

**GOVERNMENT OF INDIA  
HOME AFFAIRS  
LOK SABHA**

UNSTARRED QUESTION NO:813

ANSWERED ON:24.11.2009

AMENDMENT OF CR. PC

Adhalrao Patil Shri Shivaji;Adsul Shri Anandrao Vithoba;Dharmshi Shri Babar Gajanan;Saroj Smt. Sushila

**Will the Minister of HOME AFFAIRS be pleased to state:**

(a) whether the third Report of the National Police Commission has opined that every second arrest made by police officer is unnecessary and unjustified;

(b) whether in view of above the Government proposes to amend the Code of Criminal Procedure (Cr. P.C. ) and make it mandatory for police officers to record reasons on file every time they decide to arrest, or not to arrest, suspects in crimes that would be punishable with seven years' imprisonment or less;

(c) if so, the details thereof; and

(d) if not, the reasons therefor?

**Answer**

MINISTER OF THE STATE IN THE MINISTRY OF HOME AFFAIRS (SHRI MULLAPPALLY RAMACHANDRAN)

(a): The National Police Commission in its third Report has, inter alia, stated that a major portion of arrests made by the police is really not justified from the point of view of crime prevention.

(b) to (d): Section 41 of Cr. P.C relating to power of police to arrest without warrant has been amended recently through the Code of Criminal Procedure (Amendment) Act, 2008. Clause (b) of the amended Section 41 (1) of Cr. P.C provides that a person who commits a cognizable offence punishable with imprisonment for a term which may be less than seven years may be arrested on the basis of a reasonable complaint or credible information or a reasonable suspicion, and the police officer will have to record the reasons for making the arrest. The provisions of the said Act are yet to be enforced. In the meantime, the Law Commission of India has recommended for further amendment in the amended Section 41 (b) of Cr. P.C that the police officer be obliged to record his reasons not only for making an arrest under Section 41, but also for not making an arrest under Section 41. Accordingly, it is proposed for amendment in the amended section 41 (b) of Cr. P.C. on the lines recommended by the Law Commission.