

# ETHICS & NORMS ON POLICE-MEDIA COMMUNICATION

INTERACTIONS WITHIN THE JUSTICE SYSTEM  
AND THEIR IMPACT ON PUBLIC PERCEPTION



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## INTRODUCTION

In a democracy, the media has a crucial watchdog function, scrutinising the functioning of public institutions and exposing impropriety or wrongdoing. For ordinary citizens, their perception of the justice system draws from its media portrayal to a large extent.<sup>1</sup>

On 15 June 2021, the Karnataka High Court issued an order that comprehensive directions need to be issued to the police to ensure that they do not divulge the nature of the investigation, material collected during the investigation, etc. before the completion of the investigation.<sup>2</sup>

A few months later, in October 2021, the Narcotics Control Bureau arrested Aryan Khan, the son of popular Bollywood actor Shahrukh Khan. A blitz of media coverage followed the arrest, including that of purported WhatsApp chats between the arrested person and another Bollywood actor about drugs leading to much public speculation about his guilt.<sup>3</sup> This was just over a year after Rhea Chakrabarty's arrest by the same agency after actor Sushant Singh Rajput's death. In Chakrabarty's case too, allegedly incriminating WhatsApp chats were leaked to the media.<sup>4</sup>

### *Interaction between Law Enforcement Agencies (LEAs) and the Media*

These incidents have once again raised uncomfortable questions about the nature of the interaction between law enforcement agencies and the media. **The media's immense power to shape narratives regarding public conceptions of justice and accountability makes it a close associate of the justice system.**

This power brings with it a responsibility to uphold the basic principles of our justice system, such as the presumption of innocence, privacy of individuals, etc. The media is thus subject to the obligation to do its part in ensuring a fair trial (or at the least not disrupt a fair trial) and has a duty to aid investigation and trial mechanisms that aim to preserve such principles. Nonetheless, there are several instances of reporting that violate these basic principles and impede the administration of justice.

**How the media reports on law enforcement agencies' actions may also affect how citizens perceive crime which then influences the functioning of these agencies by bearing on which of the agencies' needs are prioritised in terms of budgets and their ability to form required alliances with local leaders and groups.<sup>5</sup>**



### *Law Enforcement Agencies (LEAs) and the Public*

Additionally, a good relationship with the public is vital for law enforcement because the public is an essential information source for law enforcement agencies. All this makes it essential that the communication of appropriate information between law enforcement agencies and the media is systemised and made effective. Within the justice system, the police and other law enforcement agencies get the most attention, given the scope for sensationalism and scandal inherent in the processes of criminal investigation and arrest.

### *Responsibilities of LEAs and the Media*

Law enforcement agencies should be mindful of what platforms work best for what purposes and how both traditional media and social media can be used to improve law enforcement agencies' public relations. On the other hand, the media must respect the fact that there are some legitimate and legal limitations on the information that law enforcement agencies can share, particularly with respect to ongoing investigations.

**Publishing information about the suspects, their families and the evidence collected by the law enforcement agency may lead to a parallel investigation and trial without the safeguards afforded to witnesses, suspects and victims in the formal justice system.**

Similarly, certain reporting practices crucial to the rights of persons involved in a criminal proceeding are often ignored while reporting on legal developments. An obvious example is the duty to not disclose the name and identity of the victim of sexual offences against women and children.<sup>6</sup>

### *Effect of Improper Reportage on the Justice System*

Improper reportage can affect the entire system of justice dispensation, in particular:

1. The right to life, including the right to dignity and the right to privacy (this can be of the accused, the victims, witnesses and persons closely related to any of these parties);
2. The right of the accused to a fair trial; and
3. The efficacy of the investigation, trial and preventive or redressal measures by law enforcement agencies.

### *Communication Between Media and Law Enforcement Agencies*

**In this report, DAKSH and the Probe focus on one crucial step of the reporting cycle – communication between the media and law enforcement agencies.**

In this paper, the researchers survey the practices and legal framework for law enforcement agencies and media interactions, the complications that it leads to, and possible solutions to this situation.

### *About DAKSH and the Probe*

DAKSH's initiative MĀRGA (Media And its Role in Governance and Accountability) works on improving media coverage of the justice system and facilitating structured, reliable, and timely modes of interaction between the media and public institutions.

The Probe, an independent digital media organisation, decided to contribute to this project as it believes in the core objectives of this report – the formulation of guidelines based on empirical research to facilitate interaction between the police and the media.



## METHODOLOGY

The researchers have used qualitative analysis for this paper, using a combination of primary and secondary sources.

The sources for secondary research consisted of books, news reports, journal articles and guidelines issued by various law enforcement agencies. In order to provide context and nuance to the secondary research, the researchers conducted structured interviews between September 2021 and January 2022 with a sample of law enforcement officers, journalists and persons working in media regulatory organisations. The researchers also conducted a consultation with a panel of journalists and police personnel, to enable discussion amongst them, and garner the opinions of the participants regarding the main issues explored in this paper.

## NEED TO REGULATE LAW ENFORCEMENT AGENCIES-MEDIA COMMUNICATION

A recent spate of incidents involving law enforcement agencies leaking evidence to journalists has underscored the need to regulate the communication between law enforcement agencies and the news media.

A range of stakeholders has articulated the demand to regulate the communication channels between law enforcement agencies and the media at various times. The Peoples' Union for Civil Liberties (PUCL) has, in an ongoing case, asked the Supreme Court to issue guidelines to ensure the propriety of media briefings by police personnel to ensure the protection of fundamental rights and fair trial.<sup>7</sup>

While direction from the judiciary is one way to tackle this issue, steps should be taken by law enforcement agencies and the media as institutions to regulate themselves. To assess whether regulation is the way forward and what kind of regulation will be effective, it is necessary to examine the trends and factors that create the need for regulation.

### *Monopoly of Law Enforcement Agencies over Case Information*

The media is drawn to sensational crime stories, especially those involving violent crime or celebrities. While reporting on arrests and investigations in such cases, law enforcement agencies are a primary source and, at times, the only source of information for the media. This makes it difficult for the media to verify their information.

**Personnel within these agencies can abuse the resulting monopolistic power over crucial information by withholding certain parts of it or disclosing it only to specific media organisations or journalists.** Furthermore, journalists who are not specialists in reporting on the justice system are sometimes not aware of how the system works or their ethical obligations when reporting about it. This can lead to unethical reporting based on an over-reliance on the versions provided by the agency.

### *Political Pressure*

Ideally, the press and law enforcement should both be independent institutions, immune from political influence. **In reality, national and regional political parties wield influence over news agencies to shape narratives favourable to them.<sup>8</sup> They also exert considerable control and pressure over law enforcement agencies.<sup>9</sup>**

For example, the emergency era under the Congress party in the late 1970s saw the height of political manipulation of law enforcement agencies.<sup>10</sup> It is no surprise, therefore, that communication between these institutions is warped by political objectives. **Given the media's ability to shape political opinion, in certain high-profile cases, the law enforcement agency may be under pressure from the party/ies in power to reveal or conceal certain facets of the investigation or to target certain suspects for political gains.**

During the investigation of the Bhima Koregaon violence in 2018, five human rights activists who had at various times been critical of ruling governments were arrested under the Unlawful Activities Prevention Act, 1967. While the investigation was underway, the Maharashtra police held press conferences and selectively flashed letters purportedly written by these activists that were still undergoing forensic analysis. Some of these letters allegedly collected by the police found their way into the media and were displayed and debated ad nauseum on various news channels. However, none of these letters eventually formed part of any prosecution case in this instance. This sort of selective leaking of documents to the media is likely to cause prejudice against the persons under investigation and influence public opinion, directly conflicting with the presumption of innocence in criminal trials.<sup>11</sup>

The Supreme Court, in a case filed by the arrested activists, observed that,

“

*The manner in which the....Police....have selectively disclosed purported details of the investigation to the media and on television channels casts a cloud on the impartiality of the investigative process....The use of the electronic media by the investigating arm of the State to influence public opinion during the pendency of an investigation subverts the fairness of the investigation. The police are not adjudicators nor do they pronounce upon guilt. In the present case, police briefings to the media have become a source of manipulating public opinion by besmirching the reputations of individuals involved in the process of investigation. What follows is unfortunately a trial by the media. That the police should lend themselves to this process is a matter of grave concern..<sup>12</sup>*

Despite these observations, such incidents continue to occur. In 2020, Devangana Kalita, a student who participated in protests against the passing of the Citizenship Amendment Act 2019, was arrested after being accused of being actively involved in hatching a conspiracy to cause riots near Jafrabad Metro Station in Delhi. While investigating the case against her, the Delhi Police allegedly leaked a note to various media houses containing allegations against Devangana, including a suggestion that there exist WhatsApp chats proving her involvement in the riots.

Here, the High Court of Delhi held that the particular note, in that instance, did not violate her fundamental rights. Nonetheless, it reminded the police that -



*Selective disclosure of information calculated to sway the public opinion to believe that an accused is guilty of the alleged offence; to use electronic or other media to run a campaign to besmirch the reputation or credibility of the person concerned; and to make questionable claims of solving cases and apprehending the guilty while the investigations are at a nascent stage, would clearly be impermissible. This is not only because such actions may prejudicially affect a fair trial but also because it may, in some cases, have the effect of stripping the person involved of his/her dignity or subjecting him/or her to avoidable ignominy.<sup>13</sup>*

The court also directed that the police should not disclose the identities of the persons who are vulnerable so as to protect them and their families from any harm.<sup>14</sup> These directions were focussed on the police without any specific orders for the media.

#### *Personal feuds/ Negligence in Investigation*

The personal interests of the personnel in question may lead to deliberate selective leaking of information to the media. Sometimes, careless investigation can result in false information being given to the media.

For example, in 2020, Arun Sharma, a man in Gwalior, got into an argument with his landlady over rent and vacating of her premises. The landlady complained to certain police personnel who proceeded to detain the man illegally, sent his photos to newspapers and published them on social media claiming that he was a hardened criminal whom the Madhya Pradesh Police had been looking for.

In reality, Arun Sharma had no criminal antecedents and merely shared his name with the criminal the police referred to, a fact that a simple verification could have revealed. It is unclear what motivated the police personnel in question to take such drastic measures and if their motivations were in the nature of personal interest. Regardless, even if this is considered an act of negligence, the police had revealed information that prejudiced a fair process. **Further, the department took no action against the concerned personnel even after Arun Sharma cleared his name, indicating a systemic malaise and neglect in adhering to norms regarding communication with the media.**

In this instance, the High Court of Madhya Pradesh held that such actions constituted a grave violation of the rights to “reputation/privacy/personal liberty”<sup>15</sup> as guaranteed as a part of the right to life and noted that:



*....without formally arresting him, the respondents [the police]...projected in the media (Print as well as Social) that the petitioner is a “an accused with reward of Rs. 5000” and has been arrested. Further even after release of the petitioner from the Police Station, no attempts were made to withdraw the press release from Print Media, and it was prominently published in the news paper on the next day, that the petitioner is a criminal and has been arrested. Thus, it is held that the fundamental right of the petitioner as enshrined under Article 21 [the right to life] of the Constitution of India has been deliberately and unfortunately with malafide intentions was grossly violated by the respondents....<sup>16</sup>*

**There are instances of law enforcement agencies imagining themselves as heroic moral gatekeepers perpetuating antiquated ideals of local justice and violating their role as impartial administrators of the law.<sup>17</sup> The law enforcement agencies and the media both often fail to convey the reality that the former are not adjudicators of guilt or innocence.**

In 2012, the Supreme Court condemned the police officers who humiliated a doctor by forcing him to hold a placard saying he is a cheat, fraud, thief and a rascal and then circulating pictures of this spectacle to the media.<sup>18</sup> In another instance, the Bombay High Court instituted a suo motu petition based on a news report which depicted a woman, accused of having abandoned her child, kneeling before the police. The report included the name of the accused and the police officers in question.<sup>19</sup>

#### *Pressure to Perform*

**In high-profile cases, the agency may be under pressure to demonstrate progress, resulting in the premature disclosure of case details and unverified information.<sup>20</sup>**

The murder of teenager Aarushi Talwar and Hemraj in 2008 that captured the national imagination is a particularly egregious example of unethical revelation of case details by the police<sup>21</sup> and improper reporting of this information by the media.<sup>22</sup> While the investigation was going on, several journalists pronounced Aarushi's parents guilty based on leads and so-called confidential information from “impeccable sources”. Prior to their acquittal in 2017, her parents spent a significant time in prison, their livelihoods brought to a grinding halt, and they were subjected to a humiliating media trial.<sup>23</sup> The injustice of these practices is noted by courts as well.

In *Rajendran Chingaravelu v. RK Mishra*,<sup>24</sup> the Supreme Court discouraged the the police from revealing details of an investigation to the media before the completion of the investigation.

The Court observed,



“

*There is growing tendency among investigating officers (either police or other departments) to inform the media, even before the completion of investigation, that they have caught a criminal or an offender. Such crude attempts to claim credit for imaginary investigational breakthroughs should be curbed. Even where a suspect surrenders or a person required for questioning voluntarily appears, it is not uncommon for the Investigation Officers to represent to the media that the person was arrested with much effort after considerable investigation or a case.*

*Similarly, when someone voluntarily declares the money he is carrying, media is informed that huge cash which was not declared was discovered by their vigilant investigations and thorough checking. Premature disclosures or “leakage” to the media in a pending investigation will not only jeopardise and impede further investigation, but many a time, allow the real culprit to escape from law....*

It is relevant to understand the effect of improper communications and resultant reporting to frame solutions to the problem. The Supreme Court in *Naresh Kumar Mangla vs. Anita Agarwal*<sup>25</sup> observed that

“

*selective disclosures to the media affect the rights of the Accused in some cases and the rights of victims’ families in others. The media does have a legitimate stake in fair reporting....[but] the selective divulging of information, including the disclosure of material which may eventually form a crucial part of the evidentiary record at the criminal trial, can be used to derail the administration of criminal justice.*

*The investigating officer has a duty to investigate when information about the commission of a cognizable offence is brought to their attention. Unfortunately, this role is being compromised by the manner in which selective leaks take place in the public realm. This is not fair to the Accused because it pulls the rug below the presumption of innocence. It is not fair to the victims of crime, if they have survived the crime, and where they have not, to their families. Neither the victims nor their families have a platform to answer the publication of lurid details about their lives and circumstances.*

When law enforcement agencies share false or unverified information as fact, reporters who wish to report accurately are then forced to conduct parallel investigations to verify further the information provided by the police. This can lead to repeated media contact with the suspects, victims and others involved in the case, infringing upon their privacy.





“

*Police must ensure that their investigation details are kept confidential. They can't disclose the name of the complainant and the accused.*

*Post the investigation, once the chargesheet is filed, at that stage they can divulge the details to the media. But when the inquiry is going on, strictly no information should be brought out in public because we have seen that sometimes complaints are fake, at some other times police file cases after taking a bribe or under pressure, and in most cases the police after investigation realise that the accused is innocent.*

*It is good that the Karnataka High Court has done this. It is a welcome move. People's reputation has been destroyed because of this. We have seen this in the Sushant Singh Rajput case. Only after filing the chargesheet the case should be brought to the public domain.*

---

**MG Devasahayam**  
IAS [retd.], Chairman,  
People First

### *Access Journalism*

A further systemic problem arising from law enforcement agencies' monopoly over the information is that it creates fertile ground for access journalism.

**Access journalism in this context refers to the phenomenon of law enforcement agencies giving select journalists access to certain pieces of evidence or other information about criminal investigations. These reporters usually report this information without verification and more broadly report on that law enforcement agency in a flattering light.**

Access journalism, as opposed to accountability journalism, accepts institutions and systems as they are and seeks to learn their internal goings rather than question the working of such institutions. **It is defined by its insularity, an insistence on looking at the subject of the reporting through frames set by the law enforcement agencies themselves, its closed-loop of sources, its top-down nature, and its lack of interest in systemic problems.**<sup>26</sup>

Once they become a part of this closed-loop, journalists become hesitant to report negatively regarding the agency's actions because of the apprehension that they may not be provided with information by the agency in the future. The lack of formal channels for law enforcement agencies to communicate with the media impedes unbiased information dissemination and requires regulation to counter the effects of their natural monopoly over information.

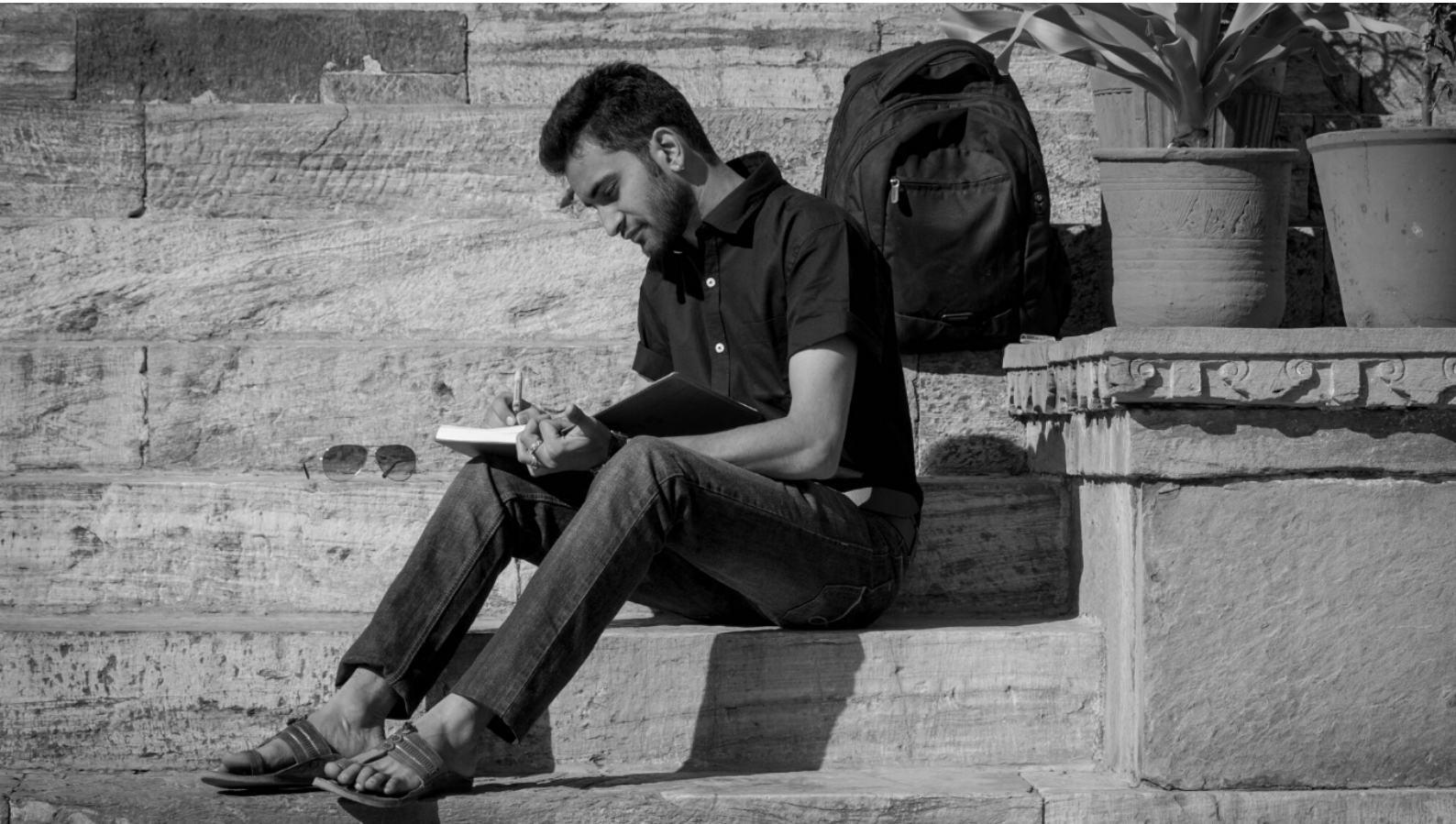
### *Lack of Awareness Amongst Reporters*

Media persons reporting on the justice system should be aware of the functioning of the justice system and processes of law.<sup>27</sup> Unfortunately, many of the editors and the police personnel interviewed in this study raised a common issue that the reporters who cover crime and courts are often unaware of the legal nuances of the matters and procedures they report on. With the growing financial pressures on media organisations, beat reporters specialising in crime, or legal reporting are becoming rare.

**Reporters who do not have this basic knowledge tend to rely on the law enforcement agency's version and report that without questioning. Even in instances where the agency's statements are completely accurate, the terminology and portrayal of this information by reporters may impede a fair trial.**

For example, when an agency informs the media that the accused person has confessed to a crime, it is the journalist's duty to state that confessions to the police are not admissible as evidence.

Reporters who are not on the police or court beat also need to have basic knowledge of the justice system because the justice system affects various domains of media coverage. For example, a journalist reporting on the financial sector should have a basic understanding of laws and regulatory structure governing finance. They require training and capacity building to be able to report in a way that supports a fair trial process and to be aware of the legal limits of reportage.



“

*The reporter should have domain knowledge when he covers specialised beats like, crime or courts. He should have proper training.*

*He should know that the name of the complainant or victim should not be spoken of in the public domain. He should have proper journalistic training in terms of human rights, dignity of the victim or on how to handle such situations. That part is missing in the present system.*

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**Umakant Lakhera**

President,  
Press Club of India

## CURRENT GUIDELINES AND DIRECTIONS FOR THE MEDIA

There are no direct guidelines or ethical standards for the media specifically with respect to their communication with law enforcement agencies.

However, there are regulations that impact the way the media can report information received from law enforcement agencies, which have been outlined below:

### 1. Statutory Guidelines:

#### *Section 228A of the Indian Penal Code*

Section 228A of the Indian Penal Code criminalises the disclosure of the identity of victims of sexual assault, gang rape and other such offences with a punishment of imprisonment of up to two years and a fine. The provision also penalises printing or publishing any matter in relation to any proceeding before a court with respect to the mentioned offences without the prior permission of the relevant court or the victim.<sup>28</sup> This provision protects the victim's privacy and prevents discrimination or harassment against them.<sup>29</sup>

In *Nipun Saxena v. Union of India*, the Supreme Court laid down the following guidelines to effectuate Section 228A of the IPC.

#### *Guideline 1*

The phrase 'matter which may make known the identity of the person' in the provision does not solely mean the name of the victim but **any information that allows the identity of the victim** to be discernible from the matter published in the media. In this context, the Court admonished reports in the media about the victim of a sexual offence that disclosed that she had topped the state board examination and the state concerned, allowing for easy identification of the victim. It also observed that footage where the face of the victim is blurred but the faces of her relatives, her neighbours, the name of the village etc. are clearly visible amounts to an offence under this section since it also amounts to disclosing the victim's identity.<sup>30</sup>

#### *Guideline 2*

There is an exception provided to the general prohibition on reporting identifying details of the victim. Such details can be published **in case the victim is dead or a minor or of unsound mind**, and such publishing is authorised in writing by the victim's next of kin.

However, the Supreme Court cautioned against the blind application of the exception in the following words,



....we have dealt with cases where daughters have been raped by their fathers, where victims of rape, especially minor victims are very often subjected to this heinous crime either by family members or friends of the family, it is not unimaginable that the so-called next of kin may for extraneous reasons including taking money from a media house or a publishing firm which wants to publish a book, disclose the name of the victim. We do not, in any manner, want to comment upon the role of the parents but we cannot permit even one case of this type and in the larger interest we feel that, as a matter of course, the name of the victim or her identity should not be disclosed even under the authorisation of the next of the kin, without permission of the competent authority.<sup>31</sup>

### Guideline 3

In cases where the victim's photograph is required to be circulated to enable identification of a dead body, the media may publish her details **but should refrain from publishing that she is the victim of a sexual assault.**<sup>32</sup>

### Section 74 of the Juvenile Justice Act, 2015

Section 74 of the Juvenile Justice Act, 2015 (earlier Section 21 of the Juvenile Justice Act, 2000) mandates that no report in any newspaper, magazine, news-sheet or audio-visual media or other forms of communication regarding any inquiry or investigation or judicial procedure shall disclose the name, address or school or any other particular, which may lead to the identification of a child in conflict with the law or a child in need of care and protection or a child victim or witness of a crime, involved in such matter, under any other law for the time being in force, nor shall the picture of any such child be published.

Chapter VI of Protection of Children from Sexual Offences Act 2012 (POSCO), which deals with the procedure relating to recording the statement of a child by the police. Section 24 (5) of POSCO states that:



*the police officer [recording the statement] shall ensure that the child's identity is protected from the public media unless otherwise directed by the Special Court in the interest of the child.*

## 2. Guidelines issued by Media Regulatory Bodies

The Union Government has set up some semi regulatory bodies to encourage adherence to a code of conduct amongst journalists. They touch upon the issue of reporting on information typically received by the police.

### Press Council of India

The Press Council of India is a statutory body comprising a Chairman, who is by convention, a retired judge of the Supreme Court of India and



28 other members.<sup>33</sup> They have issued the Norms of Journalistic Conduct for the print media and periodic advisories. The 'Norms of Journalistic Conduct' ("NJC") are guidelines and principles released by the Press Council of India and updated periodically. (Details are in the Annexure).<sup>34</sup>

The Press Council is vested with statutory powers to preserve the freedom of the press and maintain and improve the standards of newspapers and news agencies.<sup>35</sup> The Press Council can act suo motu or may act upon complaints, by warning, admonishing or censuring news agencies, editors and journalists who violate its advisories and journalistic ethics.<sup>36</sup> Based on the recommendation of the Press Council regarding errant media outfits, the Bureau of Outreach and Communication (BOC) under the Ministry of Information and Broadcasting and the concerned government of the States/Union Territories can take further penal action such as refusing to send government advertisement to the concerned publication.<sup>37</sup> **However, the punitive power of these measures appears limited and ineffective.**

The the Chairman of the Press Council stated before a Lok Sabha Standing Committee studying ethical media coverage that,

“

*...what we have found is that such news item or advertisement which we have found to be in violation of the Code of Conduct are still being repeated and therefore we find it difficult how to overcome this. [sic]<sup>38</sup>*

The Press Council does not usually follow up on the action taken by the state authorities upon receiving information regarding the censure by the Press Council, leaving it doubtful if consequences follow the censure.<sup>39</sup> **In any event, the Press Council finds that action, when taken, is far too late to have a serious impact on the pattern of reporting.**<sup>40</sup> Furthermore, the scope of the regulations issued by the Press Council and its powers applies only to the print media and does not extend to electronic media or news channels on television or digital only news organisations.

*Ministry of  
Information and  
Broadcasting*

Cable television channels are governed by the Cable Television Networks (Regulation) Act of 1995 and the rules made thereunder.

As per this Act, all programmes broadcast on cable television networks are required to adhere to the Programme Code.<sup>41</sup> Rule 6 of the Cable Television Network Rules, 1994 lays down the Programme Code and states that programmes containing anything obscene, defamatory, deliberate, false and suggestive innuendos and half-truths, those that are likely to encourage or incite violence or contain anything against maintenance of law and order or which promote anti-national attitudes and those containing anything amounting to contempt of court

should not be aired on cable television.<sup>42</sup> The regulations here are not as detailed as the ones governing print media. However, breach of regulation in broadcasting is subject to harsher consequences.

The Act and the Policy Guidelines for Uplinking of Television Channels from India empower the government to block the transmission and re-transmission of any channel in the country<sup>43</sup> and seize equipment of the cable television network<sup>44</sup> in case of violation of the Programme Code. Further, the Act prescribes imprisonment for a maximum term of five years and a fine of a maximum of five thousand rupees for contraventions of the provisions of the Act.<sup>45</sup>

The Ministry of Information and Broadcasting (“Ministry of I&B”) set up the Electronic Media Monitoring Centre (EMMC), which monitors satellite TV channels to ensure adherence to the Programme Code.<sup>46</sup>

An inter-Ministerial Committee (IMC) investigates potential violations of the Programme Code. It investigates complaints received from the EMMC, the Ministry of I & B and the general public and can also look into violations suo motu. It recommends actions, including censure and the more drastic punishment of taking a channel ‘off-air’ that the Ministry of I&B has the option of implementing.<sup>47</sup>

The Ministry of I&B, the nodal authority to enforce the Programme Code, has constituted an inter-Ministerial Committee which is headed by the Additional Secretary, I&B to address complaints which, has constituted an inter-Ministerial Committee headed by the Additional Secretary, I&B to address complaints that may be received with respect to the Code.

- However, **no easy access or official portal exists to lodge complaints.**
- Furthermore, the Ministry of I&B **does not consider complaints submitted by the EMMC and IMC about violations of the Programme Code with any regularity.**<sup>48</sup>
- Another concern is that the Ministry **does not have any clear guidelines regarding how such cases are to be determined**, leading to wide discretion and the possibility of executive influence on media content, making it doubtful whether this mechanism is the best way to enforce ethical media practices.<sup>49</sup>
- Moreover, the Programme Code covers all media content whereas the **requirements of ethical reporting are more specific to news media**, making the Programme Code inadequate for this purpose.



### 3. Guidelines issued by Self-Regulatory Bodies

#### *National Broadcasting Standards Authority (NBSA)*

The National Broadcasters and Digital Association (NBDA) is an independent and self-regulatory body with several national and regional private TV news and current affairs broadcasters as its members.<sup>50</sup> It is primarily a representative body and a point of contact for discussions with private news broadcasting networks in India. However, one of its objectives is to



*protect its members from persons or entities who carry on unfair and/or unethical practices or who discredit the television news broadcasters, digital news media and other related entities.*<sup>51</sup>

To ensure this, it set up the National Broadcasting Standards Authority or NBSA in 2008 to redress complaints/ grievances. The authority comprises a Chairperson (an eminent jurist) and eight members drawn from different fields. It receives complaints from the general public and the Ministry of I&B.

The NBSA has issued several guidelines and advisories to ensure adherence to ethical standards amongst broadcasting networks. The details of these guidelines are in the Annexure. The NBA being a self-regulatory body, has its limitations as its rules apply only to its members.

In December 2008, the television channel India TV became one of the first defaulters of the NBA guidelines. The channel picked up a quote by Farhana Ali, a writer and policy analyst, given to Reuters and ‘deceptively dubbed the quote in Hindi’, and played it along with her picture, saying she was a spy of the US government. NBA fined India TV and asked it to run an apology as a running ticker. India TV refused to do so and India TV withdrew from the NBA in protest.<sup>52</sup>

#### *Indian Broadcasting Foundation*

The Indian Broadcasting Foundation (“IBF”) was established in 1999. Its members comprise both news and non-news channels and represent a wide array of television broadcasters. The IBF set up the Broadcasting Content Complaints Council (BCCC) in 2011 as a complaint redressal system to implement self-regulatory guidelines and the Programme Code.<sup>53</sup> The BCCC comprises a Chairperson (a retired Judge of the Supreme Court or a retired Chief Justice of a High Court) and 13 other members drawn from different fields.

On 20 March 2013, the BCCC issued an order restraining Sony Entertainment Television from airing its show Crime Patrol-Dastak about the Delhi gang rape till the trial in the case had concluded.

The said show was clearly based on the prosecution story only and pronounced the accused guilty and demanded maximum punishment for them while the trial was going on.<sup>54</sup> None of the other complaints received by the BCCC relate to the new media or criminal investigations.



“

*The guidelines should be made for the police and not the media.  
The media will always report if they get the information from the police.*

*But whether the police should give the information or not, that is the question. That must be regulated.*

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*Shahid K. Abbas*  
V.P., Press Club of India

## JUDICIAL PRONOUNCEMENTS

The Supreme Court has prescribed several principles on how to report on sub-judice cases or cases in which trials are ongoing on various occasions. While these principles do not dictate how the media should approach law enforcement agencies, they have a significant bearing on how information obtained from such agencies can be presented.

### *Jessica Lal Murder Case*

The Supreme Court in *Sidhartha Vashisht @ Manu Sharma v. State (NCT of Delhi)*,<sup>55</sup> made certain key observations about the news coverage of the murder of Jessica Lal that declared Manu Sharma guilty during the trial and after his acquittal, and clarified the following broad principles:

1. There is a serious risk of prejudice if the media exercises an unrestricted and unregulated freedom such that it publishes photographs of the suspects or the accused before the identification parades are constituted or if the media publishes statements which outrightly hold the suspect or the accused guilty even before such an order has been passed by the Court.<sup>56</sup>
2. Various articles in the print media had appeared even during the pendency of the matter before the High Court, which again gave rise to unnecessary controversies and apparently, had an effect of interfering with the administration of criminal justice. We would certainly caution all modes of media to extend their cooperation to ensure fair investigation, trial, defence of accused and non interference in the administration of justice in matters sub judice.<sup>57</sup>
3. Every effort should be made by the print and electronic media to ensure that the distinction between trial by media and informative media should always be maintained. Trial by media should be avoided particularly at a stage when the suspect is entitled to the constitutional protections. Invasion of his rights is bound to be held as impermissible.<sup>58</sup>

### *Nilesh Nakhlava v. Union of India*

More recently, the Bombay High Court in *Nilesh Nakhlava v. Union of India*<sup>59</sup> listed ethical obligations of television media reporting on ongoing cases right from when investigation starts even before the beginning of trial in court,<sup>60</sup> prohibiting specifically the following:

1. Referring to the character of the accused/victim and creating an atmosphere of prejudice for both;
2. Analysing versions of witnesses, whose evidence could be vital at the stage of trial;
3. Publishing a confession allegedly made to a police officer by an accused and trying to make the public believe that the same is a piece of evidence that is admissible before a Court;
4. Printing photographs of an accused person and thereby facilitating his identification;
5. Criticising the investigative agency based on half-baked information without proper research;
6. Pronouncing on the merits of the case, including pre-judging the guilt or innocence qua an accused person or an individual not yet convicted in a case, as the case may be;
7. Recreating/reconstructing a crime scene and depicting how the accused person committed the crime;
8. Predicting the proposed/future course of action including steps that ought to be taken in a particular direction to complete the investigation; and
9. Leaking sensitive and confidential information from materials collected by the investigating agency.

These regulations are in addition to the law of criminal contempt of court,<sup>61</sup> which forbids the publication of any matter which ‘prejudices, or interferes or tends to interfere with, the due course of any judicial proceeding’ or ‘interferes or tends to interfere with, or obstructs or tends to obstruct, the administration of justice in any other manner’. A detailed analysis of what constitutes criminal contempt of court is beyond the scope of this paper.

However, it should be noted that this law is aimed at preserving the sanctity of the court process and is applicable only after the filing of a charge sheet. Reporting before a charge sheet and specifically considering the rights of the persons involved in a case require more targeted thought and action. The penalties for contempt of court (apology, fine, imprisonment) may not be appropriate given the nature of the problem being discussed. In any event, the law of criminal contempt of court can have a chilling effect on the media and should be used sparingly.



## GUIDELINES AND DIRECTIONS FOR THE LAW ENFORCEMENT AGENCIES

While communication regarding criminal offences is done by a wide range of law enforcement authorities, this paper focuses on the guidelines applicable to the police to illustrate the lacunae in the existing regulatory framework.

As described in previous sections, the judiciary has delivered judgements that discourage the police from revealing details of an ongoing criminal case to the media. In addition to this, there are specific directives applicable to the police while communicating with the media.

### *Internal Administrative Circulars and Orders*

Guidelines on communication between the police with the press and media have been issued at the central and state levels. 'Police' is an entry in the State List and thus falls primarily within the state government's jurisdiction.<sup>62</sup>

### *Ministry of Home Affairs Guidelines*

An office memorandum dated 1 April 2010 on the media policy to be followed by the police was issued by the Ministry of Home Affairs in 2010 to be implemented by state governments.<sup>63</sup> The main guidelines issued under this are detailed in the Annexure. However, since these guidelines are issued by the Ministry of Home Affairs they are not consistently enforced and vary from state to state. Nonetheless, the Delhi High Court in *Disha Ravi v NCT of Delhi*<sup>64</sup> has recognised them as operative as of 2021.

In addition to this, various state governments have issued circulars and orders governing various aspects of police briefings of media issued. Some of these are listed in the Annexure.

### *CBI Guidelines*

The Central Bureau of Investigation (CBI) has detailed guidelines on the publicity of cases in the CBI Crime Manual 2015, the highlights of which are in the Annexure.

These guidelines are more detailed than the Ministry of Home Affairs' Office Memorandum dated 01.04.2010 for the police in general. However, they are framed keeping in mind the CBI's reputation and the accuracy of publicity of its performance. While these motivations can assist with accurate reporting, they will not result in a holistic set of guidelines unless all the concerns of proper communication with the press (such as the preservation of fair trial and right to liberty and dignity) are specifically targeted.

### *Drawbacks of Guidelines for Law Enforcement Agencies*

Although there are guidelines issued by various law enforcement agencies governing their interaction with the media, they lack enforcement mechanisms and are not sufficiently detailed. Specific guidelines are required for each stage of the investigation.

For example, at the stage of registering an FIR, the police have typically not verified the contents of the FIR since the investigation has not begun. It is important for the media to be cautious while reporting on the contents of FIRs as the truth.

Journalist Rukmini S. found in a study that several sexual assault FIRs in Delhi in 2013 followed a similar script, often involving moving cars that abduct young women or sedative-laced cold drinks that render the 'victim' unconscious. The courts' findings in these cases were far from the contents of the FIRs.<sup>65</sup> This demonstrates the danger of relying on the versions presented in FIRs as the 'truth'.

In the ongoing case of *PUCL v. State of Maharashtra*<sup>66</sup>, the Supreme Court, in an order dated 29 March 2017, directed the Government of India to update the Office Memorandum dated 1 April 2010, taking into consideration



*the rights of the accused, so as to ensure, that their defence is not prejudiced in any manner, during the course of trial.*

However, no such update has taken place.

Moreover, "police" and "public order" being state subjects, regulation of police communication with the media falls within the domain of the state government, and central government guidelines have limited application at the state level.

**A crucial lacuna in the guidelines described above is a mechanism for tracking lapses and holding people accountable for the lapses. In the absence of such a mechanism, these guidelines remain ineffective.**

## BALANCING FREE PRESS WITH FAIR TRIAL

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There is a divergence of opinion on the role of the media in the justice system. While some believe that the media is an impartial spectator whose responsibility is limited to verifying information received, there is a growing opinion that the media has an enhanced standard of ethics due to its role in influencing public opinion and its ability to influence trials.<sup>67</sup>

**Media representation of crime and the justice system overwhelmingly influences what people believe about these, regardless of whether these impressions are accurate or not.**

The media clearly cannot report every single criminal or deviant act and they have to be selective in the incidents that they choose either to report or ignore. People consuming these media reports are thus only able to discuss and form opinions about the crimes that media has informed them about.<sup>68</sup> The media's role in creating perceptions about crime and justice is thus quite significant.

*Subash Chandra  
Rai v. State  
of Sikkim*

Highlighting the responsibility of the media, the Sikkim High Court in *Subash Chandra Rai v. State of Sikkim*<sup>69</sup> observed, with respect to reporting of crimes involving minors, that,

“

*neither for a child in conflict with the law, or a child in need of care and protection, or a child victim, or witness of a crime involved in the matter, the name, address, school or other particulars which could lead to the child being tracked, found and identified shall be disclosed, unless for the reasons given in the proviso extracted hereinbefore. The police and media as well as the judiciary are required to be equally sensitive in such matters [emphasis added]*

This is particularly relevant as the media plays the role of a watchdog to ensure the criminal justice system is accountable to the people. **The media exposes miscarriages of justice and lacunae in the system and can actively aid the justice system.**

*Raju Pal Murder  
Case, 2004*

For example, in 2004, Raju Pal from the Bahujan Samaj Party won the bye-election to a vacant seat of Allahabad (West) State Assembly against a long time rival and locally influential figure, Atiq Ahmed. He was shot dead a few months after his win and, according to his wife, received little help from the police to save him. In this instance, detailed media



coverage of the incident and the actions of the police were taken note of by the Supreme Court while deciding that the CBI should handle the case because of accusations that the local police may be politically motivated or biased.<sup>70</sup>

However, this duty and the power of the media are merely one of the many factors that determine the nature of content that the media generates.<sup>71</sup> Ellen Goodman, a Pulitzer prize-winning journalist noted as far back as 1993 that:

“*In journalism there has always been a tension between getting it first and getting it right. In today's amphetamine world of news junkies, speed trumps thoughtfulness too often.*<sup>72</sup>

Closer home, the Law Commission of India, in its 200th Report in 2006, observed that,

“*Practical considerations, namely, the pursuit of a successful career, prospects for promotion, the compulsion of meeting deadlines and growth targets are recognised as factors for the temptation to print salaciously presented stories.*<sup>73</sup>

In the temptation to sell stories, what is presented is what “public is interested in” rather than “what is in public interest”. **Market-oriented policies of profit-seeking news owners and the intense competition within and between newspapers, online platforms, and television since the liberalisation of the Indian economy further affect impartiality and encourage sensationalism.**<sup>74</sup> This pressure on reporters is further aggravated by the changing nature of the way news is disseminated and consumed. **Citizens report their own version of events as “news” through self-made online venues, including social media channels.** While this type of dissemination is even less thorough and less regulated, it has emerged to be a significant competitor to existing news channels that are expected to check facts and follow internal editing procedures to ensure quality while publishing information in comparable time frames.<sup>75</sup> This has added to the pressure on media outlets to produce ratings-focussed ‘breaking news’ and ‘exclusives’ and has resulted in far-reaching changes to the editorial process that erode the rigour of reporting.<sup>76</sup>

*Disha Ravi  
Arrest, 2021*

The fragmented and soft nature of regulation of law enforcement agencies-media communication has created a murky regulatory realm that unscrupulous law enforcement personnel and journalists on the prowl for ‘breaking news’ have taken advantage of. The arrest of environmental activist Disha Ravi in 2021 illustrated this. While under investigation for sedition and related offences, she raised the issue

that her right to a fair trial was impeded by the wide publicity given by print and electronic media to her private Whatsapp messages that were taken out of context. To examine this complaint, the Delhi High Court attempted to determine the source of this leak of trial evidence. The Delhi Police categorically denied having released any such information to the media, while media houses that carried such material claimed to have got it from the police.

**It should be noted that the media cannot (and should not) be compelled to reveal the identity of their source. Nonetheless, a lacuna exists whereby the point of the breach is obfuscated, making it difficult to assign responsibility to any one entity.**

*Devangana Kalita  
'Pinjra Tod' Case*

Similarly, in the case of Devangana Kalita, it was never established that the Delhi Police indeed sent the note circulated amongst the media which disclosed names of two girls, including the petitioner and alleged that they belonged to 'Pinjra Tod' Group and were actively involved in hatching a conspiracy to cause riots near Jafrabad Metro Station in Delhi.<sup>77</sup>

The Delhi Police raised an interesting argument in Kalita's case - they argued that she could not raise any grievance regarding media trials since she and members of her group had started a media campaign of their own against the Delhi Police. In this sense, the media was simply a platform to provide ideas of all kinds, and there should be no special restriction on how the police depict their version of facts through the media. This argument is fallacious for many reasons.

First, the narrative presented by an arm of the state equipped with superior resources and technology is on a very different footing from that of an ordinary citizen. This power differential is recognised by the fundamental rights guaranteed under the Constitution, including the right to a free trial, the right to life and dignity and the right to equality - all of which are meant to act as a check protecting citizens from excessive state power. Moreover, the police have a moral duty and obligation to uncover the truth rather than selectively leak evidence before it is presented in court merely to defend its account of events.<sup>78</sup> Hence, a media trial instigated by the police (which already has adequate powers to investigate and prove its findings) cannot be compared to a media campaign run by accused citizens.

Second, media trials instigated by the police violate the presumption of innocence which is a fundamental principle of our criminal justice system.

The High Court of Delhi observed this in the following words -



*There is a cardinal difference in attempting to influence formation of an opinion that an accused is not guilty and the State attempting to influence an opinion to the contrary. An expression of an opinion that an accused is not guilty does not destroy the presumption of innocence that must be maintained till an accused is tried and found guilty of an offence. A media campaign to pronounce a person guilty would certainly destroy the presumption of innocence. The approach that it would be justified to fuel a media trial merely because the sympathisers of the accused are proclaiming his/her innocence, cannot be countenanced.<sup>79</sup>*

**Nonetheless, it should be acknowledged that there are many motives that may prompt selective leakage of information by the police.** For example, the police may be revealing information to reporters as a strategic move in exchange for information that reporters collect during the course of their work surrounding the case.<sup>80</sup> In other instances, individual officers may not agree with the nature of the investigation and personally feel justice is better served if certain information is made public.

These factors should be kept in mind while designing any responses to the issue of selective leakage of the police to the media against prescribed norms, especially with regard to the importance of protecting media sources.

The Norms of Journalistic Conduct position free press and a fair trial as competing interests while stating that



*The media and judiciary are two vital pillars of democracy and natural allies, one compliments the other towards the goal of a successful democracy. Measures which are necessary for due process of law need to take precedence over freedom of speech. In a conflict between fair trial and freedom of speech, fair trial has to necessarily prevail because any compromise of fair trial for an accused will cause immense harm and defeat justice delivery system.*

**However, a more balanced view is to treat the media as a component of the justice system itself with the same goals as the other arms of the system. The concept of a free press thus becomes instrumental in ensuring the delivery of justice, including a fair trial, rather than a source of conflict.**

Finally, regulation as a method to improve standards of journalistic conduct has its limitations and can be damaging to a free press.<sup>81</sup> Given the pressures on journalists and media houses as described in this section, the ultimate obligation on journalists is an ethical one. While the law can identify a minimum requirement to be adhered to by reporters, the true spirit of a free trial can be upheld only by behavioral ideals

propagated through media ethics and norms evolved through common practice.<sup>82</sup> **Apart from media houses themselves enforcing certain levels of ethical reporting as conditions of employment of reporters working with them, journalists often influence each other's standards of reporting through peer approval and rejection.**<sup>83</sup>



“

*They have to start departmental enquiries against the officers who are leaking the information. Once the chargesheet is issued and then it culminates in punishment, the news of this itself will stop other police officers from taking that route. Merely issuing circulars is not enough. The question is, has the police taken any action against even one single policeman who has leaked sensitive information.*

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**Nagendra Naik**  
Lawyer

## CONCLUSION AND RECOMMENDATIONS

The framework for interaction between law enforcement agencies and the media should not be structured merely to facilitate reputation management by law enforcement agencies. The communication channels between the two institutions should proactively release information in the interests of transparency and due process.

The framework should support transparency within law enforcement institutions while respecting freedom of expression and the right to information and promoting accountability and the rule of law.

It is essential that the channels for communication created under these frameworks bridge the gap between journalists' need for information and the ability of law enforcement agencies to give them authorised versions of the necessary kind of information.<sup>84</sup>

### *Enforceable Guidelines for Content Released to the Press*

Broadly law enforcement agencies **should provide the media with timely and helpful information** which:

1. Is of interest to journalists (information on significant accidents, crimes and arrests)
2. Actively fosters public debate about issues relating to the agency and their work
3. The public has the right to know
4. Helps illustrate how they work. This should include both positive measures and openness about the challenges they face
5. Helps building public confidence in law enforcement agencies.<sup>85</sup>

They should **avoid giving information**:

1. Containing details about an investigation where this information could compromise the investigation, the trial of the accused or future investigations;
2. Containing details about certain situations related to the commission



of certain crimes that may give others copycat ideas in terms of the methods used<sup>86</sup>

3. About the identity of complainants, witnesses and victims.
4. That portrays the police as insensitive or vindictive which would suggest the pre-judging of an issue
5. That reveals the location of the offence, especially in the context of harassment, domestic violence, stalking etc.

More importantly, these guidelines should be dilligently enforced with clearly defined disciplinary consequences for errant law enforcement personnel.

The obvious lacunae in the current regulations are the absence of any consequences for law enforcement personnel violating them. Any breach of guidelines must be strictly dealt with departmentally to deter any such behaviour.

#### *Structuring and Formalizing Communication Channels*

A clearly-marked perimeter should limit media access to crime scenes to avoid contamination and allow law enforcement agency personnel to perform their job without disruption. It is advisable to have a spokesperson at the crime scene to brief media persons to avoid speculation and rumour-mongering. If possible, a press area may be demarcated within sight of the crime scene. This helps the law enforcement agencies keep the crime scene uncontaminated and the media can see the crime scene and gets access to regular information from the agency.

Each law enforcement agency should have a Media Cell for interactions with the media. These cells can be located centrally or in several locations, depending on the agency's structure. These cells will arrange for periodic briefings and press releases by authorised officers. Certain officers should be authorised as spokespersons to brief the media depending on the nature of the information contained in such briefing (See details of designated spokespersons within the FBI in the Annexure). No one within the agency apart from the authorised spokespersons should communicate with the media. These Cells may also request corrections by the media in the event they have reported false, partial or inaccurate information.

Press briefings can be done at any stage i.e. after an FIR has been registered, an arrest effected or a raid conducted. The information given in these briefings should be in accordance with the fair trials guarantees of the accused persons and should respect the privacy of all parties

concerned. These briefings should be at appropriate locations and times and invitations to them should be shared impartially with a range of media organisations. The agency may decide that only accredited journalists may attend the briefing. The agency should also be careful to not share details of ongoing operations or investigative strategies that would alert the offenders or compromise witnesses and confidential informants. The Press briefings should be maintained as permanent records of the media interactions of the police and should be available online.

Law enforcement agencies may also hold closed-door briefings with the media. These can be held after significant law and order incidents and before major events such as political rallies, sports events or protests. Such briefings will allow for candid and deep conversations, enriching the quality of media reportage.

#### *Empowering Citizens to Assess Information Available to Them*

In addition to a robust mechanism of responsible communication with the media, law enforcement agencies should utilize their social media presence to enhance direct citizen engagement. This discourages misreporting or distortion of facts by the media and increases the scope of the media to do analytical reporting based on information made public to all rather than rely on access journalism to disseminate basic facts.

#### *Tablighi Jamaat Fake News Case*

For example, when a local news agency misreported that certain persons quarantined in Noida during the COVID-19 pandemic were in contact with Tablighi Jamaat members, the Noida Police corrected this information through its own Twitter handle and exposed it as fake news.<sup>87</sup> Social media channels of the police should be handled by trained people who follow similar protocols to the Media Cell.

All circulars and orders regarding LEA communication with the media should be made easily available to the public and reporters on the website of the agency to enable transparency and empower citizens to identify departures from established protocol while reading news reports.

#### *Capacity Building*

Capacity-building should be done within the law enforcement agencies on effective ways to involve the media in their work. This can be done through the Media Cells and by involving external experts (e.g. the Police Media Unit in New South Wales provides a media advisory service to all police employees).

Similarly for media professionals, reporters who report on the justice system can be trained to appreciate the principles the system works



according to. A legal terminology handbook focusing on the Indian justice system that is built through the collaborative efforts on civil society and editors can prove an effective guide to journalists.

*Reviving  
Deliberations On  
Ethics Amongst  
the Media*

Regulation of the media in this respect remains a contentious topic. Any regulation of media raises the question of how such regulation may affect the sanctity of the freedom of press. In the absence of regulation, some contemporary developments that encourage responsible reporting can be explored.

For example, a movement towards collaborative journalism in reporting complex events like the Panama papers investigation can counter the toxicity of competitive reporting and access journalism. Instead, facts can be shared, allowing for better investigative and analytical reporting across media houses. Similarly, organisations responsible for maintaining ethical standards of journalism and media houses should brainstorm innovative methods to promote responsible journalism.

Examples of ideas to explore are conversations around more discerning standards for “breaking” news and a people’s ombudsman to hear and respond to the audience’s views.<sup>88</sup> Such practices, especially if initiated by well-respected media industry players, are likely to lead to structural changes in the newsroom that encourage coordination between different beats and collective sense of responsibility.<sup>89</sup>

## ANNEXURE

### 1. Press Council Of India's Norms Of Journalistic Conduct (2020 Edition)

In its latest edition, released in 2020, the Press Council listed out the following guidelines with respect to trial by media:

1. An accused is entitled to the privilege of presumption of being innocent till the court pronounces guilt.
2. The media reports should not induce the general public to believe in the complicity of the person indicted, as such actions bring undue pressure on the course of fair investigation by the police.
3. Publishing information about the official line of investigation based on gossip may facilitate the person who indeed committed the crime to move to a safer place.
4. It is not always advisable to vigorously report crime-related issues daily or to comment on supposed evidence of the crime without ascertaining the factual matrix.
5. While the 'media's reporting at the investigation stage in a criminal case may ensure a speedy and fair investigation, disclosing confidential information may also hamper or prejudice the investigation. Therefore, there cannot be unrestricted access to all the details of the investigation.
6. Victims, witnesses, suspects and the accused person should not be given excessive publicity as it amounts to an invasion of their privacy rights.
7. Identification of witnesses by the newspapers/ media exposes them to pressure from both the accused person or his associates and investigative agencies. Thus, the media should not identify witnesses as they may turn hostile, succumbing to the pressure.
8. The 'suspect's picture should not be shown as it may create a problem during "identification 'parades' conducted under the Code of Criminal Procedure.
9. The media is not expected to conduct a parallel trial or predict the court's decision putting undue pressure on the judge or the witnesses.
10. When there is a time lag between the conclusion of the proceedings and the decision, the comments on the concluded proceedings,

including discussion on evidence and/or arguments aimed at influencing the forthcoming decision, must be avoided.

11. After reporting on a trial, the media is advised to follow up the story with the publication of the final outcome by the court, whenever applicable.

The Press Council of India issued a more specific Media Advisory issued by dated 28 August 2020<sup>90</sup> in addition to the general principles contained in the NJC. Some of the additional principles in this advisory include:

1. The media is advised to refrain from giving excessive publicity to the victim, witnesses, suspects, and accused as it will invade their privacy rights.
2. The 'media's identification of witnesses needs to be avoided as it endangers them to come under pressure from the accused or his associates and investigating agencies.

## 2. NBSA Guidelines

The NBSA has issued several guidelines and advisories to ensure adherence to ethical standards amongst broadcasting networks. Among them, the following are relevant to reporting information received from law enforcement agencies:

*Guidelines on Reportage of Cases of Sexual Assault (7 January 2013):*<sup>91</sup>

News channels should carefully balance the 'survivor's and their family's right to privacy with the public interest. In particular, no victim of sexual assault, violence, aggression, trauma or a witness to any such acts should be identified. The visuals shown of the victim must be completely morphed.

*Guidelines to prevent communal colour in reporting crime, riots, rumours and such related incidents (13 December 2012):*<sup>92</sup>

These guidelines take into account the need to be sensitive to the ramifications of reporting on criminal incidents involving persons of minority communities and communal crimes.

They urge reporters:



*not to reveal the names of the accused and the arrested with their photographs, visuals and details of their families to ensure that the reporting does not violate a 'citizen's right to privacy or expose him/her to any harm....In particular, while reporting the victims of any such incidents, care should be taken to prevent description of their identity based on their caste, religion or any other distinction.*

*Specific Guidelines for Reporting Court Proceedings (15 September 2010):<sup>93</sup>*

These guidelines discourage reporting of speculative opinions, conjectures, reflections, comments or findings on issues that are sub judice and comments on the personal character, culpability or guilt of the accused or the victim. After registration of a First Information Report (FIR) in respect of any crime, news channels should not broadcast any report that may evaluate, assess or otherwise give their own conclusions upon, or in relation to, ongoing investigation or evidence. The guidelines also discourage suggestive guilt by association.

*Specific Guidelines Covering Reportage (10 February 2009, updated on 6 December 2019):<sup>94</sup>*

These guidelines state that reports on crime should not amount to pre-judging or pre-deciding a matter that is, or is likely to be, sub judice and no publicity should be given to the accused or witnesses that may interfere in the administration of justice or be prejudicial to a fair trial.

*Guidelines for telecast of news affecting Public Order (18 December 2008, updated on 3 November 2015):<sup>95</sup>*

The guidelines address live reporting of hostage situations or rescue operations. They prescribe that details of the identity, number and status of hostages and information regarding pending rescue operations or regarding the number of security personnel involved or the methods employed by them should not be revealed. It further recommends that the media avoid live contact with the victims or security personnel during the incident. Further, unnecessary repeated or continuous broadcast of archival footage may tend to agitate the mind of the viewers and should be avoided.

*Advisory regarding use of prefixes while reporting matters which are sub judice, murder, rape, etc. (3 January 2019):<sup>96</sup>*

The NBSA condemned the description suspects and accused in trial or investigation of crimes as “offenders” or “serious offenders” or “murderers” or “rapists” before their conviction. It noted that such a practice is antithetical to the presumption of innocence which is a cornerstone of the criminal justice system.

In this advisory, it is stated that

“

*more than fifty percent of persons accused of crimes are found to be not guilty after trial, and to describe them as “offenders” does great injustice to them apart from causing irreparable injury to their reputation.*

### 3. Home Ministry Guidelines

1. Only designated officers should disseminate information to the media on significant crime and law and order incidents, important detections, recoveries and other notable achievements of the police.
2. Police Officers should confine their briefings to the essential facts and not rush to the press with half-baked, speculative or unconfirmed information about ongoing investigations.
3. The briefing should generally be done only at the following stages of a case:
  - a. Registration
  - b. Arrest of accused persons
  - c. Charge-sheeting of the case
  - d. Final outcome of case such as conviction/acquittal etc.
4. In a case that attracts the 'media's interest, a specific time may be fixed every day when the designated officer would make an appropriate statement on the investigation.
5. In the first 48 hours, there should be no unnecessary release of information except about the facts of the incident and that the investigation has been taken up.
6. The general tendency to give piecemeal information/clues, on a daily/regular basis, with regard to the progress/various lines of investigation, should be strongly discouraged so that the investigations are not compromised and the criminals/suspects do not take undue advantage of the information shared by the Police authorities about the likely course of the investigation.
7. Meticulous compliance with the legal provisions and Court guidelines regarding the protection of the identity of juveniles and rape victims should be ensured, and under no circumstances should the identity of juveniles and victims in rape cases be disclosed to the media.
8. Due care should be taken to ensure that there is no violation of the legal, privacy and human rights of the accused/victims.
9. Arrested persons should not be paraded before the media.
10. Faces of arrested persons whose test identification parade is required to be conducted should not be exposed to the media.
11. No opinionated and judgmental statements should be made by the

police while briefing the media.

12. As far as possible, no media interview of the accused/victims should be permitted until the statements are recorded by the police.
13. The professional tradecraft of policing and technical means used to detect criminal cases should not be disclosed as it alerts potential criminals to take appropriate precautions while planning their next crime.
14. In cases where national security is at stake, no information should be shared with the media till the whole operation is over or until all the accused persons have been apprehended.
15. The modus operandi of carrying out the operations should not be made public. Only the particulars of apprehended persons and details of recovery should be revealed to the media on completion of the operations.
16. There should not be any violation of court directions and other guidelines issued by the authorities from time to time on this matter.
17. Preferably, there should be one officer designated as the Public Relations Officer to handle the immediate information needs of all media persons and give the correct and factual position of any crime incident.
18. As and when instances of misreporting or incorrect reporting of facts/details about an incident or the department comes to notice, a suitable rejoinder should immediately be issued and, in more serious cases, the matter should be taken up at the appropriate levels for remedial action.
19. Any deviation by the police officer/official concerned from these instructions should be viewed seriously, and action should be taken against such police officer/official.



## Madhya Pradesh

1. A circular dated 30 November 2009 was issued by the Police Headquarters to Superintendents of Police of all districts stating that only a senior official be deputed for sharing any information with the media. Only such information shall be shared which does not affect the investigation.
2. A circular dated 2 January 2014 directs that only factual information (unspeculative) may be shared in certain circumstances- at the time of registration, arrest, filing chargesheet, the decision of the court by a nominated officer. It directed that
  - a. Imparting information in parts and bits was not to be done
  - b. Details of minor and rape victims should be kept secret, and their identities should be hidden from the media.
  - c. The right to privacy to the accused and complainant should be upheld.
  - d. Any information affecting national security must not be given to the media.
  - e. Any information regarding the modus operandi of the offender must not be given
  - f. Guidelines by different courts must not be violated.
  - g. A date-wise file of press note to be issued from the district police control room be maintained correctly. The names and designation of officers issuing press note must be mentioned clearly.

## Himachal Pradesh

Standing Order No, 4 of 2012 dated 2.1.2013 issued by the DGP, Himachal Pradesh Police prescribed

1. The various levels of police officers authorised to interact with the press/media-
  - a. At State Police Headquarters by DGP/ADGP/IGP/Spokesperson PHQ
  - b. At Range level by DIG ranges/PTC/AP&T
  - c. At the district level by District SPs/COs at Battalion level
  - d. At the Sub-divisional level by ASP/DySP/Coy Commanders
2. Only the above officers will interact with media/press within their areas of responsibility.

*CBI Guidelines*

1. In case of corruption offences, if there's been an arrest or a search that has recovered something "substantial"<sup>97</sup>, disciplinary proceedings that do not result in a major punishment,<sup>98</sup> then the designation of the accused officer may be communicated but not the name;
2. In case of an arrest or a search which recovered something "substantial"<sup>99</sup>, disciplinary proceedings that do not result in a major punishment<sup>100</sup> etc. for officers convicted by a court of law,<sup>101</sup> or disciplinary actions resulting in major punishment<sup>102</sup>, the designation and name of the officer may be revealed; and
3. If officers convicted with a major punishment<sup>103</sup> the name, particulars of offence and designation of the officer should be mandatorily publicised through paid advertisements if required.
4. Bribery and corruption convictions should receive more publicity than misconduct and irregularities.
5. A detailed hierarchy and format for release of information to the press in cases of local interest by offices of CBI outside New Delhi and those of national interest by the Headquarters are prescribed. Communication is done only through press releases or press briefings through authorised personnel. In most cases, the Deputy Principal Information Officer is required to be informed regarding all matters likely to generate press interest.<sup>104</sup>
6. Only officers of specific designations are authorised to give television or media interviews.<sup>105</sup>
7. Detailed procedures, including timelines and format for approving drafts of press releases, are also prescribed in cases where convictions are likely to be appealed.<sup>106</sup>
8. CBI personnel have a duty to issue clarifications and corrections in case any media outlet presents a distorted version of facts, and, in such cases, the CBI is required to file complaints against any deliberate distortion with the Press Council of India.<sup>107</sup>

## 4. Experiences In Other Jurisdictions

The police and other law enforcement agencies in other jurisdictions have detailed guidelines on how to interact with the police. Some of these are discussed below:

### *Designated Office/ Representative*

Law enforcement agencies at various levels of government have dedicated representatives of offices that handle media relations and communications.

### *Federal Bureau of Investigation (FBI), USA*

The Federal Bureau of Investigation has a National Press Office that manages daily relations with national and international media in the US. This office has to:

1. Coordinate and manage interview requests
2. Draft and issue press releases
3. Design, recommend and execute media strategies
4. Provide on-site and remote assistance for major media events involving the FBI
5. Coordinate media relations training for key executives and MCs and serve as their point of contact (POC) for the support and coordination of issues pertaining to the media.

There is also a separate Investigative Publicity and Public Affairs Unit, which oversees and manages publicity efforts that directly support investigations or intelligence activities. All FBI field offices have at least one Media Coordinator, either professional staff or special agent (SA), who functions as a liaison for the office. These media coordinators have to respond orally or in writing to inquiries from members of the media, build relationships with local media outlets, coordinate press conferences and draft press releases.

### *Police, New South Wales, Australia*

Such structures exist at state and local levels too. In New South Wales in Australia, there is a Police Media Unit (PMU) provides a media advisory service to all Police employees. This unit manages media enquiries, writes and distributes media releases on behalf of the police, produces and executes media strategies for operations and major events, provides strategic media advice and focuses on how media opportunities can be best managed for investigative purposes.<sup>108</sup>

### *Metropolitan Police, London, UK*

The Metropolitan Police in London's Media Policy Toolkit states that most information released to national, regional and international media will be through the DMC Press Bureau, press/communication officers or by police officers (usually in liaison with press officers). The DMC Press Bureau responds to critical incidents, day-to-day enquiries and

provides round the clock advice and support to the organisation on both operational and reputation issues.<sup>109</sup>

### *Principles Governing Media Relations*

The College of Policing UK's Guidance on Relationships with the media on media relations lay down the following principles to govern police-media interaction:

1. Police forces may name an arrested person where there is a policing purpose for doing so.
2. Police forces must balance an individual's right to respect for a private and family life, the rights of publishers to freedom of expression, and defendants' rights to a fair trial.
3. Personal information about witnesses or victims should not be disclosed without assurance that there are no legal restrictions which apply and should be done in agreement with witnesses or victims.
4. Media organisations should be treated in a fair and equal manner. This means that once in the public domain, information released by the police should be available to all.
5. On some occasions, it may be necessary to delay the release of information to the media to ensure that resources are in place to respond to public feedback.<sup>110</sup>

### *Federal Bureau of Investigation (FBI), USA*

Disclosure of information by FBI personnel is subject to Privacy Act provisions. Such disclosures must not prejudice an adjudicative proceeding and, except as indicated below, must:

- not address an ongoing investigation.
- Disclosures must not be erroneous, deceptive, or misleading
- Any facts disseminated to the media must be validated to the extent practicable.
- Material posted to an Internet Web site, a social media page, or a publicly-available mobile software application can reach audiences worldwide and must be given the same scrutiny and vetting that would typically be afforded a written statement to the press.<sup>111</sup>

All releases by the FBI of information must be fair, accurate, and sensitive to defendants' rights. The criteria of fairness, accuracy, and sensitivity to defendants' rights and the public's right to know must prevail in all dealings with the news media. Releases of information involving juveniles should not contain personally identifiable information.<sup>112</sup>

The following principles guide the London Metropolitan Police:

1. They should be as open and transparent as possible, whilst ensuring operations, investigations, prosecutions, tactics and techniques, and the public's safety are not compromised and confidential information, including that concerning victims, witnesses, and suspects, is appropriately protected. Businesses may be routinely identified as part of police investigations,
2. They will proactively release information to aid an investigation - most likely with appeal points asking for the public's assistance. Information on investigations will also be proactively released when it is deemed to be a matter of public interest, and there is a need to maintain public confidence in our policing activity.
3. When the media ask questions about investigations or police activity, their principle is that we will reactively respond with information except where it will have a detrimental impact on the investigation or activity.
4. The officers should record clear reasoning if they withhold information they would typically provide.
5. Where a reporter has clear information about an operation, refusing to comment or confirm could lead to an accusation of 'secret or secretive' policing and a subsequent loss of confidence. Any information that is released proactively or reactively - should, as a minimum, include the allegation/offence, date information received, which unit is investigating, arrests, interviews under caution, bail to returns, and/or charges and relevant appeal points.
6. People who have been arrested are not named by police unless there are exceptional circumstances.
7. Whilst it is not appropriate for preferential treatment to be given to one news organisation over another, there are occasions where targeting the media is appropriate - such as a story or campaign based on geography, a particular audience or community they wish to reach or a news organisation's particular interest in a certain issue.
8. The term off-the-record means different things to different people and should be avoided. The default position for most information released for publication or broadcast is that it can be attributed to a named person.<sup>113</sup>

The police in New South Wales work according to the following principles:

1. Members of the NSW Police Force should treat information that has come to their knowledge in an official capacity as strictly confidential.
2. Apart from a limited exception where life or property is at risk, it prohibits members from divulging information unless they have the proper authority to do so. Staff must not contact the media in their capacity as NSW Police Force employees to make any comment about any incident, Police policy or procedure unless this policy grants authority to do so.
3. If relevant to their duties, employees can only release information publicly for a lawful purpose and allowed by legislation and NSW Police Force policies. Personnel authorised to do so may release information to the media (including social media) about day-to-day operational matters (such as traffic accidents, robberies and assaults) for which they have direct responsibility and/or expertise.
4. Information must be released to the media on an equal basis. Do not favour one organisation over another with exclusive or special advantages.
5. Staff must not speak on matters outside their area of responsibility or contact the media without authority to discuss incidents or matters of policy or procedure.<sup>114</sup>



## ENDNOTES

- 1 The self governing body, the National Broadcasting Standards Authority, recognizes this power, and in its Guidelines on Reportage of Cases of Sexual Assault dated 07.01.2013 has stated that, 'News channels must bear in mind that news coverage of crime influences the mindset of the viewer and has a significant impact on the public perception of such crime.' National Broadcasting Standards Authority. 2013. Guidelines on Reportage of Cases of Sexual Assault. Available online at [www.nbanewdelhi.com](http://www.nbanewdelhi.com) (accessed on 27 January 2022).
- 2 H Nagabhushan Rao v. Ministry of Information and Broadcasting, WP 7026/2021.
- 3 ZeeNews. 2021. 'Explosive WhatsApp chats between Ananya Panday and Aryan Khan reveal they discussed "if Ganja can be arranged"', ZeeNews, 22 October. Available online at [zeenews.india.com](http://zeenews.india.com) on 27 January 2022).
- 4 NDTV. 2020. 'Rhea Chakraborty Released From Mumbai Jail Nearly A Month After Arrest' NDTV 7 October available online at [www.ndtv.com](http://www.ndtv.com) (Accessed on 15 January 2022).
- 5 Steven S. Bellew, Media Influence on Executive Police Decision-Making: A Case Study of Police and Media Interaction During the Oklahoma City Bombing Investigation and Trials University of North Texas, May, 2001, p. 1.
- 6 For example, the National Broadcasting Standards Authority, in its Guidelines on Reportage of Cases of Sexual Assault dated 07.01.2013 suggests that, 'In reporting on matters involving sexual assault, news channels are advised to carefully balance the survivor's right to privacy and that of the survivor's family with public interest.' National Broadcasting Standards Authority. 2013. Guidelines on Reportage of Cases of Sexual Assault. Available online at [www.nbanewdelhi.com](http://www.nbanewdelhi.com) (accessed on 27 January 2022).
- 7 Crl.Appeal No.1255/1999 (Diary No.- 15285 - 1999).
- 8 For a breakdown of political ownership ties to media houses, see Media Ownership Monitor India. 'A Delicate Handshake', Media Ownership Monitor, available online at [india.mom-rsf.org](http://india.mom-rsf.org) (accessed on 21 April 2022).
- 9 Prakash Singh v. Union of India, (2006) 8 SCC 1; KN Prasad. 1979. 'Political and Administrative Manipulation of Police', National Police Research Repository by Bureau of Police Research and Development (1970-2016), p.81, available online at [https://bprd.nic.in/WriteReadData/userfiles/file/201709220123207343223NationalPoliceResearchRepository\(NPRR\)Book.pdf](https://bprd.nic.in/WriteReadData/userfiles/file/201709220123207343223NationalPoliceResearchRepository(NPRR)Book.pdf) (accessed on 21 April 2022); Common Cause et al. 2019. Status of Policing in India Report. New Delhi: Common Cause & Lokniti, pp. 87-91, available online at [www.commoncause.in](http://www.commoncause.in) (accessed on 21 April 2022)
- 10 Davd H. Bayley. 1983. 'The Police and Political Order in India', Asian Survey, 23(4): pp. 484 – 496.
- 11 See Romila Thapar v Union of India, (2018) 10 SCC 753, paras 59-64 ["Thapar"]; Nilesh Nakhlava v Union of India, PIL (ST) No. 92252 of 2020 before the High Court of Bombay, paras 310-318.
- 12 Thapar, para 61; Videos of media reporting police accounts in this case are available at [www.youtube.com](http://www.youtube.com) (accessed on 27 January 2022). For a brief description of the thoughts of the dissenting judge in this case, see Ritika Jain. 2018. 'Police leaks led to trial by media in Bhima-Koregaon case: Quotes from dissenting judge', The Print, 28 September. Available at <https://theprint.in/india/governance/police-leaks-led-to-trial-by-media-in-bhima-koregaon-case-quotes-from-dissenting-judge/126610/> (Accessed on 20 March 2022).
- 13 Devangana Kalita v. Delhi Police, 2020 SCC OnLine Del 867, para50 ["Kalita"].
- 14 Kalita, para 54.
- 15 Arun Sharma v. State of Madhya Pradesh W.P. No. 13057 of 2020 decided on 2 December 2020, para 46 ["Sharma"].

16 Sharma, para 51.

17 An example of such reportage is The Times of India. 2021. 'Police "action heroes" quell villain', The Times of India, 1 June. Available online at [timesofindia.indiatimes.com](https://timesofindia.indiatimes.com) (accessed on 27 January 2022); See generally Terrell Carter. 2019. Police on a Pedestal – Responsible Policing in a Culture of Worship. Santa Barbara, California : Praeger.

18 Mehmood Nayyar Azam v. State of Chhattisgarh, (2012) 8 SCC 1.

19 Goa cops barred from parading accused 'like trophies' and given lesson in fundamental rights" Hindustan Times 6 November 2019 [www.hindustantimes.com](https://www.hindustantimes.com)

20 Law Commission of India, Report No. 200: Trial by Media – Free Speech and Fair Trial Under Criminal Procedure Code 1973, p.15 – 'Police are presented in poor light by the media and their morale too suffers. The day after the report of crime is published, media says "Police have no clue". Then, whatever gossip the media gathers about the line of investigation by the official agencies, it gives such publicity in respect of the information that the person who has indeed committed the crime, can move away to safer places. The pressure on the police from media day by day builds up and reaches a stage where police feel compelled to say something or the other in public to protect their reputation. Sometimes when, under such pressure, police come forward with a story that they have nabbed a suspect and that he has confessed, the "Breaking News" items start and few in the media appear to know that under the law, confession to police is not admissible in a criminal trial. Once the confession is published by both the police and the media, the suspect's future is finished.'

21 A press conference held by the Inspector General of Police (Meerut) that gives detailed descriptions of the crime scene a mere 7 days after the discovery of the bodies, accuses the father of the victim of having an extra marital affair and accuses the 14 year old victim or engaging in a sexual relationship with the other victim and clearly positions the father of one of the victims as the culprit on the basis of conjecture. Available online at [www.youtube.com](https://www.youtube.com) (accessed on 27 January 2022).

22 See The Indian Express. 2017. 'Mistrial by Media', Indian Express, 14 October. Available online at [indianexpress.com](https://indianexpress.com) (accessed on 27 January 2022); Shohini Ghosh. 2013. 'All but lynched by the media', The Hindu, 18 May. Available online at [www.thehindu.com](https://www.thehindu.com) (accessed on 27 January 2022).

23 Dushyant, 'In Talwars Case, Media Crossed All Boundaries, Must Accept Blame' 12 October 2017 [www.ndtv.com](https://www.ndtv.com) Available online at [www.firstpost.com](https://www.firstpost.com) (accessed on 27 January 2022) Firstpost. 2017. 'Aarushi murder verdict: From calling an end to TV studio trials to flaying CBI for shoddy probe, here's how media covered it', Firstpost, 13 October. Available online at [www.firstpost.com](https://www.firstpost.com) (accessed on 27 January 2022); Shoma Chaudhury. 2017. 'Aarushi Talwar murder case verdict is a chance for cops, courts and media to say: never again', DailyO, 13 October. Available online at [www.dailyo.in](https://www.dailyo.in) (accessed on 27 January 2022).

24 (2010) 1 SCC 457, para 13.

25 Naresh Kumar Mangla vs. Anita Agarwal and Ors., Criminal Appeal Nos. 872-873 of 2020 (Arising out of SLP (Crl.) Nos. 4935-4936 of 2020), Decided On: 17.12.2020. In this case, a man from a prominent family in Agra was accused of demanding dowry and harassing his wife who died by suicide. Before the investigation was complete, the suicide note of the deceased was selectively leaked and circulated in the local media.

26 Dean Starkman, The Watchdog That Didn't Bark, p.143.

27 The Press Council of India recommends that "mediapersons should be duly trained and imparted basic knowledge about functioning of courts and processes of law". Press Council of India. 2020. Norms of Journalistic Conduct, p. 61. Available online at [www.presscouncil.nic.in](https://www.presscouncil.nic.in) (accessed on 27 January 2022).

28 Section 228A(3), the Indian Penal Code, 1860 states that, 'Whoever prints or publishes any matter in relation to any proceeding before a court with respect to an offence referred to in sub-section (1) without the previous permission of such Court shall be punished with imprisonment of either description for a term which may extend to two years and shall also be liable to fine. Explanation.—The printing or publication of the judgment of any High Court or the Supreme Court does not amount to an offence within the meaning of this section.'

29 Nipun Saxena v. Union of India, (2019) 2 SCC 703, para11 ["Saxena"]. However, there is some criticism towards the approach of viewing the crime as something shameful for the victim. See Shreya Singh and Apoorv Pandey. 2018. 'The Identity Dilemma', India Law Journal. Available online at [www.indialawjournal.org](http://www.indialawjournal.org) (accessed on 27 January 2022).

30 Saxena, para12.

31 Saxena, para18.

32 Saxena, para 21.

33 Of the 28 other members, 20 represent the press, five members are nominated from the two Houses of Parliament and three represent cultural, literary and legal fields as nominees of the Sahitya Academy, University Grants Commission and the Bar Council of India. The members serve on the Council for a term of three years.

34 Available online at [www.presscouncil.nic.in](http://www.presscouncil.nic.in) (accessed on 27 January 2020).

35 The Press Council Act, 1978.

36 Section 14, Press Council Act, 1978.

37 Ministry of Information and Broadcasting. 2020. 'Print Media Advertisement Policy of the Government of India 2020', Clause 17(v). Available online at [www.davp.nic.in](http://www.davp.nic.in) (accessed on 27 January 2022).

38 17th Lok Sabha Standing Committee on Communications and Information Technology (2021-22). 2021. 'Ethical Standards in Media Coverage', paras 9-10, ["Standing Committee Report"]. Available [online here](#). (accessed on 27 January 2022).

39 Standing Committee Report, para 21.

40 According to the Chairman of the Press Council, "experience shows that it takes a lot of time in taking the decision. We have taken the decision today and the DAVP [Directorate of Advertising and Visual Publicity] takes the decision after a year, so it does not have the impact..... we find that they wait for months and years together, and when they have a compilation of 30 or 40 censor cases, they come out with a decision. According to me, that does not have the impact because the news has come today, we have censored them after three or four months and the ultimate decision by the DAVP comes after a year...", Standing Committee Report, para 10.

41 Section 5, Cable Television Networks (Regulation) Act, 1995 states that 'No person shall transmit or re-transmit through a cable service any programme unless such programme is in conformity with the prescribed programme code.'

42 These rules were passed under the Cable Television Networks (Regulation) Ordinance, 1994 that was later enacted by Parliament in the form of the Cable Television Networks (Regulation) Act, 1995.

43 Sections 19-20, Cable Television Networks (Regulation) Act, 1995.

44 Section 11, Cable Television Networks (Regulation) Act, 1995.

45 Section 16, Cable Television Networks (Regulation) Act, 1995.

46 Official Website of the Electronic Media Monitoring Centre, Ministry of Information and Broadcasting, available online at [emmc.gov](http://emmc.gov) (accessed on 27 January 2022).

47 Sections 19-20, Cable Television Networks (Regulation) Act, 1995.

48 The Times of India. 2021. 'Parl panel pulls up I&B ministry of laxity in deciding complains

against TV channels', The Times of India, 1 December, available online [timesofindia.indiatimes.com](https://timesofindia.indiatimes.com) (accessed on 21 April 2022).

49 For example, the Ministry when questioned by the Parliamentary Standing Committee, admitted that there was no definition of "anti-national attitude" to apply while deciding whether content falls foul of the Programme Code. See Standing Committee Report, paras 6-8.

50 The official website of News Broadcasters & Digital Association, available online at [www.nbanewdelhi.com](http://www.nbanewdelhi.com) (accessed on 27 January 2022).

51 The objectives of the NBDA as states in its official website, available online at [www.nbanewdelhi.com](http://www.nbanewdelhi.com) (accessed on 27 January 2022).

52 Furquan Ameen Siddiqui. 2013 "News vs noise" Hindustan Times, 27 May, available online at [www.hindustantimes.com](http://www.hindustantimes.com) (accessed on 15 December 2021).

53 Courts have recognized the BCCC as a valid self regulatory mechanism. See *Star India Pvt. Ltd. v. Union of India*, W.P. (C) 879/2010 before the High Court of Delhi, decided on 30 September 2011; *Rajeshwari Katoch v. Union of India* WP PIL No. 15 of 2013 before the High Court of Jammu and Kashmir, decided on 21 February 2014.

54 Order dated 20 March 2013 available online at [www.ibfindia.com](http://www.ibfindia.com) (accessed on 20 January 2022)

55 (2010) 6 SCC 1 ["Vashisht"]

56 Vashisht, para 147.

57 Vashisht, para 152.

58 Vashisht, para 153.

59 PIL (ST) No. 92252 of 2020 before the High Court of Bombay.

60 This is a development in the law on media reporting of sub judice cases. Previously, criminal cases were considered "pending" only after the police concluded their investigation and brought the matter before a court.

61 See Section 2(c), Contempt of Court Act, 1971.

62 Entry 2, Seventh Schedule, Constitution of India.

63 Ministry of Home Affairs, F. NO.15011/48/2009-SC/ST-W. April 1, 2020. Available online at [www.mha.gov](http://www.mha.gov) (accessed on 27 January 2022).

64 W.P. (C) 2297/2021 before the High Court of Delhi.

65 See Rukmini S. 2014. 'Scripted FIRs Fail Court Test', The Hindu, 1 August, available online at [www.pressreader.com](http://www.pressreader.com) (accessed on 27 January 2022).

66 Crl.Appeal No.1255/1999, available at [main.sci.gov](http://main.sci.gov) (accessed on 27 January 2022).

67 Andrew Belsey and Ruth Chadwick. 1995. 'Ethics as a Vehicle for Media Quality', European Journal of Communication, 10(4): 461-473; Leighton Walter Kille. 2009. 'Committee of Concerned Journalists: The principles of journalism', The Journalist's Resource, 26 November, available online at [journalistsresource.org](http://journalistsresource.org) (accessed on 27 January 2022).

68 Alice Courtald, "How the media controls our perceptions of crime" 8 November 2014 available online at [www.shoutoutuk.org](http://www.shoutoutuk.org) on 15 January 2022).

69 2018 CriLJ 3146.

70 Pooja Pal v. Union of India, (2016) 3 SCC 135.

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72 Ellen Goodman. 1993. 'Temper "instant" news coverage', Gainesville Sun, 7 February, available online at [news.google.com](http://news.google.com) (accessed on 28 January 2022).

73 LCI Report, p.14.

- 74 Julie A. Demorest. 2009. 'Corporate Interests and Their Impact on News Coverage', The Institute for Applied & Professional Ethics Ohio University, 27 July, available online at [www.ohio.edu](http://www.ohio.edu);
- Sreedevi Purayannur. 2021. 'Trivializing entertainment news in India', in Martin Conboy and Scott A. Eldridge II (ed.), *Global Tabloid*, p. 125-136. New York: Routledge.
- 75 Florence H.J.T. Gallez. 2014. 'A Proposal for a Code of Ethics for Collaborative Journalism in the Digital Age: The Open Park Code'. Available at [www.cms.mit.edu](http://www.cms.mit.edu) (Accessed on 20 March 2022) ["Gallez"].
- 76 Sentiment reflected by reporters in our round table discussion.
- 77 Kalita, para 21.
- 78 The prosecutor is duty bound under Rule 16 of the Bar Council Rules governing Conduct of Advocates to ensure that no material capable of establishing the innocence of the accused is suppressed.
- 79 Kalita, para 25.
- 80 Anecdotal experience offered by participant in round table conference.
- 81 Direct regulation of press content pose a significant threat to the freedom of press and are generally not practicable. For example, the Information and Broadcasting Ministry issued a notification in 2018 that provided for cancellation of PIB accreditation of journalists found guilty of promoting fake news but had to withdraw it after intense criticism and intervention of the Prime Minister. Similarly, the Rajiv Gandhi government had to withdraw the Defamation bill of 1988 due to its possible effects on press freedom.
- 82 Jay Black. 2011. *Doing Ethics in Media: Theory and Practical Applications*. Routledge; Sandra Davidson. 1998. 'Media Liability Cases Raise Legal and Ethical Questions', *Media Law Notes*, Winter:1, 2.
- 83 For a study of the effect of peer enforcement of ethical standards compared with institutional or legal mechanisms, see Gallez.
- 84 UNESCO. Freedom of Expression and Public Order Available online at [en.unesco.org](http://en.unesco.org) (accessed on 15 December 2021)
- 85 UNESCO, Freedom of Expression and Public Order.
- 86 UNESCO, Freedom of Expression and Public Order.
- 87 Sumit Usha. 2020. 'ANI misquotes Noida Police', *Boom*, 8 April. Available online at [www.boomlive.in](http://www.boomlive.in) (accessed on 20 March 2022).
- 88 The Hindu has, for instance, established the role of a readers editor. See A.S. Panneerselvan. 2021. 'Time to reflect', *The Hindu*, 26 July, available online at [www.thehindu.com](http://www.thehindu.com) (accessed on 21 April 2022).
- 89 Opinions gathered from our round table conference.
- 90 Press Council of India, PR/ 41/2020 –PCI, 28 August 2020. Available online at [www.presscouncil.nic.in](http://www.presscouncil.nic.in) (accessed on 27 January 2022).
- 91 News Broadcasters & Digital Association. 2013. 'Guidelines on Reportage of Cases of Sexual Assault', 7 January, available at [www.nbanewdelhi.com](http://www.nbanewdelhi.com) (accessed on 27 January 2020).
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January, available online at '[www.nbanewdelhi.com](http://www.nbanewdelhi.com)' (accessed on 27 January 2022).

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97 Central Bureau of Investigation. 2005. 'Central Bureau of Investigation (Crime) Manual', clause 24.10.1 ["CBI Crime Manual"]. Available online at [www.yumpu.com](http://www.yumpu.com) (accessed on 27 January 2022).

98 CBI Crime Manual , clause 24.10.5.

99 CBI Crime Manual , clause 24.10.1.

100 CBI Crime Manual, clause 24.10.5.

101 CBI Crime Manual, clause 24.10.3.

102 CBI Crime Manual, clause 24.10.6.

103 CBI Crime Manual, clause 24.10.7.

104 CBI Crime Manual, clauses 24.13 and 24.15

105 CBI Crime Manual, clause 24.15.

106 CBI Crime Manual, clauses 24.20-24.24 and 24.26

107 CBI Crime Manual, clauses 24.28-24.29.

108 Media Policy March 2016 [www.police.nsw.gov.au](http://www.police.nsw.gov.au)

109 Information Rights Unit [www.met.police.uk](http://www.met.police.uk)

110 Guidance on Relationships

with the Media [www.npcc.police.uk](http://www.npcc.police.uk)

111 Media Relations at FBI HQ and in Field Offices Policy Guide [vault.fbi.gov](http://vault.fbi.gov)

112 Media Relations at FBI HQ and in Field Offices Policy Guide [vault.fbi.gov](http://vault.fbi.gov)

113 Information Rights Unit [www.met.police.uk](http://www.met.police.uk)

114 Media Policy March 2016 [www.police.nsw.gov.au](http://www.police.nsw.gov.au)



## HOW HAVE WE CHOSEN THE INFORMATION IN THIS GUIDE?

The researchers have used qualitative analysis for this paper, using a combination of primary and secondary sources. The sources for secondary research consisted of books, news reports, journal articles and guidelines issued by various law enforcement agencies. In order to provide context and nuance to the secondary research, the researchers conducted structured interviews between September 2021 and January 2022 with a sample of law enforcement officers, journalists and persons working in media regulatory organisations.

## WHAT RESEARCH QUESTIONS ARE WE SEEKING TO ANSWER?

1. What are the issues in the current model of interaction between law enforcement agencies and the media?
2. How do these issues impact the judicial process, investigations, and trial and the public at large?
3. What are the existing guidelines or orders governing law enforcement agencies-media interactions and how are they functioning?
4. What factors affect the interaction between law enforcement agencies and the media?
5. What guidelines should govern the interaction between the police and the media?

