
FIFTH REPORT

PERSONNEL OF THE COMMITTEE OF PRIVILEGES

1. Sardar Hukam Singh—*Chairman.*
2. Shri Satya Narayan Sinha.
3. Shri Asoke K. Sen.
4. Pandit Munishwar Dutt Uppadhyay.
5. Dr. P. Subbarayan.
6. Shri Nemi Chandra Kasliwal.
7. Shrimati Jayaben Vajubhai Shah.
8. Shri N. M. Wadiwa.
9. Shri Sarangadhara Sinha.
10. Shri Shivram Rango Rane.
11. Shri Hirendra Nath Mukerjee.
12. Shri Indulal Kanaiyalal Yajnik.
13. Shri Bimal Comar Ghose.
14. Shri Shraddhakar Supakar.
15. Shri Hoover Hynniewta.

Members

SECRETARIAT

Shri S. L. Shakhder—*Joint Secretary.*

Shri Avtar Singh Rikhy—*Deputy Secretary.*

FIFTH REPORT OF THE COMMITTEE OF PRIVILEGES (SECOND LOK SABHA)

I. INTRODUCTION AND PROCEDURE

I, the Chairman of the Committee of Privileges, submit this report to the Speaker in the following case, referred by him to the Committee on the 5th May, 1958 :

The Committee, in their Report adopted on the 16th April, 1958, in regard to the complaint of Shri Kansari Halder, M.P., regarding the attempt of Police authorities in Delhi to handcuff him and the withholding of his letter addressed to Shri H. N. Mukerjee, M.P., by West Bengal Jail Authorities, had, *inter alia*, observed:

“11. As regards the question whether a Member of Parliament who is under arrest on a criminal charge should be exempt from being handcuffed, the Committee reiterate the stand taken by the Committee of Privileges in the Deshpande case wherein they observed:

‘It has to be remembered that the fundamental principle is that all citizens including Members of Parliament have to be treated equally in the eyes of law. Unless so specified in the Constitution or in any law a Member of Parliament cannot claim any higher privileges than those enjoyed by any ordinary citizen in the matter of the application of the laws.’

[C.B. No. 10, p. 4, para. 17.]”

The Speaker, to whom the Report of the Committee was submitted, directed that the Committee may reconsider whether it would be desirable to provide that a Member of Parliament, who is under arrest on a criminal charge, should ordinarily be exempted from being handcuffed.

2. The Committee held two sittings. At the first sitting held on the 4th September, 1958, the Committee considered the matter and came to their conclusions.

At the second sitting held on the 11th September, 1958, the Committee deliberated on the draft report.

II. FINDINGS OF THE COMMITTEE

3. The maintenance of public order is a State responsibility under the Constitution (List II of the Seventh Schedule, Entry No. 1). Accordingly, the subject of provision of handcuffing of prisoners by the Police comes within the purview of a State Government. The State Governments have made provision in their Police Rules/Manuals etc. for it.

The State Governments were requested to supply for the information of the Committee, certified copies of the relevant extracts from their Police Rules/Manuals as also any other instructions issued by them on the subject. The State Governments were also requested to state specifically whether any exceptional treatment was provided for in the Police Rules or through executive instructions or otherwise in actual practice, so far as handcuffing of Members of Parliament/State Legislatures was concerned.

The relevant extracts from the communications received from the State Governments are at Appendix-I*.

4. The Committee note that no State Government has so far framed any specific rules or regulations or issued any executive instructions providing for any special treatment in so far as handcuffing of Members of Parliament/State Legislatures is concerned. The Government of Madhya Pradesh have, however, intimated that "the question of issuing instructions for special treatment to Members of Parliament and State Legislatures in the matter of handcuffing is under examination of the State Government".

5. The Committee find that the instructions issued by the Government of Orissa to the effect that "...in cases where under-trial prisoners happen to be members of the Legislative Assembly, they should ordinarily be classified as prisoners of the superior class"**, are of interest, since, according to rule 241(a)(ii) of the Orissa Police

*See pages 53 to 87.

**Letter No. 473(13)-C, dated the 15th March, 1955, from the Deputy Secretary to the Government of Orissa, Home Department, Special Section, to all District Magistrates (Page 73).

Manual: "Under-trial prisoners classified as superior . . . by the Magistrate or by the officer-in-charge (or any convicted prisoners classified in Divisions I and II) should not be handcuffed unless it is suspected that they may attempt to escape."

6. The general policy of the Government of India, in the matter of handcuffing of persons in Police custody and prisoners, whether under-trial or convicts, is laid down in circular letter* No. F. 2/13/57 P. IV, dated the 26th July, 1957 issued by the Ministry of Home Affairs to all State Governments and Union Territories. The Circular, *inter alia*, states:

"... instances have recently come to the notice of the Government of India in which persons arrested by the police were handcuffed although the circumstances did not seem to justify this course. Handcuffs are normally to be used by the police only where the prisoner is violent, disorderly, obstructive or is likely to attempt to escape or to commit suicide or is charged with certain serious non-bailable offences. It is, however, observed that in actual practice prisoners and persons arrested by the police are handcuffed more or less as a matter of routine. The use of handcuffs not only causes humiliation to the prisoner or arrested person but also destroys his self-respect and is contrary to the modern outlook on the treatment of offenders. I am accordingly to suggest for the consideration of the State Government that the use of handcuffs should be restricted to cases where the prisoner is a desperate character or there are reasonable grounds to believe that he will use violence or attempt to escape or where there are other similar reasons. If the State Government have no objection, necessary instructions may please be issued to the police and other authorities."

7. The Committee observe:

(i) That the Police Rules/Manuals in all States generally provide that the status and the probability of their attempting to escape should be taken into account in deciding the necessity or otherwise of the use of handcuffs in respect of under-trial prisoners, and that under-trial prisoners who are classified in superior class or convicted prisoners who are classified in Divisions I and II, should not be hand-

*Appendix II (Pages 88-89).

cuffed, unless there is reason to suspect that they may attempt to escape;

(ii) That the Jail Codes in all States generally define better class prisoners as those prisoners who "by social status, education and habit of life have been accustomed to a superior mode of living".* They also include prisoners "who have been arrested/convicted for offences in connection with political or democratic (including working class or peasant) movement"*, provided they have not been arrested/convicted for certain offences "involving elements of cruelty, moral degradation or personal greed"*, etc.;

(iii) That the classification of prisoners is generally done by the trying courts subject to "any general or special order of the State Government"*;

(iv) That Members of Parliament, who happen to be under arrest or in imprisonment, would generally be eligible for being treated as better class prisoners in view of their high status and therefore ordinarily may not be handcuffed.

8. The position in the United Kingdom is:

"A constable is not only justified but is bound to take all reasonable steps to prevent a prisoner from escaping. What is reasonable depends upon circumstances, such as the nature of the charge and the temper and conduct of the person in custody. Recourse should be had to the use of handcuffs only if a prisoner has attempted to escape or if it is necessary to prevent him from escaping or if his demeanour is violent or gives rise to apprehension of violence."

"A prisoner who is handcuffed without reasonable need has a right of action for damages."

[Halsbury's Laws of England, 2nd Ed., Vol. 25, p. 325.]

9. The Committee have not come across any privilege or legal provision in the United Kingdom specifically exempting Members of Parliament from being handcuffed.

*Sections 617 and 910 of the Bengal Jail Code, Vol. I.

III. RECOMMENDATIONS OF THE COMMITTEE

10. The Committee observe that the Police Rules/Manuals of the various States and the executive instructions issued by the State Governments, particularly circular letter No. F. 2/13/57-P. IV, dated the 26th July, 1957 issued by the Union Ministry of Home Affairs to all State Governments and Union Territories already provide that persons in Police custody and prisoners, whether under-trial or convicts, should not be handcuffed as a matter of routine and that the use of handcuffs should be restricted to cases where the prisoner is a desperate character or where there are reasonable grounds to believe that he will use violence or attempt to escape or where there are other similar reasons.

11. The Committee recommend that the Ministry of Home Affairs may be requested to again bring the contents of their circular letter No. F. 2/13/57-P. IV. dated the 26th July, 1957, to the notice of the State Governments and to stress upon them the desirability of strictly complying with them, especially in the case of Members of Parliament, in view of their high status.

It may also be considered by the Ministry of Home Affairs whether in the interest of uniformity, State Governments may be requested by that Ministry to make similar provisions in respect of Members of State Legislatures.

NEW DELHI;

The 11th September, 1958.

HUKAM SINGH,

Chairman,

Committee of Privileges.

SPEAKER'S ORDERS

Speaker's Orders on the Fourth and Fifth Reports of the Committee of Privileges

Seen. Further action as recommended by the Committee may be taken.

Sd/- M. ANANTHASAYANAM AYYANGAR,
16th September, 1958.

MINUTES

I

First Sitting

New Delhi, Thursday, the 4th September, 1958

The Committee met from 16.00 to 16.55 hours.

PRESENT

- | | | |
|--|---|-----------------|
| 1. Sardar Hukam Singh— <i>Chairman</i> . | } | <i>Members.</i> |
| 2. Shri Asoke K. Sen. | | |
| 3. Dr. P. Subbarayan. | | |
| 4. Shri Nemi Chandra Kasliwal. | | |
| 5. Shrimati Jayaben Vajubhai Shah. | | |
| 6. Shri Shivram Rango Rane. | | |
| 7. Shri Shraddhakar Supakar. | | |

SECRETARIAT

Shri Avtar Singh Rikhy—*Deputy Secretary*.

2. The Committee considered the question whether it would be desirable to provide that a Member of Parliament, who is under arrest on a criminal charge, should ordinarily be exempted from being handcuffed.

3. The Committee noted that the Police Rules/Manuals of the various States and the executive instructions issued by the State Governments, particularly those issued by the Union Ministry of Home Affairs in their circular letter No. F. 2/13/57-P.IV, dated the 26th July, 1957, already provided that persons in Police custody and prisoners, whether under-trial or convicts, should not be handcuffed as a matter of routine and that the use of handcuffs should be restricted to cases where the prisoner was a desperate character or where there were reasonable grounds to believe that he would use

violence or attempt to escape or where there were other similar reasons.

4. The Committee decided to recommend that the Ministry of Home Affairs might be requested to again bring the contents of their circular letter No. F. 2/13/57-P. IV, dated the 26th July, 1957 to the notice of the State Governments and to stress upon them the desirability of strictly complying with them especially in the case of Members of Parliament, in view of their high status.

5. The Committee decided to meet again at 16.00 hours on Tuesday, the 9th September, 1958, to consider the draft report.

The Committee then adjourned.

II

Second Sitting

New Delhi, Thursday, the 11th September, 1958

The Committee met from 16.00 to 16.35 hours.

PRESENT

1. Sardar Hukam Singh—*Chairman*.
 2. Dr. P. Subbarayan.
 3. Shri N. M. Wadiwa.
 4. Shri Shivram Rango Rane.
 5. Shri Hirendra Nath Mukerjee.
 6. Shri Bimal Comar Ghose.
- } *Members.*

SECRETARIAT

Shri Avtar Singh Rikhy—*Deputy Secretary*.

2. The Committee deliberated upon the draft report and adopted it.

The Committee then adjourned sine die.

APPENDICES

APPENDIX I

(See para 3 of the Report)

EXTRACTS FROM COMMUNICATIONS RECEIVED FROM STATE GOVERNMENTS REGARDING HANDCUFFING OF PRISONERS BY POLICE

I—GOVERNMENT OF ANDHRA PRADESH

(Letter No. 81374|Pol. C|58-4, dated the 2nd August, 1958)

I am directed to forward herewith, extracts from the Madras Police Standing Orders and the Hyderabad Police Manual, which are in force, at present, in the Andhra and Telengana regions respectively of this State. There are no other instructions issued by this Government in this regard.

The cases of the Members of Parliament and the Members of the Legislative Assembly are also covered by the provisions contained in the extracts and no exceptional treatment is provided for, in the rules.

EXTRACT OF P.S.O. VOL. I NO. 621

621. (1) When an accused is in Court during the trial he must be held to be in the custody of the Court. If an accused is so dangerous that it is necessary to handcuff him, a representation should be made to the Court, and the Court will issue proper instructions in the matter. Under these circumstances, accused persons while in Court during trial should not be handcuffed except with the permission of the Court.

(2) Under-trial prisoners, while being escorted to and from Court, shall not be handcuffed and chained unless there is a reasonable expectation, either from the heinous nature of the crimes with which they are charged or from their character or behaviour, that such persons will use violence or will attempt to escape or that an attempt will be made to rescue them. The same principle shall be applied to convicts proceeding in public places in police custody. The decision as to whether handcuffs and chains should be used or not will ordinarily lie with the Station House Officer or in his absence, with the Officer next below him in seniority. As far as possible, the police escort shall in each case be sufficiently strong to prevent such persons from escaping or giving undue trouble.

(3) Whenever accused, but unconvicted, persons are handcuffed, the fact and the reasons for it shall be stated in the station-house General Diary.

(4) Whenever it is considered necessary to handcuff accused, but unconvicted, prisoners confined in a sub-jail, when taken out in the precincts of the sub-jail for food and exercise, the orders of the Superintendent of the sub-jail should be obtained in a register in Form No. 92 to be kept by the officer in-charge of every sub-jail guard.

(5) In regard to refractory, violent or dangerous prisoners, the Officer in-charge of the sub-jail guard or the senior Police Officer present may impose handcuffs in cases where the orders of the Superintendent of the sub-jail cannot be obtained in time to avoid risk, provided that the fact shall be reported to the Superintendent at once.

EXTRACT OF PARAGRAPH 144 OF THE REVISED HYDERABAD POLICE MANUAL

144. *Use of Handcuffs.*—(a) Undertrial prisoners while being escorted to and from Court, shall not be handcuffed and chained unless there is a reasonable expectation, either from the heinous nature of the crime with which they are charged or from the character or behaviour, that such persons will use violence or will attempt to escape or that an attempt will be made to rescue them. The same principle shall be applied to convicts proceeding in public places in Police custody. The decision as to whether handcuffs and chains should be used or not will ordinarily lie with the Station House Officer or in his absence with the Officer next below him in seniority. The Court shall decide upon similar consideration whether prisoners shall be handcuffed and chained or not during their trial in court. As far as possible, the Police escort shall in each case be sufficiently strong to prevent such persons from escaping or giving undue trouble.

(b) Whenever if it is considered necessary to handcuff undertrial prisoners in a sub-jail, when taken out within precincts of the sub-jail for food and exercise, the orders of the Superintendent of Sub-jail should be obtained in the Sentry Relief Book to be kept by the officer in-charge of every sub-jail Guard.

(c) In regard to refractory, violent or dangerous prisoners, the officer in-charge of the sub-jail guard or the senior Police Officer present may impose handcuffs in cases where the orders of the Superintendent of the Sub-jail cannot be obtained in time to avoid risk provided that the fact shall be reported to the Superintendent at once.

II—GOVERNMENT OF ASSAM

No. HPL 346/57/7, Shillong, the 6th August, 1958/15th Sravana 1880

There is no separate rule for handcuffing of Members of Parliament and State Legislature in this State.

Copy of letter No. HPL. 346/57/3 dated 21-8-57 from the Chief Secretary to the Government of Assam addressed to the Inspector General of Police, Assam.

SUBJECT: *The use of handcuffs by the Police and Jail authorities*

In forwarding herewith a copy of letter No. F. 2/13/57-P. IV dated the 26-7-57 from the Government of India, Ministry of Home Affairs, I am directed to request you to issue necessary instructions to the authorities concerned that the use of handcuffs by the Police should be restricted to cases where the prisoner is a desperate character or there are reasonable grounds to believe that he will use violence or attempt to escape or where there are other similar reasons.

273. *Handcuffs.*—(i) Convicts should generally be handcuffed during transit except as provided in clause (iv) below. When the number of convicts is four or more they should be handcuffed in pairs and marched to their destination in double rank, a light chain being passed through the rings of the handcuffs up the entire line and down again. The ends of the chain should be held by the police in rear. If the number of convicts is so large that the chain cannot be passed up and back the entire line two lines should be formed and two chains used. The handcuffs should not be removed except when the convicts are in court or confined in a place of security or when being made over to a relieving guard which is provided with handcuffs. If leg irons are used, leather gaiters must be provided by the jailor for each convict.

(ii) No convict should be permitted to cover his hands with any portion of his clothings, and care should be taken that no convict jicks up a stone or missile or any other articles *en route*.

(iii) Handcuffs or leg irons should not be used in the case of women or of boys under orders of detention in a reformatory school, unless there is reason to believe that they will attempt to escape. Convict warders and convict overseers need not be handcuffed. All convicts, except women, under sentence of transportation for life and every prisoner or lunatic who is fettered in jail and likely to prove troublesome and to require special care and attention during the journey will be handcuffed and also fettered. A written request must be made by the escort commander to the jailor to impose fetters in such cases. In no circumstances should a female prisoner be fettered, but, handcuffs may be imposed if necessary.

(iv) All 'C' division convicts when travelling by rail will be handcuffed and when necessary will have also leg irons imposed. 'A' and 'B' division convicts travelling by rail or transit will not be handcuffed unless there is an apprehension that an escape or rescue may be attempted. The police must in each case exercise their discretion in handcuffing these convicts. All dangerous or notable prisoners will, while in transit, be properly ironed. The keys of handcuffs and fetters should be kept by the officer in charge of the escort.

(v) Male convicts when heavily fettered will be conveyed to and from railway and steamer stations in carts.

55. (v) The court police are responsible for escorting prisoners under trial from the jail or lock-up to a magistrate's courts and for guarding them while there; also for taking back to the jail under safe escort prisoners sentenced to imprisonment by a magistrate, or remanded in custody. When there is a reasonable expectation that under-trial prisoners will use violence or that an attempt will be made to rescue them, handcuffs may be used, but not otherwise.

III—GOVERNMENT OF BIHAR

No. 1/R2-1039/58 PP-5869, Patna, the 30th July, 1958.

Regarding handcuffing of the members of the Parliament or State Legislature, no separate rule exists in the Bihar and Orissa Police Manual, 1930.

241. (a) (i) *Restraint of prisoners. Use of handcuffs.*—Prisoners arrested by the Police for transmission to a magistrate or to the scene of an enquiry, and also under-trial prisoners shall not be subjected to more restraint than is necessary to prevent their escape.

(ii) Under trial prisoners classified as superior in accordance with rule 237A. (1) by the magistrate or the officer in-charge of the police station (or any convicted prisoners classified in Divisions I and II) should not be handcuffed unless there is reason to suspect that they may attempt to escape, when the orders of the Superintendent of Police or a Gazetted Officer should be taken where possible and reasons for imposing handcuffs recorded in writing.

(iii) In no case shall women, or witnesses arrested under section 171, Cr. P.C., be handcuffed, nor shall restraint be used to those who, either by age or infirmity, are easily and securely kept in custody.

(b) In bailable cases prisoners shall not be handcuffed at the time they are despatched, unless they are violent or have previously attempted to escape. Similarly, they shall not be handcuffed *en route*, except in emergencies as permitted in P.M. rule 240 (b) and (i), or unless they become violent or attempt to escape. In such cases the order to apply handcuffs or a rope shall be given by the senior officer present who shall, if at a police-station, enter the reasons in the station diary, and in the certificate in P.M. form No. 43 or, if in the interior, or *en-route*, shall report the facts to the first police-station or court at which he arrives.

(c) When despatching prisoners accused of non-bailable offences, the amount of restraint necessary must be left to the discretion of the despatching officer, who shall be the senior officer present. In certain circumstances the use of handcuffs may not be necessary, but if, for instance, the prisoner has previously attempted to escape, or is a powerful man in custody for a crime of violence, or is of notorious antecedents, or disposed to give trouble, or if the journey is long, or the number of prisoners is large, handcuffs may properly be used. Escorts shall in any case be supplied with handcuffs for use should necessity arise. If it becomes necessary *en route* for the officer in charge of the escort to depart from the instructions received at the time of despatch, he shall report the facts and reasons to the first police-station or court at which he arrives.

(d) The rules in chapter XVIII for the escort of convicts apply generally to the guarding and escorting of persons arrested by the police so far as they are not contradictory to the rules contained in this chapter; but no person so arrested shall be subjected to more restraint than is necessary to prevent his escape.

(e) It is undesirable that undertrial prisoners classified as superior or any convicted prisoners classified in Divisions I and II should be taken from and to court and Jail, and in particular between Jails, along with batches of prisoners classified as ordinary undertrials (or in Division III). When possible undertrial prisoners classified as superior should be conveyed to and from court in a special conveyance.

(f) A prisoner who desires to provide at his own expense a vehicle for the conveyance of himself and his escort may be permitted to do so; in such cases, one member of the escort shall sit alongside the driver and no person other than the driver, the prisoner and his escort, shall be permitted to travel in it. Provided that if no driver, other than the prisoner himself, is available the officer in charge of the escort may in his discretion refuse this concession.

562. (a) *Use of handcuff, leg irons, rope, etc.*—Male convicts of Division III shall be handcuffed during transit and transportation convicts shall in addition be furnished with leg irons and leather gaiters, which shall be supplied by the Jail Department for each prisoner to prevent abrasion of the skin. Convict warders and overseers need not be handcuffed.

(b) Convicts of Divisions I and II should not be handcuffed unless there is reason to suspect that they may attempt to escape.

(c) No female prisoner shall be handcuffed or fettered.

(d) The restraint to be used in the case of male undertrial prisoners is defined in rule 241.

IV—GOVERNMENT OF BOMBAY

No. HCP. 1058|74357-V, Dated 24th July, 1958.

This Government has not issued any special instructions regarding the handcuffing of Members of Parliament, Members of Legislative Assembly and Members of Legislative Council.

176. *Treatment of person in Police custody.*—(3) Undertrial prisoners should be treated with such reasonable consideration as is compatible with their safe custody and production before the Court. Their status and the probability of their attempting to escape should be taken into account in deciding the necessity or otherwise of the use of handcuffs and allowing them the use of a conveyance at their expense (*vide* Sub-Rule 10 of Rule 530 in Vol. I).

321. *Handcuffing of prisoners.*—(1) Whenever a prisoner has to be taken in custody from a Court to a jail or *vice versa*, the Judge, Magistrate, or the jail officer should give a direction in writing to the commander of the escort as to whether the prisoner should or

should not be handcuffed or bound, and the escort commander shall obey that direction, provided that if the direction is not to handcuff or/and bind the prisoner and at any time thereafter the escort commander has reason to consider it necessary to handcuff or bind the prisoner, he should do so, notwithstanding such direction.

(2) Police officers must, without fail, ask for and obtain orders in writing from the Judge, Magistrate or the jail officer in regard to the handcuffing of the prisoners committed to their charge, before taking over prisoners from the Court or jail. Any neglect of these instructions must be dealt with most severely.

(3) In dealing with juvenile offenders, Police officers escorting them to and from Courts should appear in mufti without any arms. But in the event of a juvenile offender being troublesome and likely to abscond, the fact should be reported to the Court, so that sanction to secure the offender with a rope round his body may be obtained.

(4) No prisoner, convicted or undertrial, shall be handcuffed to his bed under any circumstances, while under treatment in a civil hospital.

(5) Handcuffs shall not be imposed on any prisoner, convicted or undertrial, while under treatment in a civil hospital, except where the prisoner is known to be refractory, violent or dangerous. In such cases, the handcuffs shall be frequently removed to give relief to the arms.

(6) Sick prisoners under treatment in a civil hospital or dispensary shall never be fettered, unless absolutely necessary for their safe custody and with the concurrence of the medical officer in charge.

(7) Sub-Rules (5) and (6) do not apply to female prisoners who may under no circumstances be handcuffed or fettered.

(8) In cases not covered by the above Sub-Rules, the handcuffing of prisoners is a matter which shall be left to the discretion of the senior responsible Police officer concerned, as much depends on the character, disposition and behaviour of the prisoner or prisoners. In some cases, such as of feeble old men, women or children, handcuffs may be dispensed with; in others they are necessary; and in cases of desperate character, even greater precautions, such as tying the prisoner or prisoners with a rope in addition to handcuffing, may be necessary to prevent escape. The responsible officer in all cases shall use his discretion, taking every necessary precaution to prevent escape without inflicting unnecessary harshness or indignity on the prisoner.

(9) In exercising the discretion vested in him, the Police Station Officer should issue clear instructions for the guidance of the escort party in every case, definitely stating whether the prisoner concerned in that case should be handcuffed or not. Such instructions should make it clear that the escort commander is nevertheless expected to use his own discretion and to take additional precautions, should the conduct of the prisoners or of persons sympathis-

ing with them render such precautions advisable. When the Head Constable in command of an escort takes such additional precaution, he should invariably report the fact that he has done so to the Police Station Officer, stating his reasons for so doing.

(10) (a) In order that it may be known whether handcuffs are being properly used as required by rules, all Police Station Officers and all officers in charge of Police Head Quarters will submit a return, by the 10th of each month, to their Superintendents of Police in Form No. 17 in Appendix I. Even when a prisoner is handcuffed while being taken from a jail or a sub-jail to a Court or *vice-versa*, his case should be shown in the monthly return, as the prisoner is in the custody of the Police during that period.

(b) Superintendents of Police should carefully check the returns and take disciplinary actions against any Police officer using handcuffs improperly.

V—GOVERNMENT OF KERALA

No. H(A)-4-71733/58/Home, Trivandrum, dated 12-8-1958.

I am directed to state that the existing practice in regard to the use of handcuffs is governed by the provisions in the Madras Police Standing Order No. 621 which applies to the Malabar Area of the State and the Travancore-Cochin Police Standing Order 532 which applies to the Travancore-Cochin area of the State. Relevant extracts of the above Standing Orders are enclosed.

2. A unified Police Manual for the Kerala State is now under preparation. A draft of the Police Standing Order which is proposed to be incorporated in the above Manual on the handcuffing of persons in custody is also enclosed. This draft has been approved by the Government subject to the concurrence of the High Court in regard to the instructions applicable to the Magistracy.

3. I am also to enclose for ready reference a copy of letter No. F.2/13/57-PIV dated 26-7-1957 from the Government of India, Ministry of Home Affairs regarding the use of handcuffs by the Police and Jail Authorities. These instructions have been communicated to the Police and Jail Authorities in this State, for strict compliance. A copy of order No. H5/5985/57/Home dated 12-6-1957 relating to certain Jail Reforms is also enclosed for reference.

4. Apart from the above instructions there are no separate instructions giving any special treatment to the Members of Parliament or State Legislature in this regard.

5. I am to add that the intention of this Government is that handcuffing of persons in custody should be resorted to only when it is unavoidable and not as a matter of routine in normal circumstances. The receipt of this letter may please be acknowledged.

APPENDIX A

(Madras P. S. O. 621)

(Use of Handcuffs)

1. Undertrial prisoners, while being escorted to and from Court, shall not be handcuffed and chained unless there is a reasonable expectation, either from the heinous nature of the crimes with which they are charged or from their character or behaviour, that such persons will use violence or will attempt to escape or that an attempt will be made to rescue them. The same principle shall be applied to convicts proceeding in public places in Police Custody. The decision as to whether handcuffs and chains should be used or not will ordinarily lie with the station-house Officer or in his absence, with the officer next below him in seniority. The same authority shall decide upon similar considerations whether prisoners shall be handcuffed and chained or not during their trial in court. As far as possible the Police escort shall in each case be sufficiently strong to prevent such persons from escaping or giving undue trouble.

2. Whenever accused, but unconvicted, persons are handcuffed, the fact and the reasons for it shall be stated in the station-house general Diary.

3. Whenever, it is considered necessary to handcuff accused, but unconvicted, prisoners confined in a sub-jail, when taken out in the precincts of the sub-jail for food and exercise, the orders of the Superintendent of the sub-jail should be obtained in a register in Form No. 92 to be kept by the Officer in charge of every sub-jail guard.

4. In regard to refractory, violent or dangerous prisoners, the officer in charge of the sub-jail guard or the senior Police Officer present may impose handcuffs in cases where the orders of the Superintendent of the sub-jail cannot be obtained in time to avoid risk, provided that the fact shall be reported to the Superintendent at once.

APPENDIX B

(Travancore-Cochin P. S. O. 532)

Use of Handcuffs

1. When prisoners under sentence of rigorous imprisonment have to be escorted to the next station, they should be handcuffed and when there are more than one, they should be handcuffed together in pairs.

2. In cases where prisoners have to be escorted and are not sentenced to rigorous imprisonment, they should be handcuffed only if there is a likelihood of their escaping or being violent.

3. Persons not sentenced, but undertrial, who are believed to be troublesome and dangerous, should be handcuffed in the same way as in para (1) provided that in the case of undertrial prisoners of some respectability, the restraint in question should not be inflicted without the sanction of an officer not inferior in rank to that of an Assistant Superintendent of Police.

APPENDIX

DRAFT P.S.O. FOR KERALA ON THE HANDCUFFING OF PERSONS IN CUSTODY

1. *Handcuffing of persons in custody*

(1) The use of handcuffs or ropes causes humiliation to the person subject to the restraint and is contrary to the modern policy regarding the treatment of offenders. Therefore handcuffing and/or binding shall be restricted to cases where a person in custody is of a desperate character, or where there are reasons to believe that he will use violence or attempt to escape, or where there are other similar reasons necessitating such a step.

(2) Whenever a person is to be taken in custody from a Court to a jail or *vice versa*, the Judge, Magistrate, or the jail officer should give a direction in writing to the commander of the escort as to whether the prisoner should or should not be handcuffed or bound, and the escort commander shall obey that direction, provided that if the direction is not to handcuff or/and bind the prisoner and at any time thereafter the escort commander has reason to consider it necessary to handcuff or bind the prisoner, he should do so, notwithstanding such direction.

The Judge, Magistrate or Jail Officer shall not ordinarily direct handcuffing and shall do so only for reasons to be recorded before issue of such direction after being satisfied that the prisoner is so dangerous or violent that it would be unsafe to take him otherwise.

(3) Police Officers must, without fail, ask for and obtain orders in writing from the Judge, Magistrate or the Jail Officer in regard to the handcuffing of persons committed to their charge, before taking over prisoners from the court or jail. Any neglect of these instructions amounts to serious dereliction of duty.

(4) In dealing with juvenile offenders, Police Officers escorting them to and from Courts should appear in mufti without any arms. The security of juvenile offenders who are likely to be troublesome shall be safeguarded as far as possible by increasing the strength of the escort. In exceptional cases, where it is necessary to restrain an offender by handcuffing/or binding, the sanction of the Court shall be obtained.

(5) No prisoners, convicted or undertrial, shall be handcuffed while in bed under any circumstances, when under treatment in a civil hospital.

(6) Handcuffs shall not be imposed on any prisoner, convicted or undertrial, while under treatment in a civil hospital except where the prisoner is known to be refractory, violent or dangerous. In such cases, the handcuffs shall be frequently removed to give relief to the arms.

(7) Sick prisoners under treatment in a civil hospital or dispensary shall never be fettered, unless absolutely necessary for their safe custody and with the concurrence of the Medical Officer in charge.

(8) Sub-Rules (6) and (7) do not apply to female prisoners who may under no circumstances be handcuffed or fettered.

(9) In cases not covered by the above Sub-Rules, the handcuffing of persons in custody is a matter which shall be left to the discretion of the senior responsible Police Officer concerned, as much depends on the character, disposition and behaviour of such persons. In some cases, such as of feeble old men, women or children, handcuffs may be dispensed with; in others they are necessary and in cases of desperate character, even greater precautions, such as tying the prisoner or prisoners with a rope in addition to handcuffing, may be necessary to prevent escape. The responsible officer in all cases shall use his discretion, taking every necessary precaution to prevent escape without inflicting unnecessary harshness or indignity on the person in custody.

(10) In every case in which a person is handcuffed or bound, the reasons for doing so shall be recorded in the Register prescribed in sub-rule (12) below. Where such handcuffing/binding is done otherwise than on the orders of the Officer in charge of the Police Station, the reasons for doing so shall be immediately recorded in the note book of the officer ordering it and shall be as soon as may be reported by him in writing to the Officer concerned for making necessary entries in the Register prescribed in sub-rule (12) below.

(11) In exercising the discretion vested in him, the Officer in Charge of the Police Station should issue clear instructions for the guidance of the escort party in every case, definitely stating whether the prisoner concerned in that case, should be handcuffed or not. Such instructions should make it clear that the escort commander is nevertheless expected to use his own discretion and to take additional precautions, should the conduct of the prisoners or of persons sympathising with them render such precautions advisable. When the Head Constable in command of an escort takes such additional precautions, he should invariably report the fact that he has done so to the Officer in charge of the Police Station, stating his reasons for so doing.

(12) (a) In order that it may be known whether handcuffs are being properly used as required by rules, all Officers in charge of Police Stations, and Officers in charge of Armed Reserve Camps which provide escorts for prisoners, shall maintain a "Register of persons in custody handcuffed/bound" in Form No. 150. A monthly extract of the entries in this Register shall be sent to the Superintendent of Police of the District so as to reach him before the 10th of the succeeding month.

(b) Even when a prisoner is handcuffed or bound while being taken from a jail or a sub-jail to a Court or *vice versa*, his case should be recorded in the register.

(c) Superintendents of Police shall check the monthly extracts and take disciplinary action against any Police Officer who may be found to have misused the provisions for handcuffing/binding.

VI.—GOVERNMENT OF MADHYA PRADESH

No. 4239/II-B (i), Bhopal, dated Sravana 20, 1880 (11-8-1958)

I am directed to send herewith true copies, duly certified, of relevant extracts from the Police Regulations of Madhya Pradesh and Madhya Bharat, a circular issued by the Inspector General of Police, Madhya Pradesh and of the rules in force in Jails Manuals of the four integrated units of Madhya Pradesh on the subject of handcuffing of prisoners.

I am to add that the question of issuing instructions for special treatment to Members of Parliament and State Legislatures in the matter of handcuffing is under examination of the State Government.

OFFICE OF THE INSPECTOR-GENERAL OF POLICE, MADHYA PRADESH,
BHOPAL .

Cir. No.GB.|Misc|IIIR|2365|57, dated the 29th Nov., 1957.

SUBJECT: *Handcuffs—Use of*

Instances have recently come to notice in which persons arrested by Police were handcuffed although the circumstances did not seem to justify this course. Handcuffs are normally to be used by the Police only where the prisoner is violent, disorderly, obstructive or is likely to attempt to escape or to commit suicide or is charged with certain serious non-bailable offences. It is, however, observed that in actual practice prisoners and persons arrested by the Police are handcuffed more or less as a matter of routine. The use of handcuffs not only causes humiliation to the prisoner or arrested person, but also destroys his self-respect and is contrary to the modern outlook on the treatment of offenders. The use of handcuffs should be restricted to cases where the prisoner is a desperate character or there are reasonable grounds to believe that he will use violence or attempt to escape or where there are other similar reasons.

2. A copy of the relevant Police Regulations and orders is herewith enclosed for your information.

ESCORT OF ARRESTED PERSONS AND CONVICTS (INCLUDING POLITICALS)

(The Madhya Bharat Police Regulations)

480. *Handcuffs When Used.*—Handcuffs shall be used only if they are necessary. The following rules regulate their use:—

A—Handcuffing of persons upon arrest

- (1) No person shall be handcuffed who by reason of age, sex, or infirmity can easily and securely be kept in custody without handcuffs.

- (2) No person arrested by a Police Officer, or remanded to custody by a magistrate on a charge of having committed a bailable offence shall be handcuffed unless there is good reason to believe that he is likely to attempt to escape.
- (3) A person arrested by a Police Officer, or remanded to custody by a magistrate, on a charge of having committed a non-bailable offence, may, if the police officer so directs, be handcuffed. But no such person shall be handcuffed, if the offence of which he is accused is one which is not specified in rule (4) or (5), or if he has been classified by the Magistrate during trial in the special class, and from his known antecedents, his social position and settled occupation, it is improbable that he will attempt to escape or offer violence.
- (4) Every person arrested by a Police officer or remanded to custody by a Magistrate, on a charge of having committed one of the following offences, shall ordinarily be handcuffed, unless, he can claim exemption under rule (1):—
- (a) Offences relating to coin, sections 231 to 254, Indian Penal Code.
 - (b) Murder and culpable homicide, sections 302 to 304, Indian Penal Code.
 - (c) Attempt to commit murder and culpable homicide, sections 307 and 308, Indian Penal Code.
 - (d) Being a thug, section 311, Indian Penal Code.
 - (e) Robbery, section 392, Indian Penal Code.
 - (f) Dacoity, section 395, Indian Penal Code.
 - (g) Any minor offence against property, if the offender has been previously convicted of any offence against property or has been ordered to find security for good behaviour:

Provided that the police officer if satisfied that there is no likelihood that the person arrested will attempt to escape or offer violence, may allow exemption from this rule.

- (5) Every person who has been previously convicted of an offence against property, and who is subsequently arrested under section 55, Criminal Procedure Code, as—
- (a) lurking with a view to committing an offence; or
 - (b) being without ostensible means of subsistence; or
 - (c) being a habitual robber, house-breaker, thief or receiver of stolen property, shall be handcuffed unless he can claim exemption under rule (1):

Provided that the police officer, if satisfied that there is no likelihood that the person arrested will attempt to escape or offer violence, may allow exemption from this rule.

- (6) Handcuffs, when they may be imposed legitimately under these rules, shall be put on as soon as possible after the arrest is made, and shall not be removed until the person arrested has been placed in a secure lock-up. Before the prisoner is taken out from the lock-up, the handcuffs shall be put on again, and shall not be taken off until he is once more in a safe place of confinement, or until a Magistrate orders their removal.
- (7) *Leg-Irons*.—Leg-iron, as well as handcuffs, shall be put on all offenders who are believed to be desperate either from former convictions, or from the character of the offence for which they are arrested, and shall not be removed as long as the offenders are in police custody.

B—Handcuffing of persons after conviction

Handcuffing after Conviction.—All male persons convicted of cognizable offences and sentenced to imprisonment are liable to be handcuffed, but the senior police officer present may, at his own discretion and responsibility, dispense with the use of handcuffs, in the case of those persons described in rule A(1), (2) & (3) above. Briefly, all consideration possible should be shown to all prisoners consistent with the responsibility of the Police for their safe custody:

Provided that no person classified on conviction as an 'A' class prisoner shall be handcuffed unless he attempts to escape, and no person who has been classified as a 'B' class prisoner shall be handcuffed unless he has been convicted under one of the offences specified in rules A(4) and (5) above or other special reasons exist.

NOTE:—A trial court shall in the case of a 'B' class prisoner and may in the case of a 'C' class prisoner give written instructions to the head constable in charge of the escort as to whether the prisoner is to be handcuffed or not under this proviso.

C—Handcuffs of convicts on occasion of inter-jail transfers

Handcuffs on Inter-Jail Transfers.—Handcuffs should be placed on all male convicts before they are taken out of the jail:

Provided that no person classified on conviction as 'A' class prisoner shall be handcuffed unless he attempts to escape and no person classified as a 'B' class prisoner shall be handcuffed unless he has been convicted under one of the offences specified in rules A(4) and (5) above or other special reasons exist.

NOTE:—The jail authorities shall give written instructions to the head constable in charge of the escort as to whether a 'B' class prisoner is to be handcuffed or not under this proviso.

Handcuffs—Instructions to Police Officers for the use of—When Persons Arrested.—There seems to be an impression among some Police Officers that all persons arrested by the police may be handcuffed. Police Regulation should be known to every officer and it must be remembered that the use of handcuffs is permissible only in certain cases. Even in these cases they need not be used, if the

police officer is satisfied that there is no likelihood of violence or an attempt to escape. Before handcuffing an accused every police officer should be certain that the offence falls under one of the sections which allow the use of handcuffs. In cases of doubt the accused should not be handcuffed.

Copy of Para No. 1188 of Old M.P. Jail Manual Vol. I, Revised edition, 1946:—

Para 1188. Imposition of Handcuffs When Permissible.—Handcuffs may, as a measure of restraint, be imposed on any prisoner, if the Superintendent is of the opinion that their imposition is necessary for the protection of the prisoner himself or of any other person but every such imposition shall be reported to the Inspector-General.

VII—GOVERNMENT OF MADRAS

Letter Ref. No. 88564 Police IV/58-2, Dated Fort St. George, the 29th July, 1958

I am, however, to state that separate instructions have not so far been issued by this Government in regard to handcuffing of Members of Parliament and Members of Legislative Assembly.

Copy of Police Standing Order 621—Volume I

Use of Handcuffs.

621. (1) When an accused is in Court during the trial he must be held to be in the custody of the Court. If an accused is so dangerous that it is necessary to handcuff him a representation should be made to the court, and the court will issue proper instructions in the matter. Under these circumstances, accused persons while in court during trial should not be handcuffed except with the permission of the court.

(2) Under-trial prisoners, while being escorted to and from Court, shall not be handcuffed and chained unless there is a reasonable expectation, either from the heinous nature of the crimes with which they are charged or from their character or behaviour, that such persons will use violence or will attempt to escape or that an attempt will be made to rescue them. The same principle shall be applied to convicts proceeding in public places in police custody. The decision as to whether handcuffs and chains should be used or not will ordinarily lie with the station house officer or in his absence, with the officer next below him in seniority. As far as possible, the police escort shall in each case be sufficiently strong to prevent such persons from escaping or giving undue trouble.

Whenever accused, but unconvicted, persons are handcuffed, the fact and the reasons for it shall be stated in the station-house General Diary.

(4) Whenever it is considered necessary to handcuff accused, but unconvicted, prisoners confined in a sub-jail, when taken out, in the precincts of the sub-jail for food and exercise, the orders of the Superintendent of the Sub-Jail should be obtained in a register

in Form No. 92 to be kept by the officer in charge of every sub-jail guard.

(5) In regard to refractory, violent or dangerous prisoners, the officer in charge of the sub-jail guard or the senior Police Officer present may impose handcuffs in cases where the orders of the Superintendent of the sub-jail cannot be obtained in time to avoid risk, provided that the fact shall be reported to the Superintendent at once.

Memorandum Foc. No. 7402/CI/57, dated 11-11-1957 from the Inspector-General of Police, Madras-4, to all District Superintendents of Police.

SUB.: Use of Handcuffs by Police

REF.: Chief Office Memorandum RC. 89-C/Stat. 1/49, dated 23-2-1949.

A copy of the Home Department endorsement No. 83386 Pol. IV/57-1, dated 19-8-1957, on the above subject is enclosed for information and guidance, in continuation of the Chief Office Memorandum cited.

2. The Government of India feel that handcuffing is being done as a matter of routine without any regard to the status of the prisoner or the nature of the offence he had committed or is accused of. As far as this State is concerned the orders on the subject in Police Standing Order 621, Volume 1, and the Chief Office Memorandum cited are very clear. According to these orders normally an under-trial prisoner should not be handcuffed unless there are special reasons for it.

3. The attention of all officers is once again invited to the instructions contained in Police Standing Order 621, Volume I, and the Chief Office Memorandum cited and they are requested to bring these orders to the notice of their subordinates and to see that handcuffing is not done as a matter of routine but is resorted to only in exceptional cases. In each such case where handcuffing is resorted to the special reasons necessitating such handcuffing should be recorded.

4. Serious notice will be taken of any failure to follow the instructions strictly and correctly.

—————

Chief Office Memorandum Rc. 89-C/Stat 1/49, dated 23rd February, 1949.

Use of handcuffs and marching of persons in police custody through streets—Instructions.

The Government consider that the practice of handcuffing people and marching them through streets, thus subjecting them to grave humiliation, which seems to be not uncommon, must be deprecated except in grave circumstances or where there are good reasons to suspect that the accused would otherwise grow desperate or abscond.

2. In this connection the attention of District Superintendents of Police is invited to order Nos. 619 and 621(1) of the Police Standing Order Book, Volume I, and they are requested to ensure that the instructions contained in those orders are strictly followed by their subordinates.

VIII—GOVERNMENT OF MYSORE

No. HD/6209/Pol/58, Dated, Bangalore 5th August, 1958.

I am directed to enclose herein a copy of letter dated 29th July, 1958 from the Inspector-General of Police together with the relevant extracts from the Police Manual concerned.

Copy of letter No. 187/Law/58 dated the 29th July, 1958 from the Inspector-General of Police, Mysore State, Bangalore, to the Secretary to Government, Home Department, Bangalore.

SUB: Police—Rules Regarding Handcuffing of prisoners
REF.: Govt. Letter No. HD.5837/Pol. dated 18th July, 1958

At present different Police Manuals are in force in the five areas of this State. The relevant extracts of all the five Manuals on the subject are enclosed herewith. It may be stated in this connection that a common Police Manual applicable to the whole of the New Mysore State has been sent to the Government for approval. An extract of the provisions made therein is also enclosed herein for the information of the Government.

Regarding the question whether any exceptional treatment is provided for in the Police rules or through executive instructions or otherwise in actual practice so far as handcuffing of members of Parliament/State Legislature is concerned, I am to state that no special or separate instructions have been issued in the matter.

EXTRACT OF THE BOMBAY POLICE MANUAL—1950

530.—*Conduct of Police Officers towards the Public:*

(10) Undertrial prisoners should be treated with consideration. Whatever the investigating Officer may think of the charge and evidence against them, it should be borne in mind that the law does not consider them guilty until they have been convicted, and until then they are entitled to such reasonable consideration as is compatible with their safe custody and production before the Court. Their status and the probability of their attempting to escape should be taken into account before they are sent handcuffed through the streets. Station officers and others who have to deal with such prisoners ~~should~~ use their discretion in such cases. For instance, if a man of some standing has to be arrested and sent for trial and there is not the smallest likelihood of his attempting to escape, the officer responsible for handing him over would be justified in suggesting to the escort that handcuffing is unnecessary and that the accused, if willing to pay for it, might be taken in a conveyance instead of being made to walk. Considerateness in small matters raises the force in the Public esteem, while lack of it only creates feelings of hostility and bitterness which militate against successful Police work.

EXTRACT OF THE HYDERABAD DISTRICT POLICE MANUAL
Production of Under-Trial Prisoners

95. The Prosecuting Officer shall arrange for the production of under-trial prisoners before Courts on the proper dates, and for their safe custody to and from the Courts. Every evening, he shall send the Jailor a list of the prisoners who are to be produced before the Court the following day, and he shall give clear directions on the list as to whether the prisoners are to be fettered or handcuffed, or both fettered and handcuffed, and whether crossbars are necessary. The instructions governing the handcuffing and fettering of under-trial prisoners are contained in paragraph 668 and they must be carefully followed. The responsibility for a decision as to whether under-trial prisoners should be fettered or handcuffed, will rest with the Prosecuting Officer subject to the control of the District Superintendent of Police, whose order should be taken in doubtful cases and in the cases of prisoners of great importance.

EXTRACT OF THE HYDERABAD DISTRICT POLICE MANUAL
Handcuffs and Fetters

668. As laid down in para 95 the Court Inspector will decide if under-trial prisoners should be handcuffed, or fettered or both, when being escorted from Jails to the Courts. The Officer-in-Command of the Escort will be held responsible that the orders on the subject given by the Court Inspector are carried out. The guiding rule should be that persons accused of petty offences should not be handcuffed when in transit between the Courts and jails unless there are reasonable grounds for apprehending violence on their part, an attempt at escape, or suicide. Prisoners accused of serious offences against life or property should always be handcuffed, and if they are considered particularly dangerous, leg-irons should also be used. In all cases of doubt the Court Inspector must take the orders of the District Superintendent of Police. Women prisoners should rarely, if ever, be handcuffed. The key of the handcuffs should remain in the custody of the Commander of the Escort.

EXTRACT OF THE HYDERABAD DISTRICT POLICE MANUAL

675.—Handcuffs must always be imposed on convicts travelling by Rail, Motor, Lorry, or on Foot. In the case of dangerous convicts, leg-irons should also be imposed, but the Officer Commanding the Police Escort may remove the leg-irons of such convicts if they are required to march long distances by road.

EXTRACT OF THE ORDERS OF THE COORG POLICE
 (VOLUME I)

259. *Use of Handcuffs.*—(1) Accused, but unconvicted, persons in the custody of the Police, and under-trial prisoners while being escorted to and from Court, shall not be handcuffed unless there is a reasonable expectation, either from the heinous nature of the crimes with which they are charged or from their character or behaviour,

that such prisoners will use violence or will attempt to escape or that an attempt will be made to rescue them. The decision as to whether handcuffs should be used or not, will ordinarily lie with the Station House Officer; or in his absence, with the officer next below him in seniority present.

(2) Whenever accused, but unconvicted persons are handcuffed, the fact and the reasons for it shall be stated in the Station House General Diary.

(3) Whenever it is considered necessary to handcuff accused, but unconvicted prisoners confined in a sub-jail, when taken out in the precincts of the sub-jail for food and exercise, the orders of the Superintendent of the sub-jail should be obtained in the register in Form 64 to be kept by the officer-in-charge of every sub-jail guard.

In regard to refractory, violent or dangerous prisoners, the officer-in-charge of the sub-jail guard or the senior police officer present may impose handcuffs in cases where the orders of the Superintendent of the sub-jail cannot be obtained in time to avoid risk, provided that the fact should be reported to the Superintendent at once.

Use of Handcuffs

(1) No person shall be handcuffed who, by reason of age, sex or infirmity can be easily and securely kept in custody without handcuffs.

(2) No person arrested by a police officer or remanded to custody by a Magistrate, on a charge of having committed a bailable offence, shall be handcuffed, unless for some special reasons, it is believed that he is likely to escape.

(3) When an accused is in court during the trial he must be held to be in the custody of the court. If the accused is so dangerous that it is necessary to handcuff him, a representation should be made to the court and the court will issue proper instructions in the matter. Under these circumstances accused persons while in court during trial should not be handcuffed except with the permission of the court.

(4) Under-trial prisoners, while being escorted to and from courts, shall not be handcuffed and chained unless there is a reasonable expectation, either from the heinous nature of the crimes with which they are charged or from their character or behaviour, that such persons will use violence or will attempt to escape or that an attempt will be made to rescue them. The same principle shall be applied to convicts proceeding in public places in Police custody. The decision as to whether handcuffs and chains should be used or not will ordinarily lie with the Station House Officer or in his absence, with the officer next below him in seniority. As far as possible, the Police escort shall in each case be sufficiently strong to prevent such persons from escaping or giving undue trouble.

(5) Whenever accused, but unconvicted, persons are handcuffed, the fact and the reasons for it shall be stated in the Station House Diary.

(6) Whenever it is considered necessary to handcuff accused, but unconvicted prisoners confined in a sub-jail when taken out in the precincts of the sub-jail for food and exercise, the orders of the Superintendent of the sub-jail should be obtained in a register in Form No. 93 to be kept by the officer-in-charge of every sub-jail guard.

(7) In regard to refractory, violent or dangerous prisoners, the officer-in-charge of the sub-jail guard or the senior police officer present may impose handcuffs in cases where the orders of the Superintendent of the sub-jail cannot be obtained in time to avoid risk, provided that the fact shall be reported to the Superintendent at once.

EXTRACT OF THE RULE "621" M.P.'S. ORDER

Use of Handcuffs

621. Under-trial prisoners, while being escorted to and from court, shall not be handcuffed and chained unless there is a reasonable expectation, either from the heinous nature of the crimes with which they are charged or from their character or behaviour, that such persons will use violence or will attempt to escape or that an attempt will be made to rescue them. The same principle shall be applied to convicts proceeding in public places in Police custody. The decisions as to whether handcuffs and chains should be used or not will ordinarily lie with the Station House Officer or in his absence, with the officer next below him in seniority. The same authority shall decide upon similar considerations whether prisoners shall be handcuffed and chained or not during their trial in courts. As far as possible, the police escort shall in each case be sufficiently strong to prevent such persons from escaping or giving undue trouble.

3. Whenever accused, but unconvicted, persons are handcuffed, the fact and the reasons for it shall be stated in the Station House General Diary.

4. Whenever it is considered necessary to handcuff accused, but unconvicted prisoners confined in a sub-jail, when taken out in the precincts of the sub-jail for food and exercise the orders of the Superintendent of the sub-jail should be obtained in a register in Form No. 92 to be kept by the officer-in-charge of every sub-jail guard.

5. In regard to refractory, violent or dangerous prisoners, the officer-in-charge of the sub-jail guard or the senior police officer present may impose handcuffs in cases where the orders of the Superintendent of the sub-jail cannot be obtained in time to avoid risk, provided that the fact shall be reported to the Superintendent at once.

**EXTRACT OF THE RULE "259" MYSORE POLICE GAZETTE
VOLUME I**

259. (1) Accused, but unconvicted persons in the custody of the Police, and under-trial prisoners, while being escorted to and from court, shall not be handcuffed unless there is a reasonable expecta-

tion, either from the heinous nature of the crimes with which they are charged or from their character or behaviour that such prisoners will use violence or will attempt to escape or that an attempt will be made to rescue them. The decision as to whether handcuffs should be used or not will ordinarily lie with the Station House Officer or, in his absence, with the officer next below him in seniority present. The same authority shall decide upon similar considerations whether prisoners shall be handcuffed or not during their trial in court.

(2) No person shall be handcuffed who, by reason of age, sex or infirmity can be easily and securely kept in custody without handcuffs.

(3) No person arrested by a police officer, or remanded to custody by a Magistrate, on a charge of having committed a bailable offence, shall be handcuffed, unless for some special reason it is believed that he is likely to escape.

(4) Whenever accused but unconvicted persons are handcuffed the fact that and the reasons for it shall be stated in the Station House Diary.

IX—GOVERNMENT OF ORISSA

No. 15-787/P2R/2-40-58-P, Bhubaneswar, the 24th July, 1958.

I am directed to forward herewith copies of relevant Rules of the Orissa Police Manual and executive instructions issued by the State Government in the matter as directed.

Copy of letter No. 473(13)-C dated the 15 March, 1955, from the Deputy Secretary to the Government of Orissa, Home Department, Special Section, to all District Magistrates.

I am directed to say that Government are pleased to decide that, in cases, where under-trial prisoners happen to be Members of the Legislative Assembly they should ordinarily be classified as prisoners of the superior class.

Copy of Police Manual Rule 241.

241. (a) *Restraint of Prisoners*—(i) Prisoners arrested by the Police for transmission to a Magistrate or to the scene of an enquiry and also under-trial prisoners, shall not be subject to more restraint than is necessary to prevent their escape.

(ii) Under-trial prisoners classified as superior in accordance with Rule 237-A(i) by the Magistrate or by the officer-in-charge (or any convicted prisoners classified in Divisions I and II) should not be handcuffed unless it is suspected that they may attempt to escape. Similarly they should not be secured with leg shackles, handcuffs or ropes *en route* except in emergencies as permitted in

P M Rule 240(b) and (i) or unless they become violent or attempt to escape.

(iii) In no case shall women, or witnesses arrested under section 171 Cr. P. C. be handcuffed, or shall restraint be used to those who, either by age or infirmity, are easily kept secure.

(b) In bailable cases prisoners shall not be handcuffed unless they are violent or have attempted to escape. Similarly, they shall not be handcuffed *en route*, except in emergencies as permitted in P.M. Rule 240(b) and (i) or unless they become violent or attempt to escape. In such cases the order to apply handcuffs or rope shall be given by the senior officer who shall, if at a police station, enter the reasons in the Station Diary and in the Certificate in P M Form No. 43 or, if in the interior, or *en route*, shall report the facts to the first police station or court at which he arrives.

(c) When despatching prisoners accused of non-bailable offences, the amount of restraint necessary must be left to the discretion of the despatching officer, who shall be the senior officer present. In certain circumstances the use of handcuffs may not be necessary but if, for instance, the prisoner has attempted to escape, or disposed to give trouble, or if the journey is long, or the number of prisoners large, handcuffs may properly be used. Escorts shall in any case be supplied with handcuffs for use should necessity arise. If it becomes necessary *en route* for the officer in charge of the escort to depart from the instructions received at the time of despatch, he shall report the facts and reasons to the first police station or court at which he arrives.

(d) The rules in Chapter XVIII for the escort of convicts apply generally to the guarding and escorting of persons arrested by the Police, so far as they are not contradictory to the rules contained in this chapter, but no person so arrested shall be subjected to more restraint than is necessary to prevent his escape.

(e) It is undesirable that under-trial prisoners classified as superior (or any convicted prisoners classified in Divisions I or II) should be taken from and to court and jail, and in particular between jails, along with batches of prisoners classified as ordinary under-trials (or in Division III). When possible under-trial prisoners classified as superior should be conveyed to and from Court in a special conveyance.

(f) A prisoner who desires to provide at his own expense a vehicle for the conveyance of himself and his escort may be permitted to do so, in such cases, one member of the escort shall sit alongside the driver and no person, other than the driver, the prisoner and his escort, shall travel in it.

562. (a) *Use of handcuffs, leg irons, ropes, etc.*—Male convicts of Division III shall be handcuffed during transit and transportation convicts shall in addition be furnished with leg irons and leather gaiters, which shall be supplied by the Jail Department to prevent abrasion of the skin. Convict warders and overseers need not be handcuffed.

(b) Convicts of Divisions I and II should not be handcuffed unless there is reason to suspect that they may attempt to escape.

(c) No female prisoner shall be handcuffed or fettered.

(d) The restraint to be used in case of made under-trial prisoners is defined in rule 241.

X—GOVERNMENT OF PUNJAB

No. 10298-(S)-9241 (CH)-H-58/28404, dated Chandigarh the 11th August, 1958.

I am directed to enclose attached copies of the relevant extracts from the Police Rules 1934 and the instructions issued by the Inspector-General of Police, Punjab from time to time for the information and guidance of the subordinate police officers.

PUNJAB POLICE RULES 1934, VOLUME III

26.21-A.—Under-trial prisoners are divided into two classes based on previous standard of living. The classifying authority is the trying court subject to the approval of the District Magistrate, but during the period before a prisoner is brought before a competent court, discretion shall be exercised by the officer-in-charge of the Police Station concerned to classify him as either 'better class' or 'ordinary'. Only those prisoners should be classified provisionally as 'better class' who by social status, education or habit of life have been accustomed to a superior mode of living. The fact that the prisoner is to be tried for the commission of any particular class of offence is not to be considered. The possession of a certain degree of literacy is in itself not sufficient for 'better class' classification and no under-trial prisoner shall be so classified whose mode of living does not appear to the Police officer concerned to have been definitely superior to that of the ordinary run of the population, whether urban or rural. Under-trial prisoners classified as 'better class' shall be given the diet on the same scale as prescribed for A and B class convict prisoners in Rule 26.27(1).

26.22(1). *Conditions in which handcuffs are to be used.*—Every male person falling within the following category, who has to be escorted in police custody, and whether under police arrest, remand or trial, shall, provided that he appears to be in health and not incapable of offering effective resistance by reason of age, be carefully handcuffed on arrest and before removal from any building from which he may be taken after arrest:—

- (a) Persons accused of a non-bailable offence punishable with any sentence exceeding in severity a term of three years' imprisonment.
- (b) Persons accused of an offence punishable under section 148 or 226, Indian Penal Code.
- (c) Persons accused of, and previously convicted of, such an offence as to bring the case under section 75, Indian Penal Code.
- (d) Desperate characters.
- (e) Persons who are violent, disorderly or obstructive or acting in a manner calculated to provoke popular demonstration.

- (f) Persons who are likely to attempt to escape or to commit suicide or to be the object of an attempt at rescue. This rule shall apply whether the prisoners are escorted by road or in a vehicle.

26.22(2). Better class under-trial prisoners must only be handcuffed when this is regarded as necessary for safe custody. When a better class prisoner is handcuffed for reasons other than those contained in (a), (b) and (c) of sub-rule (1) the officer responsible shall enter in the Station Daily Diary or other appropriate record his reasons for considering the use of handcuffs necessary.

26.23(1). *Conditions in which use of handcuffs may be dispensed with.*—Prisoners shall not be handcuffed while confined in a lock-up, except as provided in rule 26.4(3).

(2) The handcuffs of prisoners in court shall be removed only as provided in rule 27.12(2).

(3) A prisoner who is charged only under section 124-A or 153-A of the Indian Penal Code shall not be handcuffed unless he is already undergoing sentence or the officer commanding the escort has definite reason for believing that such prisoner comes within the category described in rule 26.22(e) or (f).

Copy of Memo. No. 14104-19/A, dated the 11th September, 1952 from the Inspector-General of Police, Punjab to:—1. All Superintendents of Police in the Punjab, 2. The Assistant Inspector-General, Government Railway Police, Punjab.

There have come to my notice some cases in which better class under-trial prisoners have been indiscriminately handcuffed by the police while being escorted. There are also reasons to believe that in some cases handcuffs were applied more with the object of making a display than ensuring the security of the accused. The rules relating to the use of handcuffs are given in Chapters 18 and 26 of the Police Rules. Under Police Rule para 26.22, clause (2), it is laid down that "Better class under-trial prisoners must only be handcuffed when this is regarded as necessary for safe custody. When a better class prisoner is handcuffed for reasons other than those contained in (a), (b) and (c) of sub-rule (1) the officer responsible shall enter in the Station Daily Diary or other appropriate record his reasons for considering the use of handcuffs necessary". The definition of better class prisoners is given in P. R. 26.21-A. According to this rule, under-trial prisoners are divided into two classes based on previous standard of living. The classifying authority is the trying court subject to the approval of the District Magistrate, but during the period before a prisoner is brought before a competent court, discretion to be exercised by the officer-in-charge of the police station concerned to classify him as either "better class" or "ordinary". Only those prisoners are to be classified provisionally as "better class" who by social status, education or habit of life have been accustomed to a superior mode of living. The fact that the prisoners is to be tried for the commission of any particular class of offence is not to be considered. The possession of a certain degree of literacy

is in itself not sufficient for "better class" classification and no under-trial prisoners shall be so classified whose mode of living does not appear to the police officer concerned to have been definitely superior to that of the ordinary run of the population, whether urban or rural.

2. From the above, it will appear that as long as an accused is not produced before a Magistrate, the officer-in-charge of the police station concerned is to exercise his discretion to classify the accused as either "better class" or "ordinary". In Police Rule 26.22, reference is made to certain reasons under sub-clauses (a), (b) and (c) of clause (1) of the rule, when a "better class" prisoner is required to be handcuffed. The sub-clause (a) covers persons accused of a non-bailable offence punishable with any sentence exceeding in severity a term of three years' imprisonment. The sub-clause (b) covers those persons who are accused of an IPC offence punishable u/s 148, i.e. causing riot with deadly weapons or u/s 226, i.e. unlawful return from transportation. The sub-clause (c) debars these persons who are accused of, and previously convicted of, such an offence as to bring the case u/s 75 I.P.C.

3. Will you please, therefore, bring this order to the notice of your officers and ensure its strict compliance. There should be no public demonstration made to disgrace an accused by means of handcuffing him, if under the rules he is entitled to a "better class" and if his case is not covered under sub-clause (a), (b) and (c) of P.R. 26.22(1).

From

Shri D. C. Lal, I.P., Inspector-General of Police, Punjab.

To

1. The Assistant Inspector-General, Government Railway Police, Punjab, Ambala Cantt.
2. The Senior Superintendent of Police, Amritsar and Ferozepur.
3. All Superintendents of Police in the Punjab (except Amritsar & Ferozepur).

No. 3419-58/A, dated Simla-2, the 20th March, 1958.

SUBJECT: *The use of handcuffs by the Police Authorities*

MEMORANDUM

Instances have come to the notice of Government in which persons arrested by the police were handcuffed although the circumstances did not seem to justify this course. The use of handcuffs not only causes humiliation to the prisoner or arrested person but also destroys his self respects, which is contrary to the modern outlook on the treatment of offenders. The Government, therefore, consider that handcuffs should not be used as a matter of routine and that their use should be restricted to cases, where there are reasonable grounds to believe that a prisoner is violent, disorderly, obstructive, or is likely to attempt to escape or to commit suicide or is charged with some serious non-bailable offence.

2. Will you please bring these instructions to the notice of your officers and ensure their strict compliance in future?

XI—GOVERNMENT OF RAJASTHAN

No. D. 9024/F. 17(11) Home (A) |58, Dated Jaipur, the 12th Aug., 1958

I am directed to enclose copies of rules 175, 177 (c) and 268 of Rajasthan Police Regulations, 1948 dealing with handcuffing of prisoners.

2. Recently the Government of India, Ministry of Home Affairs issued a circular letter to all State Governments (No. F. 2|13|57-P. IV., dated the 26th July, 1957) regarding the use of handcuffs by the police and the jail authorities and a copy thereof has been forwarded to the Police authorities for guidance.

3. As regards handcuffing of Members of Parliament and State Legislature, no exceptional treatment has been provided for in the Rajasthan Police Regulations and no instructions have been issued by the State Government in this connection.

**EXTRACT OF THE RAJASTHAN POLICE REGULATIONS
[RULES 175, 177(C)]**

175. Convicted prisoners are divided into classes A, B and C. Classes A and B ordinarily include certain categories of non-habitual prisoners of good character, social status, education etc., but habitual prisoners may also be included in Class B by the classifying authority on grounds of character and antecedents. Class C consists of those not classed in A and B. Convicts in C Class shall be handcuffed and if necessary roped during transit. Those placed in classes A and B shall not be handcuffed or roped unless there is a reasonable expectation that they will use violence or attempt to escape or attempt will be made to rescue them. If necessary the superior officer should be consulted.

177. (c) If a convict coupled to another falls sick, he shall be detached from his companion, the latter being coupled to any odd convict or handcuffs put on him alone.

**EXTRACT OF THE RAJASTHAN POLICE REGULATIONS
(RULE 268)**

Use of handcuffs

268. (a) Prisoners arrested by the Police for transmission to a Magistrate or to the scene of an enquiry and also under-trial prisoners, shall not be subjected to more restraint than is necessary to prevent their escape. The use of handcuffs or ropes is often an unnecessary indignity.

In no case shall women be handcuffed; nor shall restraint be used to those who either by age or infirmity are easily and securely kept

in custody. Witnesses arrested under section 171, Criminal Procedure Code, shall, in no circumstances be handcuffed.

In bailable cases prisoners should not be handcuffed unless violent, and then only by the order of the officer-in-charge of the Police Station, the reason for the necessity of this action being entered in the General Diary.

In non-bailable cases, the amount of restraint necessary must be left to the discretion of the officers concerned. In certain circumstances the use of handcuffs may not be necessary to prevent escape but, if for instance, the prisoner is a powerful man in custody for a crime of violence, or is of notorious antecedents, or disposed to give trouble, or if the journey is long, or the number of prisoners is large, handcuffs may properly be used. Escorts should in any case, be supplied with handcuffs for use, should necessity arise.

(b) In the case of two prisoners whom it is necessary to handcuff, they will be handcuffed in couples, the right wrist of one to the left wrist of the other. In no circumstances should more than two prisoners be secured together.

(c) In all cases in which the use of handcuffs is allowed and considered necessary and when no proper handcuffs are available, the prisoners may be secured by ropes or pieces of clothing. These shall be so tied, as not to interfere unduly with proper circulation, and shall be replaced by handcuffs as soon as possible.

(d) Great caution shall be exercised at all times in the removal of handcuffs and other fastenings from prisoners' 'en-route'.

XII—GOVERNMENT OF UTTAR PRADESH

451 GI/VIII-2284/1958, Dated Lucknow, July 29, 1958.

I am to add that no separate instructions regarding the handcuffing of the members of Parliament/State Legislature, have been issued by this Government.

UTTAR PRADESH POLICE RULES FOR GUARDS AND ESCORTS

Convicted Prisoners

153.—(a) *Handcuff*—Handcuffs will be imposed on convicted prisoners when travelling by rail or road in accordance with the following instructions:

- (1) Prisoners in class "A" shall not wear handcuffs unless the Superintendent of Police, for special reasons to be recorded in writing, requires them to be imposed.
- (2) Male prisoners in class "B" who have been sentenced to more than two years' rigorous imprisonment, shall wear handcuffs.

- (3) Other prisoners in class "B" shall not wear handcuffs unless the Superintendent of Police, for special reasons to be recorded in writing requires them to be imposed.
- (4) Male prisoners not admitted to either class "A" or class "B" shall ordinarily wear handcuffs.

(b) *Fetters.*—(1) Convicts admitted to class 'A' and those convicts admitted to class 'B' who have been sentenced to not more than two years' rigorous imprisonment, shall when travelling by rail or road, wear neither fetters nor cross-bars unless the Superintendent of Police for special reasons, to be recorded, required either or both to be imposed. Such prisoners may on transfer be allowed to wear their own clothes in transit if they so desire.

(2) When travelling by rail or road other convicts, except juvenile convicts on transfer to a Reformatory School, when convicted of any of the offences specified in the following list shall wear fetters and, if considered necessary either by the Superintendent of Jail or the Superintendent of Police, cross-bars.

List of offences

Offences punishable under sections 224, 225-B, 302, 303, 304, 307, 308, 392, 393, 394, 395, 396, 397, 398, 399, 400, 401, and 402, I.P.C.

(3) Female prisoners shall not wear fetters or cross-bars.

(4) The Superintendent of Jail in applying for the police escort shall enter on the requisition form the name, offence, sentence and classification of any convict whom he does not propose to fetter under this rule as well as the names of convicts who have been allowed to wear private clothes.

Under-trial prisoners

The responsibility for deciding which under-trials are to be handcuffed or fettered or both and for seeing that the decision is carried out rests with the police only in the case of under-trial prisoners requisitioned by the police in accordance with the instructions in rules 185 and 186 of this chapter for attendance in court or before a magistrate or under the authority of a competent magistrate for any other purpose.

Under-trial prisoners charged with offence shown in the following schedule will not be handcuffed when in transit by rail or road or from or to courts unless there is reasonable ground or apprehending escape, violence or suicide. In the latter case, where possible, the orders of the Superintendent of Police or a Gazetted Officer should be taken and the reasons for imposing handcuffs recorded in writing.

Under-trial prisoners charged with offences other than those specified in the schedule will be handcuffed when in transit if there is reasonable ground for considering that handcuffs are necessary to prevent escape, violence or suicide.

Schedule

Offences contained in Chapters VA, VI and VIII, Indian Penal Code, sections 153A to 160 Indian Penal Code in Chapter VIII, Chapter

IX, except offences under sections 170 and 171 (Indian Penal Code), Chapters IXA and X, Chapter IX except offences under sections 216A, 224, 225, 225B and 226 (Indian Penal Code), Chapters XIII, XIV and XV, sections 312 to 316, 323, 334 to 338, 341 to 352 ad 355 to 358, Indian Penal Code, in Chapter XVI, sections 384 to 389, 403, 404, 421, to 434, 447 and 448, Indian Penal Code, in Chapter XVII, Chapters XVIII, XIX, XX, XXI and XXII, Indian Penal Code, and all non-cognizable offences under other Acts, and persons against whom proceeding under section 108, Criminal Procedure Code, are in progress.

All persons handcuffed should, as far as possible, be kept separate from those not handcuffed when escorted to and from Jail: also see Rule 185.

In court handcuffs should invariably be taken off prisoners unless the presiding officer directs otherwise.

In the case of under-trial prisoners charged with murder, fetters should not be imposed when in transit to courts at the headquarters of the district, unless the prisoner concerned is also charged with some other crime of violence, or is known to be a dangerous or hardened criminal.

Fetters should not be imposed on under-trial prisoners in transit, except in the case of those charged with murder or dacoity, unless there are special reasons for doing so, to be recorded in writing by the senior police officer at headquarters.

Women Under-trial Prisoners

Women under-trial prisoners should never be handcuffed unless it is essential in order to prevent escape, violence, or suicide: If handcuffs are imposed, reasons should be recorded in writing by the senior Police officer at headquarters.

General Instructions to Escort Commanders

Whenever prisoners are handcuffed, the police officer of the highest rank present shall be responsible that the handcuffs fit properly. Similarly when the prisoners are fettered he must satisfy himself that the fetters are secure, and cannot be slipped over the feet. No handcuffed or fettered prisoner shall be permitted to cover his hands or feet with any portion of his clothing and the handcuffed hand or hands or fettered feet shall always remain open to view.

(G.O. No. 2121/VIII-373, dated October, 10, 1933 Police Department)

Escort commanders should carry the handcuff keys in their breast pockets.

Arrested Persons

The above instructions will apply, as far as possible, to arrested persons on their way to police stations and from outlying police stations to headquarters.

Copy of letter No. U.O. 535|VIII, dated June 30, 1948, from the Secretary to Government, U.P., Home Department (POLICE-A), Lucknow to the Inspector-General of Police, U.P. Allahabad.

Provision of Prison Vans for the Transport of Under-trials to and from Courts and Railway Stations

With reference to the correspondence resting with your letter No. XIX-171-45, dated March 6, 1947, I am directed to say that Government propose that the under-trial prisoners during the hot weather should not be taken on foot from jails to courts and *vice versa* but should be provided with some sort of conveyance. Government also propose that on no account should under-trial prisoners charged with Ordinary offences of political nature be handcuffed while in transit from jail to court and *vice versa* unless it is absolutely necessary to do so from the security point of view. I am to ask you to communicate your own views on these points to Government as early as possible and also to intimate if any extra expenditure will be involved in implementing these proposals.

A very early reply is requested.

Copy of Govt. D.O. No. 3383|VIII, dated Lucknow, October 28|30, 1950 to the Inspector-General of Police, U.P. Lucknow.

In our letter No. U.O. 535|VIII, dated June 30, 1948 it was mentioned that the under-trial prisoners charged with ordinary offences of political nature should not be handcuffed while in transit from jail to court and *vice versa* unless it was absolutely necessary to do so from the security point of view. Government are not aware as to what instructions have been issued by you to the various Police officers in this regard. A case occurred recently in Kanpur when on the 13th of July, 1950 about 15 bank employees had to be arrested in connection with their agitation. Shri Bishan Lal Mehrotra was at the time handcuffed while being escorted from the police lock-up to the jail. In the opinion of Government this handcuffing could have been avoided.

2. Government's view is that in ordinary cases where there is no use of violence or where there is no chance of the accused escaping there should be no need to handcuff him during transit from one place to another. Would you kindly examine this matter and favour us with your views.

XIII—GOVERNMENT OF WEST BENGAL

No. 3482-PI/P6R-28/58 Dated Calcutta, the 7th August, 1958.

I am directed to forward herewith extracts of regulations Nos. 330, 478(b), 701(w), 703(g) and 715 of Police Regulations Bengal Volume I of 1943 relating to handcuffing of prisoners which

guide the conduct of Police Officers except those belonging to Calcutta Police. So far as Calcutta Police is concerned a copy of the relevant order of the Commissioner of Police, Calcutta is enclosed. I am also to enclose herewith copies of para 315 of the West Bengal Police Gazette dated the 18th March, 1952 and of para 988 of the Calcutta Police Gazette dated the 27th May, 1957 in which the Inspector-General of Police and the Commissioner of Police have respectively drawn pointed attention to the relevant rules and have directed the officers concerned for their strict compliance under pain of severe penalty.

2. So far as prisoners confined in jails are concerned I am to send herewith copies of rules 708, 716, 717, 730, 736, 871 and 981 of the Bengal Jail Code Volume I (Seventh Edition) containing the provisions regarding handcuffing of prisoners.

3. I am to add that there are no separate rules in respect of handcuffing of M.P's. M.L.A's. and M.L.C's nor any special instructions were issued by this Government in this respect

*EXTRACT FROM POLICE REGULATIONS, BENGAL 1943
VOLUME I*

330. (a) Prisoners arrested by the police for transmission to a Magistrate or to a Scene of Enquiry, and also under-trial prisoners, shall not be subjected to more restraint than is necessary to prevent their escape. The use of handcuffs or ropes is often an unnecessary indignity.

In no case, shall women be handcuffed, nor shall restraint be used to those who either by age or infirmity are easily and securely kept in custody. Witnesses arrested under section 171, Code of Criminal Procedure, shall, in no circumstances be handcuffed.

In bailable cases prisoners should not be handcuffed unless violent, and then only by the order of the officer-in-charge of the Police-Station, the reason, for the necessity of this action being entered in the General Diary and in the Certificate in B. P. Form No. 57.

In non-bailable cases, the amount of restraint necessary must be left to the discretion of the officers concerned. In certain circumstances the use of handcuffs may not be necessary to prevent escape but, if for instance, the prisoner is a powerful man in custody for a crime of violence, or is of notorious antecedents, or disposed to give trouble, or if the journey is long, or the number of prisoners is large, handcuffs may properly be used. Escorts should, in any case, be supplied with handcuffs for use, should necessity arise.

(b) In the case of two prisoners whom it is necessary to handcuff, they will be handcuffed in couples, the right wrist of one to the left wrist of the other. In no circumstances should more than two prisoners be secured together.

(c) In all cases in which the use of handcuffs is allowed and considered necessary, and when no proper handcuffs are available, the prisoners may be secured by ropes or pieces of clothing. These

shall be so tied, as not to interfere unduly with proper circulation and shall be replaced by handcuffs as soon as possible.

(d) Great caution shall be exercised at all times in the removal of handcuffs and other fastenings from prisoners *en route* whether by land or water.

(e) Handcuffs shall be kept in good order. If broken, they shall be mended or replaced without delay.

478. (b) Under-trial prisoners who have been placed in class A by the trying court shall not be handcuffed, or roped, unless the Superintendent, or the officer-in-charge in his absence after consulting the District Magistrate, considers the use of handcuffs or ropes necessary. The use of handcuffs or ropes in the case of under-trial prisoners who have been placed in class B, or who have not been classified, is only authorised in cases when there is reasonable expectation that they will use violence, or attempt to escape, or that an attempt will be made to rescue them.

715. (a) Convicted prisoners are divided into classes A, B and C. Classes A and B ordinarily include certain categories of non-habitual prisoners of good character, social status, education, etc., but habitual prisoners may also be included in class B by the classifying authority on grounds of character and antecedents. Class C consists of prisoners who are not classified in classes A and B. Convicts in class C shall be handcuffed and if necessary roped during transit and transportation. Convicts shall in addition be furnished with leg-irons. Convicts who have been placed in Classes A and B shall not be handcuffed or roped unless there is a reasonable expectation that such convicts will use violence or attempt to escape or that an attempt will be made to rescue them. In case of doubt the Superintendent or the officer-in-charge in his absence shall consult the District Magistrate or the officer-in-charge in the absence of the District Magistrate. When prisoners under escort are handcuffed, they shall always be handcuffed in pairs, the left wrist of the one being handcuffed to the right wrist of the other. When the number under escort consists of an odd number, 3, 5, 7, 9 etc., the odd man shall be handcuffed to two other prisoners. In case of dangerous or refractory characters, special measures shall be taken with a view to their safe custody under the order of the Superintendent. While halting, such precautions shall only be taken as are absolutely necessary for security. If leg-irons are used, leather gaiters must be provided by the jailor for each prisoner, to prevent abrasion of the skin. Convict warders and convict overseers need not be handcuffed when under escort from one jail to another.

(b) The escort commander shall be supplied with two pairs of removable leg-shackles, if such are available, to be temporarily substituted for handcuffs when convicts are easing themselves on the journeys.

(c) Keys of handcuffs shall be kept by the escort commander.

Orders of the Commissioner of Police, Calcutta.

Paragraphs 3658 and 850 of the Calcutta Police Gazette, dated the 19th October, 1949 and the 22nd March, 1952.

Orders Regarding escort of Prisoners from the Police Station

At the present moment, the prisoners are escorted from thanas to either M. O. B. or to District Lock-up or to the Court. They are sent to different places separately. Only when the prisoners are large in number, transport is provided, otherwise escorts take the prisoners in public conveyances. I think this is highly unsatisfactory. It is ordered that the prisoners to different places should not be escorted separately but together in the prison van sent from Lalbazar. The prison van will take them to different places and drop them with their escorts. The prisoners should not be taken by public conveyances. The strength of the escort will depend on number of prisoners and their nature. If the prisoners are reputed to be dangerous or physically very strong and likely to attempt escape, the officer-in-charge would, no doubt, deem it necessary to detail a strong escort. It is hardly necessary to rope them while they are taken in thana trucks; handcuffing also would depend on the status and nature of the prisoners. In no cases shall women be handcuffed, nor shall restraint be used to those who either by age or infirmity are easily or securedly kept in custody. Witnesses arrested under section 171 of the Code of the Criminal Procedure shall in no circumstances be handcuffed. In bailable cases, the prisoners should not be handcuffed unless they are violent and then only by the order of the officer-in-charge of the police station, the reason for such action being noted in the G. D. In non-bailable cases the amount of restraint necessary must be left to the discretion of the officer concerned. In certain circumstances, the use of handcuffs may not be necessary to prevent escape and if for instance the prisoner is a powerful man in the custody for criminal violence and likely to give trouble or the journey is long and the number of prisoners is large, handcuffs may properly be used. Escorts should in any case be supplied with handcuffs for use should necessity arise. In the case of 2 prisoners whom it is necessary to handcuff they will be handcuffed in couples, the right wrist of one to the left wrist of the other. In no circumstances should more than 2 prisoners be secured together. The prisoners may be secured by means of a rope or piece of clothing only when the use of handcuffs is considered necessary but handcuffs are not available. They shall be so tied as not to interfere unduly with proper circulation and shall be replaced by handcuffs as soon as possible. Great caution shall be exercised at all times in the removal of handcuffs and other fastenings from the prisoners *en route* whether by land or water.

Thana handcuffs shall be kept in good order and if broken, they shall be mended or replaced without delay.

EXTRACT FROM WEST BENGAL POLICE GAZETTE, MARCH 18, 1952.

315. It has been brought to the notice of the Government that accused persons after their arrest by the police were sometimes, subjected to great indignity, unnecessarily and probably out of motive, by putting ropes and or handcuffs on them. This was in violation of rules 330 and 478 of P. R. B., Vol. I, which regulate the use of ropes and handcuffs.

The Superintendents of Police and other supervising officers are directed to see that these rules are strictly followed. If any police officer is found violating these rules, he will be, if found guilty, dismissed from service.

EXTRACT FROM THE CALCUTTA POLICE GAZETTE DATED THE 27TH MAY, 1957.

988. Complaints have been received during recent months to the effect that in certain instances the standing instruction regarding treatment and escorting of persons in custody are not being strictly followed and that in some cases respectable persons in police custody have been treated in an unnecessarily humiliating manner by taking them along public streets handcuffed or roped.

It is hereby impressed on all police officers that such excesses should be stopped forthwith.

Elaborate instructions on the subject have already been published in paragraphs 3658 and 850 of the Calcutta Police Gazette dated the 19th October, 1949 and the 22nd March, 1952 respectively, and these are reproduced below for the information and guidance of all the officers and men of the Calcutta Police. All Officers are hereby warned that any violation of these provisions will be firmly dealt with.

XIV—GOVERNMENT OF JAMMU AND KASHMIR

No. B-739|58|PD, dated, Shrinagar, the 11th August, 1958.

I am directed to say that there are no rules or executive instructions here to provide for any exceptional treatment in respect of the members of the State Legislature or M.Ps. It will, however, be observed that persons guilty of political offences will not normally be handcuffed. It is presumed that M.P's and M.L.As will normally be guilty of such offences. If, however, an M.P. or an M.L.A. commits a criminal offence punishable with more than three years rigorous imprisonment, and if there is a danger of his being rescued, he may have to be handcuffed.

Relevant extracts from clauses 21, 17, 21, 18, 21, 19 of Chapter XXI of the Kashmir Police Rules regarding arrest, escape and custody are attached.

Extracts from Chapter XXI of Kashmir Police Rules Regarding "Arrest, Exchange and Custody".

21.17. *Conditions in which handcuffs are to be used.*—Every male person falling within the following category, who has to be escorted in police custody, and whether under police arrest, remand or trial, shall, provided that he appears to be in health and not incapable of offering effective resistance by reason of age, be carefully handcuffed on arrest and before removal from any building from which he may be taken after arrest:—

- (a) Persons accused of a non-bailable offence punishable with any sentence exceeding in severity a term of three years' imprisonment.
- (b) Persons accused of an offence punishable under section 148 or 226, Ranbir Penal Code.
- (c) Persons accused of, and previously convicted of such an offence as to bring the case under section 75, Ranbir Penal Code.
- (d) Desperate characters.
- (e) Persons who are violent, disorderly or obstructive or acting in a manner calculated to provoke popular demonstration.
- (f) Persons who are likely to attempt to escape or to commit suicide or to be the object of an attempt at rescue. This rule shall apply whether the prisoners are escorted by road or in a vehicle.

21.18 *Conditions in which use of handcuffs may be dispensed with.*—(1) Prisoners shall not be handcuffed while confined in a lock-up, except as provided in rule 21.4(3).

(2) The handcuffs of prisoners in court shall not be removed except under the specific orders of the presiding officers.

(3) A prisoner who is charged only under section 124-A or 153-A of the Ranbir Penal Code shall not be handcuffed unless he is already undergoing sentence or the officer commanding the escort has definite reason for believing that such prisoner comes within the category described in rule 21.17 (e) or (f).

21.19 *Security of handcuffs.* When handcuffs are used, the senior officer present shall be responsible that they fit properly and that the prisoner cannot get at the key.

APPENDIX—II

(See para 6 of the Report).

**COPY OF MINISTRY OF HOME AFFAIRS U.O. NO. 1840-3|58-P
IV, DATED 16TH AUGUST, 1958.**

Reference Lok Sabha Secretariat's U.O. No. 770-CI|57-XV, dated the 5th August 1958, on the above subject.

2. The matter of handcuffing by the Police is related to public order, which is a subject in List II of the Seventh Schedule to the Constitution; as such, it is within the exclusive powers of State Governments to make any arrangements they deem appropriate. The Central Government only advise the State Governments from the point of view of co-ordination of policy in the country; it is for the State Governments to consider our advice and decide any action to be taken. "Instructions" are issued by the Central Government in such matters only to Union Territories.

3. A copy of a letter No. 2/13/57-PIV, dated the 26th July 1957, addressed by this Ministry to all State Governments and Union Territories regarding the use of handcuffs by the police and jail authorities is placed below; while making certain suggestions for the consideration of State Governments, we asked the Union Territories to issue necessary instructions to their officers concerned.

4. We have neither issued any instructions, nor are we aware of any practice, providing for any special treatment in so far as handcuffing of Members of Parliament/State Legislature is concerned.

No. F. 2/13/57-P. IV.

GOVERNMENT OF INDIA
MINISTRY OF HOME AFFAIRS

From

Shri N. Sahgal, I.C.S.,
Joint Secretary to the Government of India.

To

All State Governments and Union Territories.
dated New Delhi-2, the 26th July 1957.

SUBJECT:—*The use of handcuffs by the Police and Jail Authorities.*

Sir,

I am directed to say that instances have recently come to the notice of the Government of India in which persons arrested by the police were handcuffed although the circumstances did not seem to justify this course. Handcuffs are normally to be used by the police

only where the prisoner is violent, disorderly, obstructive or is likely to attempt to escape or to commit suicide or is charged with certain serious non-bailable offences. It is, however, observed that in actual practice prisoners and persons arrested by the police are handcuffed more or less as a matter of routine. The use of handcuffs not only causes humiliation to the prisoner or arrested person but also destroys his self-respect and is contrary to the modern outlook on the treatment of offenders. I am accordingly to suggest for the consideration of the State Governments that the use of handcuffs should be restricted to cases where the prisoner is a desperate character or there are reasonable grounds to believe that he will use violence or attempt to escape or where there are other similar reasons. If the State Governments have no objection, necessary instructions may please be issued to the police and other authorities.

Yours faithfully,

Sd/- (N. SAHGAL)

JOINT SECRETARY TO THE GOVERNMENT OF INDIA.
