

MADRAS RECORD OFFICE.

Government of Madras.

Judicial DEPARTMENT.

G.O. No.	1782	Press Mis.
Dated	20-2-18	76

Not to be folded or roughly handled

Government {1904} of Madras.
JUDICIAL.

~~STRICTLY CONFIDENTIAL.~~

Recd.

Regd.

Enclosures

} 1904.

Spare copies

Letter, No. 1010, 2nd July 1904.

JULY.

Report of the Police Commission—Criminal Investigation Department.

Communicating to the Government of India the views of the Government of Madras on the Police Commission's proposals for the formation in each province of a Criminal Investigation Department.

STRICTLY CONFIDENTIAL.

GOVERNMENT OF MADRAS.
JUDICIAL DEPARTMENT.

READ—the following paper:—

From H. H. RISLEY, Esq., C.I.E., I.C.S., Secretary to the Government of India, Home Department (Police), to the Chief Secretary to the Government of Madras, dated Simla, the 14th April 1904, No. 334.

I am directed to address you on the subject of paragraphs 166 to 174 of the report of the Police Commission, which propose the formation in each province of a Criminal Investigation Department for the purpose of collecting and distributing information regarding organized crime and assisting in the investigation of crimes of a special character. It is suggested that in the larger provinces the head of this department should be an officer of the rank of Deputy Inspector-General, who should also have the administrative charge of the Railway Police, of the finger-print bureau, and of the Special Branch of the Police now attached to the Secretariat.

2. If this proposal is adopted, the Government of India think that, in order to avoid the danger of extending to the new departments the friction and jealousy which at present exist in some provinces between the Railway and District Police, it will be well to abolish the Deputy Inspector-General of Railway Police, to create a new special Deputy Inspector-General, and to put both the Railway Police and the Provincial Special Branch with the new duties that are in contemplation under the new officer. Subject to this remark the Government of India approve generally of the proposals of the Commission under this head, and I am to ask for any criticism or suggestions that the Governor in Council may desire to offer. I am to add that the Governor-General in Council also accepts, subject to some minor qualifications, the general scheme of the Commission's recommendations for the creation of a Central Criminal Department.

3. In connection with this question, I am to invite attention to paragraph 101 of the report. The intention appears to be to have a separate branch of the Criminal Investigation Department in the Presidency towns and Rangoon, but it is not clear from the statements attached to appendices XIII, XIV, XV and XVIII what portion, if any, of the establishments therein shown for the Criminal Investigation departments is to be employed exclusively in the towns of Madras, Bombay, Calcutta and Rangoon. For these branches it is also suggested that they should contain men from all parts of India, some of whom should have a good knowledge of the principal languages of the Continent of Europe.

4. The Governor-General in Council will be glad to receive the views of the

LETTER—No. 1010, Judicial, dated 2nd July 1904, to the Secretary to the Government of India, Home Department.

I am directed to reply to your letter No. 334, dated the 14th April 1904, regarding the Police Commission's proposals for the formation in each province of a Criminal Investigation Department.

His Excellency the Governor in Council approves generally of the proposals and accepts the view of the Government of India as to the placing of the Railway Police, the Provincial Special Branch and the Criminal Investigation Department under a special Deputy Inspector-General, whose appointment is to be newly created.

2. With reference to paragraph 3 of your letter and paragraph 101 of the Commission's report, I am to say that His Excellency in Council considers it desirable that a separate branch of the Criminal Investigation Department should be organised for detective work in the City of Madras, and that this branch, while working directly under the Commissioner, should not be independent of the Deputy Inspector-General, who should have general control. This branch may be formed according to need and will not be larger than is absolutely necessary to deal with local crime of any special character in the city and to watch the movements of suspicious characters. A small body of six or eight good Sub-Inspectors will probably suffice for the purpose.

M. HAMMICK,
Ag. Chief Secretary.

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STRICTLY CONFIDENTIAL.

NOTES CONNECTED WITH LETTER, No. 1010, JUDICIAL, DATED
2ND JULY 1904.

[SUBJECT—*Central Criminal Investigation Department.*]

*From the Government of India, Home Department (Police), No. 334, dated
14th April 1904.*

The Madras Government, in letter No. 1861, dated 22nd November 1901, proposed to the Government of India the establishment in Madras of a Central Criminal Investigation Department to be placed together with the Railway Police under the charge of a Deputy Inspector-General. The Government of India deferred consideration of the proposal pending the result of the Police Commission (G.O., No. 295, dated 20th February 1902).

2. The conclusions of the local Police Committee on the proposal will be found in sections 219—223 of their report printed at pages 70—72 of the notes with G.O., Nos. 1927, 1928, dated 18th December 1902, thereon.

3. As regards the Special Branch and its functions (both Political and Police) which it is proposed to merge in the Criminal Investigation Department, attention is invited to the printed notes with demi-official No. 102 (Confidential), dated 23rd February 1903, and the papers quoted there, all of which are put up.

M.E.W.—28-5-04.

Submitted for orders. The Commission propose a Deputy Inspector-General for railways and crime; he will have under him two Superintendents of Railway Police and one Superintendent as his Personal Assistant. He will have charge of the Railway Police, the finger-print bureau and the "Special Branch" of the Secretariat. The proposals may be approved, I think (please see notes to paragraphs 219—223 of Committee's report). Should the Inspector-General's views be obtained?

A. Y. G. CAMPBELL—29-5-04.

The views of the Police Commission on this matter were accepted at the conference held at Government House, and India may be told that Government generally approve.

Yes. G. S[TOOKS].

2. As to the City, the City will require a small detective establishment to work directly under the Commissioner and so under the Deputy Inspector-General, who will have general control. It will not have any finger-print bureau and will merely be a small body, say, six or eight good Sub-Inspectors, for detective work in the city. It will be formed according to need and will not be larger than is absolutely necessary to deal with local crime in the city of any special character. It will form no part of the general criminal investigation establishment and will be used by the Commissioner merely to look after wandering persons in the city, any special crime—assisting and working under the local Inspectors. India may, I submit, be told this.

M. HAMMICK—1-6-04.

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I doubt the expediency of making any separate agency for the city. I think the department should be one though a portion or branch of it might be in the city and for special work under the Commissioner's orders. It must be remembered that in future the relation of the City to the District Police will be much closer than heretofore. Owing to the separation hitherto the City Police is an organised family gang, and I am opposed to setting up ring fences round it in future. Seeing that the Commissioner and the new Deputy Inspector-General will be in one place and both under the Inspector-General, there should be no difficulty in working the city without any definite separate agency.

G. S[TOKES]—3-6-04.

I think all that Mr. Hammick proposes *in re* a detective establishment is that there should be a Special Branch of the General Department organized for detective work in the city. I do not think he means that it should be independent. If so, I agree with him. The city work requires a special establishment to deal with it, the knowledge of the criminal paths in Madras can, I imagine, be thoroughly acquired only by officials who devote their whole time and attention to the matter.

Yes. This is what I meant.

M. HAMMICK—2-6-04.

I also agree with the rest of his suggestions.

G. S. F[ORBES]—4-6-04.

I am in agreement with Hon'ble Mr. Forbes' reading of the Chief Secretary's desires and in other respects.

J. T[HOHSON]—7-6-04.

Draft please.

M. HAMMICK—2-6-04.

Draft submitted for approval.

M.E.W.—26-6-04.

A. Y. G. CAMPBELL—27-6-04.

The draft is submitted. All that is meant for the city is that the Commissioner should have a small body of men under him as may be necessary to deal with foreigners and special crime. Such men exist now and should be continued. They won't be independent but under the Deputy Inspector-General just as other men in the city. The only peculiarity will be that they are not attached to any special division or station but work direct from the Commissioner's office.

M. HAMMICK—29-6-04.

I don't like the expression in the draft, viz., "separate branch." I would say simply "and a certain number of men should be set aside to work in the city 'who would work directly under the Commissioner but would remain part of the 'General Department'; but Mr. Forbes' note, with which His Excellency agrees, authorises the expression. I have passed the draft.

G. S[TOKES]—30-6-04.

Issue.

M. HAMMICK—1-7-04.

[Letter, No. 1010, Judicial, dated 2nd July 1904.]

Warrants.

No. 141. Read letter from H. SEWELL, Esq., Acting District Magistrate of Trichinopoly, to the Hon. W. HUDLESTON, Chief Secretary to Government, Fort St. George, dated Trichinopoly, 10th August 1876, No. 31:—

In forwarding herewith copies of marginally-noted correspondence on the subject of the Police applying to Magistrates for warrants in cognizable cases, I have the honor to request the instructions of Government in this matter.

Assistant Magistrate in charge of Head Assistant's Office, No. 251, dated 23rd June 1876. Superintendent of Police to the District Magistrate, No. 322, dated 15th July 1876.

2. The Superintendent of Police contends in accordance with a Departmental Order, copy of which is enclosed, that, whenever possible, the Police should apply for a warrant of arrest even though the case is cognizable, and that arrest without warrant should not be made except when it is impossible to get a warrant.

3. The Acting Head Assistant Magistrate contends that, as the Police are authorized to arrest without warrant in cognizable cases, it is a needless waste of time and trouble for them to apply to a Magistrate for a warrant in such cases, and that they ought, as a matter of course, to arrest without warrant.

4. The wording of the schedule is "may arrest without warrant" not "shall arrest without warrant," and the question is therefore left open, and, as the matter is one which concerns the administration of every district, I have thought it best to ask for definite instructions.

From Major H. S. COURT, Superintendent of Police, Trichinopoly, to H. SEWELL, Esq., Acting District Magistrate of Trichinopoly, dated Trichinopoly, 15th July 1876, No. 322.

In forwarding for your perusal copy of letter, No. 251, dated 23rd ultimo, from the Acting Head Assistant Magistrate, I have the honor to solicit the favor of your views with regard to the last paragraph of his letter in which that officer expresses his opinion that in cognizable cases the application by the Police for warrants is useless as they are empowered to make arrests without warrant. I beg at the same time to submit copy of Police orders on the subject of arrests without warrant which makes it quite clear that the Police are to be impressed with the principle that no arrest is to be made without a warrant when it is convenient to obtain one except under exceptional circumstances when the arrest can be made only "in anticipation of a warrant."

2. If this principle is to be set aside, and you consider that the system hitherto taught should be modified in accordance with the Assistant Magistrate's views, I shall refer the subject for the orders of the Inspector-General of Police.

From S. H. WYNNE, Esq., Assistant Magistrate, in charge of Head Assistant Magistrate's Office, Trichinopoly, to Major H. S. COURT, Superintendent of Police, Trichinopoly, dated Trichinopoly, 23rd June 1876, No. 251.

In September last the District Magistrate sent to you for perusal, report, and return a letter to him from me, No. 29, dated 9th September 1875. A copy of that letter is herewith sent. You replied in No. 516, dated 18th September 1875. With reference to that portion which runs, "I have not as yet found reason to believe that in the district generally either needless application for process is of common occurrence or the notion prevails that prosecution witnesses cannot be bound over again," I have the honor to inform you that similar cases frequently turn up. In a case of riot, &c., just received from Lalapettai station, thirty-one defendants are charged; fifteen only were arrested, and at the bottom of the charge is set out a request that I will issue warrants against the remaining sixteen.

*Proceedings of the Madras Government, Judicial Department,
30th August 1876. No. 1732.*

2. This is the very point I have so frequently commented upon. As the case is cognizable a warrant is useless, and only gives unnecessary trouble to Magistrates, and, after the subsequent arrest, I know from experience that the next step would be for the Police to come to the Magistrate for process against the prosecution witnesses.

Police Order 203, 5th August 1861.
Police Order 255, 25th June 1862.

287. A Police Officer arresting without warrant does so merely in anticipation of the warrant which would certainly issue were the charge made in the first instance to the Magistrate having jurisdiction. He does so merely to expedite the appearance of the accused before the Magistrate who will investigate the charge, and he is bound to produce him without avoidable delay. The only ground for permitting the arrest by a Police Officer without warrant is that it will save time in getting the offender up before the Magistrate to permit the Police Officer at hand to take him at once to the Magistrate (who may be at a distance) without waiting until a warrant can be applied for, issued, and brought down.

(True Extract.)

(Signed) H. S. COURT, Major,
Superintendent of Police.

No. 1229.

Referred to the Inspector-General of Police for his remarks.

OOTACAMUND,
14th August 1876.

(Signed) W. HUDLESTON,
Chief Secretary.

No. 142. Read also letter from Lieutenant-Colonel C. S. HEARN, Inspector-General of Police, to the Hon. W. HUDLESTON, Chief Secretary to Government, Fort St. George, dated Madras, 18th August 1876, No. 3803.

With reference to your endorsement, No. 1229, dated 14th August 1876, on a letter from the District Magistrate of Trichinopoly (herewith returned with its enclosures), I have the honor to submit the following remarks.

2. The law says that the Police "may arrest without warrant." If the legislators had intended that such arrest should be obligatory in all cases, I conclude they would have said so.

3. The law further says (Section 140, Code of Criminal Procedure)—

"A summons or a warrant may be issued—

(a.) Upon a report by the Police under Chapter X; but, if the person complained of is already in custody, no complaint summons or warrant is necessary."

Chapter X, Code of Criminal Procedure, deals with the action of the Police in cognizable cases. It follows, therefore, that the Police need not always take persons into custody without warrant in such cases.

4. I take the true principle to be this, viz., that the Police should exercise their discretionary power of arrest *suo motu* whenever escape from justice, or inconvenient delay might otherwise occur, but that they should obtain the sanction of magisterial authority before interfering with personal liberty whenever the circumstances of the case render this course desirable, *ex. gr.*, a wealthy Zemindar is accused of abetting a riot. The Police see reasonable ground to suspect that the charge is true, but the accused will not abscond, and they seek

*Proceedings of the Madras Government, Judicial Department,
30th August 1876. No. 1732.*

the sanction of the Magistrate before inflicting the indignity of arrest. The Magistrate can proceed by summons if he thinks fit.

5. When accused persons abscond and fly from the district, a warrant is most useful. A Police Officer armed with a warrant commands the ready assistance of all authorities throughout the country far more strongly than when acting *per se*. In the case quoted by the Assistant Magistrate, the persons for whom warrants were asked had probably absconded.

6. Practically, persons are apprehended without warrant in a vast majority of cognizable cases. To apply for a warrant is the exception, not the rule. But to free Magistrates entirely from their authority and responsibility in this matter would seem not only undesirable but illegal.

7. I do not understand why the Police should "come to the Magistrate for process against the prosecution witnesses" (*vide* Assistant Magistrate's letter). The issue of a warrant does not interfere with the provisions of Section 130, Code of Criminal Procedure. But if it is ever necessary to apply for such processes, I conclude that they can be given without very much trouble.

No. 143. ORDER THEREON, 30th August 1876, No. 1732.

The Governor in Council approves the principles on which the Police practice is based, the application of which does not appear to be productive of good cause for complaint or charge.

(True Extract.)

W. HUDLESTON,
Chief Secretary.

To all District Magistrates.
.. the Inspector-General of Police.

Exd. A. Grubert.

Chief Office of the Inspector General of Police,
No. 3803 Madras, 18th August 1876.

From The Inspector General of Police,

To The Chief Secretary
to Government
Colacamund.

Sir,

Enclosures 4. With reference to your endorsement

No. 1229 dated 14th August 1876 on a letter from the District Magistrate of Trichinopoly (herewith returned with its enclosures) I have the honor to submit the following remarks:-

2. The law says that the Police "may" arrest without warrant. If the legislators had intended that such arrest should be obligatory in all cases I conclude they would have said so.

3. The law further says (Section 140 C.C.P.) "a summons or a warrant may be issued - (a) Upon a report by the Police under Chapter X; but if the person complained of is already in custody no complaint summons or warrant is necessary."

Col. of 1876

JUDICIAL.

ALL DISTRICT MAGISTRATES,

Do, do, do.

18th August, 1876.

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G.O. 30th August 1876, No. 1782.

AUGUST.
Nos. 141-143.

Warrants - The principles on which the practice of the Police in applying to Magistrates for warrants in cognizable cases is based, approved.

Chapter X, C. C. P. deals with the action of the Police in Cognizable cases. It follows therefore that the Police need not always take persons into custody without warrant in such cases.

4. I take the true principle to be this viz. that the Police should exercise their discretionary power of arrest suo motu whenever escape from justice, or inconvenient delay might otherwise occur but that they should obtain the sanction of magisterial authority before interfering with personal liberty whenever the circumstances of the case render this course desirable. Ex. gr. a wealthy zemindar is accused of a betting a riot. The Police see reasonable ground to suspect that the charge is true but the accused will not abscond and they seek the sanction of the Magistrate before inflicting the indignity of arrest. The Magistrate can proceed by summons if he thinks fit.

5. When accused persons abscond and fly from the District a warrant is most useful. A Police Officer armed with a warrant commands

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6. Practically persons are apprehended without warrant in a vast majority of Cognizable cases. To apply for a warrant is the exception not the rule. But to free Magistrates entirely from their authority and responsibility in this matter would seem not only undesirable but illegal.

7. I do not understand why the Police should come to the Magistrate for process against the "Prosecution witnesses" (vide Assistant Magistrate's letter). The issue of a warrant does not interfere with the provisions of Section 130 C. C. P. - But if it is ever necessary to apply for such processes I conclude that they can be given without very much trouble.

I have the honor to be
Your most ^{Sir} Obedt. Servant,

Cham

Inspector General of Police.

Dept.

Jan 1876

(Hammatt)

From

The Inspector General

of Police.

The Chief Secretary

to Govt

Quebec

Dated 18th August 1876.

Recd No. 3803

Subscribed for reman Red
on the pillars of the Police
applying to Magistrate
for warrant in Cogniville
cases.

Wm. Wm

Recd 2262+2330. Sent 30 Aug 1876. No. 1792
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Recd 2262+2330. Sent 30 Aug 1876. No. 1792

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U. S. 30 August 1876, No. 1782

Nos. 141-43

Memoranda of the
Commissioner of the
General Land Office
in reply to a
letter from the
Secretary of the
Interior, dated
August 1, 1876.

Repaired on 9. 2. 24.

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Revised Edition 1884

Colt. of 1876

Patent

U. S. Patent Office, No. 1782

Nos. 111-43

Patented the 11th June 1876
in the United States
of America of the said
in applying to the
State for the same
in the year 1876
in the year 1876

Repaired on 9. 2. 24.

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