

STANDING ORDER NO. 44

Subject :- Use of hand-cuffs.

INTRODUCTION

In the law & order meeting held at PHQ on September 7, 1988 the question of indiscriminate use of hand-cuffs was discussed. In order to ensure compliance of various existing orders on the subject, it has become necessary to consolidate and re-issue such instructions/orders for the information and immediate compliance of all concerned.

II. GUIDING PRINCIPLES

(a) Rules relating to handcuffing of prisoners/under-trials etc. are contained in Punjab Police Rules 18.30, 18.35, 26.22,

26.23, 26.24. The said rules inter alia, provide that hand-cuffs are to be used if a person is involved in serious non-bailable offences, is a previous convict, a desperate character, violent, disorderly or obstructive, or a person who is likely to commit suicide or who may attempt to escape. These guide-lines also stand incorporated in the instructions issued by the Govt. of India, Ministry of Home Affairs, New Delhi Vide their letter No.2/15/57-P-IV dated 26.7.1957 and No.8/70/74-GPA-L, dated 8.11.1974, copies sent to all concerned vide this Hdqrs. endst. No.19143-293/C&T, dated 3.9.76 (copy also enclosed as Annexure-I). The handcuffing of prisoners/persons arrested by police, as a matter of routine, is, therefore, illegal.

(b) Therefore, it should be ensured without fail that hand-cuffs shall not be used in routine. Whenever it is found that a prisoner is a desperate character, is rowdy or dangerous and the police officer arresting such a person feels that in that particular case, hand-cuffing would be essential, a detailed report shall be recorded by him in the daily diary specifying the reasons as to why hand-cuffing was considered essential in that particular case and then only such a person shall be hand-cuffed while being produced in court. Reasons shall include previous criminal history, particularly involvement in heinous/violent crimes, desperate nature or association (in case member of notorious gang), any previous attempted escape etc.

(c) The escort from police station shall take a copy of the daily diary entry along with the other remand papers to the court, produce the daily diary entry through the public prosecutor attached to the court and get the approval of the presiding officer of the court for continuing the use of hand-cuffs as and when the accused is produced in court at a later stage. If the Presiding officer of the court approves hand-cuffing, the fact that 1st particular prisoner shall continue to come in hand-cuffs, shall be got mentioned on the warrant. Thereafter, it shall be the responsibility of the jail authorities to clearly indicate to the escort parties, taking the prisoner to court and back, that he is to be hand-cuffed and the incharge of the escort party shall take action accordingly. In case hand-cuffing of the prisoner is not approved by the court in that particular case, on return to the police station, the escort party shall record this fact in the daily diary.

(d) As per law, orders of judicial magistrate are necessary for hand-cuffing an under-trial. Such orders have to be obtained invariably in each case by the Distts. Hence the Distt. DCsP shall ensure that the needful is done by their SHOs/IOs. Merely sending list of dangerous criminals to DCP 3rd. Bn. (escorting unit) or Supdt. Jail without orders of judicial authorities shall not serve the purpose.

III. TREATMENT OF POLITICAL PRISONERS

Political prisoners shall always be moved from police stations where they are arrested to court or jail in police vehicles under adequate escort. In case no police vehicle is available at the police station or the vehicle provided is not available for service, requisition shall be placed with the DCP concerned for the supply of a small prison van unless the supply of such a vehicle is refused; no other conveyance shall be used. In the event of non-availability of police vehicle or police van, political prisoners shall be moved in taxis, scooter richshaws or DTC buses (if the political prisoners are sufficient in number) specially hired for the purpose. Public vehicles plying on hire with passengers, shall not be used in any case for transporting such prisoners nor shall such prisoners be paraded through the streets.

IV. NO HAND-CUFFING OF ADVOCATES, JURISTS, DOCTORS, WRITERS, ETC.

There should ordinarily be no occasion to hand-cuff persons occupying good social position in public life or professionals like jurists, advocates, doctors, writers, educationists and well-known journalists. This is at best an illustrative list as obviously it cannot

It is exhaustive and the spirit behind these instructions should be understood. It shall be the duty of supervisory officers at various levels, primarily, to see that these instructions are strictly complied with. Non-observance shall entail disciplinary action against the defaulters.

V. EXCEPTIONAL CIRCUMSTANCES

There is no bar to any prisoner being hand-cuffed if a situation arises while the prisoner is being escorted, giving rise to a reasonable apprehension of the prisoner escaping or being rescued or indulging in violence unless he is hand-cuffed. In such cases, a proper report shall be got recorded explaining specific circumstances in the lock-up/jail guard daily diary, as the case may be. A copy of such a daily diary report shall be produced in court when the prisoner is presented there.

VI. DUTIES OF DUTY OFFICER/SHO & SUPERVISORY OFFICER

Duty officers at police stations must ensure that when accused persons are brought to police stations or despatched from there, the fact whether such accused persons were hand-cuffed or otherwise should be clearly mentioned alongwith reasons for hand-cuffing in the relevant daily diary reports. SHOs and ACPs of Sub-Divisions shall frequently check relevant daily diary reports to see that these instructions are complied with strictly by the police station staff.

VII. SUPERSESSION CLAUSE

Standing order No.44 issued vide this Hdqrs. No.6214-6564/C&T.AC.II, dated 7.4.79 is hereby cancelled.

Sd/-
(VIJAY KARAN)
COMMISSIONER OF POLICE:DELHI

No.30110-30380/C&T.AC.I, dated Delhi, the 24-10-88.

ANNEXURE - I

Copy of letter No. E.3/157/76-Home(P.II), dated 11.8.76 from the Dy. Secy. (Home), DAD to I.G.P., Delhi.

Subject :- Use of handcuffs by the police and Jail authorities.

I am directed to refer to this Admn. letter No. F.14/25/74-Home (p-II), dated 4.12.74, on the subject noted above, and to forward herewith a copy of d.o. letter No.15/38/76-GPA-II, dated 28.7.76 together with a copy of its enclosures, from Shri G.G. Somiah, Joint Secretary to the Govt. of India, Ministry of Home Affairs, New Delhi for information, guidance and necessary action.

No. 19143-293/C&T dated 3.9.76

Copy alongwith copies of its enclosures forwarded in continuation of this Hdqrs. No.10123-3237/C&T. dated 29.7.72 for information and guidance to :-

1. All SPs.
2. All SDPO's and legal advisor.
3. All SHOs.
4. All I/c Police Posts.
5. R.I./Old & New Police Lines.
6. L.O. Security Lines,
7. Readers to All DIsG.
8. Head Clerks I, II, III & (AP&T)
9. HAR with 10 spare copies.

Sd/-
(S.K. KAIN)
ASSISTANT INSPECTOR GENERAL OF
POLICE (II)
DELHI.

751

CIRCULAR

No.78/2012

Subject: – Guidelines on use of handcuffs.

It has been noticed that even violent and desperate criminals or such criminals who have a past history of escape, are being produced before courts without handcuffs. While there are indeed restrictions on the use of handcuffs, we should not hesitate to use them in deserving cases after observing all formalities and procedures laid down by the Hon'ble Supreme Court.

Hon'ble Supreme Court has issued guidelines regarding use of handcuffs by Police in its order dated 01.05.1995 in Writ Petition (C) No. 22 of 1995 titled 'Citizens for Democracy Vs. State of Assam and Others'. According to these guidelines:-

1. When an accused is arrested by the police without warrant, the police officer concerned may, if he is satisfied that the accused –
 - (i) is prone to violence;
 - (ii) has a tendency to escape from police custody;
 - (iii) is so dangerous / desperate that there is no other practical way of forbidding his escape;use handcuffs till the time he is taken to the police station and thereafter the his production before the Magistrate. Further use of handcuffs thereafter can only be under the orders of the Metropolitan Magistrate.
2. The police officer effecting arrest of such an accused shall lodge a D.D. Entry citing antecedents of escapes or attack on police personnel or violent attitude or involvement in violent incidents of crime to justify handcuffing the accused as per guidelines in para 1 above.
3. I.O. shall forward this D.D. entry to District DCP for writing to D.G. Prisons to keep the detenu in Special Security Wards.
4. The I.O. shall move an application for use of handcuffs on the accused during police remand as well as during his production from prison before the Courts, citing antecedents of escape from custody or attack on police personnel to evade arrest or violent tendencies including his involvement in violent crime to show that the accused is so dangerous and desperate that there is no other

practical way of preventing his escape other than to handcuff him. He shall get a written order of the Metropolitan Magistrate.

5. A copy of such order shall be given by the I.O. to the lock-up in-charge who shall produce such a person before the magistrate duly handcuffed every time in compliance of the court order.
6. A copy of such order shall also be sent by I.O. to DCP 3rd Bn. by FAX for his information and necessary action.
7. When the police officer arrests an accused while executing a non-bailable warrant of arrest, the accused shall not be handcuffed unless the police officer has also obtained orders from the concerned Magistrate for handcuffing the accused.
8. Barring the conditions discussed above, handcuffs shall NOT be used on an accused, prisoner or under trial, while in police custody or lodged in lock up or while in transit for the purpose of investigation or taking him from police station to Court or Court to jail.
9. All police officers shall meticulously obey the above mentioned directions.


(RAJNEESH GUPTA)
DY. COMMISSIONER OF POLICE
GENLADMN., DELHI

No.10201-10450/Record Branch/PHQ dated Delhi, the 30.11.2012

Copy forwarded for information and necessary action to:-

1. All Spl. Commissioners of Police, Delhi.
2. All Joint Commissioners of Police, Ranges, Delhi.
3. All Addl. CsP/DCsP, Districts, Delhi.
4. DCP, 3rd Bn.-DAP, Delhi.
5. SO to Commissioner of Police, Delhi.
6. All ACsP, Sub-Divisions, Delhi.
7. All SHOs, Delhi.

OFFICE OF THE COMMISSIONER OF POLICE, DELHI
CIRCULAR

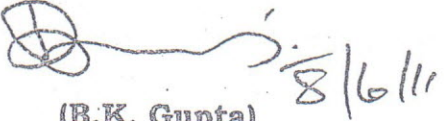
NO. 33 /2011

**Police Custody & Escorts of accused person(s)
during Police Custody Remand**

Instances have been reported regarding escaping of under-trial prisoners and accused persons during police custody remand. Comprehensive guidelines have already been prescribed in Standing Order No. 52/2008 for the guards at judicial lock-ups and police escorts for transportation of under-trial prisoners. As far as the police custody and escort in respect of accused person(s) taken on police custody remand during the course of investigation is concerned, ACP of the concerned Sub-division shall ensure meticulous compliance of provisions of S.O. No. 52/2008 including the following directions -

1. As soon as the accused of a case is taken on police remand during the course of investigation, a component of 1-HC & 2-Cts. or more requisite staff, depending upon number of accused persons, with adequate arms, be deployed immediately for their safe custody and escorts under the close supervision of a Sr. Sub-Inspector.
2. Appropriate number of women police personnel shall also be deployed for the safe custody and escorts of female accused.
3. Normally, hand cuffs should not be used. However, in case of desperate/dangerous criminal(s), the I.O. shall move an application for handcuffing giving full details of grounds including the previous criminal history, to the court concerned for getting appropriate orders in this regard.

4. Relevant entries of deployment of such guard, their departure and arrival to the police station etc. be made properly in the Daily Diary Register of the Police Station.
5. All precautionary measures be taken so that the escape or attempt to rescue the accused persons(s) could be avoided under any circumstances.



(B.K. Gupta)
Commissioner of Police,
Delhi

No. 3373-3472 / Record Branch/PHQ, dated, the 8/6 /2011

Copy for information and necessary action to :

1. All Spl. CsP/Jt. CsP/Addl.CsP, Delhi.
2. All DCsP/Districts/Units
3. SO to CP, Delhi
4. ACsP/HQ,P,CB,C&T,R.Cell and IT Centre, PHQ
5. F.A. and L.A. to CP, Delhi.
6. PRO, Delhi Police
7. I/Cs Library/R. Cell, PHQ.
8. Record Branch, PHQ with 10 spare copies.