public Service Commission on all Pakistan basis.

(5) The recruitment in the rank of Constable shall be on the basis of district of domicile and that of Assistant Sub-Inspector on the basis of Police region in which district of domicile of the candidate is located. There will be no bar on the posting of officers of other districts for investigation, traffic, security, reserve, intelligence and other duties. Subject to rules, Inspectors and Deputy Superintendents of Police shall be promoted on the basis of Provincial seniority:

Provided that promotion prospects for all ranks up to promoted Superintendent of Police shall be so regulated as to give them fair and reasonable chances of promotion.

(6) Every police officer while on police duty shall have all the powers and privileges of a police officer throughout Pakistan and be liable to serve at any time in any branch, division, bureau and section.

8. Police to be organized on functional basis. – (1) The police establishment constituted under Section 7 shall, as far as practicable, be organised on functional basis into departments, branches, divisions, bureaus and sections.

(2) The departments, branches, divisions, bureaus and sections referred to in clause (1) may include—

- (a) Investigation;
- (b) Intelligence;
- (c) Watch and Ward;
- (d) Reserve Police;
- (e) Police Accountability;
- (f) Personnel Management;
- (g) Education and Training;
- (h) Finance and Internal Audit;

- (i) Crime Prevention;
 - (j) Crime against Women;
 - (k) Traffic Planning and Management;
 - (l) Criminal Identification;
 - (m) Information Technology;
 - (n) Transport and Communications;
 - (o) Research and Development;
 - (p) Legal Affairs;
 - (q) Welfare;
 - (r) Estate Management and Infrastructure Development;
 - (s) Inspections
 - (t) Logistics and Procurement;
 - (u) Counter Terrorism;
 - (v) Special Branch;
 - (w) Elite Force;
 - (x) Public Relations;
 - (y) Traffic Wardens;
 - (z) Integrated command and Control System/Safe City Project; and
 - (aa) Specialised Protection and Security;
- (3) The specialist investigators shall be operationally responsible to the officer in-charge of the investigation branch.
- (4) Every police officer shall be liable for posting to any branch, division, bureau and section, or anywhere in or outside the police.
- (5) Posting to any specialist branch, division, bureau or section shall be subject to necessary training and experience in accordance with the rules.
- (6) The Provincial Police Officer or the Capital City Police officer Islamabad may establish specialized schools of training as deemed necessary.
- (7) Subject to Rules, the Provincial Police Officer may establish Metropolitan and Urban Policing systems for capital cities and other cities having population of one million or more.
- 9. Superintendence of police.** – (1) The superintendence of police throughout a general police area shall vest in the appropriate Government.
- (2) The power of superintendence under clause (1) shall be so exercised as to ensure that police performs its duties efficiently and strictly in accordance with law.
- (3) Government will take steps to provide adequate human resources to ensure that working hours of the Police personnel are in conformity with the international standards.
- 10. Administration of the police**– (1) Administration of police in a general police area shall vest in the Provincial Police Officer, Capital City Police Officer or City Police Officer posted under Section 11, or Section 15, as the case may be.

(2) The Provincial Police Officer, Capital City Police Officer and City Police Officer, as the case may be, shall exercise such powers and perform such functions and duties and shall have such responsibilities as may be provided by or under this Act and any other law for the time being in force.

(3) The police officers mentioned in clause (1) may for direction and control issue standing orders not inconsistent with the Act or rules made hereunder for the efficient functioning of the police.

(4) Provincial Police Officer shall prepare a provincial annual policing plan for review by the Provincial Public Safety Commission. The plan shall include—

- (a) objectives of policing;
- (b) financial resources likely to be available during the year;
- (c) targets; and
- (d) mechanism for achieving these targets.

(5) Notwithstanding anything contained in other laws or rules for the time being in force, the Provincial Police Officer or the Capital City Police Officer Islamabad Capital Territory, as the case may be, shall have power to transfer and post officers up to the rank of Additional Inspector General.

Provided that the Provincial Police Officer or the Capital City Police Officer Islamabad Capital Territory shall make transfers and postings after giving due consideration to the recommendations of Police Executive Board comprising three senior-most Police officers and Deputy Inspector General Headquarters as the Board's Secretary.

(6) There shall be a Police Advisory Board headed by Provincial Police Officer or the Capital City Police Officer Islamabad Capital Territory, as the case may be. The Board shall consist of eight senior-most Police officers. The Provincial Police Officer or the Capital City Police Officer Islamabad Capital Territory, as the case may be, may co-opt any person for advising on efficient and transparent administration and public service delivery.

11. Posting of Provincial Police Officer, Capital City Police Officer and Head of Federal Law Enforcement Agency— (1) The Provincial Government shall, out of a panel of three police officers recommended by the National Public Safety Commission from a list provided by the Federal Government, post a police officer of the rank of Inspector General of Police as Provincial Police Officer of the Province:

Provided that before a police officer is posted as Provincial Police Officer under clause (1), the Federal Government shall place his services at the disposal of the Provincial Government.

(2) The Federal Government in the case of Islamabad Capital Territory shall post a police officer not below the rank of Additional Inspector General of Police as Capital City Police Officer Islamabad Capital Territory out of three officers recommended by the National Public Safety Commission,

(3) The Federal Government shall, out of a panel of three suitable police officers

recommended by the National Public Safety Commission post head of a Federal Investigation Agency, Pakistan Railway Police, Pakistan Motorway and Highway Police and Frontier Constabulary.

(4) During temporary absence of the police officers mentioned under clause (1) and clause (2) the next senior officer may exercise all or any of the powers, perform all or any of the functions and duties, and discharge all or any of the responsibilities of the Provincial Police Officer, or Capital City Police Officer, Islamabad Capital Territory as the case may be.

(5) The Provincial Police Officer, posted under clause (1) shall have administrative and financial powers as *ex-officio* Secretary to the Provincial Government and other powers under this Act, or any other law for the time being in force and Islamabad Capital City Police Officer posted under clause (2) shall have the same administrative and financial powers.

(6) Subject to job description of each post under the rules, the police officers mentioned in clauses (1) and (2) may, by a general or special order, empower any officer subordinate to him to exercise and perform all or any of the powers, functions or duties to be exercised or performed under this Act.

12. Term of office of Provincial Police Officer, Capital City Police Officer Islamabad Capital Territory and Head of a Federal Law Enforcement Agency. – (1) The term of office of Provincial Police Officer, Capital City Police Officer and Head of a Federal Law Enforcement Agency posted under Section 11 shall be three years from the date of his posting.

(2) The Provincial Government, with agreement of Provincial Public Safety Commission and the Capital City Public Safety Commission may transfer the Provincial Police Officer or Capital City Police Officer before the expiry of his tenure, as the case may be.

(3) The Provincial Government or the respective Public Safety Commission may initiate the case of premature transfer of the officers mentioned in clause (2) for unsatisfactory performance of duties.

(4) The Federal Government may with the agreement of National Public Safety Commission transfer Islamabad Capital City Police Officer and Head of a Federal Law Enforcement Agency before the expiry of his tenure.

(5) The Federal Government or the National Public Safety Commission may initiate premature transfer of the officer mentioned in clause (4) for unsatisfactory performance of duties:

Provided that before premature transfer of the officers mentioned in clause (3) and clause (5) the appropriate Commission shall give the concerned officer an opportunity of being heard in person.

(6) The Federal Government may, with the agreement of the National Public Safety Commission, recall a Provincial Police Officer or the Capital City Police Officer, Islamabad Capital Territory.

13. Posting of Additional Inspectors General of Police. – . The Provincial Police Officer or

Capital City Police Officer Islamabad Capital Territory, as the case may be, may post such number of Additional Inspectors General of Police to assist him, in the Headquarters, or as Head of Unit, or Regional Police Officer or Capital City Police Officer, as the case may be.

14. Appointment of experts. –(1) The Provincial Police Officer may, on recommendation of the appropriate Public Service Commission, appoint one or more experts to assist him.

(2) The qualifications, eligibility, terms and conditions of service of experts shall be as prescribed.

15. Posting of Capital City Police Officer, City Police Officer and District Police Officer. – (1) The Provincial Police Officer may post a Capital City Police Officer for a capital city district notified as a general police area, City Police Officer for a city district and the District Police Officer in a district within a general police area.

(2) The term of office of Capital City Police Officer, City Police Officer or District Police Officer, as the case may be, shall be three years from the date of his posting.

(3) The Capital City Police Officer, City Police Officer or District Police Officer may be transferred before completion of normal tenure of three years on specific grounds such as inefficiency and ineffectiveness or due to exigency of service.

16. Administration of police in a district. – (1) Subject to this Act, the administration of Police throughout a district, other than a capital city district, shall vest in a City Police Officer or District Police Officer, as the case may be, posted under Section 15.

(2) The City Police Officer or District Police Officer, as the case may be, may delegate any of his powers and functions conferred on him to a Senior Superintendent of Police, Superintendent of Police Assistant or Deputy Superintendent of Police posted under Section 17.

(3) The Capital City Police Officer and the City Police Officer shall have administrative and financial powers of the head of an attached department.

(4) A Capital City Police Officer posted under Section 11 and a City Police Officer posted under Section 15 shall exercise the powers vested in them under clause (3) above and Section 10 subject to the direction and control by the Provincial Police Officer.

17. Posting of Deputy Inspector General, Senior Superintendent, Superintendent, Assistant Superintendent, Deputy Superintendent. – (1) Subject to Rules, the Provincial Police Officer may, after taking into consideration the recommendations of Police Executive Board, post to any Region or for Police Headquarters, such number of Deputy Inspectors General of Police as he may deem fit.

(2) Provincial Police Officer or the Capital City Police Officer shall post Senior Superintendents, Superintendents, Assistant and Deputy Superintendents of Police in the general police area.

(3) Every officer posted under clause (1) and clause (2) shall exercise and perform such powers, functions and duties, as assigned to him under this Act, or any other law for the time being in force.

18. Separation of investigation function, Transfer of investigation, Functions of Provincial Investigation Branch etc. -(1) There shall be separation of investigation from other functions of the Police at Police station level.

(2) Subject to sub-section (3), there shall be a District Investigation Branch in each District, under the supervision of Head of District Investigation Branch, to investigate cases notified by the Provincial Police Officer.

(3) The Provincial Police Officer may notify, through Standing Order, the offences which shall be investigated by the officers in the Police station under the supervision of the Station House Officer of the Police station;

Provided further that cases of murder and such other serious offences as determined by Provincial Police Officer shall be investigated by a team of specialist investigators of the District Investigation Branch;

(4) The District Investigation Branch, other than in the Capital City District, shall be headed by a Police officer not below the rank of a Superintendent of Police and shall consist of such other Police officers as the head of District Police may determine.

(5) In the Capital City District, the District Investigation Branch shall be headed by a Police officer not below the rank of Senior Superintendent of Police and shall consist of such other Police officers as the Capital City Police Officer may determine.

(6) The members of District Investigation Branch shall not form part of any Police station and the District Investigation Branch shall comprise specialized wings, each wing being responsible for investigation of one or more types of cases.

(7) Except in case of an emergency notified by the Provincial Police Officer for a specified period, the members of District Investigation Branch shall not be employed for duties other than investigation.

(8) Within seven working days of the filing of an application, the Head of District Police may, for reasons to be recorded in writing, transfer investigation of a case from the Police Station to the District Investigation Branch.

(9) If the Head of District Police has transferred an investigation, within seven working days of the filing of an application, the Regional Police Officer may, for reasons to be recorded in writing, transfer investigation of a case from District Investigation Branch to Regional Investigation Branch or a team of investigation officers in that region:

Provided that the Regional Investigation Branch shall be headed by an officer not below the rank of Superintendent of Police.

(10) If the Regional Police Officer has transferred an investigation, the Provincial Police Officer may, within seven (07) days of the filing of an application, for reasons to be recorded in writing, order second transfer of investigation of a case to the Provincial Crimes Branch:

Provided that the investigation in the Provincial Crimes Branch shall be supervised by an officer not below the rank of Deputy Inspector General of Police.

(11) There shall be a Provincial Investigation Branch to be headed by an officer of the rank of Additional Inspector General of Police.

(12) The Additional Inspector General of Police Investigation shall assist the Provincial Police Officer in the supervision of investigations in the Province in the manner prescribed.

(13) The Provincial Police Officer may determine the territorial and functional jurisdiction of Provincial Investigation Branch and each of the unit so established shall be headed by an officer not below the rank of Deputy Inspector General of Police.

(14) Within two years from coming into force of this Act, the Investigating Officers of the Investigation Branch shall get themselves certified from duly approved Investigation Certifiers. In case of misconduct, the Investigating Officer concerned will be decertified, which will be a serious factor that will be taken into consideration at the time of his promotion.

(15) The government shall take steps to make adequate provisions to provide sufficient funds to meet the cost incurred in the investigation of cases, in addition to providing the required forensics backup.

(16) Any officer found involved in motivated or faulty investigations shall be sternly dealt with under the E&D Rules, and in case of serious default, additionally under Chapter XVII of this Act.

(17) The Provincial Police Officer shall take steps to build capacity of the Specialised Investigation Units.

19. Appointment of Director of Police Communications etc.— Subject to rules, Provincial Police Officer, or Capital City Police Officer, or City Police Officer, as the case may be, may appoint Director of Wireless, Motor Transport and Information Technology for the whole of the general police area or for any part thereof and such number of officers and staff as may be determined from time to time.

20. Posting of heads of police training institutions. – (1) The Federal Government shall post a police officer of the rank of Inspector General of Police as Commandant of the National Police Academy.

(2) Provincial Police Officer or Capital City Police Officer may post an officer not below the rank of Deputy Inspector General of Police as Commandant of the police training college and an officer not below the rank of Senior Superintendent of Police as Principal of each police training school within the general police area under his charge.

21. Constitution of regions and divisions etc. - (1) The Provincial Police Officer may constitute police regions.

(2) Within the budgetary allocations, Provincial Police Officer and Capital City Police Officer or the, Regional Police Officer with the approval of the Provincial Police Officer may:

- (a) divide districts into police divisions, sub divisions and police stations;
- (b) sub-divide the police stations into police posts; and
- (c) define the limits and extent of such-divisions, sub divisions, police stations and police posts:

Provided that the limits and extent of such divisions, police stations and police posts shall, as far as practicable, be coterminous with the limits of Tehsils, or Town in a city district and Unions.

(3) A police region under clause (1) shall be headed by a police officer not below the rank of Deputy Inspector General of Police:

Provided that where the size of police establishment is more than ten thousand the region shall be headed by a police officer not below the rank of Additional Inspector General of Police.

(4) A police division shall be under an officer not below the rank of a Superintendent of Police; a police sub-division under an officer not below the rank of an Assistant or Deputy Superintendent of Police; and a police station shall be under an officer of the rank of Inspector of Police.

Provided that an Officer not below the rank of Assistant/ Deputy Superintendent of Police shall be posted as Head of an Urban Police Station, assisted by officers of rank not below an Inspector to work in shifts, and an officer not below the rank of Sub-Inspector for Rural Police Stations.

The term of office for Station House Officer shall not be less than two years unless transferred earlier due to exigency of service or misconduct.

22. Transfer to other police establishment. – Subject to Rules, the Provincial Police Officers or the Head of Police Islamabad Capital Territory, as the case may be, may mutually agree to allow transfer of officers of junior ranks from one general police area to another.

23. Appointment of junior ranks. – Subject to rules, Head of District Police shall be the appointing authority for junior ranks.

24. Oath or affirmation by members of police. – (1) Every member of the police shall on appointment make and subscribe before Provincial Police Officer or Capital City Police Officer or City Police Officer, or head of a training institution, an oath or affirmation according to the form set out in the Second Schedule.

(2) Assistant Superintendents of Police shall make and subscribe to the said oath or affirmation before Commandant, National Police Academy.

25. Certificate of appointment. – (1) Officers of junior ranks shall on appointment receive a certificate in the form provided in the Third Schedule. The certificate shall be issued under the seal of such officer as Provincial Police Officer or Capital City Police Officer or City Police Officer may by general or special order direct.

(2) A certificate of appointment shall become null and void whenever the police officer named therein ceases to belong to the police.

26. Suspension of police officer. – (1) Subject to rules, the authority or an officer authorised in this behalf by the authority shall have power to suspend a member of police.

(2) The powers and functions vested in a member of police shall remain suspended while

such officer is under suspension:

Provided that notwithstanding his suspension such member shall not cease to be a member of police and shall continue to be subject to the control of the same authorities to which he would have been, but for his suspension.

27. General powers of Provincial Police Officer etc.— Subject to this Act and rules made thereunder, Provincial Police Officer, Regional Police Officer, Head of Unit and Head of District Police, as the case may be, shall within their respective spheres of authority, direct and regulate all matters of recruitment, training, postings, transfers, promotions, arms, drill, discipline, clothing, distribution of duties, and any other matter concerning the efficient fulfilment of duties by the police under his control.

28. Powers of Provincial Police Officer, Capital City Police Officer, City Police Officer and Regional Police Officer concerning police accounts.— (1) Provincial Police Officer, Capital City Police Officer and Regional Police Officer, subject to approval of the Provincial Police Officer or City Police Officer shall have authority to investigate, order audit or inspection and regulate all matters of accounts connected with the police and all persons concerned shall be bound to give reasonable aid and facilities in conducting such investigation and to conform to his orders consequent thereto.

(2) The power of Provincial Police Officer, Capital City Police Officer, Regional Police Officer and City Police Officer to regulate accounts under clause (1) shall be without prejudice to the Auditor General's authority to audit police accounts.

29. Appointment of special police officers. — (1) Subject to rules, Head of District Police may appoint special police officers for special purposes or occasions when the police available to him is not sufficient to assist the police under his command.

(2) Every special police officer so appointed shall, on appointment—

(a) receive a certificate in the prescribed form;

(b) have the same powers, and immunities and be liable to the same duties and responsibilities and be subject to the same authorities as a regular police officer.

30. Appointment of additional police. — (1) City Police Officer and District Police Officer subject to the approval of the Provincial Police Officer, and Capital City Police Officer may appoint additional police officers of such rank and for such time as he may deem fit for the purposes stated in their employment orders.

(2) Every additional police officer so appointed shall on appointment—

(a) receive a certificate in a form approved by Provincial Police Officer or Capital City Police Officer or City Police Officer, as the case may be;

(b) be vested with all or any of the powers, privileges and duties of a police officer;

(c) be subject to orders of the Capital City Police Officer, City Police Officer and District Police Officer.

(3) The employment of additional police may be made at the request of any person

reasonably requiring such police and the cost of such employment shall be recovered in such manner as provided under this Act or rules made there under.

31. Ministerial staff etc.– (1) Subject to rules, Provincial Police Officer, Capital City Police Officer and City Police Officer, as the case may be, may appoint ministerial staff and other employees to assist the police.

(2) Any person employed under clause (1) shall be under the direction and control of Provincial Police Officer, Capital City Police Officer, or City Police Officer, as the case may be.

(3) The powers of direction and control referred to in clause (2) shall include the powers of discipline and dismissal.

(4) Subject to rules, Provincial Police Officer, Capital City Police Officer or City Police Officer, as the case may be, may delegate his powers and authority under this Section to an officer of appropriate rank.

CHAPTER IV

RESPONSIBILITIES OF THE HEAD OF DISTRICT POLICE

32. Policing Plan. – (1) Head of District Police shall prepare an annual Policing Plan consistent with Provincial Policing Plan wherever applicable in consultation with the District Head of Local Government in the prescribed manner.

(2) The Policing Plan shall include–

- (a) objectives of policing;
- (b) financial resources likely to be available during the year;
- (c) targets; and
- (d) mechanism for achieving these targets.

(3) Head of District Police shall obtain the approval of the plan from the appropriate Public Safety Commission and send copies of the approved plan to District Head of Local Government, Tehsil Head of Local Government or Town Head of Local Government, as the case may be, Provincial Government, Provincial Public Safety Commission and Provincial Police Officer and in case of Islamabad Capital Territory to District Head of Local Government, Islamabad District Public Safety Commission, National Public Safety Commission and Federal Government.

(4) Head of District Police shall prepare a report on the policing of the district during the year and send it to the District Public Safety Commission by end of August.

33. Relationship of District Police with District Head of Local Government etc.– (1) Subject to the provisions of this Act, Head of District Police shall be responsible to the District Head of Local Government for police functions under this Act but shall not include administration of the district police, investigation of criminal cases and police functions relating to prosecution, which shall rest with the police:

Provided that District Head of Local Government may visit a police station to find out if any person is under unlawful detention and in appropriate cases may also direct action in

accordance with law having regard to the facts and circumstances of the case.

(2) In case of a difference of opinion between the District Head of Local Government and the Provincial Government on any matter concerning the district police, the decision of the Provincial Public Safety Commission shall prevail.

(3) The Tehsil or Town Council may refer in writing any public complaint relating to Police, through their concerned Head of Local Government, to the relevant Sub-Divisional Police Officer for necessary legal action. The Sub-Divisional Police Officer shall take appropriate legal action on such complaint and report back to the concerned Head of Local Government within fifteen (15) days.

(4) The Village Council or Neighbourhood Council may also refer in writing any public complaint relating to Police to the Officer In-Charge of local Police Station for necessary legal action. The Officer In-Charge shall take appropriate legal action on such complaint and report back to the concerned local council within fifteen (15) days.

34. Police support to Government functionaries, etc.– (1) Any functionary of the Federal Government, Provincial Government, any statutory body or anybody or corporation owned, set up or controlled by any such Government or in which such Government has a controlling share or interest, District Government, Tehsil or Town Municipal Administration or Union Administration, or Cantonment Board may for the discharge of his official duties which in his opinion require police assistance, ask for police support from the concerned police authority of the area and such authority shall provide the requisite support:

Provided that, if for any reason, the police authority is unable to provide the police support requested under this clause it shall forthwith bring the matter through its channel of command to the notice of Head of District Police who shall make arrangement for provision of police support and, where he is unable to provide such support, he shall inform the District Head of Local Government accordingly:

Provided further that before making a report to the higher officer, each officer in the chain of command shall make an effort to provide the requisite police support:

Provided also that where any police officer is of the opinion that the request for police support is unnecessary, unlawful or *mala fide*, he shall, through his channel of command, report to Head of District Police who may seek recourse to the appropriate Public Safety Commission and in that case the decision of the Public Safety Commission shall prevail.

(2) The District Head of Local Government shall be responsible to ensure that the relevant Local Government Officials provide necessary support to Police during exigencies threatening law and order, natural calamities and emergencies.

(3) In case of an unlawful or *mala fide* order issued by any authority, the Head of District Police shall seek recourse to the appropriate Public Safety Commission whose decision shall prevail.

35. Responsibility on complaints of neglect and excesses by police.– (1) Where the District

Head of Local Government on the basis of any complaint or information has reason to believe that any police official has committed an act of neglect, failure or excess, or the Union Public Safety Committee on its own motion or on receipt of a complaint from an aggrieved person reports to the District Head of Local Government about police neglect, failure or excess, the District Head of Local Government may direct Head of District Police to take remedial measures, including registration of First Information Report in a cognizable offence in appropriate cases within the period specified by him and the District Head of Local Government shall inform the appropriate Public Safety Commission accordingly.

(2) Head of District Police or the concerned competent authority shall immediately take remedial measures, and may suspend the concerned official where necessary, initiate an enquiry and take appropriate action in accordance with law.

(3) Head of District Police shall without delay inform the District Head of Local Government and appropriate Public Safety Commission of the action taken by him pursuant to the directions given under clause (1) and forward a copy of the final report of enquiry within forty-five days of such directions.

36. Reference to Police Complaints Authority. – Head of District Police and Head of Federal Law Enforcement Agency shall inform the Provincial Police Complaints Authority or the Federal Police Complaint Authority, as the case may be, of any incident or a complaint of rape, death or serious injury to any person in police custody.

CHAPTER V

DISTRICT PUBLIC SAFETY COMMISSION

37. Establishment. – The Provincial Government shall establish a District Public Safety Commission in each district consisting of 8,10 or 12 members depending upon the area and population of the district.

38. Composition. – (1) Half of the members of the District Public Safety Commission shall be elected by the District Council, from amongst its councillors on the basis of each member casting only one vote in favour of any contesting candidate through secret ballot.

(2) The other half comprising independent members shall be appointed from a list of names recommended by the District Selection Panel.

(3) One third of both the elected and the independent members of the District Public Safety Commission shall be women.

(4) The Head of Secretariat of District Assembly shall request the Chairperson of the District Selection Panel to conduct the election of the members of the District Public Safety Commission referred to in clause (1).

(5) The appointment of members shall be notified in the official Gazette.

39. Appointment of Chairperson. – (1) The Chairperson shall be elected by the members from amongst themselves annually alternating between independent and elected members.

(2) The Chairperson shall preside over the meetings of the Commission.

40. Meeting in the absence of the Chairperson. – In the absence of the Chairperson the District Public Safety Commission shall elect one of its member to preside over a meeting.

41. Selection of independent members. – (1): The District Criminal Justice Coordination Committee shall select the independent members of the Commission

Provided that such nominee shall not be elected representative or public servant.

(2) The selection of independent members shall be by consensus.

(3) The selection process shall be completed within thirty days from the commencement of the selection process.

(4) Independent members shall be of impeccable integrity and proven professional competence in such fields as social work, law, administration, education, corporate sector, etc.

42. Functions of the Selection Panel. – The selection panel shall invite applications or nominations from the public for selection of independent members, and after interviewing eligible and willing candidates, forward names of persons twice the number of appointments to be made to the Governor of the Province.

43. Selection criteria of independent members. – A person shall be disqualified from becoming a member of District Public Safety Commission if he–

(a) is an activist of any political party or has held any representative office or has remained a public servant in the six months immediately preceding such appointment;

(b) is found suffering from physical or mental incapacity or illness;

(c) is declared a bankrupt, loan defaulter or tax evader;

(d) is not a citizen of Pakistan;

(e) holds an office of profit in the service of Pakistan;

(f) is in the service of any statutory body or any other body which is owned or controlled by the Government or in which the Government has a controlling share or interest;

(g) has been dismissed, removed or compulsorily retired from the service of Pakistan on grounds of corruption or any other form of misconduct;

(h) is convicted of a criminal offence;

(i) has any conflict of interest; or

(j) is involved in activities prejudicial to the ideology, interest, security, unity, solidarity, peace and integrity of Pakistan and its people, and the good order and harmony of society.

(k) has entered into plea bargain or voluntary returns under the National Accountability Bureau Act, 2002; or belongs to any proscribed organization; or has been notified under the Fourth Schedule of the Anti-Terrorism Act, 1997

44. Functions of the District Public Safety Commission. – The District Public Safety Commission shall perform the following functions including those related to complaints against the police: -

(a) approve an annual Local Policing Plan prepared by the District Police Officer in

consultation with the District Head of Local Government setting out the arrangements for the policing during the year:

Provided that such Policing Plan shall include—

- (i) a statement of the financial resources expected to be made available by the Provincial Government; and
- (ii) performance targets for the year and their delivery mechanism;
- (b) evaluate the delivery of performance targets contained in the Local Policing Plan on quarterly basis and send half-yearly reports to District Head of Local Government, Tehsil Nazim, Provincial Government, Provincial Public Safety Commission and Provincial Police Officer;
- (c) encourage police-public cooperation;
- (d) provide recourse to District Police Officer or City Police Officer for reporting against any unlawful or *mala fide* order or request for police support from any authority received by him or any officer subordinate to him and give a decision thereon which shall prevail;
- (e) refer the matter in writing to the Provincial Police Officer for appropriate action where the District Public Safety Commission is satisfied that a collusive relationship detrimental to the interest of the people exists between the District Head of Local Government and District Police Officer or City Police Officer:

Provided that before making such report the District Police Officer or City Police Officer and the District Head of Local Government shall be given an opportunity to be heard in person to explain their respective positions;

- (f) direct the District Police Officer or City Police Officer as to disposal of unclaimed property under clause (4) of Section 135.
- (g) direct the District Police Officer or City Police Officer in writing, where the District Public Safety Commission has reasons to believe that the head of the police station has unjustifiably refused or avoided to register any First Information Report, to conduct an inquiry into the matter and cause the registration of the First Information Report under section 154 of the Code, if any cognizable case is made out from the allegations of the complainant and report to the District Public Safety Commission within forty-eight hours the action taken by him;
- (h) on receipt of a complaint of excess by a police officer—
 - (i) refer the complaint to the District Police Officer or City Police Officer, as the case may be, in writing to take appropriate action and report within two weeks; or
 - (ii) conduct a fact finding enquiry through two or more of its members, and in case the complaint is found correct, send its report to District Police Officer to suspend the defaulting police officer and take departmental action against him in accordance with the rules;
 - (iii) report the matter to the Provincial Police Officer, or the Police Complaints Authority

- for appropriate action if the District Police Officer does not submit a report or take action on the direction given by the District Public Safety Commission;
- (i) direct the District Police Officer in writing to enquire into a complaint of neglect in general or by a functionary of a district police and take appropriate action and report within the specified period.
 - (j) on a complaint of excess committed by any member of Federal Law Enforcement Agency and civil armed forces acting in support of the district police, require the appropriate authority of the concerned department in writing to take remedial action and report within a specified period. If no action is taken by the concerned authority, a reference may be made by the District Public Safety Commissions to the head of concerned organization or the Federal Complaints Authority for appropriate action;
 - (k) conduct public feedback surveys through professionals on the Police performance and Police image;
 - (l) identify and report to the Head of District Police social problems that require Police attention;
 - (m) recommend Police resource enhancement measures to the Government or Local Government, as the case may be; and
 - (n) recommend to the head of District Police creation of a new Police station or Police post in consultation with District Head of Local Government.

45. Terms of members of the District Public Safety Commission. – (1) The term of office of a member shall be three years unless he resigns at any time before the expiry of his term or ceases to be a member of the District Council.

- (2) No member shall be eligible for a second term.
- (3) Members shall be paid TA and DA for attending meetings, as per rules.
- (4) Independent members may be paid honoraria as per rules.

46. Removal of members. – The Governor on his own volition or on the recommendation of the District Public Safety Commission may remove a member from office if he–

- (a) ceases to be a citizen of Pakistan;
- (b) is found suffering from physical or mental incapacity or illness;
- (c) is guilty of misconduct;
- (d) is found to have dealt with any matter in which he had a conflict of interest;
- (e) is convicted of a criminal offence;
- (f) is declared a bankrupt, loan defaulter or tax evader;
- (g) is involved in activities prejudicial to the ideology, interest, security, unity, solidarity, peace and integrity of Pakistan and its people, and the good order and harmony of society;
- (h) brings the District Public Safety Commission into disrepute;
- (i) fails to attend its three consecutive meetings without any reasonable cause.

47. Meetings and conduct of business of the District Public Safety Commission. – (1) The business of the District Public Safety Commission shall be conducted by the Commission in a meeting.

(2) The meeting may be convened by the Chairperson or on the requisition of three members.

(3) Quorum for a meeting of the District Public Safety Commission shall be two third of its total membership.

(4) Members shall attend meetings of the Commission as and when required for which at least a week's notice, with agenda, shall be given. There shall be minimum of one meeting in a month provided an emergency meeting may be held at a short notice not exceeding twenty-four hours.

(5) Decisions of the Commission shall be by simple majority.

(6) District Police Officer or City Police Officer or in their absence their deputy may be invited to attend a meeting, which he shall attend.

(7) The Commission may invite any expert for consultations on specific issues.

(8) The Commission may frame rules of procedure for the conduct of business.

48. Secretariat. – (1) The District Local Government shall establish a permanent secretariat of the District Public Safety Commission.

(2) The Secretariat shall be headed by an officer of BPS 17 who shall be appointed in consultation with the District Criminal Justice Coordination Committee.

(3) The Secretariat shall consist of such number of officers and staff as the Government may, in consultation with the Commission, determine from time to time.

CHAPTER VI

CAPITAL CITY DISTRICT PUBLIC SAFETY COMMISSION

49. Establishment. – The Provincial Government shall establish a Capital City District Public Safety Commission in each district consisting 12 members depending upon the area and population of the district.

50. Composition. – (1) Four members of the Capital City District Public Safety Commission shall be elected by the District Council, from amongst its councillors on the basis of each member casting only one vote in favour of any contesting candidate through secret ballot.

(2) Two members shall be nominated by the Speaker of the Provincial Assembly from amongst its members one from the treasury and one from the opposition in consultation with the Leader of the House and the Leader of the Opposition.

(3) The remaining six members shall be independent members and shall be appointed from a list of names recommended by the Capital City District Selection Panel.

(4) One third of both the elected and independent members of the Commission shall be

women.

(5) The Head of Secretariat of District Assembly shall request the Chairperson of the Capital City District Selection Panel to conduct the election of the members of the Capital City District Public Safety Commission referred to in clause (1).

(6) The appointment of members shall be notified in the official Gazette.

51. Appointment of Chairperson. – (1) The Chairperson shall be elected by the members from amongst themselves annually alternating between independent and elected members.

(2) The Chairperson shall preside over the meetings of the Commission.

52. Meeting in the absence of the Chairperson. – In the absence of the Chairperson the Capital City District Public Safety Commission shall elect one of its member to preside over a meeting.

53. Selection of independent members. – (1) The Selection Panel for Independent members shall be District Criminal Justice Coordination Committee:

Provided that such nominee shall not be elected representative or public servant.

(2) The selection of independent members shall be by consensus.

(3) The selection process shall be completed within thirty days from the commencement of the selection process.

(4) Independent members shall be of impeccable integrity and proven professional competence in such fields as social work, law, administration, education, corporate sector, etc.

54. Functions of the Selection Panel. – The Selection Panel shall invite applications or nominations from the public for selection of independent members, and after interviewing eligible and willing candidates, forward names of persons twice the number of appointments to be made to the Governor of the Province.

55. Selection criteria of independent members. – A person shall be disqualified from becoming a member of District Public Safety Commission if he–

(a) is an activist of any political party or has held any representative office or has remained a public servant in the six months immediately preceding such appointment; or

(b) is found suffering from physical or mental incapacity or illness; or

(c) is declared a bankrupt, loan defaulter or tax evader; or

(d) is not a citizen of Pakistan; or

(e) holds an office of profit in the service of Pakistan; or

(f) is in the service of any statutory body or any other body which is owned or controlled by the Government or in which the Government has a controlling share or interest; or

(g) has been dismissed, removed or compulsorily retired from the service of Pakistan on grounds of corruption or any other form of misconduct; or

(h) is convicted of a criminal offence; or

(i) has any conflict of interest; or

(j) is involved in activities prejudicial to the ideology, interest, security, unity, solidarity, peace and integrity of Pakistan and its people, and the good order and harmony of

society,

- (k) has entered into plea bargain or voluntary returns under the National Accountability Bureau Act, 2002; or belongs to any proscribed organization; or has been notified under the Fourth Schedule of the Anti-Terrorism Act, 1997.

56. Functions of the Capital City District Public Safety Commission. – The Capital City District Public Safety Commission shall perform the following functions of Public Safety and Complaints Authority: -

- (a) approve an annual Local Policing Plan prepared by the Capital City Police Officer in consultation with the District Head of Local Government setting out the arrangements for the policing during the year:
Provided that such Policing Plan shall include–
 - (i) a statement of the financial resources expected to be made available by the Provincial Government; and
 - (ii) performance targets for the year and their delivery mechanism;
- (b) evaluate the delivery of performance targets contained in the Local Policing Plan on quarterly basis and send half-yearly reports to District Head of Local Government, Tehsil Head of Local Government, Provincial Government, Provincial Public Safety Commission and Provincial Police Officer;
- (c) encourage police-public cooperation;
- (d) provide recourse to Capital City Police Officer for reporting against any unlawful or *mala fide* order or request for police support from any authority received by him or any officer subordinate to him and give a decision thereon which shall prevail;
- (e) refer the matter in writing to the Provincial Police Officer for appropriate action where the Capital City District Public Safety Commission is satisfied that a collusive relationship detrimental to the interest of the people exists between the District Head of Local Government and Capital City Police Officer:
Provided that before making such report the Capital City Police Officer and the District Head of Local Government shall be given an opportunity to be heard in person to explain their respective positions;
- (f) direct the Capital City Police Officer as to disposal of unclaimed property under clause (4) of Section 135.
- (g) direct the Capital City Police Officer in writing, where the Capital City District Public Safety Commission has reasons to believe that the head of the police station has unjustifiably refused or avoided to register any First Information Report, to conduct an inquiry into the matter and cause the registration of the First Information Report under section 154 of the Code, if any cognizable case is made out from the allegations of the complainant and report to the Capital City District Public Safety Commission within forty-eight hours the action taken by him;

- (h) on receipt of a complaint of excess by a police officer–
 - (i) refer the complaint to the Capital City Police Officer in writing to take appropriate action and report within two weeks or
 - (ii) conduct a fact-finding enquiry through two or more of its members, and in case the complaint is found correct, send its report to Capital City District Police Officer to suspend the defaulting police officer and take departmental action against him in accordance with the rules;
 - (iii) report the matter to the or the Police Complaints Authority for appropriate action if the Capital City District Police Officer does not submit a report or take action on the direction given by the Capital City Public Safety Commission;
- (i) direct the Capital City District Police Officer in writing to enquire into a complaint of neglect in general or by a functionary of a district police and take appropriate action and report within the specified period;
- (j) on a complaint of excess committed by any member of Federal Law Enforcement Agency and civil armed forces acting in support of the district police, require the appropriate authority of the concerned department in writing to take remedial action and report within a specified period. If no action is taken by the concerned authority, a reference may be made by the Capital City District Public Safety Commission to the head of concerned organization or the Federal Complaints Authority for appropriate action.
- (k) conduct public feedback surveys through professionals on the Police performance and Police image;
- (l) identify and report to the Head of District Police social problems that require Police attention;
- (m) recommend Police resource enhancement measures to the Government or Local Government, as the case may be; and
- (n) recommend to the head of District Police creation of a new Police station or Police post in consultation with District Head of Local Government;

57. Terms of members of the Capital City District Public Safety Commission. – (1) The term of office of a member shall be three years unless he resigns at any time before the expiry of his term or ceases to be a member of the Provincial Assembly or the District Council.

- (2) No member shall be eligible for a second term.
- (3) Members shall be paid TA and DA for attending meetings, as per rules.
- (4) Independent members may be paid honoraria as per rules.

58. Removal of members. – The Governor on his own volition or on the recommendation of the Capital City District Public Safety Commission may remove a member from office if he–

- (a) ceases to be a citizen of Pakistan;
- (b) is found suffering from physical or mental incapacity or illness;
- (c) is guilty of misconduct;

- (d) is found to have dealt with any matter in which he had a conflict of interest;
- (e) is convicted of a criminal offence;
- (f) is declared a bankrupt, loan defaulter or tax evader;
- (g) is involved in activities prejudicial to the ideology, interest, security, unity, solidarity, peace and integrity of Pakistan and its people, and the good order and harmony of society;
- (h) brings the Capital City District Public Safety Commission into disrepute;
- (i) fails to attend its three consecutive meetings without any reasonable cause.

59. Meetings and conduct of business of the Capital City District Public Safety Commission. –

(1) The business of the Capital City District Public Safety Commission shall be conducted by the Commission in a meeting.

(2) The meeting may be convened by the Chairperson or on the requisition of three members.

(3) Quorum for the meeting of the Capital City District Commission shall be two-third of its membership.

(4) Members shall attend meetings of the Commission as and when required for which at least a week's notice, with agenda, shall be given. There shall be minimum of one meeting in a month provided an emergency meeting may be held at a short notice not exceeding twenty-four hours.

(5) Decisions of the Commission shall be by simple majority.

(6) Capital City Police Officer and in his absence his deputy may be invited to attend a meeting which he shall attend.

(7) The Commission may invite any expert for consultations on specific issues.

(8) The Commission may frame rules of procedures for the conduct of business.

60. Secretariat. – (1) The Capital City District Local Government shall establish a permanent secretariat of the Capital City District Public Safety Commission.

(2) The Secretariat shall be headed by an officer of BPS 17 who shall be appointed in consultation with the Capital City District Criminal Justice Coordination Committee.

(3) The Secretariat shall consist of such number of officers and staff as the Government may, in consultation with the Commission, determine from time to time.

CHAPTER VII

ISLAMABAD DISTRICT PUBLIC SAFETY COMMISSION

61. Establishment. – The Federal Government shall establish Islamabad District Public Safety Commission for Islamabad Capital Territory consisting of 12 members.

62. Composition. – (1) Four members of the Islamabad District Public Safety Commission shall be elected by the District Council, from amongst its councillors on the basis of each member casting only one vote in favour of any contesting candidate through secret ballot.

(2) Two members shall be nominated by the Speaker of National Assembly from amongst its members one from the treasury and one from the opposition in consultation with the Leader of the House and the Leader of the Opposition.

(3) The remaining six members shall be independent members and shall be appointed from a list of names recommended by the Islamabad District Selection Panel.

(4) One third of both the elected and independent members of the Islamabad District Public Safety Commission shall be women.

(5) The Head of Capital City of Islamabad Capital Territory District Assembly shall request the Chairperson of the Islamabad District Selection Panel to conduct the election of the members of the Islamabad District Public Safety Commission referred to in clause (1).

(6) The appointment of members shall be notified in the official Gazette.

63. Appointment of Chairperson. – (1) The Chairperson shall be elected by the members from amongst themselves annually alternating between independent and elected members.

(2) The Chairperson shall preside over the meetings of the Commission.

64. Meeting in the absence of the Chairperson. – In the absence of the Chairperson, Islamabad District Public Safety Commission shall elect one of its members to preside over a meeting.

65. Selection of independent members. – (1) The Selection Panel for Independent members shall be Islamabad Capital Territory Criminal Justice Coordination Committee.

Provided that such nominee shall not be elected representative or public servant.

(2) The selection of independent members shall be by consensus.

(3) The selection process shall be completed within thirty days from the commencement of the selection process.

(4) Independent members shall be of impeccable integrity and proven professional competence in such fields as social work, law, administration, education, corporate sector, etc.

66. Functions of the Selection Panel. – The selection panel shall invite applications or nominations from the public for selection of independent members, and after interviewing eligible and willing candidates, forward names of persons twice the number of appointments to be made to the President.

67. Selection criteria of independent members. – A person shall be disqualified from becoming a member of Islamabad District Public Safety Commission if he—

(a) is an activist of any political party or has held any representative office or has remained a public servant in the six months immediately preceding such appointment; or

(b) is found suffering from physical or mental incapacity or illness; or

(c) is declared a bankrupt, loan defaulter or tax evader; or

(d) is not a citizen of Pakistan; or

(e) holds an office of profit in the service of Pakistan; or

(f) in the service of any statutory body or any other body which is owned or controlled by the Government or in which the Government has a controlling share or interest; or

- (g) has been dismissed, removed or compulsorily retired from the service of Pakistan on grounds of corruption or any other form of misconduct; or
- (h) is convicted of a criminal offence; or
- (i) has any conflict of interest; or
- (j) is involved in activities prejudicial to the ideology, interest, security, unity, solidarity, peace and integrity of Pakistan and its people, and the good order and harmony of society.
- (k) has entered into plea bargain or voluntary returns under the National Accountability Bureau Act, 2002; or belongs to any proscribed organization; or has been notified under the Fourth Schedule of the Anti-Terrorism Act, 1997

68. Functions of Islamabad District Public Safety Commission. – The Islamabad District Public Safety Commission shall perform the following functions of Public Safety and Complaints Authority: -

- (a) approve an annual Local Policing Plan prepared by the Capital City Police Officer in consultation with the District Head of Islamabad Capital Territory Local Government setting out the arrangements for the policing during the year:
Provided that such Policing Plan shall include–
 - (i) a statement of the financial resources expected to be made available by the Federal Government; and
 - (ii) performance targets for the year and their delivery mechanism;
- (b) evaluate the delivery of performance targets contained in the Local Policing Plan on quarterly basis and send half- yearly reports to District Head of Local Government, Tehsil Head of local Government, Federal Government and National Public Safety Commission;
- (c) encourage police-public cooperation;
- (d) provide recourse to Capital City Police Officer for reporting against any unlawful or *mala fide* order or request for police support from any authority received by him or any officer subordinate to him and give a decision thereon which shall prevail;
- (e) refer the matter in writing to the Islamabad Capital City Police Officer for appropriate action where the Islamabad District Public Safety Commission is satisfied that a collusive relationship detrimental to the interest of the people exists between the District Head of Local Government and Capital City Police Officer:
Provided that before making such report the Capital City Police Officer and the District Head of Local Government shall be given an opportunity to be heard in person to explain their respective positions;
- (f) direct the Capital City Police Officer as to disposal of unclaimed property under clause (4) of Section 135;
- (g) direct the Capital City Police Officer in writing, where the Islamabad District Public Safety

Commission has reasons to believe that the head of the police station has unjustifiably refused or avoided to register any First Information Report, to conduct an inquiry into the matter and cause the registration of the First Information Report under section 154 of the Code, if any cognizable case is made out from the allegations of the complainant and report to the Islamabad District Public Safety Commission within forty-eight hours the action taken by him;

- (h) on receipt of a complaint of excess by a police officer—
 - (i) refer the complaint to the Islamabad Capital City Police Officer in writing to take appropriate action and report within two weeks
 - (ii) conduct a fact-finding enquiry through two or more of its members, and in case the complaint is found correct, send its report to Capital City Police Officer to suspend the defaulting police officer and take departmental action against him in accordance with the rules;
 - (iii) report the matter to the National Public Safety Commission or the Federal Police Complaints authority for appropriate action if the Capital City Police Officer does not submit a report or take action on the direction given by the Islamabad District Public Safety Commission;
- (i) Direct the Capital City Police Officer in writing to enquire into a complaint of neglect in general or by a functionary of a district police and take appropriate action and report within the specified period;
- (j) on a complaint of excess committed by any member of Federal Law Enforcement Agency and civil armed forces acting in support of the Islamabad district police, require the appropriate authority of the concerned department in writing to take remedial action and report within a specified period. If no action is taken by the concerned authority, a reference may be made by the Islamabad District Public Safety Commission to the head of concerned organization or the Federal Complaints Authority for appropriate action.
- (k) conduct public feedback surveys through professionals on the Police performance and Police image;
- (l) identify and report to the Head of District Police social problems that require Police attention;
- (m) recommend Police resource enhancement measures to the Government or Local Government, as the case may be; and
- (n) recommend to the head of District Police creation of a new Police station or Police post in consultation with District Head of Local Government;

69. Terms of members of the Islamabad District Public Safety Commission. – (1) The term of office of a member shall be three years unless he resigns at any time before the expiry of his term or ceases to be a member of the National Assembly or the District Council.

(2) No member shall be eligible for a second term.

(3) Members shall be paid TA and DA for attending meetings, as per rules.

(4) Independent members may be paid honoraria as per rules.

70. Removal of members. – The President on his own volition or on the recommendation of Islamabad District Public Safety Commission may remove a member from office if he–

(a) ceases to be a citizen of Pakistan;

(b) is found suffering from physical or mental incapacity or illness;

(c) is guilty of misconduct;

(d) is found to have dealt with any matter in which he had a conflict of interest;

(e) is convicted of a criminal offence;

(f) is declared a bankrupt, loan defaulter or tax evader;

(g) is involved in activities prejudicial to the ideology, interest, security, unity, solidarity, peace and integrity of Pakistan and its people, and the good order and harmony of society;

(h) brings the Islamabad Public Safety Commission into disrepute;

(i) fails to attend its three consecutive meetings without any reasonable cause.

71. Meetings and conduct of business of the Islamabad District Public Safety Commission. –

(1) The business of Islamabad District Public Safety Commission shall be conducted by the Commission in a meeting.

(2) The meeting may be convened by the Chairperson or on the requisition of three members.

(3) Quorum for the meeting of the Commission shall be two-third of its membership.

(4) Members shall attend meetings of the Commission as and when required for which at least a week's notice, with agenda, shall be given. There shall be minimum of one meeting in a month provided an emergency meeting may be held at a short notice not exceeding twenty-four hours.

(5) Decisions of the Commission shall be by a simple majority.

(6) Capital City Police Officer or in his absence his deputy may be invited to attend a meeting which he shall attend.

(7) The Commission may invite any expert for consultations on specific issues.

(8) The Commission may frame rules of procedure for the conduct of business.

72. Secretariat. – (1) The Islamabad Capital Territory City Local Government shall establish a permanent secretariat of Islamabad District Public Safety Commission.

(2) The Secretariat shall be headed by a suitable officer of BPS-17/18 who shall be appointed by the Commission in consultation with the Islamabad Capital City Criminal Justice Coordination Committee.

(3) The Secretariat shall consist of such number of officers and staff as the Government may in consultation with the Commission, determine from time to time.

CHAPTER VIII

THE PROVINCIAL PUBLIC SAFETY COMMISSION

73. Establishment. – There shall be a Provincial Public Safety Commission, consisting of twelve members and the *ex-officio* Chairperson.

74. Composition. – (1) Half of the members of the Provincial Public Safety Commission shall be nominated by the Speaker of the Provincial Assembly from amongst its members three each from the treasury and opposition in consultation with the Leader of the House and the Leader of the Opposition:

Provided that at least two members shall be women.

(2) The other half comprising independent members shall be appointed by the Governor from a list of names recommended by the Provincial Selection Panel:

Provided that at least two members shall be women.

(3) Notwithstanding anything contained in clause (1), independent members appointed under clause (2) shall constitute the Provincial Public Safety Commission when the Provincial Assembly is not in existence.

(4) The appointment of members shall be notified in the official Gazette.

75. Appointment of Chairperson. – (1) The Provincial Chief Minister will be the *ex-officio* Chairperson of the Provincial Public Safety Commission.

(2) The Chairperson shall preside over the meetings of the Provincial Public Safety Commission.

76. Meeting in the absence of the Chairperson. – In the absence of the Chairperson, the Provincial Public Safety Commission shall elect one of its members to preside over a meeting.

77. Selection of independent members. – (1) The Independent members of the Commission shall be selected by the Provincial Justice Committee.

Provided that such nominee shall not be elected representative or public servant.

(2) The selection of independent members shall be by consensus.

(3) The selection process shall be completed within thirty days from the commencement of the selection process.

(4) Independent members shall be of impeccable integrity and proven professional competence in such fields as social work, law, administration, education, corporate sector, etc.

78. Functions of the Selection Panel. – The selection panel shall invite applications or nominations from the public for selection of independent members, and after interviewing eligible and willing candidates, forward names of persons twice the number of appointments to be made to the Governor.

79. Selection criteria of independent members. – A person shall be disqualified from becoming a member of Provincial Public Safety Commission if he—

(a) is an activist of any political party or has held any representative office or has remained a

- public servant in the six months immediately preceding such appointment;
- (b) is found suffering from physical or mental incapacity or illness;
- (c) is declared a bankrupt, loan defaulter or tax evader;
- (d) is not a citizen of Pakistan;
- (e) holds an office of profit in the service of Pakistan;
- (f) is in the service of any statutory body or any other body which is owned or controlled by the Government or in which the Government has a controlling share or interest;
- (g) has been dismissed, removed or compulsorily retired from the service of Pakistan on grounds of corruption or any other form of misconduct; or
- (h) is convicted of a criminal offence;
- (i) has any conflict of interest; or
- (j) is involved in activities prejudicial to the ideology, interest, security, unity, solidarity, peace and integrity of Pakistan and its people, and the good order and harmony of society.
- (k) has entered into plea bargain or voluntary returns under the National Accountability Bureau Act, 2002; or belongs to any proscribed organization; or has been notified under the Fourth Schedule of the Anti-Terrorism Act, 1997

80. Functions of the Provincial Public Safety Commission. – (1) Subject to this Act, the Provincial Public Safety Commission shall–

- (a) provide guidelines on the policy of the government to Provincial Police Officer and Capital City Police Officers for promoting integrity, efficiency and effectiveness of police;
- (b) take steps to prevent the police from carrying out any unlawful or *mala fide* orders or directions from any authority to any functionary of the police throughout the Province and in case such orders are brought to the notice of the commission it shall have the powers to intervene and its decision shall prevail; and
- (c) facilitate the establishment and functioning of Citizen Police Liaison Committees in accordance with Section 168.

(2) Without prejudice to its role under sub-section (1) the Commission shall perform the following specific responsibilities–

- (a) co-ordinate the functioning of Public Safety Commissions within the Province;
- (b) recommend to the Government premature transfer of Provincial Police Officer before completion of normal tenure of three years for unsatisfactory performance of duties:

Provided that before making such recommendation, the Provincial Public Safety Commission shall give the concerned police officer an opportunity to be heard in person;

- (c) recommend to the government for grants to various police establishments within the province, for enhancing their capability to handle public order;

- (d) assist the police establishment in securing assistance from other police establishments and law enforcement agencies by approaching the other Provincial and National Public Safety Commissions;
- (e) determine in consultation with the Provincial Police Officer objectives for the policing of the Province for each financial year;
- (f) oversee the implementation of the Provincial Policing Plan prepared by Provincial Police Officer and approved and published by the Provincial Government. The plan shall include—
 - (i) a statement of the financial resources expected to be made available by the Government; and
 - (ii) performance targets for the year and their delivery mechanism;
- (g) evaluate the delivery of performance targets on quarterly basis;
- (h) require the Provincial Police Officer to submit by end of August each year a general report in a manner prescribed by the Provincial Public Safety Commission which shall be published;
- (i) submit an annual report to the Government and the Provincial Assembly that shall include the following: -
 - (i) an abstract concerning performance of the Provincial Public Safety Commission during the year;
 - (ii) a report on the functioning of the Police Establishments;
 - (iii) a report on matters connected with general law and order in the Province;
- (j) recommend reforms for modernization of laws and procedure in respect of police, prosecution, prisons and probation service;
- (k) evaluate the performance of the District and Capital City Public Safety Commissions on annual basis. If on the basis of the evaluation conducted by the Provincial Public Safety Commission, the performance of the Commission is found unsatisfactory, it may recommend the dissolution of such Commission and on dissolution of the Commission the Government shall reconstitute the same in accordance with the provisions of this Act within forty-five days of such decision;
- (l) conduct enquiry on the recommendation of District Council through a resolution passed by two third majority of its total membership for the dissolution of the relevant Public Safety Commission on grounds of unsatisfactory performance of the said commission, establish veracity or otherwise of the grounds of recommendation for rejection or onward transmission to the Provincial Government for the dissolution of the said Public Safety Commission. Where the government dissolves the relevant Public Safety Commission it will reconstitute the same in accordance with the provisions of this Act within forty-five days of such decision;
- (m) perform functions of the relevant Public Safety Commission during the period it

- stands dissolved;
- (n) consider the proposals made by Provincial Police Officer or National Police Management Board and give its recommendations to the government;
 - (o) recommend essential criminal justice reforms; and
 - (p) perform such other functions with regard to public order and safeguarding public interest, as may be assigned by the government to it for the purpose under any law for the time being in force including Prosecution, Prisons and Probation services.

81. Terms of members of the Provincial Public Safety Commission. – (1) The term of office of a member shall be the same as that of the Provincial Assembly unless he resigns at any time before the expiry of his term, or ceases to be a member of the Provincial Assembly.

- (2) No member shall be eligible for a second term.
- (3) Members shall be paid TA and DA for attending meetings, as per rules.
- (4) Independent members may be paid honoraria as per rules.

82. Removal of members. – The Governor on his own volition or on the recommendation of the Provincial Public Safety Commission may remove a member from office if he—

- (a) ceases to be a citizen of Pakistan;
- (b) is found suffering from physical or mental incapacity or illness;
- (c) is guilty of misconduct;
- (d) is found to have dealt with any matter in which he had a conflict of interest;
- (e) is convicted of a criminal offence;
- (f) is declared a bankrupt, loan defaulter or tax evader;
- (g) is involved in activities prejudicial to the ideology, interest, security, unity, solidarity, peace and integrity of Pakistan and its people, and the good order and harmony of society;
- (h) brings the Provincial Public Safety Commission into disrepute;
- (i) fails to attend its three consecutive meetings without any reasonable cause.

83. Meetings and conduct of business of the Provincial Public Safety Commission. – (1) The business of the Provincial Public Safety Commission shall be conducted by the Commission in a meeting.

(2) The meeting may be convened by the chairperson or on the requisition of three members.

(3) Quorum for the meeting of the Commission shall be two-third of its membership.

(4) Members shall attend meetings of the Commission as and when required for which at least a week's notice, with agenda, shall be given. There shall be minimum of one meeting in a month; provided an emergency meeting may be held at a short notice not exceeding twenty-four hours.

(5) The ex officio Chairperson shall not have the right of vote, except in case of a tie.

(6) Decisions of the Commission shall be by simple majority.

(7) The Commission may hold public consultations as and when required.

(8) The Provincial Police Officer and heads of prosecution service, prison and probation departments shall attend meetings of the Commission as non-voting members, when invited.

(9) The Commission may invite any expert for consultations on specific issues.

(10) The Commission may frame rules of procedure for the conduct of business.

84. Secretariat. – (1) The Capital City Local Government shall establish a permanent secretariat of the Provincial Public Safety Commission.

(2) The Secretariat shall be headed a suitable officer of BPS-18/19 who shall be appointed in consultation with the Provincial Criminal Justice Coordination Committee.

(3) The Secretariat shall consist of such number of officers and staff as the Government may, in consultation with the Commission, determine from time to time.

(4) The Secretariat shall be attached to the Provincial Law Department for purposes of budget and for matters pertaining to the Provincial Assembly.

CHAPTER IX

THE NATIONAL PUBLIC SAFETY COMMISSION

85. Establishment. – There shall be a National Public Safety Commission consisting of twelve members and the ex officio Chairperson.

86. Composition. – (1) Half of the members of the National Public Safety Commission shall be nominated by the Speaker of the National Assembly from amongst its members three each from the treasury and the opposition in consultation with the Leader of the House and the Leader of the Opposition:

Provided that at least one member shall belong to each Province, and to Islamabad Capital Territory:

Provided further that at least two members shall be women.

(2) The other half comprising independent members shall be appointed by the President from a list of names recommended by the National Selection Panel:

Provided that at least one member shall belong to each Province, and to Islamabad Capital Territory:

Provided further that at least two members shall be women.

(3) Notwithstanding anything contained in clause (1), independent members appointed under clause (2) shall constitute the National Public Safety Commission when the National Assembly is not in existence.

(4) The appointment of members shall be notified in the official Gazette.

87. Appointment of Chairperson. – (1) The Federal Interior Minister will be *ex-officio* Chairperson of the National Public Safety Commission.

(2) The Chairperson shall preside over the meetings.

88. Meeting in the absence of the Chairperson. – In the absence of the Chairperson, the

National Public Safety Commission shall elect one of its member to preside over a meeting.

89. Selection of independent members. – (1) The Independent members of the Commission shall be selected by the Law and Justice Commission.

Provided that such nominee shall not be elected representative or public servant.

(2) The selection of independent members shall be by consensus.

(3) The selection process shall be completed within thirty days from the commencement of the selection process.

(4) Independent members shall be of impeccable integrity and proven professional competence in such fields as social work, law, administration, education, corporate sector, etc.

90. Functions of the Selection Panel. – The selection panel shall invite applications or nominations from the public for selection of independent members, and after interviewing eligible and willing candidates, forward names of persons twice the number of appointments to be made to the President of Pakistan.

91. Selection criteria of independent members. – A person shall be disqualified from becoming a member of National Public Safety Commission if he–

(a) is an activist of any political party or has held any representative office or has remained a public servant in the six months immediately preceding such appointment; or

(b) is found suffering from physical or mental incapacity or illness; or

(c) is declared a bankrupt, loan defaulter or tax evader;

(d) is not a citizen of Pakistan;

(e) holds an office of profit in the service of Pakistan;

(f) is in the service of any statutory body or any other body which is owned or controlled by the Government or in which the Government has a controlling share or interest;

(g) has been dismissed, removed or compulsorily retired from the service of Pakistan on grounds of corruption or any other form of misconduct;

(h) is convicted of a criminal offence;

(i) has any conflict of interest; or

(j) is involved in activities prejudicial to the ideology, interest, security, unity, solidarity, peace and integrity of Pakistan and its people, and the good order and harmony of society.

(k) has entered into plea bargain or voluntary returns under the National Accountability Bureau Act, 2002; or belongs to any proscribed organization; or has been notified under the Fourth Schedule of the Anti-Terrorism Act, 1997

92. Functions of the National Public Safety Commission. – (1) In the performance of its duties the National Public Safety Commission shall oversee the functioning of the Federal Investigation Agency, Pakistan Railways Police, Anti-narcotics Force, Frontier Constabulary Pakistan Motorway and Highway Police, any other Federal Law Enforcement Agency and Anti-Smuggling Wing of Customs exercising police powers.

(2) Facilitate the establishment and functioning of Citizen Police Liaison Committees in accordance with Section 168.

(3) Without prejudice to its role under clause (1), the National Public Safety Commission shall perform the following functions:-

- (a) recommend to the Federal Government panels of three police officers for the appointment of Capital City Police Officer for Islamabad and for the appointment of head of Federal Investigation Agency, Pakistan Railways Police, Pakistan Motorway and Highway Police and Frontier Constabulary;
- (b) recommend to the Provincial Government panels of three police officers for the appointment of a Provincial Police Officer;
- (c) recommend to the Federal Government premature transfer of Capital City Police Officer for Islamabad and head of a Federal Law Enforcement Agency before completion of normal tenure of three years for unsatisfactory performance of duties; provided that before making such recommendation the National Public Safety Commission shall give the concerned officer an opportunity to be heard in person;
 - (d) oversee implementation of plans prepared by heads of the respective law enforcement agencies and approved and published by the Government, setting out arrangements for achieving objectives during the year. The plans shall include—
 - (i) a statement of financial resources expected to be made available by the Government; and
 - (ii) performance targets for the year and their delivery mechanism;
- (e) evaluate the delivery of performance targets on quarterly basis;
- (f) require heads of the relevant Federal Law Enforcement agency to submit to the National Public Safety Commission, by end of August each year, a general report in a manner prescribed by the National Public Safety Commission, which shall be published;
- (g) submit an annual report to the Government and the Parliament that shall include the following:-
 - (i) an abstract concerning performance of the National Public Safety Commission during the year;
 - (ii) a report on the functioning of the Federal Law Enforcement Agencies; and
 - (iii) a report on matters connected with general law and order in the country;
- (h) recommend reforms for modernization of laws and procedure in respect of police, prosecution, prisons and probation services;
- (i) facilitate coordination among the Provincial Public Safety Commissions;
- (j) evaluate the performance of the Islamabad District Public Safety Commission on annual basis. If on the basis of the evaluation conducted by the National Public

- Safety Commission, the performance of the Commission is found unsatisfactory, the Government may dissolve the Islamabad District Public Safety Commission and reconstitute the commission in accordance with the provisions of this Act within forty-five days of such decision;
- (k) conduct enquiry on the recommendation of Islamabad District Council through a resolution passed by two third majority of its total membership for the dissolution of the Islamabad District Public Safety Commission on grounds of unsatisfactory performance of the said Commission, establish veracity or otherwise of the grounds of recommendation for rejection or onward transmission to the Federal Government for the dissolution of the said Public Safety Commission;
 - (l) perform functions of the Islamabad District Public Safety Commission during the period it stands dissolved;
 - (m) consider the proposals of the National Police Management Board and give its recommendations to the Government; and
 - (n) perform such other functions with regard to public safety and safeguarding interest of the people, as may be assigned by the Government to it for the purpose under any law for the time being in force in particular pertaining to the Prosecution, Prisons and Probation services.

93. Terms of members of the National Public Safety Commission. – (1) The term of office of a member shall be the same as that of the National Assembly unless he resigns or is removed from office at any time before the expiry of his term or ceases to be a member of the National Assembly.

- (2) No member shall be eligible for a second term.
- (3) Members shall be paid TA and DA for attending meetings, as per rules.
- (4) Independent members may be paid honoraria as per rules.

94. Removal of members. – The President on his own volition or on the recommendation of the National Public Safety Commission may remove a member from office if he—

- (a) ceases to be a citizen of Pakistan;
- (b) is found suffering from physical or mental incapacity or illness;
- (c) is guilty of misconduct;
- (d) is found to have dealt with any matter in which he had a conflict of interest;
- (e) is convicted of a criminal offence;
- (f) is declared a bankrupt, loan defaulter or tax evader;
- (g) is involved in activities prejudicial to the ideology, interest, security, unity, solidarity, peace and integrity of Pakistan and its people, and the good order and harmony of society;
- (h) brings the National Public Safety Commission into disrepute;
- (i) fails to attend its three consecutive meetings without any reasonable cause.

95. Meetings and conduct of business of the National Public Safety Commission. – (1) The business of the National Public Safety Commission shall be conducted by the Commission in a meeting.

(2) The meeting may be convened by the Chairperson or on the requisition of three members.

(3) Quorum for the meeting of the Commission shall be two-third of its membership.

(4) Members shall attend meetings of the National Public Safety Commission as and when required for which at least a week's notice, with agenda, shall be given. There shall be minimum of one meeting in a month, provided an emergency meeting may be held at a short notice not exceeding twenty-four hours.

(5) The ex officio Chairperson will not have the right of vote, except in case of a tie.

(6) Decisions of the Commission shall be by simple majority.

(7) The Commission may hold public consultations as and when required.

(8) Heads of law enforcement agencies, prosecution service, prison and probation services will attend meetings of the Commission as non-voting members, when invited.

(9) The Commission may invite any expert for consultations on specific issues.

(10) The Commission may frame rules of procedure for the conduct of the business.

96. Secretariat. – National Police Bureau referred to in Section 162 shall function as the secretariat of the National Public Safety Commission.

CHAPTER X

POLICE COMPLAINTS AUTHORITIES

97. Establishment of Federal Police Complaints Authority. – The Government shall establish a Federal Police Complaints Authority for enquiring into serious complaints against the members of Federal Law Enforcement Agencies.

98. Composition. – (1) The Federal Police Complaints Authority shall consist of a Chairperson and six members.

(2) The President shall appoint the Chairperson of the Federal Police Complaints Authority.

(3) The Government shall appoint the members of the Federal Police Complaints Authority on the recommendation of the Federal Public Service Commission.

99. Criteria and terms of the members. – (1) The members of the Federal Police Complaints Authority shall be eminent persons of impeccable integrity with skills, knowledge and experience in such fields as may be specified by the National Public Safety Commission.

(2) Persons may be appointed as whole-time or part-time members of the Authority.

(3) A person shall not be appointed for a period of more than three years.

(4) No member or the Chairperson shall be eligible for a second term.

100. Functions of the Federal Police Complaints Authority. – The Federal Police Complaints Authority shall perform the following functions: -

- (a) receive from District Public Safety Commission or an aggrieved person in writing on an affidavit complaint of neglect, excess or misconduct against Islamabad Capital Territory Police Officer or any member of any Federal Law Enforcement Agency;
- (b) process the complaint and refer the ordinary cases to an appropriate authority for action and report and in serious cases initiate action on its own;
- (c) receive from the Islamabad District Public Safety Commission or the Capital City District Police Officer or Head of a Federal Law Enforcement Agency any report of death, rape or serious injury to any person in police custody and take steps to preserve evidence relating to such incident;
- (d) request the Chief Justice of the High Court, in serious cases, to appoint a District and Sessions Judge for a judicial enquiry;
- (e) appoint in appropriate cases a police officer belonging to the Federal Law Enforcement Agencies who is senior in rank to the officer complained against as an inquiry officer, and supervise the inquiry proceedings;
- (f) send a copy of the report to the competent authority and direct him for departmental action based on the findings of the enquiry or registration of a criminal case as appropriate and direct the competent authority to submit a report about the action taken on the findings of the report;
- (g) inform the complainant of the outcome of the enquiry in writing as soon as possible;
- (h) where the Federal Police Complaints Authority is not satisfied with the order in cases referred under clause (f), it may send a report to the next higher authority for revision of the order by the awarding officer and the process be repeated till it is considered by the final authority;
- (i) in case of any frivolous, false or vexatious complaint, initiate legal action against the complainant;
- (j) recommend disciplinary action against an enquiry officer for wilful neglect or mishandling of an enquiry;
- (k) prepare and send to the Government an annual report on matters relating generally to its functions, including any matter to which it considers attention of the Government may be drawn by reason of gravity or other exceptional circumstances, for laying the report before Parliament;
- (l) establish when necessary in consultation with the Federal Government, regional offices anywhere in the country or with the agreement of the Provincial Government designate Provincial Police Complaints Authority or District Public Safety Commission to deal with the complaints of excess or neglect.

101. Secretariat. – (1) The Government shall establish a permanent secretariat of the Authority.

(2) The Secretariat shall be headed by an officer not below BS 19 who shall be appointed in consultation with the Authority.

(3) The organization of the secretariat and functions of officers and staff shall be determined by the Authority.

(4) The secretariat shall consist of such number of officers and staff as the Government may in consultation with the Authority determine from time to time.

(5) The terms and conditions of service of the staff of the Authority shall be determined by the Government in consultation with the Authority.

102. Removal of the members. – The procedure of the removal of the Chairperson and members of the Federal Police Complaints Authority shall be the same as for the members of the Federal Public Service Commission.

103. Establishment of Provincial Police Complaints Authority. – The Government shall establish a Provincial Police Complaints with at least one office in every region for enquiring into serious complaints against the police.

104. Composition. – (1) The Provincial Police Complaints Authority shall consist of a Chairperson and six members.

(2) The Governor shall appoint the Chairperson of the Provincial Police Complaints Authority.

(3) The Government shall appoint the members of the Provincial Police Complaints Authority on the recommendation of the Provincial Public Service Commission.

105. Criteria and terms of the members. – (1) The members of the Provincial Police Complaints Authority shall be eminent persons of impeccable integrity with skills, knowledge and experience in such fields as may be specified by the Government.

(2) Persons may be appointed as whole-time or part-time members of the Authority.

(3) A person shall not be appointed for a period of more than three years.

(4) No member or the Chairperson shall be eligible for a second term.

106. Functions of the Provincial Police Complaints Authority. – The Provincial Police Complaints Authority shall perform the following functions: -

(a) receive from District Public Safety Commission or an aggrieved person in writing on an affidavit, complaint of neglect, excess or misconduct against a Police Officer;

(b) process the complaint and refer the case to an appropriate authority for action and monitor progress of proceedings;

(c) receive from the District Public Safety Commission or Head of District Police or from any other sources any report of death, rape or serious injury to any person in police custody and take steps to preserve evidence relating to such incident and request the Chief Justice of the High Court under intimation to the Government to appoint a Judge not below the District and Sessions Judge for a judicial enquiry;

(d) may appoint in appropriate cases a police officer of the same district or of a different district who is of impeccable integrity and senior in rank to the officer complained against as an inquiry officer, and supervise the inquiry proceedings;

- (e) send a copy of the report to the competent authority and direct him for departmental action based on the findings of the enquiry or registration of a criminal case as appropriate and direct the competent authority to submit a report within one month about the action taken on the findings of the report;
- (f) inform the complainant of the outcome of the enquiry in writing as soon as possible;
- (g) where the Provincial Police Complaints Authority is not satisfied with the order in cases referred under clause (e), it may send a report to the next higher authority for revision of the order by the awarding officer and the process be repeated till it is considered by the final authority;
- (h) in case of any frivolous, or vexatious complaint, initiate legal action against the complainant;
- (i) may recommend disciplinary action against an enquiry officer for wilful neglect or mishandling of an enquiry;
- (j) prepare and send to the Government an annual report on matters relating generally to its functions, including any matter to which it considers attention of the Government may be drawn by reason of gravity or other exceptional circumstances, for laying the report before Provincial Assembly;
- (k) may in consultation with the Provincial Government establish regional offices anywhere in the Province.

107. Secretariat. – (1) The Government shall establish a permanent secretariat of the Authority.

(2) The Secretariat shall be headed by a suitable officer of BPS-18/19 who shall be appointed by the Authority in consultation with the Provincial Public Safety Commission.

(3) The organization of the Secretariat and functions of officers and staff shall be determined by the Authority.

(4) The Secretariat shall consist of such number of officers and staff as the Government may in consultation with the Authority determine from time to time.

(5) The terms and conditions of service of the staff of the Authority shall be determined by the Government in consultation with the Authority.

108. Removal of the members. – The procedure of the removal of the Chairperson and members of the Provincial Police Complaints Authority shall be the same as for the members of the Provincial Public Service Commission.

CHAPTER XI

CRIMINAL JUSTICE COORDINATION COMMITTEE

109. Establishment. – There shall be a Criminal Justice Coordination Committee in a district.

110. Composition. – The Criminal Justice Coordination Committee shall consist of–

- (a) District and Sessions Judge (Chairperson);
- (b) Head of District Police;

- (c) District Public Prosecutor;
- (d) District Superintendent Jail;
- (e) District Probation Officer;
- (f) District Parole Officer;
- (g) Head of Investigation (Secretary).

111. Functions of the Criminal Justice Coordination Committee, etc. – (1) The Criminal Justice Coordination Committee shall–

- (a) keep under review the operation of the criminal justice system and work towards the improvement of the system as a whole;
- (b) promote understanding, co-operation and coordination in the administration of the criminal justice system;
- (c) exchange information and give advance notice of local developments, which may affect other parts of the system;
- (d) formulate co-ordinated priorities and plans to give effect to locally agreed policies;
- (e) raise relevant issues with the appropriate authorities;
- (f) promote the spread of good practices; and
- (g) review the implementation of any decisions taken by the Criminal Justice Coordination Committee.

(2) The meeting of the Criminal Justice Coordination Committee shall be held at least once a month. The secretary of the committee shall record the minutes of the meetings.

(3) Criminal Justice Coordination Committees at Provincial and National level headed by the Chief Justices of High Courts and the Chief Justice Supreme Court respectively shall likewise be established.

CHAPTER XII

REGULATION, CONTROL AND DISCIPLINE OF THE POLICE

112. Rule making by Provincial Police Officer or Islamabad Capital City Police Officer.

–Provincial Police Officer, or Islamabad Capital City Police Officer, as the case may be, with the prior approval of the Government, may by notification in the official Gazette, make rules for carrying into effect the provisions of this Act.

113. Punishments. – Subject to the rules, a member of the police may at any time be suspended, dismissed, compulsorily retired, reduced in rank or pay, within a time scale, fined, censured or awarded any other punishment in the prescribed manner.

114. Code of Conduct. – (1) Provincial Police Officer and Capital City Police Officer shall issue Code of Conduct to regulate police practices in respect of–

- (a) the exercise by police officers of statutory powers of stop and search;
- (b) the searching of premises by police officers and the seizure of property found by police officers on persons or premises;

- (c) the detention, treatment and questioning of persons by police officers; and
- (d) the identification of persons by police officers.

(2) Subject to rules, a police officer contravening the Code of Conduct may be awarded one or more punishments provided under Section 113.

115. Police officer at any time liable to be called for duty. – A police officer when off-duty, on leave or under suspension shall be liable to be called for duty.

116. Withdrawal from duty and resignation, etc.– (1) No Police officer shall withdraw from the duties of his office unless expressly allowed to do so in writing by Head of District Police or by some other officer authorised to grant such permission

Explanation. – A police officer who being absent on leave fails without reasonable cause to report for duty on the expiration of such leave shall be deemed within the meaning of this Section to withdraw himself from the duties of his office.

(2) No police officer shall resign his office unless he has given to his superior officer notice in writing for a period of not less than two months of his intention to resign.

117. Police officer not to engage in any other employment. – No police officer shall engage in any private employment while he is a member of the police establishment.

CHAPTER XIII

POWERS TO ISSUE ORDERS

118. Power to issue orders. – The Head of District Police may, in an emergency, for the maintenance of public order or preventing public nuisance, issue orders to give effect to the provisions of any Municipal law, rules or bye-laws for the time being in force.

119. Power to give direction to the public. – Subject to rules, a police officer not below the rank of a Sub-Inspector may, give such directions as may be necessary to–

- (a) direct the conduct and behaviour or actions of persons constituting processions or assemblies on roads or streets;
- (b) prevent obstructions–
 - (i) on the occasion of processions and assemblies;
 - (ii) in the neighbourhood of places of worship during the time of worship; and
 - (iii) when a street or public place or place of public resort may be thronged or liable to be obstructed;
- (c) keep order on streets, mosques, churches or other places of worship and places of public resort when these may be thronged or liable to be obstructed.

120. Regulation of public assemblies and processions and licensing of same. – (1) Head of District Police or Assistant or Deputy Superintendent of Police may as occasion require, direct the conduct of assemblies and processions on public roads, or in public streets or thoroughfares and prescribe the routes by which and the times at which, such processions may pass.

(2) He may also, on being satisfied that it is intended by any persons or class of persons to

convene or collect any assembly in any such road, street or thoroughfare, or to form a procession which would, in his judgement, if uncontrolled, be likely to cause a breach of the peace, require by general or special notice that the persons convening or collecting such assembly or directing or promoting such processions shall apply for a licence.

(3) On such application being made, he may issue a licence specifying the names of the licensees and defining the conditions on which alone such assembly or such procession is to be permitted to take place and otherwise giving effect to this Section:

Provided that no fee shall be charged on the application for, or grant of any such licence.

121. Powers with regard to assemblies and processions violating the conditions of licence. –

(1) Head of District Police or Assistant or Deputy Superintendent of Police or Inspector of Police or an officer in-charge of a police station may stop any procession which violates the conditions of a licence granted under the last foregoing Section, and may order it or any assembly which violates any such conditions as aforesaid to disperse.

(2) Any procession or assembly, which neglects or refuses to obey any order given under clause (1) shall be deemed to be an unlawful assembly.

122. Power to prohibit certain acts for prevention of disorder. – (1) Head of District Police may, whenever and for such time as he may consider necessary but not exceeding two days by notification publicly promulgated or addressed to individuals prohibit in any urban or rural area, the carrying of arms, cudgels, swords, spears, bludgeons, guns, knives, sticks, *lathis* or any other article, which is capable of being used for causing physical violence and the carrying of any corrosive substance or explosives, the carrying, collection or preparation of stones or other missiles or instruments of means of casting or impelling missiles.

(2) If any person goes armed with any article as is referred to in clause (1), such article shall be liable to be seized from him by a police officer.

123. Power to give directions against serious disorder at places of amusement, etc. – (1) For the purpose of preventing serious disorder or breach of the law or imminent danger to those assembled at any place of public amusement or at any assembly or meeting to which the public are invited or which is open to the public, any police officer of the rank of Assistant Sub Inspector or above, present at such place of public amusement, or such assembly or meeting, may subject to such rules, regulations or orders as may have been lawfully made, give such reasonable directions as to the mode of admission of the public to, and lawful conduct of the proceedings and the maintaining of the public safety, at such place of amusement or such assembly or meeting as he thinks necessary and all persons shall be bound to conform to every such reasonable direction.

(2) Every police officer while on duty shall have free access to any place of public amusement, assembly or meeting for the purpose of giving effect to the provisions of clause (1) and to any direction made there under.

124. Erecting of barriers in streets, etc. – Any police officer may in an emergency temporarily

close any street or public place through erection of barriers or other means, to prohibit persons or vehicles from entering such area.

125. Power to search suspected persons or vehicles in street, etc.— When in a street or a place of public resort a police officer on reasonable grounds suspects a person or a vehicle to be carrying any article unlawfully obtained or possessed or likely to be used in the commission of an offence, he may search such person or vehicle; and if the account given by such person or possessor of the vehicle appears to be false or suspicious, he may detain such article after recording in writing the grounds of such action and issue a receipt in the prescribed form and report the facts to the officer in-charge of the police station for informing the court for proceeding according to law against the person.

CHAPTER XIV SPECIAL MEASURES FOR MAINTENANCE OF PUBLIC ORDER AND SECURITY

126. Employment of additional police to keep peace. – (1) Capital City Police Officer or City Police Officer and District Police Officer subject to approval of Provincial Police Officer may on application of any person depute any additional number of police to keep the peace, to preserve order, to enforce any provisions of this Act, or any other law, in respect of any particular class or classes of offences or to perform any other duties imposed on the police.

(2) Subject to rules, such additional police shall be employed at the cost of the person making the application.

(3) If the person upon whose application such additional police are employed gives one week's notice for the withdrawal of the said police, he shall be relieved from the cost thereof at the expiration of such notice.

(4) If there is any dispute on payment, Head of District Police on an application by the aggrieved party may refer the matter to the Government for final decision.

127. Employment of additional police at the cost of organizers, etc.— (1) Whenever it appears to Head of District Police that—

- (a) any large work which is being carried on, or any public amusement, or event at any place is likely to impede the traffic or to attract a large number of people; or
- (b) the behaviour or a reasonable apprehension of the behaviour of the persons employed on any railway, canal or other public work, or in or upon any manufactory or other commercial concern under construction or in operation at any place, necessitates the employment of additional police at such place;

he may depute such number of additional police to the said place for so long as the necessity to employ the additional police shall appear to be expedient.

(2) Subject to rules, the cost of such additional police shall be borne by the organisers of such

events or employers of such works or concerns, as the case may be, at rates approved by the appropriate government from time to time.

128. Compensation for injury caused by unlawful assembly. – When any loss or damage is caused to any property or when death or grievous hurt is caused to any person or persons, by anything done in furtherance of the common object of an unlawful assembly, the trial court may determine the amount of compensation which, in its opinion should be paid by members of the unlawful assembly to any person or persons in respect of the loss or damage or death or grievous hurt caused.

129. Recovery of amount payable under Sections 126 and 127. – Any amount payable under Section 126 and Section 127 shall be recovered in the same manner as if it were arrears of land revenue.

130. Recovered amount to go to treasury. – Amounts payable under Section 126 and Section 127 shall be credited to the treasury.

131. Banning of use of dress resembling uniform of police or armed forces.– (1) If Provincial Police Officer or the Capital City Police Officer or City Police Officer is satisfied that the wearing in public, by any member of any body, association or organization, of any dress or article of apparel resembling the uniform worn by police or members of the Armed Forces or any uniformed force constituted by or under any law for the time being in force, is likely to prejudice the security of the state or the maintenance of public order, he may by a special order prohibit or restrict the wearing or display, in public of any such dress or article of apparel by any member of such body or association or organization.

(2) Every order under clause (1) shall be published in the official Gazette.

Explanation. – For the purpose of clause (1) a dress or article of apparel shall be deemed to have been worn or displayed in public if it is worn or displayed in any place to which the public have access.

132. Control of camps, parades, etc.– If Head of District Police is satisfied that it is necessary in the interest of maintenance of public order, he may by a special order prohibit or restrict throughout the district or any part thereof all meetings and assemblies of persons for the purpose of training in the use of arms or taking part in any such camp, parade or procession.

133. Authority of Head of District Police over the village police. – Head of District Police shall for the purpose of carrying this Act into effect, exercise authority and control over village watchmen or village police officers.

CHAPTER XV

RESPONSIBILITIES OF POLICE

IN RELATION TO UNCLAIMED PROPERTY

134. Police to make inventory of unclaimed property, etc.– It shall be the duty of every police officer to take charge and make inventory of any unclaimed property found by, or made over to him, and furnish a copy of the inventory to Head of District Police without delay, who shall send a

copy of the same to District Public Safety Commission.

135. Procedure for disposal of unclaimed property.— (1) Where any property has been taken charge of under Section 134, Head of District Police shall issue a proclamation within fifteen days in the prescribed manner specifying the articles of which such property consists and requiring that any person who may have a claim thereto shall appear before him or some other officer not below the rank of Assistant Superintendent of Police or Deputy Superintendent of Police especially authorised in this behalf and establish his claim within three months from the date of such proclamation.

(2) If the property, or any part thereof, is subject to speedy and natural decay or if the property appears to be of the value of less than one thousand rupees, it may forthwith be disposed of in the prescribed manner under the orders of Head of District Police and the net proceeds of such sale shall be dealt with in the manner provided in Sections 136 and 137.

(3) Where any person who has a claim to the property is required by the proclamation under clause (1) to appear before an officer authorised by the Head of District Police and establish his claim, such officer shall forward the record of the proceedings to the Head of District Police.

(4) Head of District Police shall follow the directions of the District Public Safety Commission in disposal of property under clause (3).

136. Delivery of property to person entitled.— (1) Head of District Police on being satisfied of the title of any claimant to the possession or administration of the property specified in the proclamation issued under clause (1) of Section 135 order the same to be delivered to him.

(2) In case where there is more than one claimant to the same property the matter shall be referred by the Head of District Police to the competent court.

137. Disposal of property, if no claimant appears.— If no person establishes his claim to such property within the period specified in the proclamation, the property, or such part thereof as has not already been sold under clause (2) of Section 135 shall, with the approval of appropriate Public Safety Commission, be disposed off in the prescribed manner and the proceeds shall be deposited in the treasury.

CHAPTER XVI

OFFENCES AND PUNISHMENTS

138. Causing mischief in street by animal or vehicle.— No person shall cause damage, injury, danger, alarm or mischief in any street or public place by negligent or reckless driving or by driving any vehicle or animal laden with timber, poles or other unwieldy articles through a street or public place contrary to any regulation.

139. Causing obstruction in a street.— No person shall cause obstruction in any street or public place—

- (a) by allowing any animal or vehicle, which has to be loaded or unloaded, or take up or set down passengers, to remain or stand in the street or the public place longer than may

be necessary for such purpose; or

(b) by leaving any vehicle standing or fastening any cattle in the street or the public place; or

(c) by using any part of a street or public place as a halting place for vehicles or cattle; or

(d) by causing obstruction in any other manner.

140. Wilful or negligent conduct in respect of dogs. – No person shall in any street or public place—

(a) let loose any dog wilfully or negligently so as to cause danger, injury, alarm or annoyance; or

(b) suffer a ferocious dog to be at large without a muzzle; or

(c) set on a dog to attack any person or horse or other animal.

141. Penalty for offences under Sections 138 to 140. – Any person who contravenes any of the provisions of Sections 138 to 140 shall, on conviction, be punished with fine, which may extend to ten thousand rupees, or, in default of payment, with imprisonment for a term not exceeding thirty days.

142. Suffering disorderly conduct. – Whoever being the keeper of any place of public amusement or public entertainment, knowingly permits or suffers disorderly behaviour or any gambling or any other criminal act, whatsoever, in such place, shall, on conviction be punished with fine which may extend to ten thousand rupees.

143. Penalty for contravening orders, etc. under Section 118. – Whoever contravenes or abets the contravention of any order made under Section 118 or any of the condition of the licence issued under such regulations shall on conviction be fined up to ten thousand rupees.

144. Penalties for contravention of order, etc. under Section 119 and Sections 122 and 123. – (1) Whoever contravenes, disobeys, opposes or fails to conform to any order given by a police officer under Section 119, and Section 123 shall, on conviction, be punished with fine, which may extend to ten thousand rupees.

(2) Whoever contravenes a notification or an order made under clause (1) of Section 122 shall be punished with imprisonment for a term which shall not be less than three months but may extend to two years and with fine up to one hundred thousand rupees.

145. Penalty for contravention of orders under Sections 131 and 132. – Whoever contravenes any order made under Section 131 and Section 132 shall, on conviction, be punished with imprisonment for a term, which may extend to three years, or with fine up to one hundred thousand rupees, or with both.

146. Penalty for obtaining employment as a police officer through fraudulent means. – Any person who makes a false statement or a statement which is misleading in material particulars or uses a false document for the purpose of obtaining employment as a police officer shall on conviction be punished with imprisonment for a term which may extend to one year, or with fine up to fifty thousand rupees, or with both.

147. Warning to first offender. – It shall be lawful for Head of District Police or any other officer

authorized by him not below the rank of Inspector, to request the relevant court to issue in lieu of prosecution, a warning in writing to the accused in relation to first commission of any offence mentioned in Sections 138 to 140:

Provided that for any subsequent offence mentioned in this Section the offender on conviction will be awarded at least half of the prescribed punishment.

148. Defiling water in public wells, etc.— Whoever shall defile or cause to be defiled water in any public well, tank, reservoir, pond, pool, aqueduct or part of a river, stream, *nullah* or other source or means of water supply, so as to render the same unfit for the purpose for which it is set apart, shall on conviction be punished with imprisonment for a term which may extend to six months or with fine which may extend to thirty thousand rupees, or with both.

149. False alarm of fire, etc.— Whoever knowingly gives or causes to be given a false alarm of fire to the fire brigade or to any officer or fireman thereof shall on conviction be punished with imprisonment for a term which may extend to three months or with fine which may extend to fifteen thousand rupees, or with both.

150. Penalty for contravention of orders made under Section 124.— Whoever contravenes, or abets the contravention of any order made under Section 124 shall, on conviction, be punished with imprisonment which may extend to three months, or with fine which may extend to ten thousand rupees or with both.

151. Penalty for unauthorized use of police uniform.— If any person not being a member of the police wears without authorisation, the uniform of police or any dress having the appearance or bearing any of the distinctive marks of police uniform, he shall, on conviction, be punished with imprisonment for a term which may extend to three years, or with fine up to one hundred thousand rupees, or with both.

152. Penalty for frivolous or vexatious complaint.— Any person who files a complaint against the police, which on enquiry by the Police Complaints Authority is held frivolous or vexatious, shall be punished on conviction with imprisonment for six months, or with fine, which may extend to fifty thousand rupees, or with both.

153. Certain offences to be cognizable.— Notwithstanding anything contained in the Code, offences falling under Sections 148 to 152 shall be cognizable.

154. Power to try offences summarily.— The court trying offences under this chapter shall have power to try such offences summarily in accordance with the procedure laid down for summary trial in the Code.

CHAPTER XVII OFFENCES BY AND PUNISHMENTS FOR POLICE OFFICERS

155. Penalty for certain types of misconduct by police officers.— (1) Any police officer who—
(a) makes for obtaining release from service as police officer, a false statement or a statement which is misleading in material particulars or uses a false document for the

- purpose;
- (b) is guilty of cowardice, or being a police officer of junior rank, resigns his office or withdraws himself from duties without permission;
- (c) is guilty of any wilful breach or neglect of any provision of law or of any rule or regulation or any order which he is bound to observe or obey;
- (d) is guilty of any violation of duty;
- (e) is found in a state of intoxication, while on duty;
- (f) malingers or feigns or voluntarily causes hurt to himself with the intention to render himself unfit for duty;
- (g) is grossly insubordinate to his superior officer or uses criminal force against a superior officer; or
- (h) engages himself or participates in any demonstration, procession or strike or resorts to or in any way abets any form of strike or coercion or physical duress to force any authority to concede anything,

shall, on conviction, for every such offence be punished with imprisonment for a term which may extend to three years and with fine.

(2) Prosecution under this Section in case of junior ranks shall require written authorisation from the Regional Police Officer or an officer of at least BS-21 specifically authorised in this behalf by the Provincial Police Officer. In Case of senior ranks, the relevant Police Complaint Authority shall authorise the prosecution in writing

156. Penalty for vexatious entry, search, arrest, seizure of property, torture, etc.– Whoever, being a police officer–

- (a) without lawful authority, or reasonable cause, enters or searches or causes to be entered or searched any building, vessel, tent or place;
- (b) vexatiously and unnecessarily seizes the property of any person;
- (c) vexatiously and unnecessarily detains, searches or arrests any person; or
- (d) inflicts torture or violence to any person in his custody;

shall, for every such offence, on conviction, be punished with imprisonment for a term, which may extend to five years and with fine.

157. Penalty for unnecessary delay in producing arrested persons in courts. – Any police officer who vexatiously and unnecessarily delays the forwarding to a court or to any other authority to whom he is legally bound to forward any arrested person, shall, on conviction, be punished with imprisonment for a term which may extend to one year and with fine.

CHAPTER XVIII

NATIONAL POLICE MANAGEMENT BOARD

158. Establishment. – The Federal Government shall establish National Police Management Board.

159. Composition. – The National Police Management Board shall consist of the following heads of the police establishments and the Federal Law Enforcement Agencies: -

- (a) Provincial Police Officers of Punjab, Sindh, NWFP and Balochistan;
- (b) Inspectors General of Railways Police, Pakistan Motorway and Highway Police, Northern Areas and AJK;
- (c) Capital City Police Officers of Islamabad, Lahore, Karachi, Peshawar and Quetta;
- (d) Directors General of Federal Investigation Agency and Anti Narcotics Force;
- (e) Commandants of National Police Academy and Frontier Constabulary;
- (f) Director General of National Police Bureau (Member Secretary); and
- (g) any other member that the Federal Government may nominate.

160. Functions of the National Police Management Board. – The National Police Management Board shall perform the following functions, namely: -

- (a) advise the Federal and Provincial Governments on matters concerning general planning, development and standardisation of administration, education and training, gender sensitisation, communications, criminal identification facilities, criminal statistics and equipment of police and other law enforcement agencies;
- (b) identify and arrange research in the areas of criminology, terrorism, sectarian and ethnic violence, drug trafficking, organised crime, inter-provincial crime, crime having international dimensions, etc.;
- (c) recommend Federal Government grants to various police organizations and Federal Law Enforcement Agencies for enhancing their operational capabilities;
- (d) recommend steps for securing inter-governmental and inter-agency assistance to ensure a comprehensive and cohesive arrangement for crime control and internal security;
- (e) recommend to the Federal and Provincial Governments standards of recruitment, appointment, promotions, transfers, tenure and discipline;
 - (f) develop standing operating procedures based on internationally accepted good practices for adoption by the Police and Law Enforcement Agencies in the country to improve their performance;
 - (g) manage the administration the policy of the Police Service of Pakistan notwithstanding anything contained in any other law, or rule for the time being in force; and
- (h) any other duties that the Federal Government may assign to it.

161. Meeting and conduct of business of the Board. – (1) Normally two meetings shall be held in a year. Meetings may, however, be convened by the Secretary of the Board on the requisition by half of the members of the Board.

(2) Quorum for the meeting will be three quarters of the total membership and no participation by proxy shall be allowed.

(3) Members shall attend the meetings as and when required for which at least one month's

notice, with agenda shall be given.

(4) The meetings shall be presided over by the senior most member present.

(5) The Board may invite any expert for consultations.

162. National Police Bureau. – (1) A National Police Bureau headed by a Director General not below the rank of Additional Inspector General of Police shall be established.

(2) The National Police Bureau shall function as permanent secretariat of the National Public Safety Commission and the National Police Management Board.

(3) The Government shall determine the organization of the National Police Bureau and provide such number of staff as it may determine from time to time.

(4) The National Police Bureau shall perform research and development functions as assigned to it by the National Police Management Board and the National Public Safety Commission.

(5) Perform such other functions as may be assigned to it by the Government.

(6) The National Police Bureau as secretariat to the National Public Safety Commission shall function independently but for all other functions the Bureau shall be under the Interior Division.

CHAPTER XIX MISCELLANEOUS

163. Provision of advice and assistance to International Organizations etc.– The Police, through the National Police Bureau, may provide advice and assistance to an International Organization or to any other person or body engaged in investigation of criminal cases outside Pakistan and may assist the relevant agencies in implementing international conventions relating to crime, criminals and accused persons.

164. Coordination by Federal Government. – The Federal Government shall coordinate for the purpose of efficiency in the police administration among general police areas falling under the Federal or the Provincial governments.

165. Constitution of Promotion Boards etc.– Subject to rules, promotion of police officers of the provincial police shall be made on the recommendations of the departmental promotion committees/promotion boards:

Provided that the departmental promotion committees/promotion boards shall be headed by an officer not below the rank of–

(a) Assistant Superintendent of Police or Deputy Superintendent of Police for promotion to the rank of Head Constable;

(b) Superintendent of Police for promotion to the rank of Assistant Sub-Inspector and Sub-Inspector;

(c) Deputy Inspector General of Police for promotion to the rank of Inspector.

(d) Additional Inspector General of Police for promotion to the rank of Deputy

Superintendent of Police; and

(e) Inspector General for promotion to the rank of Superintendent of Police.

166. Criminal Statistics and reports. – (1) The Provincial Government shall at such times and in such form as the Federal Government may direct, transmit statistic and reports to the Federal Government with respect to officers, offenders, criminal proceedings and the state of law and order in the Province as the Federal Government may require.

(2) The Federal Government shall cause a consolidated abstract of the information transmitted to it under clause (1) to be prepared and laid before the National Assembly.

(3) The Federal Government may require a Provincial Government to submit reports on such matters as may be specified in the requirements on matters connected with police performance.

(4) A requirement under clause (3) may specify the form in which a report is to be submitted.

(5) The Provincial Government may direct the submission of such reports and returns by the Provincial Police Officers and other police officers as it may deem proper and may prescribe the form in which such returns shall be made.

167. Maintenance of Daily Diary at a police station. – (1) A register of Daily Diary shall be maintained at every police station in such form as shall, from time to time, be prescribed and to record therein the names of all complainants, persons arrested, the offences charged against them, the weapons or property that shall have been taken from their possession or otherwise, and the names of the witnesses who shall have been examined.

(2) The District and Sessions Judge of the district may call for and inspect such Diary.

168. Citizen Police Liaison Committees, Dispute Resolution Committees, etc. –(1) The relevant Public Safety Commission may establish Citizen Police Liaison Committees as voluntary, self-financing and autonomous bodies, for–

- (a) training and capacity building of Police;
- (b) developing mechanism for better liaison between citizens and police; and
- (c) providing assistance for the development of criminal justice sub-systems.

(2) The Provincial Police Officer or the Head of Police of Islamabad Capital Territory, as the case may be, may establish Dispute Resolution Committees for–

- (a) establishing and promoting dispute resolution procedures; and
- (b) resolving disputes through conciliation subject to agreement of both parties.

169. Public Safety Fund. – (1) The Government may, by notification in the official Gazette, constitute Public Safety Fund at the Provincial and District levels consisting of–

- (a) Grants made by the Federal Government, the Provincial Government and the District Governments to the police.
- (b) Contributions made in cash or kind by the public for the improvement of police service delivery to be credited to District Public Safety Fund.

(2) The Provincial Government may credit one-half of the sums of the traffic fines to the

Provincial Public Safety Fund.

(3) All receipts mentioned in sub-clauses (a) and (b) of clause (1) and clause (2) may be credited to the Provincial or District Public Safety Fund as the case may be under a Head of Account in the Public Account duly authorised by the Controller General of Accounts.

(4) The Fund shall be non-lapsable.

(5) Accounts shall be kept of payments made into or out of this fund, which shall be audited by the Auditor General at the end of each financial year.

(6) The Public Safety Fund at Provincial level shall be operated by the Provincial Public Safety Commission and at the district level by the District Public Safety Commission subject to any rules and regulations made under this Act.

(7) The Public Safety Fund shall be applied for the purpose of—

(a) improving facilities for public and service delivery at police stations;

(b) improving traffic police; and

(c) rewarding police officers for good performance.

170. Officers holding charge of or succeeding to vacancies competent to exercise powers.—

Wherever in consequence of the office of Head of District Police becoming vacant, any officer who holds charge of such post or succeeds either temporarily or permanently to his office under the orders of the competent appointing authority, such officer shall be competent to exercise all the powers and perform all the duties respectively conferred and imposed by this Act on Capital City Police Officer, City Police Officer or District Police Officer.

171. No police officer to be liable to any penalty or payment of damages on account of acts done in good faith in pursuance of duty.— No police officer shall be liable to any penalty or to payment of damages on account of an act done in good faith in pursuance or intended pursuance of any duty imposed or any authority conferred on him by any provision of this Act or any other law for the time being in force or any rule, order or direction made or given therein.

172. Suits or prosecutions in respect of acts done under colour of duty not to be entertained if not instituted within the prescribed period.— In case of an alleged offence by a police officer, or a wrong alleged to have been done by him or by any act done under colour of duty or in exercise of any such duty or authority of this Act or when it shall appear to the Court that the offence or wrong if committed or done was of the character aforesaid, the prosecution or suit shall not be entertained, or shall be dismissed, if instituted after more than six months from the date of the action complained of.

173. Notice of suit to be given with sufficient description of wrong complained of.— (1) In the case of an intended suit on account of an alleged wrong referred to in Article 172 by a police officer, the person intending to sue shall give two months notice as prescribed in section 80 of Civil Procedure Code 1908, of the intended suit with sufficient description of the wrong complained of.

(2) The provisions of section 80 of the Civil Procedure Code, 1908, shall *mutatis mutandis*

apply to the notice referred to in clause (1).

174. Licences and written permissions to specify conditions, etc.— Any licence or written permission granted under the provisions of this Act shall specify the period, locality, conditions and restrictions subject to which the same is granted and shall be given under the signature of the competent authority.

175. Revocation of licence or permission. — Any licence or written permission granted under this Act may at any time be suspended or revoked by the competent authority after due notice if any of its conditions or restrictions is infringed or evaded by the person to whom it has been granted, or if such person is convicted of any offence in any matter to which such licence or permission relates.

176. When licence or permission is revoked, the grantee would be deemed to be without licence. — When any such licence or written permission is suspended or revoked, or when the period for which the same was granted has expired, the person to whom the same was granted shall, for all purposes of this Act, be deemed to be without a licence or written permission, until the order for suspending or revoking the same is cancelled, or until the same is renewed, as the case may be.

177. Grantee to produce licence and written permission when required. — Every person to whom any such licence or written permission has been granted, shall, while the same remains in force, at all reasonable time, produce the same if so required by a police officer.

178. Public notices how to be given.— Any public notice required to be given under any of the provisions of this Act shall be in writing under the signature of a competent authority and shall be published in the locality to be affected thereby, by affixing copies thereof in conspicuous public places, or by proclaiming the same with beat of drums, or by advertising the same in local newspapers in regional languages and English or Urdu, as the said authority may deem fit, or by electronic media, or by any two or more of these means and by any other means it may think suitable.

179. Consent of competent authority how to be proved. — Whenever under this Act, the doing or the omitting to do anything or the validity of anything depends upon the consent, approval, declaration, opinion or satisfaction of a competent authority, a written document signed by the competent authority purporting to convey or set forth such consent, approval, declaration, opinion or satisfaction shall be evidence thereof.

180. Signature on notices may be stamped. — Every licence, written permission, notice or other document, not being a summons or warrant or search warrant, required by this Act, or by any rule hereunder, to bear the stamp and the signature of Head of District Police and it shall be deemed to be properly signed if it is a facsimile of the document bearing his signature.

181. Persons interested may apply to annul, reverse or alter any rule or order.— In the case of any rule or order made under an authority conferred by this Act and requiring the public or a particular class of persons to perform some duty or act, or to conduct or order themselves or

those under their control in a manner therein described, it shall be competent for any interested person to apply to the authority issuing such rule or order to annul, reverse or alter the rule or order aforesaid on the ground of its being unlawful, oppressive or unreasonable:

Provided that the appropriate government shall exercise jurisdiction for revision against such orders.

182. Notification of rules and regulations in the official Gazette. – Every rule and regulation made under this Act shall be made by notification in the official Gazette.

183. Powers to prosecute under any other law not affected. – Nothing contained in this Act shall be construed to prevent any person from being prosecuted under any other law for the time being in force for any offence made punishable under this Act.

184. Power to amend. – Without prejudice to the power of the Federal Government to amend this Act, any Provincial government may, with the approval of the Chief Executive of the Islamic Republic of Pakistan, amend, vary or modify any provision of this Act relating to the Province on the basis of its specific requirements and circumstances.

185. Repeal and savings. – (1) The Police Act, 1861 (V of 1861), hereinafter referred to as the said Act, is hereby repealed:

Provided that–

- (a) all rules prescribed, appointments made, powers conferred, orders made or passed, consent, permit, permission of licences given, summons or warrants issued or served, persons arrested or detained or discharged on bail or bond, search warrants issued, bond forfeited, penalty incurred under the said Act shall, so far as they are consistent with this Act, be deemed to have been respectively prescribed, made, conferred, given, passed, served, arrested, detained, discharged, forfeited and incurred hereunder;
 - (b) all references made to the said Act or in any law or instrument shall be construed as references to the corresponding provisions of this Act.
- (2) Notwithstanding the repeal of the said Act, the repeal shall not–
- (a) affect the validity, invalidity, effect or consequence of anything duly done or suffered under the said Act;
 - (b) affect any right, privilege, obligation or liability acquired, accrued or incurred under the said Act;
 - (c) affect any penalty, forfeiture or punishment incurred or inflicted in respect of any act or offence committed against the said Act;
 - (d) affect any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment as aforesaid;

and any such investigation, legal proceeding or remedy may be instituted, continued or enforced, and any such penalty, forfeiture or punishment may be imposed, as if the said Act has not been repealed; and

- (e) affect any proceeding pending in any court or before any authority under the said Act,

and any such proceeding and any appeal or revision arising out of such proceeding shall be continued, instituted or disposed of, as if the said Act had not been repealed.

186. Existing police deemed to be constituted under this Act. – Without prejudice to the provisions contained in Section 185, the police functioning in the Provinces and in Islamabad Capital Territory immediately before the commencement of this Act shall on such commencement be deemed to be police constituted under this Act.

187. Power to remove difficulties. – (1) If any difficulty arises in giving effect to the provisions of this Act, the Government may, by notification in the official Gazette, make such provisions as appear to be necessary or expedient for removing the difficulty:

Provided that no such notification shall be issued after the expiry of two years from the commencement of this Act.

(2) Every notification issued under this Section shall be laid before the Parliament or the Provincial Assembly, as the case may be.

NOTE: Sections from 185 to 187 shall be revisited after final determination of the constitutional status of Police Order 2002.

FIRST SCHEDULE SENIOR AND JUNIOR RANKS

[Section 2 (xv) and Section 2 (xxx)]

1. Senior Police Ranks–
 - (i) Inspector-General
 - (ii) Additional Inspector General
 - (iii) Deputy Inspector General
 - (iv) Assistant Inspector General/Senior Superintendent
 - (v) Superintendent
 - (vi) Assistant Superintendent/Deputy Superintendent
2. Junior Police Ranks–
 - (i) Inspector
 - (ii) Sub-Inspector
 - (iii) Assistant Sub-Inspector
 - (iv) Head Constable
 - (v) Constable

SECOND SCHEDULE

(SECTION 24)

FORM OF OATH OR AFFIRMATION BY MEMBERS OF POLICE

I _____ do hereby swear/solemnly affirm that I shall be faithful and bear true allegiance to Pakistan and to the Constitution of the Islamic Republic of Pakistan; that as member of the Police I shall honestly, impartially and truly serve the people without fear, favour or affection, malice or ill-will; that I will to the best of my ability, skill and knowledge discharge, according to law, such functions and duties as may be entrusted to me as a member of the police and in such a manner as to uphold and protect the dignity and rights of the citizens; that I shall abide by the principles contained in the Code of Conduct for police officers.

THIRD SCHEDULE

(SECTION 25)

CERTIFICATE OF APPOINTMENT

SEAL

No _____

Certificate of appointment issued under Article 25 of the Police Order 2002, Mr. _____ has been appointed _____ and is invested with the powers, functions and privileges of a police officer under Article _____ of Police Order 2002, in the Capital City District _____/City District _____/District Police/ Area _____ under the charge of Provincial Police Officer/ Capital City Police Officer _____/City Police Officer _____ on this day of _____.

Signature _____

Designation _____

ANNEXES

ANNEXES-A

**GOVERNMENT OF PAKISTAN
LAW AND JUSTICE COMMISSION OF PAKISTAN
SUPREME COURT BUILDING
CONSTITUTION AVENUE
ISLAMABAD**

Islamabad, the 15th May 2018

NOTIFICATION

F.No.2/R/PoliceLaw/LJCP-2018. In pursuance of the meeting dated 08.05.2018, the Hon'ble Chief Justice of Pakistan (CJP) has been pleased to constitute a Police Reforms Committee (PRC) under the aegis of Law and Justice Commission of Pakistan (LJCP) comprising the following retired and serving Inspector General of the Police Service of Pakistan:

- Mr. Afzal Ali Shigri: Former IGP Sindh (Convener)
- Syed Masud Shah: Former IGP KP & Punjab
- Mr. Asad Jahangir Khan: Former IGP Sindh
- Mr. Tariq Parvez: Former DG FIA
- Dr. Shoaib Suddle: Former IGP Balochistan, Sindh & DG IB
- Mr. Shaukat Javed: Former IGP Punjab
- Mr. Tariq Khosa: Former IGP Balochistan & DG FIA
- Mr. Iftikhar Ahmed: Former IGP Islamabad
- Mr. Fiaz Khan Toru: Former IGP Islamabad & KPK
- Mr. Amjad Javed Saleemi: IGP Punjab
- Syed Kaleem Imam: IGP Sindh
- Salah-ud-Din Khan: IGP Khyber Pakhtunkhwa
- Mr. Mohsin Butt: IGP Balochistan
- Mr. Muhammad Aamir Zulfiqar Khan: IGP Islamabad

Terms of Reference (ToRs) of the Committee

Part 1: Model Police Law

- Draft a Model Police law to meet the challenges of the 21st century policing that ensures the police to be politically neutral, democratically controlled, effectively accountable, administratively and operationally autonomous and highly specialized professional community service institution.
- The model law should ensure uniformity and standardization of institutional structures, functional specialization and grant administrative, operational and financial authority along with responsibility to the police command across the board in the federation and the provinces.

- Examine all the Supreme Court and High Court' verdicts on police law-related issues, especially in the context of the 18th constitutional amendment and recommend uniform application of law in the federation and the provinces.

Part 2: Accountability and Operational Matters

- Recommend internal and external accountability mechanisms to address the public complaints against the police. Departmental institutional arrangements and external oversight mechanisms should be clearly spelt out to reduce pressure on the judiciary that is inundated with public complaints against the police.
- Recommend improvements in the quality of investigations with an emphasis on functional specialization, operationally distinct investigation cadre, and concept of investigation teams, appointment and tenure of investigation officers, state-of-the-art training institutes for the investigators along with intra-institutional training methodology for investigators, prosecutors, judges and lawyers.
- Suggest re-vamping of urban policing by changing basic administrative structure, introducing better quality of command and control to ensure quick decision-making and rapid response to meet public order challenges as well as quality access to the citizens seeking justice.
- Recommend Alternate Dispute Resolution (ADR) mechanism by examining the efficacy of Dispute Resolution Committees (DRCs) KP at police station, sub-division, division, district, region and provincial levels.
- Carry out diagnosis of weak areas in CJS in combating terrorism: provide a roadmap to enhance effectiveness of CJS for dealing with ATA cases; evaluate existing laws for their efficacy while recommending measures to effectively combat terrorism and violent extremism.

Part 1: Model Police Law

- Suggest policing-related amendments/reforms in laws like Criminal Procedure Code, Evidence Law, Anti-Terrorism Act etc. and recommend changes in accordance with international best practice.
- Identify redundant policing and criminal justice-related laws that have outlived their utility and require to be struck off the statute books/Pakistan Code.

Secretariat of PRC

- Secretary Law and Justice Commission will provide secretarial support to the PRC at the Federal Judicial Academy (FJA).
- Researchers, IT and skilled drafting officials will be arranged by the LJCP.
- Services of competent lawyer (s) for model law and legislative/legal amendments scrutiny will be obtained by the Secretary LJCP in consultation with the Convener of PRC.

Timeframe

- First draft of the PRC Report shall be finalized before May 31, 2018.
- Final Report will be submitted to the law and Justice Commission after presentation to the CJP and any other Judge(s) as his lordship deems appropriate to associate for professional input.

Note: The serving IGS named above will continue to serve as members even, if transferred from their present assignment. The officer (s) replacing any of them will be co-opted as member of the PRC.

Sd/-

(Dr. Muhammad Raheem Awan)
Secretary
Law and Justice Commission of Pakistan

Copy forwarded to:

1. PS to Hon'ble Chief Justice of Pakistan.
2. Registrar Supreme Court of Pakistan.
3. Mr. Afzal Ali Shigri: Former IGP Sindh (Convener)
4. Syed Masud Shah: Former IGP KP & Punjab
5. Mr. Asad Jahangir Khan: Former IGP Sindh
6. Mr. Tariq Parvez: Former DG FIA
7. Dr. Shoaib Suddle: Former IGP Balochistan, Sindh & DG IB
8. Mr. Shaukat Javed: Former IGP Punjab
9. Mr. Tariq Khosa: Former IGP Balochistan & DG FIA
10. Mr. Iftikhar Ahmed: Former IGP Islamabad
11. Mr. Fiaz Khan Toru: Former IGP Islamabad & KPK
12. Mr. Amjad Javed Saleemi: IGP Punjab
13. Syed Kaleem Imam: IGP Sindh
14. Salah-ud-Din Khan: IGP Khyber Pakhtunkhwa
15. Mr. Mohsin Butt: IGP Balochistan
16. Mr. Muhammad Aamir Zulfiqar Khan: IGP Islamabad


Secretary

NOTE: The following IGS joined PRC as co-opted members during the Caretaker setup:

17. Mr. Kaleem Imam IGP Punjab
18. Mr. Mohsin Butt IGP Balochistan
19. Mr. Amjad Javid Saleemi IGP Sindh
20. Mr. Muhammad Tahir IGP KP
5. Mr. Jan Muhammad IGP Islamabad

Punishment Awarded to Police Personnel During Year, 2017

Rank	Grounds	MAJOR						MINOR						Total
		Dismissal	Removal from service	Compulsory retirement	Forfeiture of approved service	Reduction in pay scale	Recovery from pay/pension	With-holding of increment	With-holding of promotion	Reduction to lower stage or stages in pay scale	Censure	Extra drill quarter guard	Filed	
ASP/DSP	Torture.	0	0	0	0	0	0	0	0	0	0	0	0	0
	Death in custody.	0	0	0	0	0	0	0	0	0	0	0	0	0
	Corruption.	0	0	1	0	1	1	0	2	0	1	0	0	6
	Absence from duty.	0	0	1	0	0	0	1	0	0	3	0	0	5
	Negligence.	0	0	0	0	0	0	1	2	0	5	0	0	8
	Criminal case.	0	0	0	0	0	0	0	0	0	0	0	0	0
	(Any other reasons):-Inefficiency.	0	0	0	0	3	0	3	8	0	28	0	177	219
	Poor performance.	0	0	0	0	4	0	4	5	0	6	0	0	19
	Lack of supervision/Interest in official duty.	0	0	0	0	0	0	0	0	0	1	0	0	1
	Misuse of official powers.	0	0	2	0	0	0	1	0	0	2	0	0	5
	Failed to control crime.	0	0	0	0	0	0	1	0	0	1	0	0	2
	Disobeying the orders of seniors/Courts.	0	0	0	0	0	0	0	0	0	0	0	0	0
	Misbehavior.	0	0	0	0	0	0	0	1	0	1	0	0	2
	Delay in registration of FIR.	0	0	0	0	0	0	0	0	0	0	0	0	0
	Delay in submission of challan/ investigation.	0	0	0	0	0	0	0	0	0	1	0	0	1
	Failed to recover case-property.	0	0	0	0	0	0	0	0	0	0	0	0	0
	Faulty investigation.	0	0	0	0	0	0	1	0	0	1	0	0	2
	Escape of accused.	0	0	0	0	0	0	0	0	0	0	0	0	0
	Failed to arrest accused/ P.Os/ T.Os/ C.As.	0	0	0	0	0	0	0	0	0	0	0	0	0
Illegal confinement.	0	0	0	0	0	0	0	0	0	0	0	0	0	
	Total	0	0	4	0	8	1	12	18	0	50	0	177	270

Rank	Grounds	MAJOR						MINOR						Total
		Dismissal	Removal from service	Compulsory retirement	Forfeiture of approved service	Reduction in pay scale	Recovery from pay/pension	With-holding of increment	With-holding of promotion	Reduction to lower stage or stages in pay scale	Censure	Extra drill quarter guard	Filed	
Inspector	Torture.	0	0	0	0	0	0	0	0	0	0	0	0	0
	Death in custody.	0	0	0	0	0	0	0	0	0	0	0	0	0
	Corruption.	4	0	1	2	2	0	3	2	1	0	0	0	15
	Absence from duty.	2	0	0	10	1	0	3	0	2	21	0	8	47
	Negligence.	2	0	1	149	14	0	31	4	5	245	0	20	471
	Criminal case.	1	0	0	0	1	0	2	1	0	6	0	4	15
	(Any other reasons):- Inefficiency.	7	0	2	141	6	6	39	7	24	367	2	55	656
	Poor performance.	0	0	0	37	3	9	14	3	0	70	0	2	138
	Lack of supervision/interest in official duty.	0	0	1	23	3	6	9	0	4	24	0	1	71
	Misuse of official powers.	0	0	1	11	5	0	2	5	0	13	0	1	38
	Failed to control crime.	0	0	0	8	0	0	6	0	0	8	0	1	23
	Disobeying the orders of seniors/Courts.	0	0	0	7	2	0	3	2	0	18	0	1	33
	Misbehavior.	1	0	0	2	0	0	0	0	0	15	1	5	24
	Delay in registration of FIR.	0	0	0	15	1	2	2	1	0	11	0	5	37
	Delay in submission of challan/ investigation.	0	0	0	6	0	0	3	1	0	13	0	0	23
	Failed to recover case-property.	0	0	0	2	0	1	6	0	0	3	0	1	13
	Faulty investigation.	3	0	0	22	1	3	7	3	2	13	0	0	54
	Escape of accused.	0	0	0	0	0	0	0	0	0	2	0	0	2
	Failed to arrest accused/ P.Os/ T.Os/ C.As.	0	0	0	59	5	0	17	1	0	47	0	1	130
	Illegal confinement.	0	0	0	2	0	0	0	0	0	0	0	0	2
	Total	20	0	6	496	44	27	147	30	38	876	3	105	1792

Rank	Grounds	MAJOR						MINOR						Total
		Dismissal	Removal from service	Compulsory retirement	Forfeiture of approved service	Reduction in pay scale	Recovery from pay/pension	With-holding of increment	With-holding of promotion	Reduction to lower stage or stages in pay scale	Censure	Extra drill quarter guard	Filed	
Sub-Inspector	Torture.	0	0	0	1	0	0	0	0	0	0	0	0	1
	Death in custody.	0	0	0	0	0	0	0	0	0	5	0	1	6
	Corruption.	21	2	0	29	36	1	6	6	6	11	0	1	119
	Absence from duty.	44	2	4	96	10	1	30	3	8	308	9	241	756
	Negligence.	6	0	1	616	51	5	103	25	78	1140	38	257	2320
	Criminal case.	3	0	1	9	7	0	2	0	1	10	0	0	33
	(Any other reasons):-Inefficiency.	27	0	8	698	58	2	169	54	85	2339	40	362	3842
	Poor performance.	2	0	1	235	25	1	36	12	3	402	3	14	734
	Lack of supervision/interest in official duty.	4	0	1	81	20	0	7	10	2	92	2	2	221
	Misuse of official powers.	11	0	2	46	26	0	10	4	8	27	0	4	138
	Failed to control crime.	0	0	0	5	2	0	0	2	0	8	0	0	17
	Disobeying the orders of seniors/Courts.	3	0	0	69	22	1	3	12	0	94	0	21	225
	Misbehavior.	5	1	0	10	0	0	0	3	1	5	0	1	26
	Delay in registration of FIR.	0	0	0	11	2	0	3	3	0	55	0	1	75
	Delay in submission of challan/investigation.	0	0	0	133	9	0	22	11	3	168	0	4	350
	Failed to recover case-property.	1	0	0	27	1	0	5	0	0	52	0	1	87
	Faulty investigation.	7	0	3	198	64	2	45	19	9	155	0	6	508
	Escape of accused.	3	0	0	2	0	0	2	0	0	3	0	0	10
	Failed to arrest accused/ P.Os/ T.Os/ C.As.	1	0	1	263	9	0	39	10	4	229	1	34	591
Illegal confinement.	2	0	0	2	2	0	0	0	1	10	0	1	18	
	Total	140	5	22	2531	344	13	482	174	209	5113	93	951	10077

Rank	Grounds	MAJOR						MINOR						Total
		Dismissal	Removal from service	Compulsory retirement	Forfeiture of approved service	Reduction in pay scale	Recovery from pay/pension	With-holding of increment	With-holding of promotion	Reduction to lower stage or stages in pay scale	Censure	Extra drill quarter guard	Filed	
Assistant Sub-Inspector	Torture.	0	0	0	2	0	0	0	1	0	1	0	0	4
	Death in custody.	0	0	0	0	0	0	0	0	0	1	0	0	1
	Corruption.	31	0	2	49	45	0	8	3	14	23	0	15	190
	Absence from duty.	26	3	1	149	11	0	55	3	10	541	17	369	1185
	Negligence.	13	0	4	584	42	3	135	25	121	1485	27	348	2787
	Criminal case.	8	0	0	109	10	0	73	6	1	139	0	132	478
	(Any other reasons):-Inefficiency.	22	0	3	669	39	3	106	40	65	2358	79	471	3855
	Poor performance.	5	0	0	297	13	0	66	9	6	620	0	45	1061
	Lack of supervision/interest in official duty.	0	0	1	37	3	0	1	4	0	59	0	2	107
	Misuse of official powers.	8	0	5	52	28	0	7	9	5	45	0	8	167
	Failed to control crime.	1	0	0	6	2	0	0	0	0	20	0	0	29
	Disobeying the orders of seniors/Courts.	1	0	0	61	5	0	3	2	0	98	0	20	190
	Misbehavior.	0	0	0	4	1	0	3	2	0	6	1	4	21
	Delay in registration of FIR.	0	0	0	4	0	0	2	0	2	44	0	0	52
	Delay in submission of challan/investigation.	0	0	0	161	4	0	18	3	0	230	0	8	424
	Failed to recover case-property.	0	0	0	16	1	0	10	1	4	31	0	2	65
	Faulty investigation.	9	0	1	193	40	1	62	10	6	190	0	8	520
	Escape of accused.	0	0	0	7	1	0	6	0	0	48	0	0	62
	Failed to arrest accused/ P.Os/ T.Os/ C.As.	0	0	0	431	7	0	68	8	3	362	3	59	941
Illegal confinement.	0	0	0	4	3	0	2	0	0	2	1	0	12	
	Total	124	3	17	2835	255	7	625	126	237	6303	128	1491	12151

Rank	Grounds	MAJOR						MINOR						Total
		Dismissal	Removal from service	Compulsory retirement	Forfeiture of approved service	Reduction in pay scale	Recovery from pay/pension	With-holding of increment	With-holding of promotion	Reduction to lower stage or stages in pay scale	Censure	Extra drill quarter guard	Filed	
Head Constable	Torture.	1	0	0	1	0	0	0	0	0	0	0	0	2
	Death in custody.	0	0	0	0	1	0	0	0	0	0	0	0	1
	Corruption.	26	0	1	10	12	0	3	3	1	20	21	32	129
	Absence from duty.	44	0	10	135	25	0	48	6	2	743	98	365	1476
	Negligence.	11	0	2	168	46	2	48	4	20	516	20	128	965
	Criminal case.	7	0	0	5	6	0	0	0	0	4	0	1	23
	(Any other reasons):-Inefficiency.	36	0	5	140	32	2	36	7	10	422	2	86	778
	Poor performance.	0	0	0	14	0	0	1	1	0	183	0	2	201
	Lack of supervision/interest in official duty.	1	0	0	11	0	0	1	1	0	16	0	2	32
	Misuse of official powers.	3	0	0	17	11	0	2	1	2	26	0	4	66
	Failed to control crime.	0	0	0	4	3	0	0	0	0	0	0	1	8
	Disobeying the orders of seniors/ Courts.	0	0	0	18	2	0	0	3	0	21	0	1	45
	Misbehavior.	0	0	0	7	6	0	0	1	0	4	0	0	18
	Delay in registration of FIR.	0	0	0	0	0	0	0	0	0	1	0	0	1
	Delay in submission of challan/ investigation.	0	0	0	0	1	0	0	0	0	3	0	0	4
	Failed to recover case-property.	0	0	0	0	0	0	0	1	0	0	0	0	1
	Faulty investigation.	0	0	0	3	4	0	0	0	0	1	1	0	9
	Escape of accused.	5	0	0	2	2	0	0	0	0	1	0	0	10
	Failed to arrest accused/ P.Os/ T.Os/ C.As.	0	0	0	0	1	0	0	0	0	2	0	0	3
Illegal confinement.	0	0	0	0	0	0	0	0	0	0	0	1	1	
	Total	134	0	18	535	152	4	139	28	35	1963	142	623	3773

Rank	Grounds	MAJOR						MINOR						Total
		Dismissal	Removal from service	Compulsory retirement	Forfeiture of approved service	Reduction in pay scale	Recovery from pay/pension	With-holding of increment	With-holding of promotion	Reduction to lower stage or stages in pay scale	Censure	Extra drill quarter guard	Filed	
Constable	Torture.	0	0	0	7	0	0	0	0	0	1	0	0	8
	Death in custody.	0	0	0	0	0	0	0	0	2	0	0	0	2
	Corruption.	85	3	10	30	29	0	6	4	26	111	0	98	402
	Absence from duty.	1317	104	74	2214	275	17	613	50	274	10811	1766	9807	27322
	Negligence.	57	1	4	268	36	0	95	4	37	1875	87	379	2843
	Criminal case.	82	0	4	39	21	0	3	6	3	24	0	5	187
	(Any other reasons):-Inefficiency.	422	8	16	790	160	1	185	6	55	2204	77	1098	5022
	Poor performance.	0	0	0	36	1	0	0	1	1	81	0	10	130
	Lack of supervision/ interest in official duty.	0	0	0	28	3	0	2	0	2	47	0	6	88
	Misuse of official powers.	31	0	0	65	16	0	15	4	9	29	0	17	186
	Failed to control crime.	0	0	0	1	0	0	1	2	0	1	0	0	5
	Disobeying the orders of seniors/Courts.	5	0	0	49	4	0	4	3	0	40	0	17	122
	Misbehavior.	6	0	0	17	2	0	0	0	0	8	0	1	34
	Delay in registration of FIR.	0	0	0	0	0	0	0	0	0	0	0	0	0
	Delay in submission of challan/ investigation.	0	0	0	0	0	0	0	0	0	0	0	0	0
	Failed to recover case-property.	0	0	0	0	0	0	0	0	0	0	0	0	0
	Faulty investigation.	0	0	0	0	0	0	0	0	0	0	0	0	0
	Escape of accused.	11	0	0	4	4	0	0	0	1	2	0	0	22
	Failed to arrest accused/ P.Os/ T.Os/ C.As.	0	0	0	18	0	0	0	0	0	1	0	0	19
	Illegal confinement.	0	0	1	1	1	0	0	0	0	0	0	0	3
	Total	2016	116	109	3567	552	18	924	80	410	15235	1930	11438	36395
	Grand Total	2434	124	176	9964	1355	70	2329	456	929	29540	2296	14785	64458

SUMMARY

Sr.	Ranks	MAJOR						MINOR						Total
		Dismissal	Removal from service	Compulsory retirement	Forfeiture of approved service	Reduction in pay scale	Recovery from pay/ pension	With-holding of increment	With-holding of promotion	Reduction to lower stage or stages in pay scale	Censure	Extra drill quarter guard	Filed	
1	ASP/DSP	0	0	4	0	8	1	12	18	0	50	0	177	270
2	Inspector	20	0	6	496	44	27	147	30	38	876	3	105	1792
3	Sub-Inspector	140	5	22	2531	344	13	482	174	209	5113	93	951	10077
4	Assistant Sub-Inspector	124	3	17	2835	255	7	625	126	237	6303	128	1491	12151
5	Head Constable	134	0	18	535	152	4	139	28	35	1963	142	623	3773
6	Constable	2016	116	109	3567	552	18	924	80	410	15235	1930	11438	36395
Grand Total		2434	124	176	9964	1355	70	2329	456	929	29540	2296	14785	64458

ANNEX-C

Cases Registered Under 22-A & 22-B CrPC (2011-2017)

Year	Cases Registered	Accused			Cases Cancelled	Cases Challenged	Under Inv.	Decided by the Court		Conviction Rate (%)
		Total	Held Innocent	Challenged				Convicted	Acquitted	
2011	38943	65019	12984	49482	11994	26649	15	2522	7466	9
2012	36071	57402	12865	41289	11622	23204	10	2856	8394	12
2013	32885	50696	10961	36198	9816	22245	21	2244	7034	10
2014	32932	51285	11021	36463	9862	22115	22	2431	8305	11
2015	30910	48354	11300	34672	8541	21479	28	2349	6768	11
2016	28428	44575	9887	32184	7944	19950	197	2141	5803	11
2017	23994	38331	9250	25544	6409	30578	1773	1339	3174	4

ANNEX-D

Establishment of Provincial Police Complaints Authority

- 103. Establishment of Provincial Police Complaints Authority:** The Government shall establish a Provincial Police Complaints Authority for enquiring into serious complaints against the Police.
- 104. Composition:** (1) The Provincial Police Complaints Authority shall consist of a Chairperson and six members.
- (2) The Governor shall appoint the Chairperson of the Provincial Police Complaints Authority.
- (3) The Government shall appoint the members of the Provincial Police Complaints Authority on the recommendation of the Provincial Public Service Commission.
- 105. Criteria and terms of the members:** (1) The members of the Provincial Police Complaints Authority shall be eminent persons of impeccable integrity with skills, knowledge and experience in such fields as may be specified by the Government.
- (2) Persons may be appointed as whole-time or part-time members of the Authority.
- (3) A person shall not be appointed for a period of more than three years.
- (4) No member or the Chairperson shall be eligible for a second term.
- 106. Functions of the Provincial Police Complaints Authority:** The Provincial Police Complaints Authority shall perform the following functions:
- (a) receive from District Public Safety Commission or an aggrieved person in writing on an affidavit, complaint of neglect, excess or misconduct against a Police Officer;
- (b) process the complaint and refer the ordinary cases to an appropriate authority for action and report and in serious cases initiate action on its own;
- (c) receive from the District Public Safety Commission or Head of District Police any report of death, rape or serious injury to any person in Police custody and take steps to preserve evidence relating to such incident and request the Chief Justice of the High Court under intimation to the Government to appoint a Judge not below the District and Sessions Judge for a judicial enquiry;
- (d) may appoint in appropriate cases a Police officer of the same district or of a different district who is senior in rank to the officer complained against as an inquiry officer, and supervise the inquiry proceedings;
- (e) send a copy of the report to the competent authority and direct him for departmental action based on the findings of the enquiry or registration of a criminal case as appropriate and direct the competent authority to submit a report about the action taken on the findings of the report;
- (f) inform the complainant of the outcome of the enquiry in writing as soon as possible;

- (g) where the Provincial Police Complaints Authority is not satisfied with the order in cases referred under clause (e), it may send a report to the next higher authority for revision of the order by the awarding officer and the process be repeated till it is considered by the final authority;
- (h) in case of any frivolous, or vexatious complaint, initiate legal action against the complainant;
- (i) may recommend disciplinary action against an enquiry officer for wilful neglect or mishandling of an enquiry;
- (j) prepare and send to the Government an annual report on matters relating generally to its functions, including any matter to which it considers attention of the Government may be drawn by reason of gravity or other exceptional circumstances, for laying the report before Provincial Assembly;
- (k) may in consultation with the Provincial Government establish regional offices anywhere in the Province.

107. Secretariat: (1) The Government shall establish a permanent secretariat of the Authority.

(2) The Secretariat shall be headed by an officer not below BS 19 who shall be appointed in consultation with the Authority.

(3) The organization of the Secretariat and functions of officers and staff shall be determined by the Authority.

(4) The Secretariat shall consist of such number of officers and staff as the Government may in consultation with the Authority determine from time to time.

(5) The terms and conditions of service of the staff of the Authority shall be determined by the Government in consultation with the Authority.

108. Removal of the members: The procedure of the removal of the Chairperson and members of the Provincial Police Complaints Authority shall be the same as for the members of the Provincial Public Service Commission.

Police Complaints Authority Rules (Proposed)

In exercise of the powers conferred under Articles 103-108 of the Police Order, 2002, the Government of the (Province) is pleased to make the following rules:

1. Short Title and Commencement:

- i. These rules may be called the Police Complaints Authority Rules, 2018;
- ii. They shall come into force at once.

2. Definitions: In these Rules, unless the context otherwise requires:

- i. "Authority" means the Police Complaints Authority notified by the Government of the (Province);
- ii. "Head of the District Police" means the District Police Officer, the City Police Officer, the Capital City Police Officer, as the case may be;
- iii. "Member" means the member of the Police Complaints Authority;
- iv. "Order" means the Police Order, 2002 (Chief Executive Order. No. 22 of 2002);
- v. "Safety Commission" means the District, Capital City and the Provincial Public Safety Commissions constituted under Articles 37, 49 and 73 of the Police Order, 2002 (Chief Executive Order. No. 22 of 2002).

3. Establishment and Composition of PCA:

- i. The Government of Punjab shall establish a Provincial Police Complaints Authority (PCA) as per provisions of Police Order.
- ii. The PCA shall consist of a Chairperson and six members.
- iii. At least, one of the members shall be a woman.

3.1. Appointment of Chairperson/ Members:

- i. The Governor shall appoint the Chairperson from a panel of three persons recommend by the Chief Minister.
- ii. The Provincial Public Service Commission (PSC) shall select members from the panel forwarded to the PSC by the Chief Minister.
- iii. The Members shall be appointed by the Government who have been recommended by the PPSC.

3.2. Criteria and Terms of the Chairperson and Members:

- i. The Chairperson and Members shall be eminent persons of impeccable integrity with skills; knowledge and experience in such fields as may be specified by the Government from time to time.
- ii. They shall be appointed for a period of three years and shall not be re-appointed.
- iii. The members may be appointed on whole-time or part-time basis.
- iv. The Chairperson may preferably be:
 - a. A Retired Judge of Supreme Court / High Court;
 - b. A Retired Inspector General of Police (BS-22);
 - c. A Retired Civil Servant (BS-22).
- v. The Members may be selected from different professional backgrounds:
 - a. Retired High Court Judge;
 - b. Retired Civil Servant (BS-21/22);
 - c. Retired Police Officer (BS-21/22);
 - d. Human Rights Activist with national standing;

- e. Prominent Lawyer who has been President, Vice President, Vice Chairman of SCBA/ HCBA/ PBC.

3.3. Process for Selection of Members:

- i. A notified Selection Committee headed by a Minister, consisting of Chief Secretary, PPO / IGP and Home Secretary shall send names for selection to Chief Minister for approval and forwarding the same to PSC for final selection.
- ii. The Selection Committee may call for applications directly or select eminent personalities for the panel to be submitted for the purpose.
- iii. No member or chairperson shall be above sixty seven (67) years of age at the time of appointment to the Authority.
- iv. After final selection, the Government shall issue notification of appointment.

3.4. Regional Police Complaints Authorities:

- i. The Provincial Government may establish regional offices of Police Complaints Authority across the Province.
- ii. The Regional offices of PCA shall have secretariats having:
 - a. A BS-18 Police Officer as Secretary, to be appointed by the PPO/IGP, in consultation with Chairperson Provincial PCA.
 - b. Number of officers and Staff as determined by the Provincial PCA.
- iii. All Regional offices of PCA shall work under the overall guidance and supervision of Provincial PCA and shall be subject to all other conditions mentioned in these Rules.
- iv. The Regional PCAs shall function on similar lines as given in these rules for Provincial PCA
- v. Provincial Government shall notify the establishment of regional offices of Police Complaints Authority the Province.

4. Functions of PCA: The PCA shall receive and process complaints as per following procedure:

4.1. Mode of Receiving Complaint:

- i. The PCA may receive complaint about neglect, excess or misconduct against a Police Officer from:
 - a. District Public Safety Commission;
 - b. An aggrieved person (in writing on an affidavit).
- ii. The PCA may receive complaint of report of death, rape or serious injury to any person in Police custody from:
 - a. District Public Safety Commission;
 - b. Head of District Police.
- iii. Head of District Police shall communicate with PCA under intimation to the Central Police Office.

4.2. Mode of Referral of Complaint:

- i. Complaints of ordinary nature may be referred to concerned Heads of District Police.
- ii. Complaints of serious nature shall be processed by PCA.

4.3. Process for Handling Complaint:

- i. Complaints of ordinary nature shall be inquired by an officer not below the rank of SP.
- ii. Serious complaints (death, rape or serious injury to any person in Police custody) may be referred to Chief Justice of the respective High Court for inquiry by a judge of the level of District and Session Judge.

- iii. In other appropriate cases a Police officer, of the same district or of a different district, who is senior in rank to the officer complained against, may conduct inquiry, under supervision of a Member of PCA.
- iv. The PCA shall maintain close collaboration and coordination with the Internal Accountability Branch of the Province and may seek assistance in performance of its mandated duties, if and when needed.

4.4. Timeframe for Finalization of Inquiries:

- i. Complaints of ordinary nature may be completed within two weeks.
- ii. Complaints of serious nature may be finalized within four weeks.
- iii. Complainant shall be informed of the outcome of the enquiry in writing as soon as possible.

4.5. Action in Consequence of Inquiries:

- i. The PCA shall send a copy of the report to the competent authority for:
 - a. Initiation of departmental proceedings and / or;
 - b. Registration of a criminal case.
- ii. Competent authority shall submit a report about the action taken on the findings of the report.
- iii. The PCA may refer to the next higher authorities for enhancement of punishment, if it is not satisfied with the action taken by the competent authority. The matter may be referred to the next higher authority until the case is considered by the final authority.
- iv. No action shall be taken against any Police officer without any Inquiry.
- v. Legal action shall be taken against the complainant for filing frivolous or vexatious complaints.
- vi. The PCA may recommend disciplinary action against Inquiry Officer for wilful neglect or mishandling of inquiry.

5. Reports by PCA:

- i. The PCA shall prepare and send to the Government an Annual Report on matters relating generally to its functions and its performance in a calendar year. The report may also include any matter to which the PCA considers attention of the Government may be drawn by reason of gravity or other exceptional circumstances, for laying the report before Provincial Assembly.
- ii. Such report may also include proposals regarding corrective measures / systemic changes to be made to prevent complaints from recurring in a particular district / region.

6. Secretariat:

- i. The PCA shall have a permanent Secretariat.
- ii. The Secretariat shall not be housed in a Police building / Establishment.
- iii. The organization of the secretariat and functions of officers and staff shall be determined by the Authority.
- iv. The Secretariat shall consist of such number of officers and staff as the Government may, in consultation with the Authority determine from time to time.
- v. The terms and conditions of service of the staff of the Authority shall be determined by the Government in consultation with the Authority.
- vi. The PCA shall have Financial and Administrative independence.
- vii. Secretary PCA shall be Police Officer not below BS-19 appointed in consultation

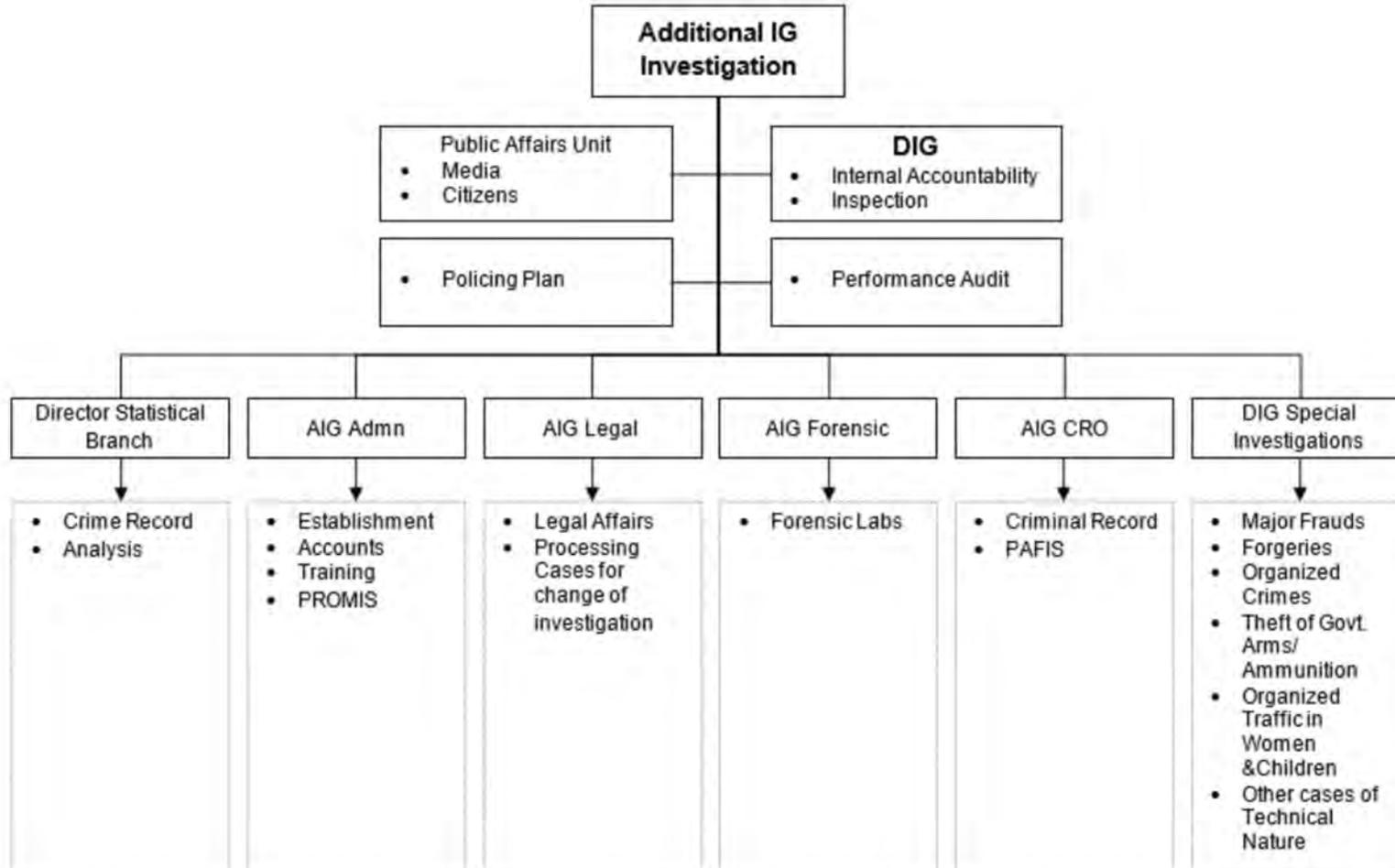


with PCA by the PPO / IGP.

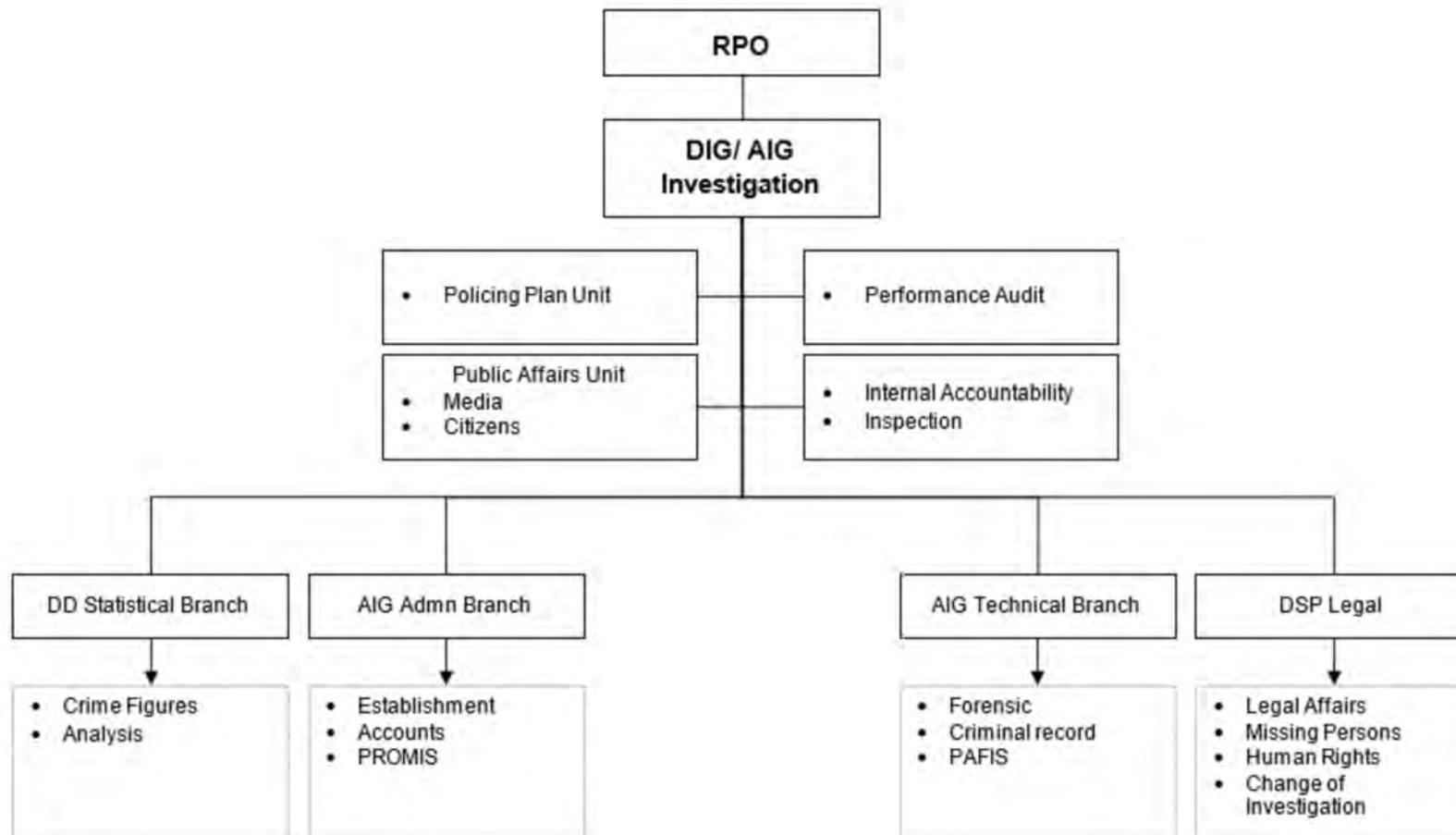
viii. Regional offices anywhere in the Province may be established by the Authority in consultation with the Provincial Government.

- 7. Removal of the Members:** The procedure of the removal of the chairperson and members of PCA shall be the same as for the members of the Provincial Public Service Commission.

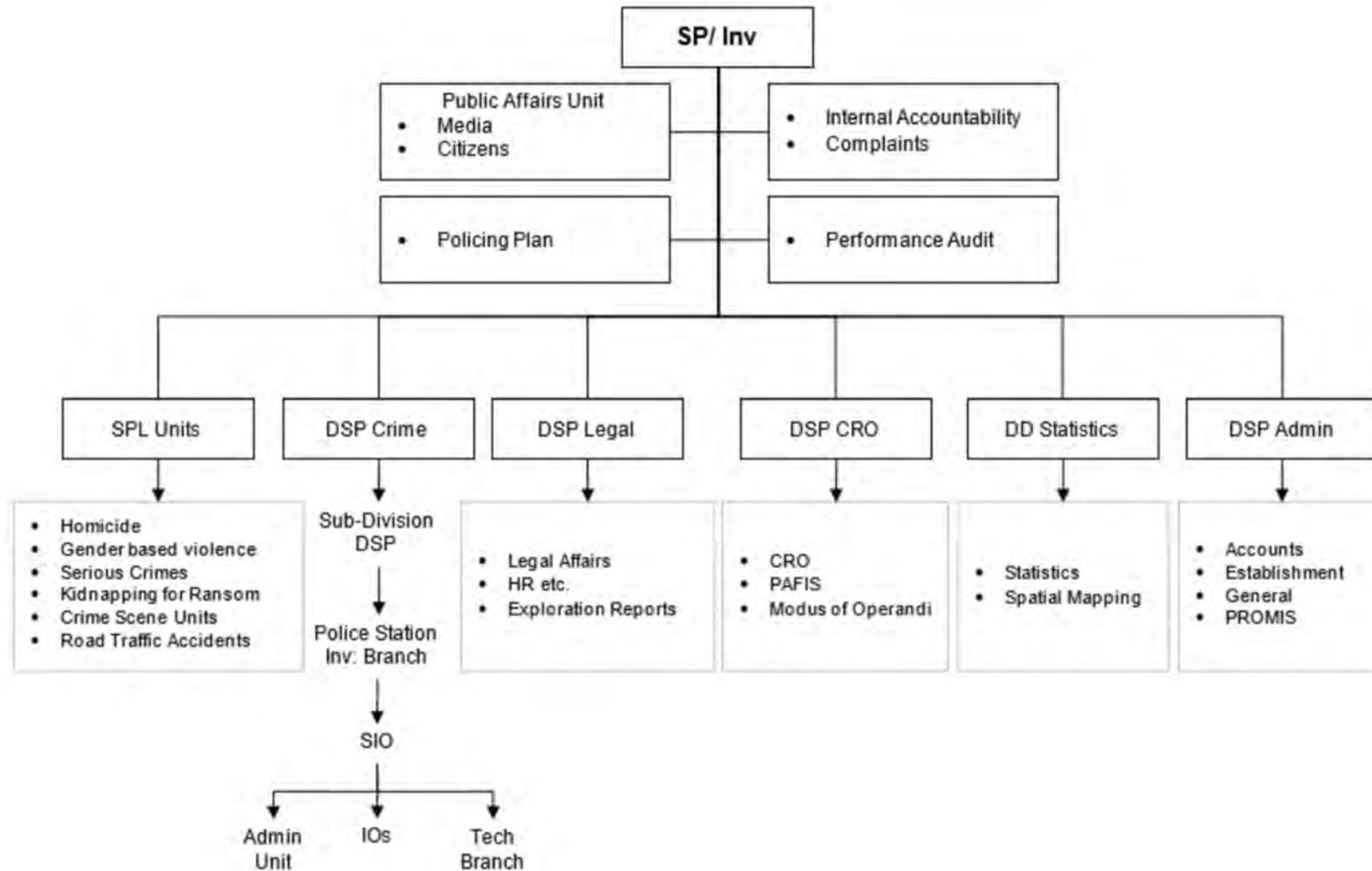
Office of Additional Inspector General (Investigation)



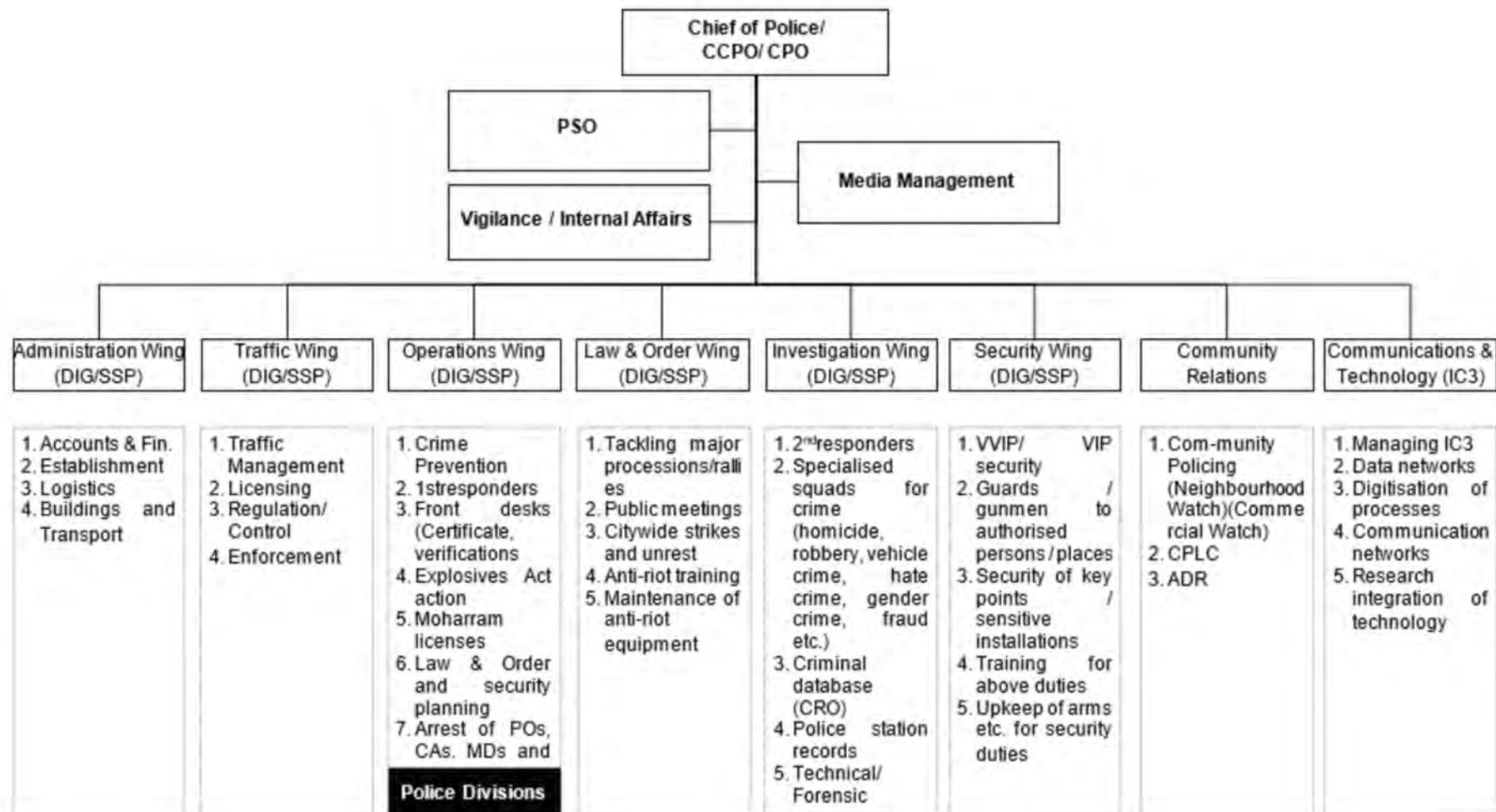
Office of Regional Deputy Inspector General (Investigation)



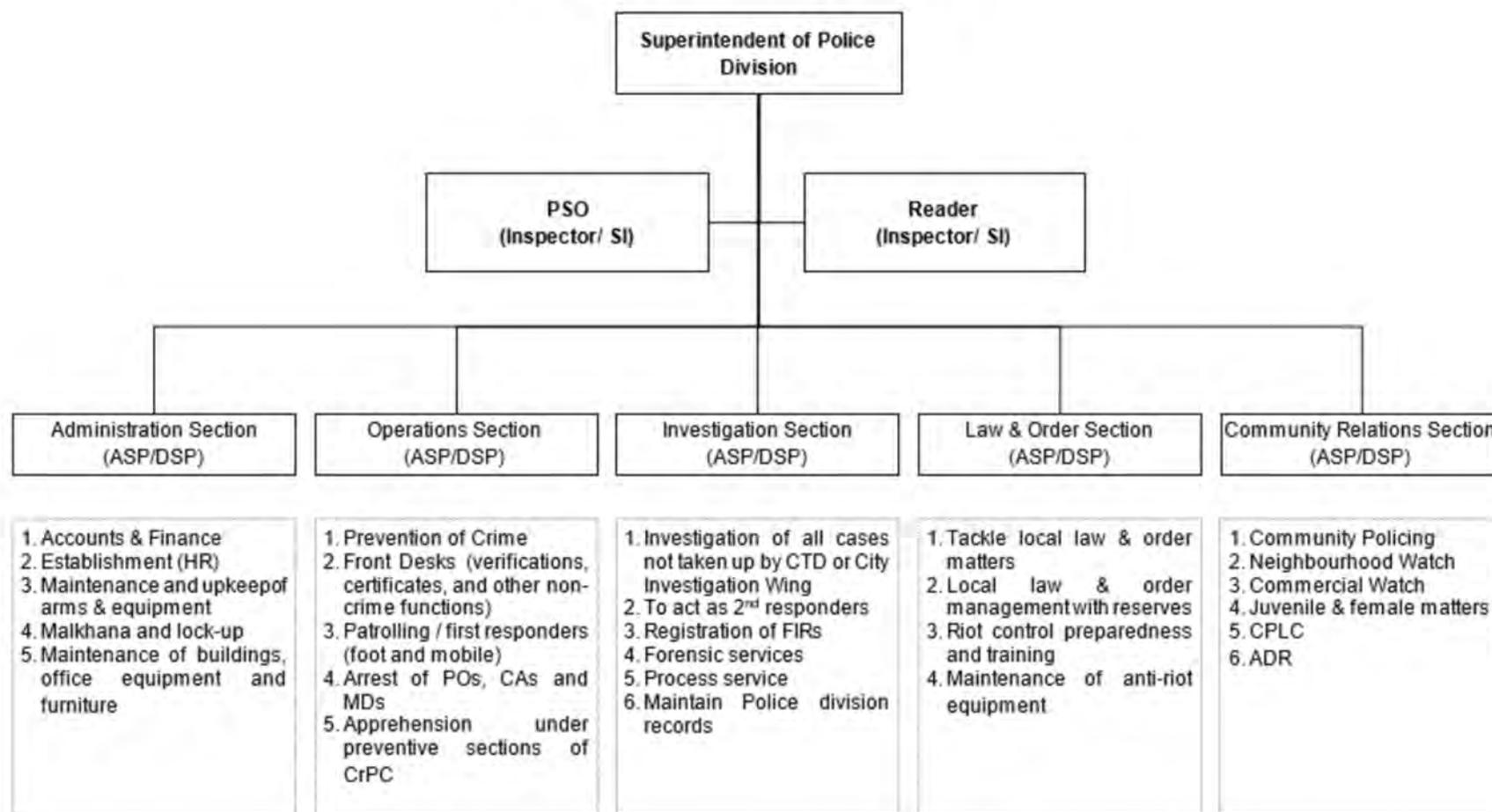
Office of District Superintendent of Police (Investigation)



Police Organization: Major Urban Centre



Urban Police Division Organization





Law and Justice Commission of Pakistan

