



OFFICE OF THE
INSPECTOR GENERAL OF POLICE,
SINDH, KARACHI.

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All Addl: IGsP Sindh.

All DIGsP Sindh.

All SSsP/SsP Sindh.

Subject: - STANDING OPERATING PROCEDURES & GUIDELINES ON
POLICE POWERS OF ARREST IN COGNISABLE CASES

Please find enclosed herewith a Standing Operating Procedure regarding guidelines on police powers of arrest in cognizable cases (already circulated vide this office letter No. 1120-65 AIGP/Ops-Sindh/S-II/2019 dated 6th March 2019) issued by the competent authority for information, necessary implementation and onward circulation among all levels of officials of your jurisdictions, please.

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AIGP/Operations,
For Inspector General of Police,
Sindh, Karachi.

Copy forwarded to the following for information, please.

1. PS to IGP/Sindh.
2. PS to DIG/Headquarters, Sindh.
3. Reader to AIGP/Operations, Sindh.

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SOP No. 1120-65

Issuing Branch: Secret Branch (AIG Operations)

Date: 6th March 2019

Classification: Operations - Arrest

STANDARD OPERATING PROCEDURES & GUIDLINES

ON

POLICE POWERS OF ARREST IN COGNISABLE CASES.

Introduction:

The Constitution of Pakistan guarantees fundamental rights to citizens. Infringement of an individual's liberty save in accordance with law is considered a serious violation of the rights as enshrined in the Constitution. The Criminal Procedure Code & the Police Rules 1934 authorize a police officer to arrest a person involved in a cognizable offence. This power to arrest is subject to the restrictions laid down in the relevant laws and the judgments of the superior courts. Arbitrary and unbridled use of this power results into complaints against police officers. There is need to have clearly spelt out guidelines for the police officers to regulate their power to arrest in accordance with the law.

2. Objectives:

- (A) To familiarize police officers with the relevant provisions in different laws about the power of arrest;
- (B) To make police officers aware of their responsibilities in dealing with the citizens accused of an offense;
- (C) To prevent abuse of authority & reduce complaints against police officers;
- (D) To protect and safeguard human rights;
- (E) To regulate Police conduct through internal accountability mechanism and prevent such matters being taken up by the superior courts.

3. Guidelines:

- 1) S.154 of Cr PC makes it mandatory for Station House Officer to register F.I.R when a complaint is received from the contents of which a cognizable offence is made out. There is a general perception that if a person is nominated in F.I.R he is to be arrested for further investigation of the case. This general perception is contrary to the spirit of Police Rule 26.1 and 26.2. Despite that the power to arrest has been misused by certain police officers resulting into unjustified deprivation of liberty of citizens and increased number of complaints against police officers.
- 2) The superior courts have laid elaborate guidelines for exercise of and restraint on such power of arrest. Two seminal cases *Khizar Hayat & others V. IGP Punjab* cited at PLD 2005 Lahore 470 and *Sughran Bibi V. State* PLD 2018 Supreme Court 595 have laid down principles to be followed by police officers when making arrest of a person alleged of an offence.
- 3) The police officers must follow the responsibilities laid down in the provisions in Police Rules 1934 related to arrest. They follow the principles laid down in Police Rule 26.1. General power of arrest. – 'Section 54, Code of Criminal Procedure, authorizes any police officer to arrest without a warrant any person who has been concerned in any cognizable offence or against whom a reasonable complaint has been made, or credible information has been received, or a reasonable suspicion exists, of his having been so concerned. The authority given under this section to the police to arrest without a warrant is, however, permissive and not obligatory. Whenever escape from justice or inconvenient delay is likely to result from the police failing to arrest, they are bound to do so; but in no other cases. The law allows a police officer to apply to a magistrate for a warrant or a summons instead of making the arrest immediately, and this discretion shall be exercised whenever possible and expedient. The law also allows a police officer in any bailable case to take security

under section 170 Criminal Procedure Code from an accused person to appear before a magistrate without first arresting him’.

- 4) The Police Officers, while exercising power of arrest, must strictly adhere to the Police Rule 26.2: Power to defer arrest, ‘if the fact that suspicion rests upon a particular person has been kept secret, and there is no risk of his absconding, the police shall defer making the arrest until the investigation is sufficiently complete; but if any interference with the liberty of the accused person is necessary to prevent him from absconding, and the facts justify arrest, the police shall arrest him and shall not interfere with his liberty unless they arrest him’.
- 5) Mere nomination of a person in F.I.R is not a sufficient ground for arrest of a person alleged of an offence.
- 6) Arrest of a person accused of an offence is not mandatory but it is subject to evidence on record linking the accused with the crime alleged. The power to arrest is conditional upon fulfillment of the requisite legal requirements. A police officer may choose to exercise his power to arrest where there is reasonable suspicion of involvement in the offence. The words reasonable suspicion do not mean a mere vague surmise, but a bona fide belief on the part of police officer that an offence has been committed or is about to be committed.
- 7) A police officer may arrest a person accused of an offence against whom credible information has been received that he is concerned with the commission of such offence.
- 8) Where there is no urgency and the officer formulates an opinion that he should refrain from exercising his power to arrest without warrant, he may apply to the magistrate for issuance of a warrant of arrest.
- 9) A police officer should consider if there is need for immediate arrest or it can be deferred to a later date. The facts justifying an immediate arrest may include a possibility of the suspect escaping from justice or the inappropriate implications likely to result from police failing to arrest.

- 10) When I.O decides to defer arrest he shall obtain reasonable surety that the accused will not leave jurisdiction of the local police station without express permission and will join in the investigation whenever summoned till he is cleared from the charges and allegations or formally arrested in the cases.
- 11) It must always be remembered that delaying the arrest till formation of an opinion regarding *prima facie* correctness of the allegation against a suspect goes a long way in deterring false, frivolous and motivated complaints and also that there may not be adequate recompense or reparation for an unjustified arrest.
- 12) Where the circumstances so permit the person if arrested may be released on bail in a bailable offence after taking surety. In case of non-bailable offence if the Investigating Officer, during the course of investigation, formulates an opinion that there is insufficient evidence against the accused he may be bailed out under s.497 (2). Likewise, where the I.O formulates an opinion on the basis of cogent evidence that the arrested accused is not involved in the offence alleged he will be released on a surety in accordance with S.169 of the Criminal Procedure Code.
- 13) Officer making an arrest must inform his or her senior officer in hierarchy immediately. The senior officers shall verify all arrests directly or through an officer subordinate to them to ensure no person has been arrested without a reasonable justification.

4. Capacity Building

The DIG Training will take appropriate steps to include the guide lines (SOP) in the training courses in the relevant module / subject.

5. Disclaimer

This SOP is being issued for internal use within the Police department. Police officers involved in violation of the SOP shall be dealt with through Internal Accountability System. No officer shall be liable for any civil or criminal action for actions inconsistent with the provision of SOP.

Furthermore, Sindh Police and its officers shall not be responsible for any mistakes or inadequacies in the contents of the SOP.