

CHRI 2023

POLICE COMPLAINTS AUTHORITIES IN INDIA

STATUS | GAPS | CHALLENGES



CHRI

Commonwealth Human Rights Initiative
working for the *practical* realisation of human rights in
the countries of the Commonwealth

COMMONWEALTH HUMAN RIGHTS INITIATIVE (CHRI)

The Commonwealth Human Rights Initiative (CHRI) is an independent, non-government, non-profit organisation with offices in New Delhi (India), London (United Kingdom) and Accra (Ghana). Although the Commonwealth is an association of 56 countries with shared traditions, institutions and experiences, there was little specific focus on human rights issues when founded. So, in 1987, several Commonwealth professional associations set up CHRI to promote adherence to the Universal Declaration of Human Rights, the Commonwealth Harare Principles and other internationally recognised human rights instruments, as well as domestic instruments supporting human rights.

CHRI has worked for the practical realisation of human rights through periodic investigations, comparative research, strategic advocacy, and engagement as well as mobilisation around these issues in Commonwealth countries.

CHRI's specialisation in the areas of Access to Justice (ATJ) and Access to Information (ATI) is widely known. The ATJ programme has focussed on Police and Prison Reforms, to reduce arbitrariness in law enforcement and ensure transparency while holding duty bearers to account. The ATI programme focuses on Right to Information (RTI) and Freedom of Information laws across geographies, provides specialised advice, sheds light on challenging issues and process and develops capacity for the effective implementation and widespread use of transparency laws. CHRI reviews pressures on freedom of expression and media rights while a focus on Small States seeks to bring civil society voices to bear on the UN Human Rights Council and the Commonwealth Secretariat. A growing area of work is SDG 8.7 where advocacy, research and mobilisation is built on tackling contemporary forms of slavery and human trafficking through the Commonwealth 8.7 Network.

CHRI has special consultative status with the UN Economic and Social Council and is accredited to the Commonwealth Secretariat. Recognised for its expertise by governments, oversight bodies and civil society, it is registered as a society in India, a trust in Ghana, and a public charity in the United Kingdom.

International Board: Alison Duxbury, Chairperson. Members: Wajahat Habibullah, James Robbins and Sam Okudzeto.

Executive Committee (India): Wajahat Habibullah, Chairperson. Members: B. K. Chandrashekar, Kishore Bhargava, Maja Daruwala, Nitin Desai, Ashok K. Ganju, Kamal Kumar, Poonam Muttreja, A P Shah and Venkatesh Nayak (ex-officio Secretary & Director).

Executive Committee (Ghana): Sam Okudzeto, Chairperson. Members: Kofi Quashigah, Emile Short, Juliette Tuakli and Mina Mensah (ex-officio Secretary and Director).

Executive Committee (UK): James Robbins, Chairperson. Members: Pralab Barua, Joanna Ewart-James, Owen Tudor, Cherisse Francis, Emma Kerr, Hannah Ratcliffe, Salil Tripathi, Michael Weaver, Kim West and Sneha Aurora (ex-officio Secretary and Director).

ISBN: 978-93-81241-39-3

© Commonwealth Human Rights Initiative, 2023. Material from this report may be used, duly acknowledging the source.

Designed by: Gurnam Singh

Printed by: Printworld (+91 98101 85402)

Cover image courtesy: www.123Freevectors.com



CHRI India

55A, Third Floor
Siddharth Chambers-1
Kalu Sarai, New Delhi 110 016
India
Tel/Fax: +91 11 2696 8605
E-mail:
info@humanrightsinitiative.org

CHRI United Kingdom

Room No. 219
School of Advanced Study
South Block, Senate House
Malet Street, London WC1E 7HU
United Kingdom
E-mail:
london@humanrightsinitiative.org

CHRI Africa

Dr. Stanley Marbell Plaza
H/No. 158/2 Asylum Down
Accra, Ghana
Tel/Fax: +233 302 971170
Email:
chriafrika@humanrightsinitiative.org

POLICE COMPLAINTS AUTHORITIES IN INDIA

STATUS | GAPS | CHALLENGES

Authors

Aditi Pradhan and Devyani Srivastava

Editor

Venkatesh Nayak

2023



This report is supported by the Jatashankar T. Pathak Charitable Trust (JTPCT), as part of the collaboration between the Trust's Chhelbhai Dave Police Reforms Project and the Commonwealth Human Rights Initiative (CHRI). We are extremely grateful to the Trust for the support, and especially to its former Chair, the late Hansaben Pandya, who conceived of and encouraged this collaboration.

TABLE OF CONTENTS

Acknowledgement	vii
List of Tables	viii
List of Abbreviations	x
Executive Summary	1
Aim and structure of the report	1
Methodology	2
Findings	3
Implications and Recommendations	6
CHAPTER 1: LEGAL & POLICY FRAMEWORK	9
1. Supreme Court Directive, 2006	10
2. Model Police Act, 2006 and Model Police Bill, 2015	11
3. State Police Acts and Executive Orders	14
CHAPTER 2: ANALYSIS	16
Part A: States/Union Territories with operational State Police Complaints Authorities	17
1. Assam	17
2. Delhi	27
3. Goa	34
4. Gujarat	41
5. Haryana	46
6. Jharkhand	53
7. Karnataka	59
8. Kerala	66
9. Maharashtra	71
10. Tripura	76
11. Uttarakhand	83
Part B: States with newly set up State Police Complaints Authorities	92
1. Andhra Pradesh	92
2. Arunachal Pradesh	97
3. Rajasthan	100

Part C: States that have assigned police oversight functions to other authorities or serving officials	104
1. Himachal Pradesh	104
2. Odisha	106
3. Tamil Nadu	108
4. West Bengal	111
Part D: States/Union Territories with non-operational State Police Complaints Authorities	113
1. Bihar	113
2. Chandigarh	114
3. Jammu & Kashmir and Ladakh	116
4. Lakshadweep	116
5. Madhya Pradesh	117
6. Manipur	118
7. Meghalaya	118
8. Mizoram	120
9. Puducherry	122
10. Uttar Pradesh	123
Part E: States/Union Territories with no clear information on the State Police Complaints Authority's functioning	124
1. Andaman and Nicobar Islands	124
2. Chhattisgarh	125
3. Dadra & Nagar Haveli and Daman & Diu	126
4. Nagaland	128
5. Punjab	130
6. Sikkim	134
7. Telangana	136
CHAPTER 3: CONCLUSION	138
1. Findings	139
2. Implications	145
3. Recommendations	146
Appendix I: Detailed Methodology	151
Appendix II: Contents of the RTI Applications	153
Appendix III: State Police Complaints Authorities – Contact Details	165

ACKNOWLEDGMENT

This report is the culmination of research undertaken by the Police Reforms Programme at CHRI over the past two years. It builds on the foundational research and analysis CHRI has undertaken on Police Complaints Authorities in India over the past 15 years and takes it forward by featuring PCAs' operational experience across all States and Union Territories in the country.

Several CHRI staff have been involved with research for this report. Aditi Dutta led the initial round of drafting and sending Right to Information applications to the Police Complaints Authorities wherever operational in 2021. Raja Bagga and Megha Gupta helped analyse information received across states. Our interns Nandini Sharma, Anay Mehrotra and Priyanshu Mishra helped document litigation around PCAs across several High Courts.

Devyani Srivastava conceptualised the research design, guided all researchers and interns who worked on the report at several stages and led the final report writing. Aditi Pradhan coordinated the RTI exercise in 2023 that included drafting separate applications for PCAs, Lokayuktas and for the state home departments where applicable; tracking and reviewing information received; and drafting and revising state sections accordingly.

Venkatesh Nayak reviewed the initial draft of this report and offered comprehensive suggestions.

Mohan, Prasad and Vinu provided valuable support at various stages of this study. Ajay, Rajeshwari and Subhash ensured timely dispatch of RTI applications as well as systematic filing and digitisation of replies and information received.

Gopal Tandon is acknowledged for his inputs in making this report more reader-friendly.

LIST OF TABLES

Table 1:	Framework of the Supreme Court Directive on Police Complaints Authorities	10
Table 2:	Provisions for police accountability commission in the Model Police Act, 2006 and Model Police Bill, 2015: A Comparison	12
Table 3:	Establishment of PCAs in States: mode, year and type	14
Table 4:	Constitution of PCAs in UTs	15
Table 5:	Current composition of Assam SPAC	19
Table 6:	Complaints received, status of inquiries and action recommended by the Assam SPAC (January 2018 – March 2023)	19
Table 7:	Complaints received (from public or by referral from other authorities) by the Assam SPAC disaggregated by nature of alleged misconduct (January 2018 – March 2023)	20
Table 8:	Budget and expenditure of the Assam SPAC (2018-2019 to 2022-2023)	24
Table 9:	Current composition of the Delhi PCA	28
Table 10:	Complaints received, disposed-off and pending & approval of action recommended by the Delhi PCA (2019-2021)	29
Table 11:	Complaints received and admitted by the Delhi PCA (2019-2021)	29
Table 12:	Budget of Delhi PCA (2019-20 to 2022-23)	31
Table 13:	Current composition of Goa SPCA	36
Table 14:	Complaints received and admitted by Goa SPCA (January 2019 – March 2021)	36
Table 15:	Cases disposed by Goa SPCA at different stages (January 2019 – March 2021)	37
Table 16:	Overall cases disposed of by Goa SPCA at different stages (as on 31 December 2020)	37
Table 17:	Budget of Goa SPCA (2018-19 to 2022-23)	38
Table 18:	Current composition of Gujarat SPCA	42
Table 19:	Complaints received, complaints within jurisdiction and complaints transferred elsewhere by the Gujarat SPCA (2014 - 2022)	43
Table 20:	Budget and expenditure of Gujarat SPCA (2018-19 to 2022-23)	43
Table 21:	Current composition of Haryana SPCA	48
Table 22:	Complaints received, disposed-off and pending at the Haryana SPCA (January 2019 - March 2023)	48
Table 23:	Nature of complaints received by the Haryana SPCA (January 2019 - March 2023)	49
Table 24:	Budget of Haryana SPCA (2018-19 to 2022-23)	49
Table 25:	Complaints received, investigated and kept pending by Jharkhand SPCA (January 2018 to March 2023)	56
Table 26:	Budget of Jharkhand SPCA (2018-19 to 2022-23)	56
Table 27:	Current composition of the Karnataka SPCA	60
Table 28:	Complaints received, investigated and kept pending by Karnataka SPCA (January 2016 to December 2021)	61
Table 29:	Complaints received at Karnataka SPCA from districts (January 2016 to December 2021)	61

Table 30:	Amount budgeted, received and spent by the Karnataka SPCA (2018-19 to 2022-23)	63
Table 31:	Amount budgeted and spent by the Karnataka SPCA (2018-19 to 2020-21)	63
Table 32:	Amount budgeted by the Karnataka SPCA (2018-19 to 2021-22)	63
Table 33:	Current composition of the Kerala SPCA	67
Table 34:	Complaints received, admitted and pending inquiry at the Kerala SPCA (January 2018 - March 2023)	68
Table 35:	Amount budgeted and spent by the Kerala SPCA (2018-19 to 2022-23)	69
Table 36:	Amount budgeted under top five major heads by the Kerala SPCA (2018-19 to 2022-23)	69
Table 37:	Complaints received (disaggregated) by the Maharashtra SPCA (January 2018 - March 2023)	73
Table 38:	Admitted complaints, closed complaints, pending complaints and action recommended by the Maharashtra SPCA (January 2018 - March 2023)	74
Table 39:	Current composition of PAC Tripura	77
Table 40:	Complaints received by the PAC Tripura (January 2018 - March 2023)	78
Table 41:	Complaints disposed by the PAC Tripura (January 2018 - December 2022)	78
Table 42:	Departmental inquiries initiated by Tripura Police on the basis of recommendations made by the PACT (January 2018 - March 2023)	79
Table 43:	Amount budgeted, received and spent by the PAC Tripura (2018-19 to 2022-23)	80
Table 44:	Current composition of Uttarakhand SPCA	84
Table 45:	Complaints received, disposed of and pending at the Uttarakhand SPCA (January 2018 - March 2023)	85
Table 46:	Details of cases Uttarakhand SPCA found police misconduct (January 2018 - March 2023)	86
Table 47:	Amount budgeted, expenditure and utilisation by Uttarakhand SPCA (2018-2019 to 2022-2023)	89
Table 48:	Current composition of Andhra Pradesh SPCA	94
Table 49:	Current composition of Arunachal SPCA	98
Table 50:	Current composition of Rajasthan SPAC	101
Table 51:	Complaints received, dismissed for lack of jurisdiction and pending enquiry at the Rajasthan SPAC (October 2022 - June 2023)	102
Table 52:	Complaints received, disposed of and pending at the Himachal Pradesh Lokayukta (January 2018 - March 2023)	105
Table 53:	Complaints received, disposed of and pending at the Odisha Lokayukta (January 2018 - March 2023)	107
Table 54:	Current composition of Tamil Nadu SPCA	109
Table 55:	Current composition of DNH & DD PCA	127
Table 56:	Current composition of Nagaland SPCA	130
Table 57:	Current composition of Punjab SPCA	133
Table 58:	Current composition of Sikkim PAC	136
Table 59:	State Police Complaints Authorities in India	139

LIST OF ABBREVIATIONS

A&N	Andaman & Nicobar Islands
ACS	Assam Civil Services
Addl DSP	Additional Deputy Superintendent of Police
addl.	Additional
ADGP	Additional Director General of Police
ANL	Andaman, Nicobar & Lakshadweep Islands
AP	Andhra Pradesh
APCS	Arunachal Pradesh Civil Services
CCTV	Closed Circuit Television
CHRI	Commonwealth Human Rights Initiative
CID	Criminal Investigation Department
CIO	Chief Investigating Officer
CP	Commissioner of Police
CPIO	Central Public Information Officer
CrPC	Code of Criminal Procedure, 1973
DAA	District Accountability Authority
DCA	District Complaints Authority
DGP	Director General of Police
DIG	Deputy Inspector General
DNH & DD	Dadra & Nagar Haveli and Daman & Diu
DPCA	District or Divisional Police Complaints Authority
DPCB	District Police Complaints Board
DSP	Deputy Superintendent of Police
FIR	First Information Report
FY	Financial Year
GNCTD	Government of National Capital Territory of Delhi
HP	Himachal Pradesh
HQ	Headquarter
IAS	Indian Administrative Service
IGP	Inspector General of Police
IPC	Indian Penal Code, 1860
IPS	Indian Police Service
LG	Lieutenant Governor
MHA	Ministry of Home Affairs
MP	Madhya Pradesh
NCT	National Capital Territory (of Delhi)
NHRC	National Human Rights Commission
PAC	Police Accountability Commission
PADC	Police Act Drafting Committee

PCA	Police Complaints Authority
PCD	Police Complaints Division
PHQ	Police Headquarters
PIO	Public Information Officer
retd.	Retired
RTI	Right to Information
RTI Act	Right to Information Act, 2005
SCI	Supreme Court of India
SHO	Station House Officer
SHRC	State Human Rights Commission
SI	Sub-Inspector
SP	Superintendent of Police
SPAA	State Police Accountability Authority
SPAC	State Police Accountability Commission/Committee
SPCA	State Police Complaints Authority
SPIO	State Public Information Officer
SSC	State Security Commission
SSP	Senior Superintendent of Police
TN	Tamil Nadu
UP	Uttar Pradesh
UT	Union Territory

EXECUTIVE SUMMARY

September 2023 marked 17 years since the Supreme Court of India (SCI) directed all States and Union Territories to constitute Police Complaints Authorities (PCAs) in its landmark judgement on police reforms.¹ The Court mandated PCAs to be set up both at the state as well as district levels to inquire into public complaints against the police and push for their accountability. They were envisaged as independent and dedicated oversight bodies headed by retired judges, and comprising of independent members to function as a forum accessible to citizens for seeking redress against police wrongdoings.

The Commonwealth Human Rights Initiative (CHRI) has been monitoring and reporting on PCAs since the Supreme Court's judgement in 2006. It published its first national-level report on the Authorities in 2009² in which it pointed to gaps both in the legal framework constituting the PCAs as well as in their functioning on the ground. An updated edition was subsequently published in 2012³ and then again in 2020.⁴

Building on these efforts, this report examines the current status of PCAs in India with the aim of highlighting both their potential, as well as limitations, in enforcing greater police accountability in India. The findings are primarily intended to inform policy and legal review of PCAs' role and relevance in the context of police accountability. Additionally, we hope the research will inspire deeper scholarship, increase civil society and media engagement with these institutions and mobilise public pressure on governments that are yet to set up such Authorities.

AIM AND STRUCTURE OF THE REPORT

The report provides an update on PCAs in all the States and Union Territories (UTs) in India. It highlights gaps in the legal and policy framework that establish both the state and district PCAs in every State/UT. The operational challenges, however, are examined only of the state PCAs (SPCAs). This is mainly to keep the analysis focused on the issues and challenges at the state level and encourage cross learning across the state PCAs. We hope this review spurs closer analysis of district PCAs throughout the country.

Where SPCAs are operational, the report evaluates their composition against the standard laid down by the SCI; patterns in terms of complaints received, inquiries held, and action recommended; and select aspects of their administrative functioning such as adoption of rules of procedure, their budget and their annual reports. This is intended to throw light on the trends with regard to police misconduct frequently being reported to the Authorities, the extent of the Authorities' reach across districts within states, and the manner of their disposal of complaints which are in essence people's demands for police accountability for

1 *Prakash Singh & Ors. v. Union of India & Ors*, 2006 (8) SCC 1.

2 Commonwealth Human Rights Initiative, *Complaints Authorities: Police Accountability in Action*, 2009: https://www.humanrightsinitiative.org/publications/police/complaints_authorities_police_accountability_in_action.pdf. Accessed on 3 September 2023.

3 Commonwealth Human Rights Initiative, *Police Complaints Authorities in India: A Rapid Study*, 2012: https://www.humanrightsinitiative.org/publications/police/PCA_Rapid_Study_December_2012_FINAL.pdf. Accessed on 3 September 2023.

4 Commonwealth Human Rights Initiative, *India's Police Complaints Authorities: A Broken System with Fundamental Flaws – A Legal Analysis*, September 2020: <https://www.humanrightsinitiative.org/download/Briefing%20Paper%20on%20Police%20Complaints%20Authority%20CHRI%202020.pdf>. Accessed on 4 September 2023.

wrongdoing. Where SPCAs are yet to be operationalised, the report provides an update on legal and/or policy developments relating to their establishment. Based on the findings, the report recommends actionable measures to Governments and the Authorities for strengthening their role and functioning.

The report is structured under three chapters. The **first chapter** summarises the legal and policy framework governing PCAs in India. It describes the Supreme Court directive on PCAs that forms part of its judgement on police reforms. Next, it explains standards relating to PCAs as laid down in the Model Police Act, first prepared in 2006 and then updated in 2015, which provides a legislative guidance for states. Finally, it presents an update on action taken by states in order to establish PCAs, either by enacting police laws and/or legislative amendments, or through executive orders.

The **second chapter** presents the analysis of state PCAs. It consists of **five parts**:

Part A evaluates States/UTs where state-level Authorities are operational on the ground. Operational is understood to mean:

- Authorities have a Chairperson and/or Members at present; and
- Authorities are receiving complaints, conducting inquiries and recommending action.

Part B focuses on newly appointed SPCAs. It includes states that have appointed SPCAs in 2023 and where the Authorities are yet to begin operation, or states that made appointments in late 2022 but the Authorities began operation only in 2023.

Part C covers States/UTs that have assigned SPCA functions to other state institutions such as the Lokayukta or include only serving state officials. CHRI categorises these states as non-compliant with the Supreme Court directive even though they are inquiring into public complaints alleging police wrongdoing.

Part D includes States/UTs that are yet to operationalise SPCAs. This could be due to several reasons: states are yet to make appointments despite providing for them either in legislation or through an executive order; or states are yet to pass orders setting up PCAs in the first place.

Part E includes States/UTs where no information is publicly available on their SPCAs' functioning, either in the public domain or through the Right to Information.

In the **third chapter** we present our overall findings and make recommendations to the State Governments, PCAs, police departments and civil society.

METHODOLOGY

The report is based on information gathered in two phases through information requests made under the Right to Information Act, 2005 (RTI Act), first in 2021 and then in 2023. In 2021, the RTI applications were sent only to functional state-level PCAs. In 2023, in addition to the functional SPCAs, RTI applications were also submitted to the Home Departments in States/UTs where the SPCAs were not functional as well as to the Lokayuktas in Odisha and Himachal Pradesh where they had been vested with the functions of the SPCAs. The RTI applications sought information about the SPCAs' current composition, copies of the government order constituting them, their annual reports, rules of procedure, budget & expenditure and information on the complaints received, their status and action recommended. A detailed methodology is explained in Appendix I whereas RTI application format is given in Appendix II. Current contact details of all the SPCAs (where available) is

provided in Appendix III. Information has been kept up to date until September 2023.

There are significant gaps in the information CHRI received through RTI that are highlighted in the opening paragraph of each state section as well as throughout the analysis. Despite these gaps, the information we were able to gather along with other sources of information, such as the annual reports of PCAs, media reports about their functioning or otherwise and on-going litigation before the respective High Courts, offer important insights regarding the status and the working of PCAs across the country.

FINDINGS

PCAs are yet to have any measurable impact on police accountability. Governments have shown little or no will at establishing complaints authorities that are equipped to function in an impartial and effective manner. Long period of vacancies, delayed appointments and dominance of the political executive in the Authorities characterises the journey of most SPCAs. Where SPCAs have been able to function with some semblance of independence, Governments are taking measures to curtail their powers. SPCAs themselves have been reluctant in taking *suo motu* cognizance of reported police misconduct or ensure timely completion of inquiries, calling into question their relevance and credibility among the people. Overall, there is an urgent need to repurpose the role and composition of SPCAs such that they can truly fulfil their mandate of independent oversight to enhance police accountability.

A summary of the main findings is as follows:

- 1. Police Complaints Authorities operational in less than half of the states:** Since the Supreme Court directive in 2006, only 26 of the 28 States (except Uttar Pradesh and Bihar), and six of the eight Union Territories except Jammu and Kashmir and Ladakh, have put in place a legal and/or a policy framework for setting up state-level Police Complaints Authorities.⁵ Out of these, only 11 Authorities are operational on the ground while three are newly appointed and yet to become fully operational. The remaining States/UTs are either yet to set up SPCAs in the first place or the Authorities are currently non-functional due to failure of the Governments to make appointments, or information is not available in the public domain including through the Right to Information.
- 2. Serving Government or Police Officials are members of Police Complaints Authorities:** In direct violation of the 2006 Supreme Court directive that emphasised the importance of independent police oversight, at least **nine States/UTs** have serving government or police officials in their PCAs. While Tamil Nadu, West Bengal and Dadra & Nagar Haveli and Daman & Diu have only serving officials in their Authorities, Arunachal Pradesh, Gujarat, Jharkhand, Karnataka, Kerala and Rajasthan have serving police officials either as Members or Member-Secretary of the SPCAs.
- 3. Only two State Police Complaints Authorities have civil society representation:** Despite the requirement to include at least 3-5 independent members in the SPCAs including from civil society, only Rajasthan and Delhi at present have representation from civil society. In Rajasthan, the civil society members are known to have political affiliations; therefore, Delhi is the only Authority with an independent civil society representative currently serving as a member.
- 4. Diluted mandate:** In several states, the mandate of the SPCAs has been narrowly defined from the very beginning. The state police laws, under which PCAs are established, have

⁵ See, Table 3, Chapter 1- Police Complaints Authorities: Legal & Policy Framework, pg. 14.

diluted the definition of ‘serious misconduct’ into which they must inquire, thereby limiting the jurisdictional powers of the Authorities in checking police illegalities. Instead of augmenting their resources and powers, more States and UTs are diluting the SPCAs mandate than ever before. For instance, the *Assam Police (Amendment) Act, 2021*, has curtailed the definition of ‘serious misconduct’ to exclude the following: arrest or detention without due process; forceful deprivation of rightful ownership or possession of property; blackmail or extortion; and non-registration of FIRs. Consequently, the SPCA will no longer be able to address complaints alleging such serious misconduct. Notably, complaints data from Assam shows non-registration of FIRs as the second largest category of complaints the SPCA has received till date.

5. **Vacancies:** Delays in appointments and long periods of vacancies, particularly of the Chairperson’s post, characterises several SPCAs. Only four Authorities – in Assam, Kerala, Tripura and Uttarakhand – have been active since 2008 and have had regular appointments. Goa and Haryana SPCAs were active initially but vacancies remained unfilled until recently. Jharkhand and Maharashtra do not have Chairpersons at present, though they continue to receive public complaints. SPCAs in Andhra Pradesh, Arunachal Pradesh and Rajasthan were constituted as recently as 2023.
6. **Only half of the operational SPCAs have adopted Rules of Procedures:** Assam, Andhra Pradesh, Haryana, Jharkhand, Karnataka, Maharashtra and Tripura SPCAs have adopted rules of procedures to govern their functioning. Arunachal Pradesh, Delhi, Goa, Gujarat, Kerala, Rajasthan and Uttarakhand are yet to develop and/or publish their set of rules.
7. **High number of public complaints received against police personnel:** To some extent, the PCAs have become a forum people feel comfortable approaching, as is evident from hundreds of complaints the active SPCAs receive every year, not just from select pockets but from across the state. Delhi PCA stands out as having received the highest number of complaints consistently. Since 2020, it has dealt with over 2,000 complaints every year. Maharashtra and Kerala SPCAs come distant second with an average of 600-700 complaints every year from 2018 and 2022. This shows why independent police accountability bodies are needed.
8. **Small percentage of complaints received admitted for inquiries:** Not all complaints received are admitted for inquiry by the Authorities. Gujarat accepted less than two per cent (just 68 out of 3,502) of complaints it received between January 2018 and December 2022. From January 2018 till March 2023, Maharashtra admitted less than a quarter (1,102) of the 4,515 complaints it recorded for inquiry. During the same period, Kerala accepted only 45 per cent of the total complaints for inquiry. Complaints are admitted for inquiry when the Authority decides that they fall within its mandate. **This underscores the need to review and expand the mandate of SPCAs in order to address a wider range of grievances against police personnel that are at present going unattended.**
9. **Limited use of *suo motu* powers to initiate inquiries:** Despite the legal mandate, SPCAs are hardly using their *suo motu* powers to initiate an inquiry into reported instances of police misconduct, choosing instead to rely on public complaints. Assam and Maharashtra are the only Authorities to have initiated *suo motu* inquiries. From 2018 to March 2023, Assam initiated 58 complaints in total, although the number of instances in which the Authority invoked this power has fallen from 21 in 2018 to 8 in 2022. Maharashtra has used it in only three cases since 2018.
10. **Very few referrals by state institutions:** Assam, Maharashtra and Haryana are the only states to report on complaints referred to the state SPCAs from other authorities in the state. Referrals in Haryana from the State Government, in particular, have increased substantially from 2 (out of total 134 complaints) in 2019 to 74 (out of 443) by 2022. That the Government is approaching the Authority to look into cases of police misconduct that come to their notice is a positive development.

- 11. Police inaction and non-registration of First Information Report constitute the largest proportion of public complaints:** Where information about the classification of offences inquired into by the SPCAs is available (Assam, Haryana, Tripura), the largest number of complaints belonged to the category of “police inaction.” Every year from 2018 to 2022, Assam has had around 200 complaints about police inaction such as delay in investigation, negligence and/or misbehaviour. In Haryana, complaints categorised as “others” have increased from 60 in 2019 to 278 in 2022 making it impossible to reckon as to what kind of ‘misbehaviour’ is being complained about. In Tripura, “police inaction” complaints have gone up from 5 in 2018 to 14 in 2022. “Non-registration of FIR” is the other category that has seen a large number of complaints. While the Tripura SPCA received from nine to 15 complaints of non-registration every year, Assam received nearly 30 complaints every year till 2020.
- 12. High case pendency and inquiries lasting several years:** A rising trend of case pendency even while number of complaints being admitted are falling is a matter of concern in several SPCAs. In Maharashtra, the pendency rate went up from less than one per cent in 2018 to 54 per cent in 2022 while complaints fell from 665 to 82. Similarly, in Kerala, the rate of pendency increased hugely from two per cent in 2018 to 45 per cent in 2022 while the number of complaints admitted for inquiry fell from 435 to 146 during this period. The time taken to complete inquiries is another concern. Although Assam is the only Authority to maintain and provide this data, the findings reveal a grim picture. The Assam Authority has as many as 40 cases from 2018 still pending as on 31 March 2023, nearly five years later.
- 13. PCAs recommended action against police personnel in very few complaints:** The proportion of complaints in which the SPCAs established misconduct and recommended action against the police personnel remains very small. Despite receiving thousands of public complaints, Delhi has recommended departmental action in just 17 cases thus far. Assam SPCA had recommended action in 46 cases in 2018 and 15 in 2019, but these came down to just two cases in 2021, and not even a single case in 2022.
- 14. Poor implementation of PCA recommendations by State Governments:** A major gap in the accountability process remains the poor response from the State Government as well as the state police leadership in terms of acting on the Authorities’ recommendations. Assam, Tripura and Uttarakhand SPCAs have repeatedly raised concern over this in their annual reports.
- 15. Utilisation of SPCA budgets:** SPCAs for the most part are utilising their sanctioned budgets. However, their funds are mostly allocated for salaries/wages/allowances and other office expenditure.
- 16. Few SPCAs publish annual reports:** Assam, Delhi, Karnataka, Tripura and Uttarakhand Authorities stand out for preparing and publishing annual reports regularly through the years since their constitution. The reports from Assam, Karnataka and Tripura in particular are detailed and provide a statistical breakdown of the complaints received and inquiries conducted. Karnataka stands out for publishing its annual reports both in English and the local language (Kannada) therefore making them accessible to a wider audience.
- 17. Separate investigation cell constituted in very few SPCAs:** Assam and Tripura SPCAs are also notable in that they are the only ones to have set up a separate investigation cell to assist in inquiries. Having a dedicated team of investigators is crucial to prevent the PCAs’ dependence on the police departments to conduct inquiries into complaints against police personnel.

IMPLICATIONS AND RECOMMENDATIONS

The limitations, challenges as well as the potential of PCAs highlighted in this report throw up several policy implications. That dedicated and localised police oversight bodies such as the PCAs are needed is evident by the number of complaints the operational authorities have been receiving. But PCAs as they exist today are not serving the purpose. Their structure, mandate and powers need to be enhanced if they are to emerge as an effective remedy for police misconduct and wrongdoings. Only a proactive approach of checking police misconduct and working with all stakeholders to push for accountability will help the Authorities gain public respect, foster a culture of accountability, and drive cultural changes in policing that stand to benefit the people as much as police personnel themselves.

A summary of our recommendations:

For State Governments

1. Establish Police Complaints Authorities at the state, divisional and/or district level.
2. Adopt the standards and criteria for membership laid down in the *Model Police Bill, 2015* to reflect a balanced composition while establishing and/or strengthening existing PCAs.
3. Provide an investigation wing to the State Police Complaints Authorities to assist in conducting inquiries in an impartial manner and without extraneous pressure from the executive and put an end to the current practice where, in the absence of a team of investigators, the police complaints bodies are relying on the state police department itself to inquire into complaints of misconduct against its own personnel.
4. Existing vacancies must be filled without delay. The absence of Chairperson/Members restricts the functioning of the Authorities; while they continue to receive complaints, no action of consequence is taken on them, thus increasing pendency and future workload. Making timely appointments also prevents needless litigation seeking such appointments before the High Courts.
5. Given the difficulties in holding the police to account for misconduct, the role and mandate of the SPCAs needs to be strengthened in line with the *Model Police Bill 2015*. In addition to inquiring into serious misconduct, SPCAs should be empowered to take *suo motu* notice of police misconduct; monitor the progress of departmental inquiries and/or criminal investigation on complaints of misconduct forwarded by the Authorities; inspect any police station, lock-up, or any other place of detention used by the police; advise the Government on measures to ensure protection of witnesses, victims and families in any inquiry conducted by the complaints body; and recommend payment of monetary compensation to victims of alleged misconduct. Recent attempts by states to shrink/narrow down the SPCAs' mandate, either by taking away the power to initiate *suo motu* action or limiting the definition to serious misconduct, render the states non-compliant with the *Prakash Singh* judgment.
6. In complaints where the SPCA's inquiries establish police misconduct, their recommendations, of initiating a departmental inquiry or criminal proceedings by registering an FIR against the concerned officials, must be made binding on the state police department. In cases where the state police disagree with the SPCA's findings, its reasons must be communicated to the State Government in writing.
7. All PCAs must be encouraged to prepare detailed annual reports with information on the Authorities functioning as well as the volume, type and status of complaints received and the manner of their disposal. State Governments must table them in the

State Legislature and ensure that adequate time is given to discuss the annual reports and its recommendations in the plenary or in an appropriate legislative committee.

8. Where SPCAs have been operational for more than five years, a performance and compliance audit is necessary to evaluate their activities and budget. The audit findings can help identify ways in which the authorities can better meet their objectives.

For Police Complaints Authorities

9. All SPCAs must develop rules of procedure to govern their functioning and that of the district PCAs within the state. In formulating rules of procedure, states must ensure that the rights of the complainant as listed in the *Model Police Bill, 2015* are protected. These include: the right to be informed from time to time of the progress of the inquiry by the State or District PCAs looking into any complaint; of the findings of any such inquiry as well as final action taken in the case; and to attend all hearing in any inquiry related to the complaint. Additional safeguards such as providing the services of an interpreter where hearings are held in a language the complainant does not know, and laying down a process whereby a complainant may appeal the finding of an inquiry will further strengthen the credibility of these accountability bodies.⁶
10. SPCAs must specify a clear timeframe for completing inquiries, preferably no later than 90 days from the receipt of complaint, as specified in the *Model Police Bill, 2015*. States must further consider the *Model Police Bill, 2015* recommendations that any complaint concerning the life or liberty of any person shall be attended to immediately, and within 24 hours of the receipt of the complaint.
11. To inspire public confidence in the independent working of the Authority, each SPCA must maintain an up-to-date website that provides clear information in English and the official language(s) of the state about the Authority's functions, Chairperson, Members, contact details and procedure for filing complaints among other information.

For the Police Department

12. Prioritise action on the recommendations of Police Complaints Authorities including ensuring timely departmental inquiries against the personnel concerned, providing regular updates on action taken to the PCAs, reviewing patterns of misconduct commonly being reported and, accordingly, working to strengthen departmental processes, procedures and training for all personnel with a view to reducing the causes for the emergence of complaints from the people.
13. Take steps to ensure up-to-date information about the state and district/division-level PCAs – their role, mandate, procedure to make a complaint and contact details – is made available in English and in the official language(s) of the state at all administrative units including the police headquarters, district headquarters and police stations; is widely shared through social media including the state police website; and disseminated through other state institutions such as the State Human Rights Commission and the State/District Legal Services Authorities for wider public knowledge.

⁶ These were included in the Model Police Act, 2006 under Clause 177(5) and (6).

For Civil Society

14. Encourage the use of the PCAs whenever necessary in order to bring to light police misconduct and push for accountability.
15. Spread awareness about the role, mandate and functioning of the Authority and support victims in filing complaints.
16. Raise with the State Governments the issue of timely appointments to the Authorities in line with the Supreme Court directive, and preventing attempts at limiting the mandate of the Authorities.
17. Facilitate cross learning and sharing of practices that demonstrate the ability, and intent, of the Authorities in pushing for accountability.

I. LEGAL AND POLICY FRAMEWORK

1. SUPREME COURT DIRECTIVE, 2006

Police Complaints Authorities (PCAs) were set up across the country pursuant to a set of directives issued by the Supreme Court (the Court) in 2006 with the express purpose of enforcing accountability for police misconduct. The creation of dedicated police complaints bodies has been a long-standing recommendation in relation to police reform in India.⁷ It was the Supreme Court that finally provided the much-needed impetus for its implementation when it ordered States and Union Territories to constitute PCAs at the state and the district-level. Establishment of PCAs is one of seven directives for police reform the Supreme Court handed down in the *Prakash Singh & Ors. v. Union of India & Ors*, 2006.⁸ As CHRI, has explained elsewhere,⁹ the Court also laid down broad standards in terms of PCAs composition, mandate and powers.

Since 2006, 17 states have passed new police acts and/or amendments to existing ones to implement these directives. Other States and Union Territories have issued executive orders by way of showing compliance. The Court's directive together with these legislative changes and/or executive orders constitutes the legal basis for the establishment of PCAs.

The Supreme Court provided the following framework for the composition, mandate and powers of the PCAs:

Table 1: Framework of the Supreme Court Directive on Police Complaints Authorities

	State Police Complaints Authority	District Police Complaints Authority
Composition and Selection	Chairperson Retired Judge of the Supreme Court/ High Court to be chosen by the State Government out of a panel of names proposed by the Chief Justice of the High Court.	Chairperson Retired District Judge to be chosen by the State Government out of a panel of names proposed by the Chief Justice or a Judge of the High Court nominated by the Chief Justice.
	Members 3-5 members selected by the State Government from a panel of names prepared by the State Human Rights Commission/Lok Ayukta/State Public Service Commission.	
Mandate	Inquire into complaints against officers of the rank of Superintendent of Police and above	Inquire into complaints against officers of the rank of Deputy Superintendent of Police and below
	Only allegations of serious misconduct by police personnel, which would include incidents involving death, grievous hurt or rape in police custody.	a) allegations of serious misconduct by personnel, which would include incidents involving death, grievous hurt or rape in police custody; and b) allegations of extortion, land/house grabbing or any incident involving serious abuse of authority.
Powers	Recommendation for action, either departmental or criminal, will be binding on the State Government	

Additionally, the Court recognised that the authorities might need the services of competent staff to conduct field inquiries. For this purpose, it suggested the authorities use the services

7 The National Police Commission had examined the need for constituting District Inquiry Authorities for the purpose of inquiring allegations of police misconduct. See, National Police Commission, First Report, Chapter X, Modalities for Inquiry into Complaints against Police, paras 10.20-10.29.

8 *Prakash Singh and Others vs. Union of India*, 2006 (8) SCC 1.

9 CHRI Briefing Paper, "India's Police Complaints Authorities: A Broken System with Fundamental Flaws: A Legal Analysis," September 2020: <https://www.humanrightsinitiative.org/download/Briefing%20Paper%20on%20Police%20Complaints%20Authority%20CHRI%202020.pdf>. Accessed on 10 June 2023.

of retired investigators from the Criminal Investigation Department (CID), intelligence, vigilance or any other organisation.

2. MODEL POLICE ACT, 2006 AND MODEL POLICE BILL, 2015¹⁰

The Model Police Act, 2006

In October 2006, a month after the Supreme Court's judgment in *Prakash Singh*, the Police Act Drafting Committee (PADC) popularly known as the Soli Sorabjee Committee released a Model Police Act. This committee was set up by the Union Ministry of Home Affairs (MHA) to draft a new police law for the country. It sought to replace *The Police Act, 1861*¹¹ which continues to be the basis of policing in several States and Union Territories or has remained by and large the template for police legislation enacted by others.

In its draft form, the model act contained a specific schema for the establishment of a complaints handling mechanism called "Police Accountability Commission" to be set up at both the state and the district-level.¹² It not only conformed to the framework that the Court was contemplating, but also filled in the necessary detail for effective functioning. The Court examined this scheme and in its 2006 directive, prescribed minimum standards and a basic framework for an external oversight mechanism over police functioning. The *Model Police Act, 2006* complements the PCA directive in such a way that it provides the detailed nuts and bolts through which the directions of the Supreme Court could be most effectively implemented.

The standards regarding the mandate, powers, composition, selection process, and other details provided for in the *Model Police Act, 2006* are given in Table 2 below.

*The Model Police Bill, 2015*¹³

In 2014, the MHA constituted another committee, headed by Mr. Kamal Kumar, IPS (retd.), for the purpose of reviewing and updating the *Model Police Act, 2006*. This committee produced a revised Model Police Bill in 2015. The provisions with regard to police complaints authorities have been fleshed out further in the *Model Police Bill, 2015* (2015 Bill).

There are significant improvements in the 2015 Bill over the 2006 version with regard to the composition and the mandate of the PCAs. First, the composition: the 2015 Bill increases civil society representatives on the SPCA from one to two. It also widens the pool of eligible candidates from the *Model Police Act, 2006* by bringing persons with knowledge and experience in the field of criminology, human rights and gender issues within the zone of consideration for appointment. Providing this additional knowledge base to an oversight body is a welcome step in the direction of lending salience to the voices representing interests of the community at large, and the lived experiences of victims of police abuse in particular.

10 An analysis of the PCA provisions in the two Model Police Acts was first included in CHRI's 2020 Briefing Paper "India's Police Complaints Authorities: A Broken System with Fundamental Flaws: A Legal Analysis," Chapter 1, and is produced verbatim in this report to provide context and inform analysis.

11 The Police Act, 1861: https://www.mha.gov.in/sites/default/files/police_act_1861.pdf. Accessed on 10 June 2023.

12 The Model Police Act 2006, Bureau of Police Research and Development, Ministry of Home Affairs, Chapter XIII, Police Accountability, Model Police Act, 2006: https://www.mha.gov.in/sites/default/files/ModelAct06_30_Oct_0.pdf. Accessed on 10 June 2023.

13 The Model Police Bill 2015, Bureau of Police Research and Development, Ministry of Home Affairs: [https://bprd.nic.in/WriteReadData/Orders/Model%20Police%20Bill%202015_21st%20Aug%20\(1\).pdf](https://bprd.nic.in/WriteReadData/Orders/Model%20Police%20Bill%202015_21st%20Aug%20(1).pdf). Accessed on 10 June 2023.

This is a positive push towards more accountable policing.

The second improvement is with the PCA's mandate. The 2015 Bill adds to the mandate of the State Police Complaints Authorities, referred in the bill as the State Accountability Commission, by making it mandatory for district police chiefs to report every custodial death and deaths that occur in police action, within 24 hours of receiving information about such occurrences. The Commission is required to apply its powers to hold an inquiry. Where sufficient grounds are found to exist, the Commission is empowered to recommend disciplinary or criminal proceedings against the police personnel found guilty of abuse. Notably, any failure or unreasonable delay on the part of the state police to report such instances of deaths must be treated as misconduct as defined in the 2015 Bill. Officers found responsible for such lapses, become liable for disciplinary action.

These improvements lend much-needed weight to the Police Accountability Commissions. It is important to note that at present, district police chiefs have to report deaths that occur in police custody or due to police action elsewhere, to the National Human Rights Commission (NHRC).¹⁴ To avoid duplication and jurisdictional overlap, a suitable arrangement between NHRC and the Accountability Commissions will become necessary. Having said this, vesting this role with a state-level oversight body may facilitate closer and more prompt monitoring. It will also make it easier for the families to seek accountability for such egregious violation of the constitutionally guaranteed fundamental right to life.

Table 2: Provisions for Police Accountability Commission in the Model Police Act, 2006 and Model Police Bill, 2015: A Comparison

Model Police Act, 2006	Model Police Bill, 2015
State Police Accountability Commission <i>(new provisions in the 2015 Bill are highlighted in red)</i>	
Composition 5 members including the Chairperson: a) Retired High Court judge as the Chairperson; b) Retired police officer from another state cadre, superannuated in the rank of Director General of Police; c) A person with a minimum of 10 years of experience either as a judicial officer, public prosecutor, practicing advocate, or a professor of law; d) A person of repute and standing from civil society; and e) A retired officer with experience in public administration from another state <i>Provided</i> that at least one Member of the Commission shall be a woman and not more than one Member shall be a retired police officer.	Composition 5 members including the Chairperson: a) Retired High Court judge as the Chairperson; b) One Member who has been a police officer in the police service of a different state, superannuated in the rank of Director General of Police: <i>Provided</i> that if such an officer is not available for appointment, an officer from within the state may be selected, after recording reasons in writing; c) One Member to be appointed from amongst persons with a minimum of ten years' experience as a judicial officer, public prosecutor or practicing advocate, or in public administration; d) Two Members to be appointed from amongst persons having expert knowledge of, and a minimum of ten years' experience in, the field of criminology, psychology, law, human rights, or gender issues: <i>Provided</i> that at least one Member of the Commission shall be a woman: <i>Provided</i> further that not more than one member of the three appointed under sub-clauses (c) and (d) shall be a retired police officer: <i>Provided also that not more than one Member of the three appointed under sub-clauses (c) and (d) shall be a retired government servant.</i>

¹⁴ National Human Rights Commission, Guidelines: Custodial Deaths/Rapes: <https://nhrc.nic.in/sites/default/files/sec-1.pdf>. Accessed on 11 July 2023.

<p>Selection</p> <p>Chairperson to be appointed by the State Government from a panel of three retired High Court judges suggested by the Chief Justice of the High Court</p> <p>Members shall be appointed on the recommendation of a selection panel consisting of</p> <ol style="list-style-type: none"> the Chairperson of the Commission; the Chairperson of the State Public Service Commission; the Chairperson or a Member of the State Human Rights Commission or, in the event of there being no such commission in the state, the 'Lokayukta' or the Chairperson of the State Vigilance Commission. 	<p>Selection</p> <p>Chairperson to be appointed by the State Government from a panel of three retired High Court judges suggested by the Chief Justice of the High Court</p> <p>Chairperson of the district authorities and Members appointed by the State Government from a panel of names recommended by a selection panel consisting of:</p> <ol style="list-style-type: none"> Chairperson of the Police Accountability Commission; Chairperson of the State Public Service Commission; Chairperson of the State Human Rights Commission, or a Member nominated by the Chairperson; <p><i>Provided</i> that in the event of there being no such Commission in the state, the Lokayukta of the state shall be a Member of the selection panel:</p> <p><i>Provided</i> further that in the event of there being neither such Commission or Lokayukta in the state, the Chairperson of the State Vigilance Commission shall be a Member of the selection panel;</p>
<p>Functions</p> <ol style="list-style-type: none"> Inquire into the allegations of 'serious misconduct' against <i>any</i> police personnel relating to <ol style="list-style-type: none"> Death in police custody; Grievous hurt, as defined in Section 320 of the <i>Indian Penal Code, 1860</i>; Rape or attempt to commit rape; and Arrest or detention without due process of law; Inquire into any other case referred by the Director General of Police; Monitor the status of departmental inquiries or departmental action on the complaints of "misconduct"¹⁵ against gazetted officers of and above the rank of Deputy/Assistant Superintendent of Police through a quarterly report obtained periodically from the Director General of Police; and <ol style="list-style-type: none"> Issue appropriate advice to the police department for expeditious completion of inquiry; or Issue direction to the Director General of Police for a fresh inquiry by another officer in instances where a complainant reports to the Commission of being dissatisfied with the outcome of, or an inordinate delay in the process of departmental inquiry into his complaint of "misconduct" as defined. Lay down general guidelines for the state police to prevent misconduct on the part of police personnel. 	<p>Functions</p> <ol style="list-style-type: none"> Inquire into the allegations of misconduct against any police personnel above the rank of Superintendent of Police; Inquire into allegations of serious misconduct against any police officer relating to <ol style="list-style-type: none"> death or hurt in police custody; death or grievous hurt other than in police custody; molestation, rape or attempt to commit rape or any other offence against a woman; arrest or detention without adherence to due process of law; such other types of misconduct as may be prescribed by government from time to time; and Inquire into any instance of alleged misconduct referred to by the state police chief or the district authorities. The district police chief is to report every custodial death or death in police action to the commission within 24 hours of receipt of information and further submit all relevant post mortem reports, inquest reports and inquiry reports. Receive from the state police chief a quarterly progress report of all departmental inquiries against, or action taken on, complaints of misconduct against officers of and above the rank of Superintendent of Police, and issue appropriate advice to the police service for expeditious completion of any inquiry or inquiries. Any unexplained failure or unreasonable delay by the state police chief in reporting every case of custodial death or death in police action, or quarterly progress reports of departmental inquiries, shall itself be construed as misconduct and reported by the Commission to the Government.

¹⁵ Section 320 reads as follows: "Misconduct" in this context shall mean any wilful breach or neglect by a police officer of any law, rule, regulation applicable to the police that adversely affects the rights of any member of the public."

3. STATE POLICE ACTS AND EXECUTIVE ORDERS

Till date, 26 States have put in place a legal and/or policy framework constituting police complaint authorities (PCAs). Out of these 26, only 17 provide for a PCA both at the state and district levels, as required by the Supreme Court. Three states – Bihar, Himachal Pradesh and Madhya Pradesh – provide only for a district level complaints authority whereas six states – Chhattisgarh, Goa, Meghalaya, Sikkim, Tripura and West Bengal – have constituted only state-level PCA.

Further, States have constituted PCAs through different methods: 17 have constituted PCAs through new police acts or amendments to existing laws whereas 9 have issued executive orders for their establishment. For the Union Territories, the MHA issued a notification to constitute similar authorities.

Table 3: Establishment of PCAs in States: mode, year and type

PCAs constituted through police acts/legislative amendments			
	Year	State PCA	District PCA
Assam: Assam Police Act 2007; Assam Police (Amendment) Act 2021; Assam Police (Amendment) Act 2022	2007; 2021; 2022	√	√
Bihar: Bihar Police Act 2007	2007	×	√
Chhattisgarh: Chhattisgarh Police Act 2007	2007	√	×
Gujarat: Bombay Police (Gujarat Amendment) Act 2007	2007	√	√
Haryana: Haryana Police Act 2007; Haryana Police (Amendment) Act 2014	2007; 2014	√	√
Himachal Pradesh: Himachal Pradesh Police Act 2007	2007	√	√
Karnataka: Karnataka Police (Amendment) Act 2012	2012	√	√
Kerala: Kerala Police Act 2011	2011	√	√
Maharashtra: Maharashtra Police (Amendment and Continuance) Act 2014	2014	√	√
Meghalaya: Meghalaya Police Act 2010	2010	√	×
Mizoram: Mizoram Police Act 2011	2011	√	√
Punjab: Punjab Police Act 2007; Punjab Police (Amendment) Act 2014	2007; 2014	√	√
Rajasthan: Rajasthan Police Act 2007	2007	√	√
Sikkim: Sikkim Police Act 2007	2007	√	×
Tamil Nadu: Tamil Nadu Police (Reforms) Act 2013	2013	√	√
Tripura: Tripura Police Act 2007	2007	√	×
Uttarakhand: Uttarakhand Police Act 2007; Uttarakhand Police (Amendment) Act 2018	2007; 2018	√	√
PCAs constituted through executive orders			
Andhra Pradesh	2013; 2021; 2023	√	√
Arunachal Pradesh	2006; 2023	√	√
Goa	2007; 2013; 2021	√	×
Jharkhand	2007; 2016	√	√
Madhya Pradesh	2010	×	√
Manipur	2007	√	√

Nagaland	2007; 2016	√	√
Telangana	2021	√	√
West Bengal	2010; 2015; 2023	√	×
States with no PCAs			
Odisha		×	×
Uttar Pradesh		×	×
TOTAL		23	20

The status of PCAs in the UTs is as follows:

Table 4: Constitution of PCAs in UTs

	Union Territories	Year of Constitution
1	Andaman and Nicobar Islands	2012
2	Chandigarh	2010; 2017; under reconstitution
3	Dadra and Nagar Haveli and Daman and Diu	2011
4	National Capital Territory of Delhi	2018
5	Lakshadweep	Yet to be constituted
6	Puducherry	2011; 2016; under reconstitution
7	Jammu and Kashmir	Following the enactment of the Jammu and Kashmir Reorganisation Act, 2019, that led to the bifurcation and conversion of the erstwhile state of Jammu and Kashmir into two Union Territories, namely, Jammu and Kashmir and Ladakh, the Government of India is yet to issue orders for the implementation of the Supreme Court's 2006 directives.
8	Ladakh	

A majority of the states and UTs, however, have failed to comply with the standards laid down by the Supreme Court, which was fleshed out in the *Model Police Act, 2006* and further improved upon in the 2015 Bill. The different ways in which states have diluted, ignored or violated the court's standards are highlighted under each state-specific compliance analysis in the background section. An overall analysis of the gaps in the design of PCAs is provided in CHRI's 2020 briefing paper on the subject.¹⁶

¹⁶ CHRI Briefing Paper, "India's Police Complaints Authorities: A Broken System with Fundamental Flaws: A Legal Analysis," September 2020: <https://www.humanrightsinitiative.org/download/Briefing%20Paper%20on%20Police%20Complaints%20Authority%20CHRI%202020.pdf>. Accessed on 10 July 2023.

II. ANALYSIS

A. STATES/UTs WITH OPERATIONAL SPACs

1. ASSAM

Source of Information

The Assam State Police Accountability Commission (SPAC) responded to our RTI application within the stipulated time. Overall, its response was better than other States and UTs in terms of the information provided and the manner in which it was provided. Assam SPAC provided data on all points requested although in some instances the information provided was not in as detailed as was requested. For example: disaggregation of cases where action was recommended by nature of alleged misconduct or itemised budget and expenditure was not furnished under RTI. It did not reject any request for information on technical grounds such as non-availability of information in the format sought or because the information was already available in the public domain.

Assam is among the few states to have had a functional State Police Accountability Commission ever since the authority was established in 2008.¹⁷ The Assam State Police Accountability Commission (Assam SPAC) was constituted *vide* Notification No HMA.833/2007/51 dated 17 December 2007 issued by the Home Department, Government of Assam, under Sections 70 and 71 of the *Assam Police Act, 2007*. While the Assam SPAC has been functioning for around 15 years, the District Accountability Authorities (DAAs) were set up only in 2022. Through amendments to the *Assam Police Act 2007*, first in 2021,¹⁸ and then in 2022,¹⁹ the State Government has diluted the power and the mandate of the state-level Commission.

Background

The *Assam Police Act, 2007*, enacted soon after the Supreme Court judgement, provides for an SPAC as well as DAAs to inquire into complaints of both misconduct and serious misconduct against police personnel.²⁰ Unlike the Court's directive, however, it does not adhere to the rank-wise division of responsibility between the state and the district-level authorities. The SPAC is authorised to inquire into complaints of serious misconduct²¹ against *all* police personnel, not just of officers of the rank of Superintendent of Police and above. In fact, in a significant deviation from the Court's directive, the district authorities are not vested with the power to conduct inquiries. They are empowered to only forward complaints they receive either to the Assam SPAC (complaints of serious misconduct) or to the district Superintendent of Police (in complaints on misconduct against officers of and below the rank of Deputy Superintendent of Police) or to the Director General of Police (in complaints on misconduct against officers of and above the rank of Superintendent of Police). Although the district authorities have the power to call for a report from the district Superintendent of Police in respect of complaints of misconduct forwarded to the respective

17 Government of Assam, Home & Political, State Police Accountability Commission, Our History: <https://spac.assam.gov.in/about-us/our-history-6>. Accessed on 04 August 2023.

18 The Assam Police (Amendment) Act, 2021: https://legislative.assam.gov.in/sites/default/files/swf_utility_folder/departments/legislative_medhassu_in_oid_3/menu/document/the_assam_policeamendment_act_2021_assam_act_no.xli_of_2021.pdf. Accessed on 04 August 2023.

19 The Assam Police (Amendment) Act, 2022: https://legislative.assam.gov.in/sites/default/files/swf_utility_folder/departments/legislative_medhassu_in_oid_3/menu/document/the_assam_police_amendment_act_2022_assam_act_no.xliv_of_2022.pdf. Accessed on 04 August 2023.

20 Section 70 and Section 84, Assam Police Act, 2007: https://spac.assam.gov.in/sites/default/files/swf_utility_folder/departments/spac_webcomindia_org_oid_10/menu/document/the_assam_police_act_2007.pdf. Accessed on 15 September 2023.

21 Serious misconduct includes death in police custody; grievous hurt as defined in Section 320, Indian Penal Code; and molestation, rape or attempt to rape. See Section 78(1), Assam Police Act, 2007 (as amended in 2021).

authorities for action, the deluted mandate is a serious limitation turning them into merely advisory rather than accountability securing bodies.

In 2021, the Assam State Legislature amended the Police Act reducing the mandate of the SPAC.²² It removed 'any other source' from the list of places from where the Commission can receive complaints regarding allegations of serious police misconduct. It slashed the definition of serious misconduct to exclude: arrest or detention without due process; forceful deprivation of rightful ownership or possession of property; blackmail or extortion; and non-registration of FIRs. Apparently, the amendment was passed to bring the functioning and mandate of the State Commission in compliance with the Apex Court's directive and to create scope for District Accountability Authorities. It further stripped the oversight power of the State Commission to monitor departmental enquiries initiated into complaints of misconduct by restricting them to allegations of serious misconduct only. It also curtailed the power of the Commission to issue appropriate advice or give general guidelines in respect of serious misconduct and dropped such a requirement with regard to inquiries conducted into complaints of misconduct. Misconduct was moved to the jurisdiction of the DAAs. However, the clauses excluded from the category of actions amounting to 'serious misconduct' were not moved to the category of actions and omissions constituting 'misconduct', contrary to the Supreme Court's 2006 directive. Previously, the Assam SPAC was empowered with advisory and guidance providing functions with respect to misconduct as well and it served as an important check against biased inquiries and provided a powerful fillip to police accountability.

A few months later, in 2022, the State Legislature amended the Police Act further, this time restructuring the district-level authorities. In an extreme departure from the Apex Court's directive, the district authorities are no longer independent bodies. They now have at least seven Members of whom at least one must be a woman and only one must be a renowned social worker with legal background. Four of the seven Members are *ex-officio* Members and the remaining are nominated by the State Government, without any independent or transparent selection process. The Authorities now have Members of Parliament, the State's Legislative Assembly and *zila parishads* (or equivalent) as Members. The Deputy Inspector General or the Inspector General of Police for the police range officiates as the Chairperson, the Deputy Superintendent of Police serves as a Member and Staff Officer-to-the-Range Deputy Inspector General officiates as the Member-Secretary. No effort has been made to accord District Authorities with the same mandate and framework as specified in *Prakash Singh*. The district authorities remain powerless.

During debates in the State Legislative Assembly, the Opposition staged a walk-out when the State Government refused to agree to refer the bill to a Select Committee. Members of the Opposition were of the view that a retired judge should continue to head the district authorities. However, the bill was passed by a voice vote despite their objections.²³

The design of the Assam SPAC too, is only partially compliant with the standards of independence laid down by the Apex Court. While it is required to be headed by a retired judge and include three independent members, one of whom is a retired police officer of specified rank, no shortlisting process is laid down for either. This leaves their selection to the sole discretion of the government.

What is worse is that although the Act makes the recommendations of the Assam SPAC

22 Assam Police (Amendment) Act, 2021.

23 "Bill to amend Assam Police Act passed; Cong, Akhil Gogoi walk-out," *East Mojo*, 20 September 2022: <https://www.eastmojo.com/assam/2022/09/20/bill-to-amend-assam-police-act-passed-cong-akhil-gogoi-walk-out/>. Accessed on 07 August 2023.

binding on the State Government,²⁴ as will be discussed in the following sections, there is a poor response from the state on them. The Commission is therefore severely constrained in enforcing accountability of police personnel guilty of serious misconduct.

Current composition

The current composition of the Assam SPAC is as follows:

Table 5: Current composition of Assam SPAC²⁵

Designation	Name	Qualification/ Profession	Date of Appointment	Tenure
Chairperson	Justice BP Katakey (retd.)	Former High Court Judge	08.09.2017	3 years extended on 12.10.2020
Member	Mr. Mukesh Sahay	IPS (retd.)	20.07.2020	3 years ²⁶
Member	Ms. Moniratna Mahanta	ACS (retd.)	01.10.2020	3 years
Member	Mr. Gaurav Bohra	IAS (retd.)	07.06.2022	3 years

Complaints received, status of inquiries and action recommended

Assam SPAC provided data about the complaints received, status of inquiries and the action it has recommended. Notably, it has initiated *suo motu* action every year. In fact, Assam SPAC stands out for initiating the highest number of *suo motu* inquiries among all the PCAs. It also received complaints from other authorities but did not provide any further information about who these authorities are.

Until the 2021 amendment, the Assam SPAC did not reject complaints without initiating an inquiry. In 2022 and 2023 (up to March), the majority of the complaints were closed without inquiry, most likely due to SPAC's reduced mandate following legislative amendments in 2021. Consequently, pendency also fell in 2022 in comparison to the previous three years. As of March 2023, 15 per cent of inquiries (101 out of 670 inquiries) were still pending from previous years. The status of complaints and inquiries is as follows:

Table 6: Complaints received, status of inquiries and action recommended by the Assam SPAC (January 2018 – March 2023)²⁷

Year	Complaints				Status of Inquiries			Recommendations	
	Complaints received	Suo motu	Referral from other authorities	Total complaints	Complaints closed without inquiry	Pending inquiry (still pending on 31.03.2023)	Pendency in inquiries	Departmental Inquiry	FIR
2018	288	21	0	309	0	102(40)	33.01%	46	0
2019	317	12	0	329	0	224(11)	68.09%	15	0

24 Section 82, Assam Police Act, 2007

25 Based on information provided in response to CHRI's 2023 RTI application.

26 His term has come to an end as of 02.08.2023. See, Government of Assam, Home & Political, State Police Accountability Commission, Key Officials: <https://spac.assam.gov.in/about-us/detail/key-officials-36>. Accessed on 06 August 2023.

27 Based on information provided in response to CHRI's 2023 RTI application.

2020	223	10	7	240	0	160(16)	66.67%	6	0
2021	237	4	6	247	0	160(49)	64.78%	2	0
2022	220	8	4	232	170	19(16)	30.65%	0	0
2023	46	3	3	52	45	5(5)	71.43%	0	0
Total	1331	58	20	1409	215	670(101)	56.11%	69	0

The table below provides a breakdown of complaints by type of offences alleged against police personnel in Assam. First, it is important to note the apparent discrepancy in the figures provided by the Commission about complaints received (Table 6) from corresponding figures by type of offences (Table 7). The total figures do not tally for several years; specifically, from 2020 onwards. This is because Assam SPAC has included referrals from other authorities in the same category as complaints received from the public in its disaggregated data (Table 7). Therefore, the total complaints for which the Assam SPAC provided disaggregated data was complaints received from public + referrals for other authorities.

Table 7: Complaints received (from public or by referral from other authorities) by the Assam SPAC disaggregated by nature of alleged misconduct (January 2018 – March 2023)²⁸

Nature of alleged misconduct	2018	2019	2020	2021	2022	2023	Total	%
Death	1	0	2	2	1	0	6	0.45%
Grievous hurt	0	2	1	2	8	0	13	0.98%
Molestation/Rape/Attempt to Rape	0	1	2	1	0	0	4	0.30%
Arrest or detention without due process	11	3	3	10	5	0	32	2.40%
Forceful deprivation of rightful ownership or possession of property	2	1	2	3	0	0	8	0.60%
Blackmail/Extortion	9	21	13	5	1	0	49	3.68%
Non-registration of FIR	31	27	32	17	13	2	122	9.17%
Any other: Police Inaction/ Negligence/ Delay in investigation/ Harassment/ Atrocities/ Misbehaviour/ Threats/ Misuse of power/ Perfunctory investigation/ Miscellaneous matters	234	263	175	203	196	47	1118	84.00%
Total	288	318*	230	243	224	49	1352	

* - total does not match complaints received in Table 6.

Another notable pattern is that the largest proportion of allegations received did not fall in the categories specified in the police act as amended from time to time. They fell in the ‘any other category’ (84 per cent) - going beyond the definition of serious misconduct as defined under the Act.²⁹ This is an encouraging trend as it demonstrates the willingness of the Commission to work according to its purpose – of inquiring into allegations of police misconduct and abuse of authority – rather than take a literal approach of looking only into complaints which are explicitly within its mandate to inquire into. However, with the 2021 amendment, Assam SPAC has been prevented from entertaining complaints alleging anything other than serious misconduct, that specifically excludes the next two highest categories in which the Commission received complaints – non-registration of FIR

²⁸ Based on information provided in response to CHRI’s 2023 RTI application.

²⁹ For instance, delay in investigation and police harassment is not covered in the definition.

(9.17 per cent) and blackmail/extortion (3.68 per cent). It remains to be seen how it will adapt to this restrictive definition.

As seen above, the Assam SPAC did not recommend registration of an FIR in any instance against police personnel even though it has the power to do so. It did, however, recommend initiation of departmental inquiries in relation to 69 complaints. When compared with the total of 1409 complaints it had received up to 2023, the percentage of complaints against which such action was recommended stands at a low 4.89 per cent. Further, it did not provide this information disaggregated by nature of misconduct alleged in its RTI reply. Disaggregated data (by nature of allegation) was offered only for the complaints the Commission received (from the public or from other authorities) as shown in Table 7.

A major gap in the accountability process remains the poor response from the State Government as well as the state police leadership in terms of acting on the Assam SPAC's recommendations. The Assam SPAC has repeatedly raised concern over this, including recommending that the police act be amended to make it binding on the Director General of Police to provide the Assam SPAC with quarterly status reports on departmental proceedings.³⁰

The Government's failure and lack of seriousness in acting upon the recommendations of the Assam SPAC has multiple implications. Police personnel against whom the Assam SPAC found *prima facie* evidence of misconduct continue to remain in service without any consequence of their wrongdoing. This will only perpetuate rather than deter police illegalities. As public servants mandated to uphold rule of law, protection from punitive action against their illegalities is doubly harmful: it not only gives them the licence to harm more people, it also shatters the faith of the public in the complaints redress mechanism as a whole.

One possible remedy for this situation is to make unreasonable delay or failure on the part of the Director General of Police to report to the Assam SPAC about action taken on its recommendations a 'misconduct' in itself, as the *Model Police Bill, 2015* lays down.³¹ Given the lacklustre response of the police leadership, as highlighted above, defining such delays as misconduct will go a long way in strengthening the Commission's ability to enforce police accountability.

Administrative functioning

- a. Rules of Procedure: The Assam SPAC has adopted the *State Police Accountability Commission Regulations, 2008*. They were drafted in exercise of powers conferred under Section 77 of the *Assam Police Act, 2007*. They lay down the procedure that the Assam SPAC has to follow in the conduct of its business. Key features of the Regulations are:
 - ✓ Commission needs to meet at least once a week;³²
 - ✓ Commission shall have its own Investigation Team comprising of a Chief Investigator and Senior Investigator(s)/Investigator(s);³³
 - ✓ All complaints must be accompanied by a sworn affidavit; however the Commission may entertain a complaint without an affidavit if it is *prima facie* satisfied about the veracity of the complaint;³⁴

30 Annual Reports 2018, 2019, and 2020.

31 Section 81(4), Model Police Bill, 2015.

32 Regulation 5, State Police Accountability Commission Regulations, 2008.

33 Regulation 6, State Police Accountability Commission Regulations, 2008.

34 Regulation 7(I)(a) & (e), State Police Accountability Commission Regulations, 2008.

- ✓ Complaints may be made in any language officially recognised in Assam;³⁵
 - ✓ On receiving a complaint, the SPAC makes a preliminary consideration where it may dismiss the complaint *in limine* or issue notice.³⁶ During the process of inquiry the Commission may also hold a personal hearing in its discretion with a reasonable opportunity of cross-examination,³⁷ and after completion of the said inquiry, communicate its findings to the Director General of Police and the State Government.³⁸
- b. Annual Reports: The Commission shared copies of its annual reports for 2018, 2019 and 2020. In its response it stated that:

“the Annual Report for the year 2021 is yet to be placed before the Assam Assembly and hence the same could not be provided at this stage... Annual Report for 2022 is under preparation.”

The annual reports follow the same pattern and provide information about its secretariat, and the outreach activities of the Commission. They provide details of new complaints received each year disaggregated by nature of misconduct, followed by recommendations of the Commission for strengthening its own functioning as well as for enhancing police accountability in the state. They also provide information the Commission has received from the police department in the course of monitoring of departmental inquiries. Additionally, the Assam SPAC shares the case statistics and orders from illustrative cases. The reports are comprehensive and provide details of complaints received and the inquiries held. We note that copies of some annual reports are available on the Commission’s website, but only up to 2015.

Key recommendations made by the Assam SPAC in its Annual Reports 2018-2020

Regarding its own functioning

The Assam SPAC has put forward crucial recommendations in its annual reports to strengthen its role and fulfil the aim with which it was created. Some of them reiterate the provisions laid down by the Supreme Court in 2006, such as the need for district accountability authorities, which are now in the process of being constituted. Others such as regularisation of the Assam SPAC contractual workers, binding obligation on the police department to share quarterly reports on departmental enquiries, and the widening of the definition of serious misconduct require further legislative amendment, as the Assam SPAC itself proposes. While these recommendations seem aligned with the aim of police accountability, a collective dialogue involving all stakeholders (State Government, police, PCAs, and civil society) will help build consensus on the best ways to strengthen the SPAC’s role in addressing and preventing police misconduct.

The recommendations are summarised below:

- *Allot land for a permanent office building. At present a huge sum of money is being spent towards renting office space.*

35 Regulation 7(IV), State Police Accountability Commission Regulations, 2008.

36 Regulation 8, State Police Accountability Commission Regulations, 2008.

37 Regulation 7(VIII), State Police Accountability Commission Regulations, 2008.

38 Regulation 9(C), State Police Accountability Commission Regulations, 2008.

Proposed Amendments to the Police Act:

- *Regularisation of contractual staff at the Assam SPAC.*³⁹
- *Binding obligation on the DGP to ensure quarterly status reports to the Assam SPAC on departmental enquiries against police officers.*
- *Include within the definition of serious misconduct - perfunctory/faulty investigation and wilful negligence.*
- *Investigation of an FIR against a police officer should be conducted by an officer senior by at least one rank to him/her or by the CID.*

Enhancing Police Accountability

The Assam SPAC also makes general recommendations on increasing police accountability within the State. These are aligned with the government's vision of a SMART police force.⁴⁰

The recommendations are summarised below:

- *Install CCTV cameras in all police stations/posts and keep them operational.*⁴¹ *The Commission noted that when CCTV footage was sought by it, most of the time it was reported that the CCTV were non-functional. The SPAC is of the opinion that a majority of the grievances against the police can be resolved by installation of such cameras.*
- *Comply with direction of the SPAC and give appropriate punishment to guilty officers in departmental enquiries.*
- *Set up a Public Relations Officer at each police station to ensure proper dealing with weaker sections of society including women and children.*
- *Display information regarding the aims, object and constitution of the Assam SPAC in a conspicuous place at every police station.*
- *Create a separate cell for senior citizens at every police station.*
- *Ensure basic minimum facilities at every police station for visitors, including providing seats, water, reception etc.*
- *Impart induction and mid-level training to police officers to keep them up to date on the laws, and to ensure good relationship with the public. Additionally, also develop a team of master trainers who can impart cutting edge training to the police force.*
- *Strictly comply with SCI directives in DK Basu v. State of West Bengal, (1997) 1 SCC 416⁴² and subsequent amendment to Section 41 CrPC at the time of arrest. Additionally, display these directions at each police station/outpost at a conspicuous place.*

- c. **Investigation unit:** Based on available information, Assam is among the few states to have constituted a separate investigation cell within the SPAC. As mentioned above, the cell includes a chief investigator, a senior investigator and an investigator, all of whom are retired police personnel.

³⁹ To this end, the 2021 amendment allows the SPAC Assam to hire staff on deputation basis.

⁴⁰ SMART stands for: Strict and Sensitive, Modern and Mobile, Alert and Accountable, Reliable and Responsive, Techno savvy and Trained. For more information on SMART Police, see Bureau of Police Research and Development, Ministry of Home Affairs: <https://bprd.nic.in/SmartPolice.aspx>. Accessed on 10 September 2023.

⁴¹ The SCI in various cases including *DK Basu v. State of West Bengal*, (2015) 8 SCC 744 and *Paramvir Singh Saini v. Baljit Singh*, (2021) 1 SCC 184 has directed states to install CCTV cameras at police stations to act as a check on custodial violence and other breaches of human rights.

⁴² The SCI issued a set of guidelines laying down the rights of an accused person and the duties of police officials. The guidelines pertain to identification of police officials, preparation of the arrest memo, notifying the accused's family or friends about the accused's arrest, and their medical examination, among others.

- d. **Outreach:** The SPAC has held several awareness campaigns since 2011 across Assam.⁴³ Notably, some sessions have also been held in partnership with the district police, particularly since 2018 when targeted sessions were held with newly recruited sub-inspectors and constables. While this is encouraging and indeed much needed, the quality and reach of the campaigns is unclear in the absence of more information about the contents of these interactive sessions. The SPAC has also started an internship programme for law students to assist it in its work. The SPAC's website provides information that people must know about their rights and the procedures it adopts to fulfil its mandate. It includes a detailed 'Frequently Asked Questions' section about the mandate and the powers of the SPAC, the procedure for filing complaints and the process of conducting an inquiry into such complaints;⁴⁴ a section that explains the rights of complainants;⁴⁵ and a section that explains people's rights vis-à-vis the police in general.⁴⁶ Once again, while the effort is commendable, the information on the website is available only in English. It remains unclear whether pamphlets and posters have been prepared in the state's official language and other popular languages spoken by resident ethnic communities for wider reach and impact.
- e. **Website:** As stated above, the SPAC has an active website in English that provides detailed information on the powers and procedures of the Commission.⁴⁷ It also has up-to-date information on the composition of the Commission as well as contact details of key functionaries. The Commission stands out for creating sections such as "Frequently Asked Questions" and "Peoples Right and the Police" for the general populace. It also provides information about its Internal Complaints Committee under the *Sexual Harassment at the Workplace (Prevention, Prohibition and Redressal) Act, 2013*. However, we have noted that some tabs did not have any/up-to-date information particularly on budget and annual reports.
- f. **Budget:** The SPAC receives its budget from the State Government's Home Department, under the head of account '2070 – Other Administrative Services'. The Commission did not provide an itemised budget as requested in our RTI application. It did, however, share its budget and expenditure divided into two components – salary and non-salary. It is as follows:

Table 8: Budget and expenditure of the Assam SPAC (2018-2019 to 2022-2023)⁴⁸

Year	Salary			Non-Salary			Overall Utilisation
	Budget (Rs.)	Expenditure (Rs.)	Utilisation	Budget (Rs.)	Expenditure (Rs.)	Utilisation	
2018-2019	74,00,000/-	59,65,549/-	80.62%	40,00,000/-	16,71,289/-	41.78%	66.99%
2019-2020	81,40,000/-	76,14,935/-	93.55%	44,00,000/-	17,18,155/-	39.05%	74.43%
2020-2021	86,03,000/-	83,21,252/-	96.73%	43,25,000/-	15,91,667/-	36.80%	76.68%

43 Government of Assam, Home & Political, State Police Accountability Commission, Awareness Program: <https://spac.assam.gov.in/portlets/awareness-programme>. Accessed on 04 September 2023.

44 Government of Assam, Home & Political, State Police Accountability Commission, FAQ's: <https://spac.assam.gov.in/portlets/faqs>. Accessed on 04 September 2023.

45 Government of Assam, Home & Political, State Police Accountability Commission, Rights of the Complainant: <https://spac.assam.gov.in/portlets/rights-of-the-complainant>. Accessed on 04 September 2023.

46 Government of Assam, Home & Political, State Police Accountability Commission, People's Rights and the Police: <https://spac.assam.gov.in/portlets/peoples-right-and-the-police>. Accessed on 04 September 2023.

47 Government of Assam, Home & Political, State Police Accountability Commission: <https://spac.assam.gov.in/>. Accessed on 04 September 2023.

48 Based on information provided in response to CHRI's 2023 RTI application.

2021-2022	86,40,000/-	97,35,600/-	112.68%	44,10,000/-	17,26,116/-	39.14%	87.83%
2022-2023	86,40,000/-	89,85,341/-	104.00%	39,69,000/-	15,40,214/-	38.81%	83.48%

From this we see that the overall budget utilisation has increased progressively with each passing year. This is because under the salary heads there has been a slow but steady increase in the budget until 2021-2022, however it does not match the pace with which the expenditure under these heads has been increasing. In 2021-2022 and 2022-2023 the SPAC has gone over its budget under these heads. On the other side, the budget for non-salary expenses has actually come down in 2022-2023 overall despite moving in an upward direction from 2018-2019. Utilisation of non-salary budget is also low at an average of 36-41 per cent over the period of five years. This begs the question: why is the utilisation of non-salary expenses at the Commission so low, and reducing with each passing year?

Summary and Recommendations

To conclude, with over 15 years of active functioning, Assam SPAC's experiences offer several lessons in understanding the potential as well as limitations of an independent oversight body in pushing for greater police accountability. Assam SPAC's use of its *suo motu* powers stands out in our study as a sign of an active and independent authority. It is also noteworthy that the SPAC was able to act on complaints beyond the strict scope of 'serious misconduct' as defined in the *Assam Police Act, 2007*. However, we also note the low number of recommendations for departmental inquiries and no recommendations for registration of FIRs over the past five years. The State Government's act of reducing the SPAC's mandate without a complementary increase in that of the DAAs' is a cause of concern. We hope that the State Government is tracking the vacancies at the Commission; by the end of this year the post of the Chairperson and two other Members will fall vacant. Assam should emerge as an example where vacancies are quickly filled up so that the work of the Commission continues unhindered.

There are many points of action for police accountability in Assam, as the SPAC itself points out in its annual reports. A serious gap within the accountability process is that of state action on the Commission's recommendations, both on the complaints received by the SPAC and the general recommendations made by it. Without any action on these recommendations, the work of the SPAC will not reach its logical conclusion. We hope this review will encourage civil society, academia and the media in Assam to initiate deeper studies into the types of complaints the Commission receives, its inquiry processes, quality of its orders, its experience with the police department as well as levels of satisfaction among the complainants. This deeper probe is necessary to develop meaningful insights into the working of PCAs not only in Assam but also elsewhere in India.

CHRI recommends:

To the Assam Government

- ✓ Make the procedure for selection of the Chairperson and Members of the SPAC transparent and in line with the Supreme Court directive.
- ✓ Increase the mandate of the DAAs, giving them power to conduct inquiries and make recommendations, in line with the Supreme Court directive.
- ✓ Make unreasonable delay or failure on the part of the Director General of Police to

report to the Assam SPAC about action taken on its recommendations a ‘misconduct’ in line with the *Model Police Bill, 2015*.

- ✓ As the tenure of the Chairperson and two Members will end by December 2023, ensure that:
 - The posts are filled on time and that no post remains vacant;
 - At least one Member is from civil society;
 - At least one Member is a woman.
- ✓ Act on the recommendations made by the Commission in its annual reports, particularly providing resources as needed, both at the Commission and at the police stations to implement them.
- ✓ Conduct a performance audit of the SPAC along the parameters specified in this report’s concluding chapter to determine the extent to which the Commission is functioning efficiently and effectively to meet its objectives and accordingly recommend measures for expanding the Authority’s reach, mandate, powers, and resources including additional staff and facilities (such as computers, vehicles) that can facilitate just and timely completion of inquiries.

To the Assam State Police Accountability Commission

- ✓ Monitor pendency at regular intervals and identify solutions both within its processes and those that can be recommended to the State Government.
- ✓ Proactively recommend registration of FIRs against police personnel where needed.
- ✓ Maintain an up-to-date website with copies of all annual reports and outreach materials, that is accessible in Assamese; and, fulfil the proactive disclosure requirements of Section 4(1)(b), RTI Act by publishing for example the budget and expenditure of the Commission on the website.
- ✓ Continue to conduct regular awareness programmes across the state.

2. DELHI

Source of Information

The Delhi PCA responded to the Right to Information application but provided information to only some queries. The following status report is based on information CHRI has received in response to its RTIs submitted to Delhi PCA in 2021 and 2023. Preference is given to information provided in 2023. When information was requested but not provided in 2023, CHRI relied on their response to the RTI intervention made in 2021, so we cannot vouch for the current state of affairs relating to these matters.

The Government of the National Capital Territory of Delhi (GNCTD) constituted an independent Police Complaints Authority (Delhi PCA) in January 2018, twelve years after the Supreme Court's judgement.⁴⁹ Previously, the government had assigned the functions of the Police Complaints Authority to the existing Public Grievance Commission in Delhi with the approval of the Government of India – a blatant violation of the Court's directive.⁵⁰

Background

The functioning of the Delhi Police is governed by the *Delhi Police Act, 1978*. Delhi has not adopted the *Model Police Act, 2006* and the PCA has been set up through an executive order.⁵¹

Only the state-level PCA has been constituted for Delhi with the mandate to inquire into allegations of serious misconduct⁵² against police personnel of *all* ranks. This is at odds with the rank-wise segregation suggested by the Court where district level authorities are required to inquire into complaints against officers of the rank of Deputy Superintendent of Police and below whereas the state-level authority is to inquire into complaints against officers of the rank of Superintendent of Police and above.

Delhi PCA's composition, functions and powers broadly conform to the Court's directive, although gaps in the selection process and the procedure for receiving complaints weaken its mandate. A retired High Court judge heads the Delhi PCA and is appointed by the Lt. Governor from a panel of names proposed by the Chief Justice of the High Court of Delhi whereas the members are appointed from a panel prepared by GNCTD's Chief Secretary in consultation with the Lok Ayukta and the Chairperson of the Delhi Public Grievances Commission.⁵³ While the notification adheres to the shortlisting process both for the PCA Chairperson as well as the Members, it fails to define appropriate eligibility criteria which is an equally important check against partisan appointments.

In terms of the appointed role and functions of the Delhi PCA, a major problem with the notification is its restrictive clauses on the admissibility of complaints. It requires, for

49 Government of National Capital Territory of Delhi, Home Police-I Branch, Home Department, Notification F.No.28/1/2017/HP-I/Estt./Part file 635-641, dated 29.01.2018: <https://pca.delhi.gov.in/sites/default/files/pca/introfile/resolution.pdf> (Delhi Notification dated 29.01.2018).

50 Government of National Capital Territory of Delhi, Administrative Reforms Department, No.F.12/04/2011/AR/1630-1789/C, dated 27.02.2012.

51 Delhi Notification dated 29.01.2018.

52 Serious misconduct includes: deaths and grievous hurt in police custody, rape or attempt to rape in police custody, arrest or detention without due process of law, extortion or land grabbing or any other incident involving serious abuse of authority. Clause 4, Delhi Notification dated 29.01.2018.

53 Clause 2 and 3, Delhi Notification dated 29.01.2018.

instance, a complaint from a victim or any person on his/her behalf to be received on a sworn affidavit.⁵⁴ This is an unnecessary requirement that will discourage complainants. Another major gap in the notification is that it allows the Government to disagree with the Delhi PCA's findings. So, the Government is not mandatorily required to initiate action against police officers found guilty of misconduct by the Delhi PCA thereby superseding its judgement.⁵⁵ In *Prakash Singh* the Supreme Court's directive categorically makes the PCA's recommendations binding on the respective governments.

Current Composition

The first appointment to the PCA was made in December 2018, nearly a year after GNCTD issued the order establishing it. Its composition is provided in the table below.

Table 9: Current composition of the Delhi PCA⁵⁶

Designation	Name	Qualification/ Profession	Date of Appointment	Tenure
Chairperson	Justice PS Teji (retd.)	MA (Economics) & LLB / Former High Court Judge	24.12.2018	3 years extended up to 13.08.2023 ⁵⁷
Member	Ms. Nutan Guha Biswas	M.Sc. (Economics) Policy and Planning / IAS (retd.)	24.12.2018	3 years extended up to 25.07.2023 ⁵⁸
Member	Mr. P Kamraj	MA (Economics) / IPS (retd.)	24.12.2018 ⁵⁹	3 years extended up to 25.05.2023 ⁶⁰
Member	Ms. Tinu Bajwa	B.Sc., LLB & MBA / Advocate	24.12.2018 ⁶¹	3 years extended up to 30.11.2023

Their tenures were set to end in 2021 but were extended for a period of two years or till the age of 65 years.⁶² Three of the four positions have already fallen vacant at the time of compiling this report and the fourth Member will complete her tenure in less than two months. The PCA will become dysfunctional unless all vacancies are filled up forthwith

Complaints received, status of inquiries and action recommended

The Delhi PCA is authorised to either initiate an inquiry into allegations of serious misconduct *suo motu* or based on a complaint received from either a victim or any person acting on their behalf, or the National Human Rights Commission, the Lt. Governor, the Chief Secretary or the Principal Secretary of the Government of Delhi.⁶³ The GNCTD's order defines serious misconduct to include: death in police custody, grievous hurt in police custody, rape or attempt to rape in police custody, arrest or detention without due process

54 Clause 4 (i)(a), Delhi Notification dated 29.01.2018.

55 Clause 6, Delhi Notification dated 29.01.2018.

56 Based on information provided in response to CHRI's 2023 RTI application.

57 His tenure as Chairperson has now come to an end.

58 Her tenure as Member has now come to an end.

59 According to the PCAs Fourth Annual Report 2022-2023, he assumed office on 18.12.2018. Police Complaints Authority, Government of NCT of Delhi, Fourth Annual Report 2022-2023, pg. 28. Note that the PCA is yet to upload the fourth annual report on their website. Justice Teji shared a copy with CHRI.

60 His tenure as Member has now come to an end.

61 According to the 2022-2023 Annual Report, she assumed office on 06.02.2019. Police Complaints Authority, Government of NCT of Delhi, Annual Report 2022-2023, pg. 29.

62 Government of National Capital Territory of Delhi, Home Department, Notification No. F. 28/03/2021/PCA/HP-I/Estt.2522-2533 dated 01.12.2021 and Government of National Capital Territory of Delhi, Home Department, Notification No. F. 28/03/2021/PCA/HP-I/Estt.2764-2772 dated 17.12.2021.

63 Clause 4(i), Delhi Notification dated 29.01.2018.

of law, or extortion or land/house grabbing or any other incident involving serious abuse of authority.⁶⁴

Although the PCA was constituted in December 2018, it became operational only in February 2019 after all Members assumed office. Since then, it has released four annual reports. They provide details about complaints, although the information is limited to aggregate figures only. An overview of the receipt and disposal of complaints is given below:

Table 10: Complaints received, disposed-off and pending & approval of action recommended by the Delhi PCA (2019-2021)⁶⁵

Year	Complaints received	Complaints disposed	Complaints pending	Pendency Rate	Recommended Action (of the PCA) approved by LG
2019-2020 ⁶⁶	1535	1327	208	13.55%	5 ⁶⁷
2020-2021 ⁶⁸	2146	1985	161	7.50%	0
2021-2022 ⁶⁹	2440	978	1462	59.91%	1 ⁷⁰
2022-2023 ⁷¹	2321	1825	496	21.37%	11 ⁷²

Details about the nature of complaints, types of allegations made against the police, or types of action recommended following an inquiry are missing from these annual reports.

Notably, while the Authority had shared data regarding complaints in response to CHRI's RTI application in 2021, it did not provide any information in 2023. Instead the PCA's Public Information Officer replied as follows:

"2. No documents prepared/available categorizing as asked for the information is available. as document form please indicate which is asked for." [sic]

The information about complaints received and admitted which the PCA supplied in 2021 is produced below:

Table 11: Complaints received and admitted by the Delhi PCA (2019-2021)⁷³

Year	Complaints received	Complaints admitted for enquiry by the PCA
2019	952	952
2020	2438	2438
2021 (till 15 March)	453	453

⁶⁴ *Ibid.*

⁶⁵ Based on Delhi PCA Annual Reports.

⁶⁶ Police Complaints Authority, Government of NCT of Delhi, Annual Report 2019-2020, pg. 25: https://pca.delhi.gov.in/sites/default/files/pca/generic_multiple_files/annual_report_2019-20.pdf. Accessed on 16 August 2023.

⁶⁷ In two instances, the approval took over ten months. For the remaining three, the action was approved by LG in close to a month.

⁶⁸ Police Complaints Authority, Government of NCT of Delhi, Annual Report 2020-2021, pg. 35.

⁶⁹ Police Complaints Authority, Government of NCT of Delhi, Annual Report 2021-2022, pg. 31: https://pca.delhi.gov.in/sites/default/files/pca/generic_multiple_files/annual_report_2021_22.pdf. Accessed on 16 August 2023.

⁷⁰ Recommended action approval from LG took 11 months.

⁷¹ Police Complaints Authority, Government of NCT of Delhi, Annual Report 2022-2023, pg. 40: https://pca.delhi.gov.in/sites/default/files/pca/generic_multiple_files/annual_report_2021_22.pdf. Accessed on 16 August 2023.

⁷² The Annual Report did not mention when the recommended action was sent to the Lieutenant Governor for approval and therefore we could not calculate the time taken for each approval.

⁷³ Based on information provided in response to CHRI's 2021 RTI application.

Although the above tabulation shows that the Delhi PCA admitted all complaints, the process it has admittedly adopted for admitting complaints is unnecessarily cumbersome and tilted against a potential victim of police misconduct. On receiving a complaint, the Delhi PCA first shares the details of the complaint with the Commissioner of Police and seeks a detailed response. If the Authority does not receive a response within 15 days, or the report received is not satisfactory, the complaint is put forward before the Chairperson for a hearing and “further direction.” Only after a hearing is it decided to either dispose of the complaint or admit it for further inquiry.⁷⁴ The purpose of this additional layer of police protection is unclear, especially because the purpose of the Delhi PCA’s inquiry itself is to determine the facts of the complaint. Moreover, the complainant is not allowed an opportunity to respond in instances where the Delhi PCA decides to dispose of a complaint on the basis of the police response.

Other key observations from the data provided in response to our 2021 RTI application are as follows:

First, between 2019 and 2021 (up to March), the PCA has initiated inquiry *suo motu* in only two cases: one pertaining to death in custody⁷⁵ and the other regarding a case of arrest/detention without due process. Both these complaints are from 2019. Since then, it has only initiated inquiries based on complaints received.

Second, almost all of the complaints received in 2020 and 2021 were from the public. The Authority received only two complaints in 2019 from the Government/Commissioner of Police.

Third, of the complaints received from 2019 till March 2021, all fall in the category of “any other.” This indicates that they do not pertain to the categories of actions defined as ‘serious misconduct’ such as: deaths in custody, causing grievous hurt, rape or attempt to rape in custody, effecting arrest or detention without due process, extortion and/or land or house grabbing. An overview of the cases described in the Delhi PCA Annual Report 2019-2020 provides a glimpse of the nature of complaints, which include grave violations including harassment, “merciless beating” and torture.⁷⁶

On completion of the inquiry, the Delhi PCA is required to communicate its findings and recommendations to the Lt. Governor.⁷⁷ The notification does not specify what types of action may be recommended, unlike the Court’s directive that the complaints authorities must either recommend initiation of departmental inquiry or pressing of criminal charges where *prima facie* evidence points to instances of serious misconduct of police officers. Despite reporting a high disposal rate, neither the RTI reply nor the annual reports provide information about the nature of recommendations made by the PCA so far. Without a breakdown of the types of actions recommended and the action taken on such recommendations by the Government, it is difficult to assess the impact of the Delhi PCA in securing police accountability.

74 Delhi PCA Annual Report 2019-2020, Practice and Procedure adopted by the Police Complaints Authority, pg. 19.

75 The Authority took note of the case on 23 July 2019. It held 17 hearings that ended in December 2019 and subsequently made its recommendation to the Lieutenant Governor. For details, see the Delhi PCA Annual Report 2019-2020, pg. 28.

76 Delhi PCA Annual Report 2019-2020, pg. 25-35.

77 Although the notification establishing the Delhi PCA states that the PCA will communicate its findings with the Chief Secretary of Delhi, in practice, the PCA sends its findings to the LG. See, Police Complaints Authority, Government of NCT of Delhi, Annual Report 2022-2023, ‘Practice and Procedure Adopted by the Delhi Police Complaints Authority’, pg. 51.

Administrative functioning

- a. **Rules of Procedure:** In its annual reports, the Delhi PCA has provided the practice and procedure adopted by the Authority. However, it is not clear whether this is an informal procedure or backed by legislative sanction. In response to our request for information on the rules of procedure for the Delhi PCA, the PIO responded as follows:

“Same as Reply mentioned at S. No.2 above.”

As mentioned in the previous section, the Delhi PCA did not provide any information to point 2 of our RTI request.⁷⁸

Per the adopted practices and procedures, the Delhi PCA undertakes a preliminary process where it requests a status report from the Delhi Police. When such a report is not received or is not satisfactory, the complaint is put up before the Chairperson of Delhi PCA. The Chairperson can then either dispose of the complaint or register it as a regular complaint for inquiry. After the completion of the inquiry, the report is forwarded to the LG with recommendations.

- b. **Annual Report:** The Delhi PCA has published four annual reports, for the years 2019-20, 2020-21, 2021-22 and 2022-23. According to the RTI reply furnished by the PIO, all these reports are available on their website; however, this could not be verified for all the reports as the website was being renovated when we tried to access it for the purpose of this study.⁷⁹ The reports that we have been able to access focus heavily on explaining the history of the PCA, profile of its current Chairperson and Members, and meetings held with government officials apart from displaying photographs. With regard to complaints, it provides only basic information, namely, total number of complaints received and the number of complaints disposed of during the year. Other details such as the types of complaints received, district-wise geographical mapping of complaints received, and types of actions recommended by the Authority following an inquiry are not included in the annual report. While the first report provided some details of six cases which it attended between 2019-20, this practice was done away with in subsequent reports.
- c. **Budget:** The Delhi PCA receives its budget from the Government of Delhi. Although the Authority was constituted in January 2018, appointments were made only in December 2018. It started functioning from its current location only in May 2019. Its annual budget and expenditure are given below:

Table 12: Budget of Delhi PCA (2019-20 to 2022-23)⁸⁰

Year	Budget (Rs.)	Expenditure (Rs.)	Utilisation
2019-2020	6,95,00,000/-	3,93,63,248/-	56.63%
2020-2021	8,81,00,000/-	5,57,77,482/-	63.31%
2021-2022	8,88,00,000/-	6,20,44,104/-	69.86%
2022-2023	9,55,00,000/-	7,01,26,615/-	73.40%

There is an increase in both budget allocation and utilisation year upon year. However, a closer look at item-wise expenditure shows an underutilisation of the budget head for publicity. Between 2019-2022, no expenditure was made under the head for publicity.

78 Their response to point 2 was: “2. No documents prepared/available categorizing as asked for the information is available. as document form please indicate which is asked for.” [sic]

79 We already had copies of the Delhi PCA’s Annual Reports for 2018-19 and 2019-20. We were able to access their remaining Annual Reports namely from 2020-21 to 2022-23 through a personal request at the PCA even though they were not available on the website.

80 Based on information provided in response to CHRI’s 2023 RTI application.

In FY 2022-2023, the PCA spent only 1.1 per cent of its budget earmarked for this purpose.

- d. Website: While the Delhi PCA is among the few authorities to have created its own website, it provides only basic information, such as the organisational structure, staff details and aggregate figures of complaints received and disposed of.⁸¹ The website is under renovation and its sections titled “lodge complaint” and “complaint status” are yet to be developed. A Hindi version of the website is also not developed yet. Apart from the website, the Authority does not seem to have developed any targeted educational material to spread awareness about its role and powers.

Summary and Recommendations

By the end of this year, the Delhi PCA will have been functional for five years. In the very first year of its running, it had received over 1,500 complaints, a number that has since crossed 2,000 annually. They have hit the ground running and there are lessons to be learnt from the functioning of the Delhi PCA. With all positions at the PCA falling vacant by the end of this year, we hope that the vacancies will be filled without delay. Given the volume of complaints the Authority receives, its work must not come to a halt.

There are many points of action for police accountability in Delhi and a serious gap within the process is of state action on its recommendations; we note the time taken to receive the LG’s approval on the PCA’s recommendations has been as long as 11 months. We also note that the current practice at the Authority adds layers of scrutiny in the complaints admissions process that are not needed. Additionally, the PCA has also fallen short in exercise of its *suo motu* powers, so there is a lot more work to be done. We hope the Authority addresses these issues in its working and emerges as a strong leader for police accountability in the country.

CHRI recommends:

To the Delhi Government

- ✓ Provide an eligibility criterion for selection of the Chairperson and Members of the PCA to bring it in line with the Supreme Court directive.
- ✓ Set-up a multi-tier system of oversight considering the number of complaints received.
- ✓ Do away with the approval of the LG for proceeding with the recommended action of the Delhi PCA; make the recommendations of the Authority binding on the police department and make unreasonable delay or failure on the part of the Commissioner of Police to report to the Delhi PCA about action taken on its recommendations a ‘misconduct’ in line with the *Model Police Bill, 2015*.
- ✓ As the term of the Chairperson and all the Members will end between August and November 2023, make sure that:
 - The posts are filled on time and that no post remains vacant;
 - At least one Member is from civil society;
 - At least one Member is a woman.
- ✓ Conduct a performance audit of the Delhi PCA along the parameters specified in this report’s concluding chapter to determine the extent to which the Authority is functioning efficiently and effectively to meet its objectives and accordingly recommend measures for expanding the Authority’s reach, mandate, powers, and resources including

81 Police Complaints Authority, Government of NCT of Delhi: <https://pca.delhi.gov.in/>. Accessed on 23 August 2023.

additional staff and facilities (such as computers, vehicles) that can facilitate just and timely completion of inquiries.

To the Delhi Police Complaints Authority

- ✓ Formulate its rules of procedure in accordance with the *Model Police Bill, 2015* as outlined in this report's concluding chapter with a particular focus on protecting the rights of the complainant and predetermined time-frames for completing inquiries.
- ✓ Take *suo motu* cognizance of instances of police abuse that fall within its mandate.
- ✓ Maintain an up-to-date website along the parameters specified in this report's concluding chapter that is accessible in Hindi and English and fulfils the proactive disclosure requirements of the Delhi PCA.
- ✓ Publish detailed statistics in the annual reports about the types of complaints received, their district-wise geographical mapping, and types of actions recommended by the Authority following an inquiry. Also provide general recommendations for enhancing police accountability in the UT.
- ✓ Conduct regular outreach and awareness programmes across the UT.

3. GOA

Source of Information

The Goa SPCA transferred the 2023 Right to Information application to the State Home Department and the Office of the Director General of Police on points relating to establishing of the SPCA and the action taken with regard to its recommendations, respectively. For other RTI queries - regarding the number of complaints received, status of inquiries and action recommended, as well as copies of annual reports, the PIO of the SPCA demanded payment of Rs. 7,790/- as copying charges. Upon requesting a breakdown of the charges, the SPCA responded with the number of pages (3,895) and provided no additional information about the nature of documents that it was willing to share. CHRI did not make this payment as the fee demanded was not only exorbitant as the PIO failed to give details of fee calculation as required under Section 7(3)(a) of the RTI Act but also because all this information ought to have been published voluntarily in accordance with Section 4(1) of the RTI Act. However, the SPCA provided information about its budget and expenditure without charging any additional fee. The following analysis is a combination of information received from the Goa SPCA and Home Department in 2023, from the Goa SPCA in 2021, and information available in the public domain.

The Government of Goa constituted a State Police Complaints Authority (Goa SPCA) in April 2007 *vide* an executive order appointing Justice Dr. Eurico Santana da Silva (retd.) as its Chairperson.⁸² Further government orders about the functioning of the SPCA have been issued in 2013⁸³ and more recently in June 2021.⁸⁴ The 2021 order along with its 2022 amendment supersedes all earlier orders and reconstitutes the Goa SPCA under new terms.

Background

Goa has not enacted a new police act following the *Prakash Singh* judgement; *The Police Act, 1861* is still in force and is the basis of policing in the state. In 2008, Goa had sought to introduce a new police act to govern the functioning of the police and give effect to the police reform directives in *Prakash Singh*. The *Goa Police Bill, 2008* introduced in the state legislature, was referred to a Select Committee for review. However, this bill lapsed in 2012 with the dissolution of the State Assembly.⁸⁵ With regard to the establishment of PCAs, the bill contravened the Supreme Court's directive by seeking to vest the powers of the PCA in the state's Lokayukta which itself had not been established. In the interim, the bill provided for the State Government to determine the composition of the SPCA until the state's Lokayukta is constituted.⁸⁶

Overall, the composition, mandate and powers vested with the Goa SPCA remain only partially compliant with the Supreme Court's directive. Initially, the Goa SPCA was headed

82 Government of Goa, Department of Home – General Division, Order No. 2/51/2006-HD(G), Official Gazette, Series II No.3, dated 19.04.2007 at pg. 94: <https://goaprintingpress.gov.in/downloads/0708/0708-3-SII-OG.pdf>. Accessed on 11 September 2023.

83 Government of Goa, Department of Home – General Division, Order No. 2/58/2007-HD(G)Part/2892, Official Gazette, Series II No 22, dated 29.08.2013 at pg. 583: <http://goaprintingpress.gov.in/downloads/1314/1314-22-SII-OG.pdf>. Accessed on 11 September 2023.

84 Government of Goa, Department of Home – General Division, Order No. 2/58/2007-HD(GD)/SPCA/Vol. I/2309, Official Gazette, Series II No 13, dated 24.06.2021 at pg. 254: <https://goaprintingpress.gov.in/downloads/2122/2122-13-SII-OG-0.pdf>. Accessed on 11 September 2023. (2021 Goa Order)

85 Goa Police Bill, 2008: https://www.goavidhansabha.gov.in/uploads/bills/144_field_BNAI_39_2008-THE-GOA-POLICE-BILL--2008.pdf. Accessed on 11 September 2023.

86 Clause 91, Goa Police Bill, 2008.

by a retired judge and consisted of three members, but no selection process was specified. This absence of a transparent selection process is noted in the 2021 order as well. There was neither the requirement of appointing the Chairperson from a panel suggested by the Chief Justice of the High Court of Bombay, nor the Member to be appointed from a panel suggested by an independent selection committee comprising representatives of the State Human Rights Commission, the Lokayukta and/or the State Public Service Commission. The order also did not prescribe any qualification criteria for their selection. In fact, the 2021 order reduced the composition of the Goa SPCA to just the Chairperson and one Member.⁸⁷ In effect, the Authority remained a body constituted by the government without any process of shortlisting until 2022. In 2022, the 2021 government order was amended to increase the strength of the SPCA to two members and a selection process for the Chairperson and Members was outlined. The nomination of the Chairperson is now based on a panel of names recommended made by the Registrar of the Bombay High Court and that of the Members is sought from the Goa Human Rights Commission, Goa Lokayukta and Goa Public Service Commission.⁸⁸

In terms of mandate, the government orders do not provide for the establishment of district-wise complaints authorities as directed by the Apex Court. Consequently, the Goa SPCA receives complaints against *all* police personnel *but only* about instances of serious misconduct, which include: death, grievous hurt, or rape in custody. Complaints about other forms of misconduct and abuse of authority including allegations of corruption, extortion and/or land grabbing, which the district-level authority was mandated to inquire into, fall outside the remit of the police complaints body and in effect, remain without a forum to approach for redress. There is also a one-year limitation period for submitting complaints from the date of the occurrence of the alleged serious misconduct. The SPCA is not empowered to entertain complaints about instances of serious misconduct that occurred more than one year prior to the date of submission of the complaint.⁸⁹

However, the government orders make the recommendations of the SPCA binding on the State Government, which is very encouraging. They also permit the Authority to use services of retired investigators from the criminal investigation division, vigilance or any other organisation for conducting field inquiries.

After the first Chairperson of the SPCA resigned his resignation in 2013, Justice RMS Khandeparkar (retd.) was appointed the Chairperson for a period of five years. Following his retirement in 2018, that post remained vacant until 2021. Two members of the SPCA continued to hear cases in the interim but they were unable to pass a judgement due the absence of the Chairperson.⁹⁰ The Goa SPCA completely stopped functioning in November 2020 and the posts of the members were lying vacant till June 2021 when new appointments were made.

Current composition

The present composition of the Goa SPCA is as follows:

⁸⁷ 2021 Goa Order.

⁸⁸ Government of Goa, Department of Home – General Division, Order No. 2/58/2007-HD(G)/SPCA/Vol. I/7072, Official Gazette, Series II No 14, dated 07.07.2022 at pg. 1569: <https://goaprintingpress.gov.in/downloads/2223/2223-14-SII-OG-0.pdf>. Accessed on 16 September 2023.

⁸⁹ State Police Complaints Authority, Order No. 1/19/2022 - SPCA/1100 dated 7.12.2022: https://www.goa.gov.in/wp-content/uploads/2022/12/ORDER-Period_of_limitation_in_the_matter_of_Complaints.pdf. Accessed on 11 September 2023.

⁹⁰ “Goa: 3 years on, police complaint authority still non-functional,” *Times of India*, 17 May 2021: <https://timesofindia.indiatimes.com/city/goa/3-years-on-police-complaint-authority-still-non-functional/articleshow/82694864.cms>. Accessed on 11 September 2023.

Table 13: Current composition of Goa SPCA⁹¹

Designation	Name	Qualification/Profession	Date of Appointment	Tenure
Chairperson	Justice Nutan D Sardessai (retd.)	B.Sc. (H.), LL.M., University of Poona / Former High Court Judge	09.06.2021 ^{92 93}	5 years or up to the age of 70 ⁹⁴
Member	Mr. Shirish P Prabhu Lawande	B.Sc. (Bombay University), LL.B. (General) (Bombay University) / IPS (retd.)	01.09.2021 ⁹⁵	3 years or up to the age of 65 ⁹⁶
Member	Dr. Indradev Shukla	Ph.D. (Law), LL.M., LL.B., M.A. (Hindi), M.Sc. (Physics), B.Sc. (Physics, Maths, Defence Studies)/ Former DGP /IPS (retd.)	28.06.2022 ⁹⁷	3 years or up to the age of 65

Complaints received, status of inquiries and action recommended

Goa SPCA did not provide us with complaints related data despite our formal RTI application in 2023. It did however do so in 2021. Based on information received in response to our RTI application filed in 2021, the Goa SPCA is said to have received around 50 complaints in 2019 and 2020, and 16 complaints during the first three months of 2021. Less than half of the complaints were admitted by the PCA for inquiry: 44 per cent in 2019 and only 30 per cent in 2020. The SPCA did not provide a category-wise breakdown of the complaints either received or admitted. Without this data, and in the absence of specified rules, the manner of their disposal is also unclear. One ground of filter is likely to be the mandate of SPCA specified in the government order itself, i.e. only complaints alleging death, grievous hurt and/or rape in custody are admitted for inquiry. If this is indeed the case, the data suggests an alarmingly high level of complaints of violence in police custody.

Table 14: Complaints received and admitted by Goa SPCA (January 2019 – March 2021)⁹⁸

Year	Complaints received	Complaints admitted for inquiry	Referred by	Type of Complaint
2019	52	23	Public	N/A
2020	50	15	Public	N/A
2021	16	0	Public	N/A

Although the PCA continued to receive complaints, it did not complete inquiries post April

91 Based on information provided by Department of Home (General), Goa, in response to CHRI's 2023 RTI application.

92 Government of Goa, Department of Home – General Division, Order No. 2/58/2007-HD(G)/SPCA/Vol. I/2310, Official Gazette, Series II No 13, dated 24.06.2021 at pg. 256: <https://goaprintingpress.gov.in/downloads/2122/2122-13-SII-OG-0.pdf>. Accessed on 11 September 2023; See also, "Retired high court judge Nutan Sardessai to head police complaints body," *Times of India*, 10 June 2021: <https://timesofindia.indiatimes.com/city/goa/ret-d-hc-judge-sardessai-to-head-police-complaints-body/article-show/83384042.cms>. Accessed on 11 September 2023.

93 Justice Sardessai's appointment was made prior to the 2022 amendment to the 2021 Goa Order. Therefore, the requirement for nomination from a panel of recommendations made by the Registrar of the Bombay High Court was not required.

94 2021 Goa Order.

95 Government of Goa, Department of Home – General Division, Order No. No. 2/58/2007-HD(G)/SPCA/Vol.I/3203, Official Gazette, Series II No 24, dated 09.09.2021 at pg. 488: <https://goaprintingpress.gov.in/downloads/2122/2122-24-SII-OG-0.pdf>. Accessed on 11 September 2023.

96 2021 Goa Order.

97 Government of Goa, Department of Home – General Division, Order No. 2/58/2007-HD(G)/SPCA/Vol. I/7072, Official Gazette, Series II No 14, dated 07.07.2022 at pg. 1569: <https://goaprintingpress.gov.in/downloads/2223/2223-14-SII-OG-0.pdf>. Accessed on 16 September 2023.; See also, "Shukla takes charge as SPCA member," *O Herald*, 20 July 2022: <https://www.heraldgoa.in/Goa/Shukla-takes-charge-as-SPCA-member/191945>. Accessed on 11 September 2023.

98 Based on information provided by Goa SPCA, in response to CHRI's 2021 RTI application.

2018 due the absence of a Chairperson. According to the RTI reply we received in 2021, the SPCA only appears to have reviewed the complaints and taken the decision to dispose them on the grounds of “lack/want of evidence/non-prosecution”. In 2019, out of the 23 cases admitted for inquiry, six were disposed of and 17 remained pending for inquiry. Of these six, one complainant reportedly withdrew the case. In 2020, out of the 15 cases admitted, four were disposed of and 11 cases remained pending.

Table 15: Cases disposed by Goa SPCA at different stages (January 2019 – March 2021)⁹⁹

Year	Cases admitted	Cases disposed (Stage)			Cases pending
		Preliminary Stage	Final Stage	Report finalised	
2019	23	8	0	0	15
2020	15	4	0	0	11
2021 (till 15 March)	16	Data not provided			
Total	38	10	0	0	28

In continuing to admit complaints without completing inquiries, the Goa SPCA failed in its duty of addressing complaints about serious police misconduct and was unable to recommend action against the personnel complained against where sufficient grounds were made out during the course of the inquiry. In doing so, it failed to take cognizance of the impact it would have on complainants who were left waiting endlessly. As the SPCA failed to supply information our RTI application, it is not possible to determine the fate of the complaints that were submitted when the Chairperson’s post remained vacant. We do not know for sure whether the current Chairperson has pursued these complaints to the logical conclusion.

Goa SPCA also provided us overall case disposal data in 2021 (see table below). First, it is worth noting that since 2007, the SPCA has admitted less than 500 cases for inquiry. Second, according to this data, nearly three-quarters (73 per cent) of all these cases were closed in the preliminary stages. And one-fifth (20 per cent), the highest proportion of any sub-categories, were marked ‘closed’ in the preliminary stage itself. There is no explanation about the meaning of ‘closed’; the other three sub-categories for dismissal at this stage already deal with instances of withdrawal, dismissal and lack of evidence respectively. ‘Closed’ as a sub-category exists in all three stages - preliminary, final and report finalised stages.

Table 16: Overall cases disposed of by Goa SPCA at different stages (as on 31 December 2020)¹⁰⁰

Stage	Description	Number of Cases	Overall Percentage
Complaints closed at Preliminary Stage	Willingly/at request/withdrawn	69	14.87%
	Closed	95	20.47%
	Dismissed/Rejected/Dropped	84	18.10%
	Lack/Want of Evidence/ Non-Prosecution	91	19.61%
	Sub-Total	339	73.06%

⁹⁹ Based on information provided by Goa SPCA, in response to CHRI’s 2021 RTI application.

¹⁰⁰ Based on information provided by Goa SPCA, in response to CHRI’s 2021 RTI application.

Complaints closed at Preliminary Stage	Willingly/at request/withdrawn	12	2.59%
	Closed	10	2.16%
	Lack/Want of Evidence/ Non-Prosecution	14	3.02%
	Sub-Total	36	7.76%
Report Finalised Cases	Action Recommended Cases	52	11.21%
	Closed Cases	37	7.97%
	Sub-Total	89	19.18%
	Grand Total	464	100.00%

In all the cases Goa SPCA admitted for inquiry since 2007 (464), only a quarter (26.94 per cent) made it past the preliminary stage. Further, a report was finalised in only a fifth (19.18 per cent) of them and action was recommended in just a little over a tenth of the overall number (52 instances or 11.21 per cent). While it is encouraging to note that the Goa SPCA has recommended action in 52 cases, these were made during the term of the preceding Chairpersons. As per information received in CHRI's 2023 RTI, no action has been initiated on the basis of recommendations of the Goa SPCA since 2018.¹⁰¹ Lack of data from the SPCA itself makes it difficult for us to corroborate whether it has made any recommendations since 2018. Further study is required to understand what action, if any, has been undertaken on the recommendations of the SPCA in the past to determine whether the binding powers of the SPCA have any teeth.

Administrative functioning

- Rules of Procedures:** The government orders issued by the Government of Goa do not specify the rules of procedures that will govern the SPCA's functioning. The SPCA responded as "NIL" to this point in our 2021 RTI.
- Annual Report:** Goa SPCA's annual reports are not available in the public domain. It is unclear whether these have been prepared and placed before the State Legislature.
- Budget:** Goa SPCA receives its budget from the State Government. In the past five years, its budget, expenditure and utilisation are as follows:

Table 17: Budget of Goa SPCA (2018-19 to 2022-23)¹⁰²

Year	Budget (Rs.)	Expenditure (Rs.)	Utilisation
2018-2019	83,47,000/-	72,94,000/-	87.38%
2019-2020	1,15,10,000/-	52,95,000/-	46.00%
2020-2021	1,23,17,000/-	54,52,000/-	44.26%
2021-2022	1,10,19,000/-	76,84,000/-	69.73%
2022-2023	1,94,61,000/-	1,26,60,000/-	65.05%

Observations:

- Both the budget and expenditure of the Authority have increased over the past five years, overall. Budget utilisation, however, has fallen from 87 per cent to 65 per cent reaching its lowest point in 2020-21 which presumably due to the Chairperson's post being vacant.

¹⁰¹ Goa SPCA had transferred this request for information on action taken on recommendations to the DGP, Goa, who in turn transferred it to respective SDPOs. These SDPOs have responded to the 2023 RTI application stating that no action has been taken in their jurisdiction since 2018.

¹⁰² Based on information provided in response to CHRI's 2021 & 2023 RTI applications.

- The SPCA provided an itemised budget only for the years 2021-2022 and 2022-2023. The main expense heads include salaries and office expenses. Other heads include ‘wages’, ‘domestic travel’, ‘rent, rates & taxes’, ‘advertising’ and ‘other charges.’
 - Salaries constitute the highest proportion of the SPCA’s budget. Within a year alone, the salary budget has more than doubled, from Rs. 72 lakhs (approximately) in 2021-22 to Rs. 146 lakhs in 2022-23. This indicates a likely increase in staff strength.
 - The SPCA did not utilise the budget of Rs. 50,000/- earmarked for advertising in both years. This indicates the absence of efforts at public outreach and awareness generation about the SPCA’s mandate and functioning among Goans.
- d. Website: Goa SPCA does not have its own website but the Goa Government’s website has a page that provides basic information about the SPCA.¹⁰³ Unfortunately, the phone numbers listed on this webpage do not work.¹⁰⁴

Summary and Recommendations

Notably, the Goa SPCA is one of the very few Authorities with binding powers over the state. However, with a limited mandate, one-year limitation and in the absence of district/divisional authorities, many complainants remain without a forum to approach for redress. We also note that despite vacancies the Authority continued to admit complaints and did not complete inquiries leaving the complainants waiting endlessly.

Since its inception in 2007, with a small gap in between and changes to its design, the Goa SPCA has been in existence for over a decade now. However, it seems to have missed the mark if the number of complaints received is any criteria to judge its performance; 2019 and 2020 each recorded the SPCA receiving only 50-odd complaints. There are many points of action for both the state and the SPCA to improve police accountability in Goa. We hope that they address these issues in the functioning of the SPCA to promote a culture of police accountability in the state.

CHRI recommends:

To the Goa Government

- ✓ Set-up a multi-tier system of oversight within the state in line with the Supreme Court directive and as an interim measure, enhance the powers of the SPCA to admit complaints beyond the definition of serious misconduct.
- ✓ In 2024, the term of the Chairperson and one Member will come to an end; make sure that:
 - The posts are filled on time and that no post remains vacant;
 - At least one Member is from civil society;
 - At least one Member is a woman.
- ✓ Conduct a performance audit of the Goa SPCA along the parameters specified in this report’s concluding chapter to determine the extent to which the Authority is functioning efficiently and effectively to meet its objectives and accordingly recommend measures for expanding the Authority’s reach, mandate, powers and resources including additional staff and facilities (such as computers, vehicles) that can facilitate just and timely completion of inquiries.

¹⁰³ Government of Goa, Departments, State Police Complaints Authority: <https://www.goa.gov.in/department/state-police-complaints-authority/>. Accessed on 11 September 2023.

¹⁰⁴ CHRI called on these numbers all through the months of April, May and July 2023 at least once every two weeks to make contact with staff at the SPCA.

To the Goa State Police Complaints Authority

- ✓ Monitor pendency at regular intervals and identify solutions within its processes.
- ✓ Formulate its rules of procedure in accordance with the *Model Police Bill, 2015* as outlined in this report's concluding chapter with particular focus on protecting the rights of the complainant and predetermined time-frames for completing inquiries.
- ✓ Take *suo motu* cognizance of instances of police abuse that fall within its mandate.
- ✓ Maintain an up-to-date website along the parameters specified in this report's concluding chapter that is accessible in English and the official languages of the state, and fulfils the proactive disclosure requirements of the Goa SPCA.
- ✓ Publish an annual report each year with detailed statistics about the types of complaints received, their district-wise geographical mapping, and types of actions recommended by the Authority following an inquiry. Also provide general recommendations for enhancing police accountability in the state.
- ✓ Identify avenues for publicity of its work and conduct regular outreach and awareness programmes across the state.

4. GUJARAT

Source of Information

The Gujarat SPCA responded to our RTI application but provided information against only some queries. Its stock reply to our RTI queries regarding the number of complaints filed, status of inquiries launched and action taken on the SPCA's recommendations was that such information is not maintained in the format requested.

Gujarat established its State Police Complaints Authority in July 2013 *vide* a government resolution, six years after it enacted the *Bombay Police (Gujarat) Amendment Act, 2007*. Its current Chairperson was first appointed in 2018 and is serving his second tenure.

Background

The *Bombay Police (Gujarat) Amendment Act, 2007* provides for both state and district-level Police Complaints Authorities.¹⁰⁵

In a significant departure from the Court's directive, the *Bombay Police (Gujarat) Amendment Act, 2007* provides for the Principal Secretary of the State Home Department and a person of eminence to serve as Members of the SPCA and a serving police officer not below the rank of Additional Director General of Police to be appointed Member-Secretary. A retired judge of the High Court of Gujarat or a retired officer not below the rank of Principal Secretary to the Government of Gujarat may be appointed Chairperson. This is also a significant departure from the Court's directive as a non-judicial person may be appointed to head this body which is the case with the current Chairperson. There is no set procedure for the selection of the Chairperson. Two of the three members comprising the Authority are serving *ex-officio*, and without a transparent process for the nomination of the third member – person of eminence – the State Government has complete control over the selection and appointment processes.

The composition of the district authorities is also in complete violation of the Court's directive because the District Superintendent of Police, the Additional District Magistrate, two members of the Gujarat Legislative Assembly elected from the concerned district and the Deputy Superintendent of Police make up the membership of the district level authority. This gives rise to a clear conflict of interest as officers in charge of police stations report to the District Superintendent of Police. Whether the District Superintendent of Police will always conduct an impartial inquiry into allegations of misconduct against officers they supervise is an open question.

The mandate of the Authorities is also unclear in the Act. Both the state and district-level Authorities are required to inquire into complaints involving serious/grave misconduct, dereliction of duty, misuse of powers or any other matter as specified by the Government.¹⁰⁶ However, unlike the parent legislation/government orders in other states, the *Bombay Police (Gujarat) Amendment Act, 2007* fails to define "serious misconduct, dereliction of duty, misuse of powers." Despite this lacuna, the district authorities are vested with significant powers to deal with complaints. Apart from inquiring into complaints involving serious dereliction of duties, the district authorities are empowered to monitor the progress of departmental inquiries into complaints of misconduct against police officers, and also

¹⁰⁵ Sections 32F to 32I, *Bombay Police (Gujarat) Amendment Act, 2007*.

¹⁰⁶ Section 32G and 32I, *Bombay Police (Gujarat) Amendment Act, 2007*.

direct the registration of FIRs where complaints of non-registration are found to be correct. However, the same cannot be said for the state-level Authority. The Gujarat SPCA only has the power to enquire into complaints and make recommendations. There is no provision to ensure that its recommendations will be binding on the State Government.

Current composition

Mr. Balwant Singh, IAS (retd.), is the current Chairperson of the SPCA. He was first appointed in 2018 and is now serving his second term. The Additional Chief Secretary (Home) serves as Member while the Inspector General of Police (Inquiry) serves as the Member-Secretary. The person of eminence also happens to be a retired IAS officer.

Table 18: Current composition of Gujarat SPCA¹⁰⁷

Designation	Name	Qualification/Profession	Date of Appointment	Tenure
Chairperson	Mr. Balwant Singh	IAS (retd.)	13.04.2018	Extended for 1 year from 01.04.2023
Member	-	Additional Chief Secretary (Home)	31.07.2013	<i>ex-officio</i>
Member-Secretary	-	Inspector General of Police (Inquiry)	27.09.2013	<i>ex-officio</i>
Member	Mr. Punamchand Parmar	IAS (retd.)	13.01.2021	3 years

Complaints received, status of inquiries and action recommended

The SPCA did not supply detailed information with regard to complaints received, status of inquiries and action recommended against police personnel. In its response the PIO of the SPCA stated:

“This office does not maintain record as per the format of information sought by you. Therefore it is not possible to provide information as sought (ref. GoI, Ministry of Personnel, Public Grievances and Pension O.M. No. 11/02/2008-IR dated 10-7-08).”

Instead, the PIO provided data regarding the number of complaints the SPCA has received over the past nine years. As the table below indicates, this data is categorised as: complaints received; those within its jurisdiction; and those which were transferred to the Superintendent/Commissioner of Police or other departments for further action. Over the past nine years, the percentage of complaints that fall within its jurisdiction to inquire has reduced drastically, from 55 per cent in 2014 to less than 1 per cent in 2022. In other words, the SPCA has increasingly shunted complaints out of its jurisdiction to the police department for inquiry instead of looking into the matters itself.

Shockingly, in 2022, the Gujarat SPCA found only one complaint to be within its jurisdiction despite receiving 839. This is surprising given that the mandate of Gujarat SPCA includes broad terms like “misuse of power” or “dereliction of duty” without specifying actions or allegations that fall under it, which leaves space for a wide range of actions or complaints to be covered by it. Yet, only a small proportion of complaints are being accepted for inquiry, indicating a restrictive approach of the Gujarat SPCA towards fulfilling its mandate. In

¹⁰⁷ Based on information provided in response to CHRI’s 2023 RTI application.

contrast, the number of complaints it receives has increased nearly tenfold, from 89 in 2014 to 839. Once again, this reflects the demand on the ground for a forum to seek accountability for police wrongdoings or negligence but the SPCA is unable to deliver on its own.

Table 19: Complaints received, complaints within jurisdiction and complaints transferred elsewhere by the Gujarat SPCA (2014 - 2022)¹⁰⁸

Year	Complaints received	Complaints within jurisdiction	% of complaints within jurisdiction	Complaints transferred to SP/CP or other departments
2014	89	49	55.06%	40
2015	242	65	26.86%	177
2016	192	40	20.83%	152
2017	215	46	21.40%	169
2018	199	28	14.07%	171
2019	770	20	2.60%	750
2020	931	13	1.40%	918
2021	763	6	0.79%	757
2022	839	1	0.12%	838
Total	4240	268	6.32%	3972

No information is available about the types of complaints received or action recommended by the Authority in cases which it inquired.

The Gujarat SPCA did provide some information about the complaints currently pending before it, but this is in Gujarati, and CHRI is trying to get it translated. There were a total of seven complaints listed as pending.

Administrative functioning

- Budget:** The Gujarat SPCA shared itemised budget and expenditure reports for the past five financial years as requested. For the financial year 2018-19, the SPCA's budget was sourced from the major head relating to the Police Department (2055 for police). In subsequent years it has been pegged to the major head- 2052: Secretariat-General Services.

Table 20: Budget and expenditure of Gujarat SPCA (2018-19 to 2022-23)¹⁰⁹

Year	Budget* (Rs.)	Expenditure (Rs.)	Utilisation
2018-2019	80,13,000/-	87,46,786/-	109.16%
2019-2020	68,31,000/-	56,33,434/-	82.47%
2020-2021	44,22,000/-	44,84,552/-	101.41%
2021-2022	63,59,000/-	59,31,164/-	93.27%
2022-2023	85,00,000/-	55,59,204/-	65.40%

* - includes revised budget estimates where provided

108 Based on information provided in response to CHRI's 2023 RTI application.

109 Based on information provided in response to CHRI's 2023 RTI application.

Observations:

- The main budget heads include salaries, overtime allowance, office expenses and other contractual services. Of these:
 - Salaries have increased from Rs. 22.39 lakhs (constituting 25 per cent of the total expenditure) to Rs. 39.64 lakhs (constituting 71 per cent of the total expenditure) in the past five years;
 - Office expenses on the other hand have reduced from nearly Rs. 58 lakhs in FY 2018-19, when only Rs. 6 lakhs were budgeted for this head, and settled in the range of Rs. 2.5 lakhs to Rs. 4 lakhs FY 2019-2020 onwards with Rs. 5-10 lakhs being budgeted each year.
- Overall the SPCA has exceeded its budget for two of the five years, in 2018-19 and 2020-21. In 2018-19, this was because it exceeded its budget for dearness allowance; the proposed budget for dearness allowance (Rs. 1,68,000/-) was only 13.68 per cent of the actual expenditure (Rs. 12,27,271/-). In FY 2020-21, the SPCA budget was revised downwards from Rs. 56,87,000/- to Rs. 44,22,000/-. However, an itemised breakdown of the revised budget was not provided to us, therefore we could not determine the cause for over-utilisation of the budget.
- In FY 2019-20, the SPCA spent Rs. 15,52,252/- on the purchase of motor vehicles; this object head was not a part of the budget for the year. It is unclear whether these vehicles are deployed to transport the Chairperson and Members from their homes to office and back or they were used for conducting field inquiries.

- b. Rules of procedures: The SPCA does not have any rules of procedure. In their response, they stated:

“No such provision in the Act.”

It should be noted here that an SPCA cannot merely be guided by a legislation or government order that establishes it, and provides merely a structural framework. In order for these authorities to operate promptly, effectively and efficiently, it is imperative to formulate exhaustive and lucid procedural rules to guide their day-to-day operations. Defining procedural regulations is a collaborative duty that is shared by both the PCAs and the State Government. At present the act does not confer any rule making power on the Gujarat SPCA. The state must pass an amendment to enable smooth conduct of business through rules of procedure that the Gujarat SPCA can devise.

- c. Website: The Gujarat SPCA has a basic and functional website that provides information about the current Chairperson and Members.¹¹⁰ It allows registration of complaints online via email and shares the contact details of the Authority. The website also has a Gujarati version and an English copy of the police act is also available for download. The website does not offer any information about the working of the Gujarat SPCA, the powers and functions or the kinds of complaints it can receive.
- d. Annual Report: The Gujarat SPCA does not publish annual reports. The RTI reply sent by the PIO states as follows:

“No such provision in the Act.”

Again, the point of constraint in evaluating the SPCA’s functioning is the police legislation in Gujarat. To ensure accountability of the Authority to the public and government, it must publish annual reports about its working. While this was not a part of the Apex Court’s directive, the *Model Police Bill, 2015* contained a detailed provision for annual reports to be published by state and district level authorities.

110 Government of Gujarat, Gujarat State Police Complaints Authority: <https://gpsca.gujarat.gov.in/>. Accessed on 11 September 2023.

Summary and Recommendations

To conclude, the Gujarat SPCA does not appear to have effective independent oversight on the functioning of the police in the state despite having been functional for approximately ten years. It has an unbalanced set-up with serving police and civil officials forming a part of the Authority. This in itself calls into question its independence. Its undefined (serious misconduct) and limited (lack of binding recommendations) powers also limit its oversight abilities to a great extent. It is also not required to frame its own rules or publish annual reports. The *Bombay Police (Gujarat) Amendment Act, 2007* needs significant amendments to bring its provisions in line with the *Prakash Singh* directive. The Apex Court's directive envisions an independent authority with reasonable autonomy to act as a check on the police's abuse of its powers. The functioning of the Gujarat SPCA must be made more independent and robust by amending the act for any meaningful attempt to check police accountability within the state.

CHRI recommends:

To the Gujarat Government

- ✓ Amend the *Bombay Police (Gujarat) Amendment Act, 2007* to re-establish the State and District Complaints Authorities ensuring their composition and selection is in line with the Supreme Court directive and the *Model Police Bill, 2015*. Ensure no serving government official is included in the Authority.
- ✓ Once the Authority has been re-established, follow an independent selection process to make fresh appointments to the post of the Chairperson and Members without delay.
- ✓ Allocate sufficient budget and human resources to the Authorities once re-established to enable them to fulfil their mandate effectively.
- ✓ Remove ambiguity from key terms by providing definitions for "serious misconduct," "dereliction of duty" and "misuse of powers" in line with the Supreme Court directive.
- ✓ Expand the mandate of the Authority in line with the *Model Police Bill, 2015*, providing it with the power to take *suo motu* cognizance of police misconduct; monitor departmental inquiries, inspect places of detention and make recommendations for witness protection and victim compensation.
- ✓ Make the recommendations of the Authority binding on itself and on Gujarat Police.
- ✓ Specify that the Authority has the power to make rules and regulations to govern its conduct.
- ✓ Require that detailed annual reports be prepared and be placed before the State Legislature. Ensure further that adequate time is given to discuss them and their recommendations in the plenary or in an appropriate legislative committee.

To the Gujarat State Police Complaints Authority

Once re-established, the Gujarat SPCA must:

- ✓ Formulate its rules of procedure in accordance with the *Model Police Bill, 2015* as outlined in this report's concluding chapter with a particular focus on protecting the rights of the complainant and predetermined time-frames for completing inquiries.
- ✓ Take *suo motu* cognizance of instances of police abuse that fall within its mandate.
- ✓ Publish an annual report each year with detailed statistics about the types of complaints received, their district-wise geographical mapping and types of actions recommended by the Authority following an inquiry. Also provide general recommendations for enhancing police accountability in the state.
- ✓ Identify avenues for publicity of its work and conduct regular outreach and awareness programmes across the state.

5. HARYANA

Source of Information

The Haryana SPCA responded to the RTI application within the stipulated time period but provided information only for select questions. It provided a detailed breakdown of the complaints received and action taken in 2023 but transferred the request for a copy of the government order constituting the SPCA to the State Home Department and did not provide copies of its annual reports. The following analysis is a combination of information received from the Haryana SPCA in 2021 and in 2023 through RTIs.

Although Haryana was among the first few states to set up a State Police Complaints Authority (HSPCA) following the Supreme Court's directive, the state has failed to facilitate its consistent and smooth functioning. The State Government appointed a retired civil servant as the first Chairperson in August 2010.¹¹¹ Following the completion of his three-year tenure the Authority remained headless for five years until February 2019 when Mr. Ram Niwas, another retired civil servant was appointed Chairperson. After his demise,¹¹² the post remained vacant until 20 April 2021, when the State Government reconstituted the SPCA as a three-member body with Ms. Navraj Sandhu, a retired IAS officer as its Chairperson.

Background

Haryana first provided for a State Police Complaints Authority under Section 59 of the *Haryana Police Act, 2007* but its composition and powers were completely at odds with the Supreme Court's directive. The HSPCA was to be a single-member Authority consisting of either a retired judge or a retired civil servant not below the rank of Secretary or a lawyer with at least twenty years of experience. The *Haryana Police (Amendment) Act, 2014* changed its composition and expanded the HSPCA to include up to three members including the Chairperson. However, there was no requirement to have a retired judge as the Chairperson. All members could be chosen from a wide pool of people with twenty years' experience in public life. There was no provision for establishing district-level PCAs until 2014.

Although the 2014 amendments provide for a committee to recommend names to the Government, details such as its composition or the selection process were not specified until 2018 with the adoption of the *Haryana Police (Appointment of Chairperson and Members of Complaints Authorities) Rules, 2018*.¹¹³ The Rules require the establishment of a committee headed by the Chief Secretary to the Government to recommend names of potential candidates for the posts of Chairperson and Members of the PCA at the state and district level. Other members of the committee include the Advocate General, Haryana, and the Additional Chief Secretary, Home Department, Government of Haryana. The committee is required to invite applications to fill up vacancies in the SPCA from any person of eminence having wide knowledge and experience of at least twenty years in the field of public life, academic, law, administration and governance, criminal administration and social work. The Chief Minister appoints the Chairperson and Members based on the committee's recommendations.

111 "Haryana police authority website launched," *Business Standard*, 21 January 2013: https://www.business-standard.com/article/pti-stories/haryana-police-authority-website-launched-112051800495_1.html. Accessed on 11 September 2023. See also, Introduction, State Police Complaints Authority: <https://spcahry.nic.in/introduction/>. Accessed on 11 September 2023.

112 "Retired IAS officer Ram Niwas dead," *The Tribune*, 19 August 2019: <https://www.tribuneindia.com/news/archive/haryana/news-detail-819494>. Accessed on 11 September 2023.

113 Haryana Police (Appointment of Chairperson and Members of Complaints Authorities) Rules, 2018: <https://homeharyana.gov.in/pdfs/Notifications/Notification%20Police%20Complaint%20Authority.pdf>. Accessed on 11 September 2023.

The 2014 amendments also substantially expanded the mandate of the HSPCA. Earlier, its mandate was limited to complaints about deaths in custody, rape or attempt to rape, grievous hurt in police custody and any other case defined as serious misconduct as the police or the State Government may direct. Under the 2014 amendments, the HSPCA's mandate was expanded to include inquiring into complaints about taking a person into custody or detention without due process, extortion, acquiring property through coercion, involvement of police personnel in organised crime, and inaction by police personnel in relation to any offence defined in the Indian Penal Code that is punishable with a maximum punishment of ten years in prison. The 2014 amendments also provide for the constitution of District Police Complaints Authorities with the mandate to inquire into complaints of serious misconduct (with the same meaning as for the HSPCA) against officers of the rank of Inspector and below.

With these amendments, the complaints bodies stand on a stronger footing than before although the amendment falls short of ensuring that the composition of the Authorities is balanced and comprises independent members and that its recommendations are binding.¹¹⁴

More recently, since August 2022, the Haryana Government has sought to restrict the mandate of the HSPCA.¹¹⁵ On 10 August 2022, the State Government tabled the *Haryana Police (Amendment) Bill, 2022*. The bill seeks to withdraw the power of the HSPCA to initiate *suo motu* inquiries against the police; narrows down the definition of serious misconduct to remove attempt to rape; and, allows inquiries only if rape or grievous hurt was caused in police custody.¹¹⁶ Opposition Members raised objections to the proposed amendments on the ground that these will dilute the PCAs' role and mandate at a time when members of the public hesitate to file complaints against the police.¹¹⁷ Consequently, the bill was referred to a Select Committee of the State Assembly for detailed examination. The Select Committee in its report, submitted on 22 February 2023, suggested retaining HSPCA's power to initiate *suo motu* inquiries.¹¹⁸ In a dissenting note, a Member of the Select Committee expressed concern about the narrowing of the definition of the term 'serious misconduct' and recommended withdrawal of the bill.¹¹⁹ The bill has not yet been taken up for discussion since the submission of the report of the Select Committee.

Current composition

The Haryana Government appointed Ms. Navraj Sandhu, a retired IAS officer as the Chairperson of the Haryana State Police Complaints Authority on 20 April 2021.¹²⁰ The Government also appointed a retired police officer and another retired civil servant as Members, as mentioned below.¹²¹ Notably, the HSPCA does not include representation from civil society in its membership, even though the 2014 amendments allow up to three members to be appointed.

114 Section 67, Haryana Police Act, 2007.

115 "Haryana bill on State Police Complaint Authority referred to select committee," *The Print*, 10 August 2022: <https://theprint.in/india/haryana-bill-on-state-police-complaint-authority-referred-to-select-committee/1077812/>. Accessed on 11 September 2023; "Cong MLAs stall Haryana move to reduce power of police complaint authority," *Indian Express*, 11 August 2022: <https://indian-express.com/article/cities/chandigarh/cong-mlas-stall-haryana-move-to-reduce-power-of-police-complaint-authority-8083525/>. Accessed on 11 September 2023.

116 Haryana Police (Amendment) Bill 2022: <https://www.egazetteharyana.gov.in/Gazette/Extra-Ordinary/2022/143-2022-Ext/14236.pdf>. Accessed on 11 September 2023.

117 *Ibid.*

118 Haryana Vidhan Sabha, Haryana Police (Amendment) Bill 2022, Report of the Select Committee, presented on 22 February 2023, pg.1: <https://haryanaassembly.gov.in/wp-content/uploads/2023/02/The-haryana-police-Amendment-Bill-2022-Report-of-the-Select-Committee.pdf>. Accessed on 11 September 2023.

119 *Ibid.*, pg. 6.

120 Government of Haryana, Home Department Order Endst No. 30/44/2008-2HG-III dated 20.04.2021.

121 *Ibid.*

Table 21: Current composition of Haryana SPCA¹²²

Designation	Name	Qualification/Profession	Date of Appointment	Tenure
Chairperson	Ms. Navraj Sandhu	M.A. (Political Science), MBA, University of Queensland Australia / IAS – 1984 (retd. November 2019)	20.04.2021	3 years
Member	Mr. Kameshwar Kumar Mishra	B.Sc (Geology) Hons. / IPS (retd.)	20.04.2021	3 years
Member	Mr. Ramesh Chand Verma	B.Sc, MA, LLB/ IAS (retd.)	20.04.2021	3 years

Complaints received, status of inquiries and action recommended

The HSPCA provided detailed information about the number and types of complaints received, and inquiries conducted by the Authority. Overall the SPCA did not initiate any *suo motu* action between 2019 and March 2023. However, the number of referrals it received from the State Government/Director General of Police annually, saw an increase. A summary tabulation of data regarding complaints received, disposed and pending is given below:

Table 22: Complaints received, disposed-of and pending at the Haryana SPCA (January 2019 - March 2023)^{123 124}

Year	Total complaints received (*)	Complaints disposed	Complaints pending	Pendency Rate
2019	134(2)	0	134	100%
2020	66(0)	65	1	1.53%
2021	224(22)	214	10	4.46%
2022	443(74)	367	76	17.15%
2023	95(3)	46	49	51.57%

*- Number of referrals from the Government of Haryana

The number of complaints that the HSPCA receives has been increasing steadily, along with referrals from the State Government. However, as can be seen in the table below, the nature of nearly two-thirds (56.9 per cent) of these complaints (referrals included) is not covered by Section 65 of the police act. It is a promising development that the Authority is admitting complaints that fall outside the scope of Section 65. However, more information is needed about these complaints, such as their nature and the basis for their admission to assess whether these complaints fall within the overall remit of the Authority in checking policy accountability.

122 Based on information provided in response to CHRI's 2023 RTI application.

123 Based on information provided in response to CHRI's 2023 RTI application.

124 The HSPCA also provided numbers for complaints admitted for inquiry and cases where it recommended initiation of departmental inquiries. However, they were identical to the total number of complaints for each of the years; together with the number of pending inquiries, those numbers even surpassed the total number of complaints. Since there was an obvious error in those numbers, we have excluded them from our analysis.

Table 23: Nature of complaints received by the Haryana SPCA (January 2019 - March 2023)¹²⁵

Nature of alleged misconduct	2019 (*)	2020 (*)	2021 (*)	2022 (*)	2023 (*)	Total	%
Grievous hurt	2	2	16	35(6)	12	67	6.96%
Custody or Detention without due process	5	5	15(2)	22(5)	1	48	4.99%
Extortion	18(1)	10	27	21(2)	8	84	8.73%
Acquiring property through coercion	1	0	5	7	5	18	1.87%
Involvement in organised crime	3	1	6(1)	15(3)	5	30	3.12%
Offence punishable with min 10 years	42(1)	11	22(3)	30(4)	11	116	12.06%
Other ¹²⁶	60	37	124(16)	278(44)	49(3)	548	56.96%
Total	134(2)	66(0)	224 (22)	443(74)	95(3)	962	

*- Number of referrals from the Government of Haryana

In addition to the 'Other' category, the next highest number of complaints received fell in the category where an action by a police official amounted to an offence attracting a minimum punishment of ten years or more (12 per cent) followed by extortion (nearly nine per cent). While annually, a significant portion of the HSPCA's complaints have belonged to these categories, 2021 onwards we noticed an increase in complaints (including state referrals) against allegations of custody/detention without due process and grievous hurt, five and seven per cent respectively. Further, 2022 saw a large number of complaints in the custodial rape/attempt to rape category; this category also recorded the highest number of state referrals amongst the categories enumerated in Section 65 of the act. Whether these increases in complaints point to a trend of increasing public faith in this institution is a question that can only be answered in time to come.

Administrative functioning

- a. **Budget:** The HSPCA receives its budget from the State Government. In its RTI response, HSPCA shows full utilisation of funds allocated under all heads for all years for which information was sought. It has provided the same information for the amount allocated and cumulative expenditure under each head. Therefore, it is not possible to comment on the utilisation of funds.

However, we do note a steady increase in their expenditure over the years with the exception of FY 2022-2023 when the total expenditure was slightly less than that for FY 2021-2022.

Table 24: Budget of Haryana SPCA (2018-19 to 2022-23)¹²⁷

Year	Budget (Rs.)	Expenditure (Rs.)
2018-2019	11,58,388/-	11,58,388/-
2019-2020	40,93,205/-	40,93,205/-
2020-2021	43,75,789/-	43,75,789/-
2021-2022	2,24,20,077/-	2,24,20,077/-
2022-2023	2,04,31,358/-	2,04,31,358/-

125 Based on information provided in response to CHRI's 2023 RTI application.

126 Not covered under Section 65 of the Haryana Police Act, 2007 which defines 'serious misconduct'.

127 Based on information provided in response to CHRI's 2023 RTI application.

Observations:

- The main budget heads include “salary,” “dearness allowance,” “travel expenses,” “office expenses,” “rent, rate and taxes,” “motor vehicle,” “petrol, oil and lubricants” and “contractual service.” Of these:
 - Salaries have jumped from Rs. 10.55 lakhs (constituting 91 per cent of the total expenditure) to Rs. 107 lakhs (constituting 52 per cent of the total expenditure) in the past five years; This is likely a result of the 2021 reconstitution - fresh appointments that were made to the Authority and the consequential increase in work.
 - Overall the SPCA budget has increased by around 20 times in the five years. The jumps in 2019-2020 and 2021-2022 are in line with reconstitution of the HSPCA as the strength of the Authority was increased to three.
 - No budget was allocated towards the head of “advertising and publicity” until FY 2021-2022 when the HSPCA spent just Rs. 4,160/- on publicity. In the following year expenditure under this head increased to Rs. 1,52,852/-. In future it will be worthwhile to examine how these funds were utilised as other PCAs are struggling to use their advertising and publicity budget.
 - Other new items added in the budget include “hospitality/entertainment expenses,” “rents, rates and taxes” and “computerisation (IT)”. They were all introduced alongside advertising and publicity in FY 2021-2022 following the 2021 reconstitution.
- b. Rules of procedures: Section 64 of the *Haryana Police Act, 2007* requires the Authority to devise rules of procedure for the conduct of its business. The Authority has published the procedure followed by it on its website. However, it is not clear whether these are informal procedures or if they have legislative sanction. Upon receiving a complaint, the Authority first shares the details of the complaint with the concerned Superintendent of Police. If the Authority is satisfied with this report the complaint can be disposed of without offering a hearing to the complainant. If not, the complainant is called for a personal hearing and the Authority may initiate a regular inquiry. Pursuant to these proceedings, the Authority makes its final decision and communicates its findings to the Government. The HSPCA should incorporate principles of procedural fairness and allow the complainant to respond before disposing of a complaint.
- c. Website: HSPCA has a functional website that provides detailed information about the powers and functions of the Authority.¹²⁸ It also provides the procedure followed by the Authority upon receiving a complaint, has a answers "Frequently Asked Questions" section and provides its contact details and information about its Public Information Officer. However, we also note that the website is currently only available in English.
- d. Annual Report: HSPCA did not share any of its annual reports with CHRI. The police act does not require the Authority to publish them. No annual reports are available on its website either. The RTI reply states:

“The information provided in reply to point no. 2 to 9 may also be considered as annual report.”

At point nos. 2 to 9 of our RTI application we sought information about the number and types of complaints received, and inquiries conducted by the Authority.

Summary and Recommendations

The functioning of the Haryana State Police Complaints Authority offers several points

¹²⁸ Government of Haryana, State Police Complaints Authority: <https://spcahry.nic.in/>. Accessed on 11 September 2023.

for consideration. It stands out as the Authority receiving the highest number of state referrals. Notably, the Authority also receives and acts on complaints that are not covered in the definition of serious misconduct. However, in the past five years, it has not initiated any *suo motu* action. We also note that in its present composition, the Authority does not have any judicial or civil society experience as the Chairperson and Members are all career bureaucrats. The selection committee too is not aligned with the Supreme Court's directive. Further, we note that the recommendations of the Authority are not binding on the State Government/police. The functioning of the HSPCA can be made more robust by introducing transparency and independence and by giving it binding powers. Further, we strongly urge that the State Government rescind its decision to narrow the definition of serious misconduct in the police act. Rather, the definition should be broadened to include within it all kinds of complaints that the HSPCA is receiving at present. The *suo motu* power of the HSPCA must also be retained.

The Authority, in its part, must endeavour to exercise its *suo motu* powers if it hopes to emerge as an independent institution that inspires public trust. It must also formulate its rules of procedure in line with the *Model Police Bill, 2015* providing an opportunity to the complainants to respond before dismissal of their complaints, and publish detailed annual reports. There are many points of action for both the state and the SPCA to improve police accountability in Haryana. We hope that they address these issues in the working of the SPCA to promote a culture of police accountability in the state.

CHRI recommends:

To the Haryana Government

- ✓ Adopt the standards and criteria for membership and selection process of the SPCA Chairperson and Members as laid down in the *Model Police Bill, 2015*. The Authority must have at least one Member with judicial experience and a representative from civil society.
- ✓ Refrain from restricting SPCAs' mandate by taking away the power to initiate *suo motu* action and limiting the definition to serious misconduct.
- ✓ Make recommendations of the Authority binding on state police and the State Government.
- ✓ Require that detailed annual reports be prepared and placed before the State Legislature. Ensure further that adequate time is given to discuss them and their recommendations in the plenary or in an appropriate legislative committee.
- ✓ Conduct a performance audit of the Haryana SPCA along the parameters specified in this report's concluding chapter to determine the extent to which the Authority is functioning efficiently and effectively to meet its objectives and accordingly recommend measures for expanding the Authority's reach, mandate, powers, and resources including additional staff and facilities (such as computers, vehicles) that can facilitate just and timely completion of inquiries.

To the Haryana State Police Complaints Authority

- ✓ Monitor pendency at regular intervals and identify solutions both within its processes and those that can be recommended to the State Government.
- ✓ Formulate its rules of procedure in accordance with the *Model Police Bill, 2015* as outlined in this report's concluding chapter with a particular focus on protecting the rights of the complainant and predetermined time-frames for completing inquiries.
- ✓ Take *suo motu* cognizance of instances of police abuse that fall within its mandate.

- ✓ Maintain an up-to-date website with copies of annual reports and outreach materials, that is accessible in Hindi; and, fulfil the proactive disclosure requirements of Section 4(1)(b), RTI Act, by publishing, for example, the budget and expenditure of the Authority on the website.
- ✓ Publish an annual report each year with detailed statistics about types of complaints received, their district-wise geographical mapping and types of actions recommended by the Authority following an inquiry. Also provide general recommendations for enhancing police accountability in the state.
- ✓ Continue publicity of its work and conduct regular outreach and awareness programmes across the state.

6. JHARKHAND

Source of Information

As we could not locate the contact details of the Jharkhand SPCA online, we submitted the RTI application seeking information for this study to the Jharkhand State Police Headquarters. According to news reports,¹²⁹ the SPCA was apparently functioning out of the PHQ's premises. Our RTI application was transferred to the Home Department and eventually landed up at the SPCA under Section 6(3) of the RTI Act. The Home Department subsequently sent us the SPCA's response.

Though the Jharkhand State Police Complaints Authority (JSPCA) started working in 2016, at the time of writing this report, it is not functional. Jharkhand was among the few states that issued executive orders to constitute Police Complaints Authorities soon after the Supreme Court issued directives in *Prakash Singh*. Despite the Government adopting resolutions in 2007 to establish the SPCA, appointments were not made until 2016. That year, the State Government issued fresh notifications establishing PCAs at both the state and district levels. However, appointments were made to the JSPCA at different points of time between 2016 and 2018 over a period of three years. No new appointments have been made ever since. The posts of the Chairperson and independent Members are lying vacant. However, the Additional Director General of Police (ADGP) is an official member of the JSPCA and acts as the Member-Secretary. In its response, the SPCA has stated that the district-level PCAs are not yet functional, and therefore from time to time, the SPCA receives district-level complaints also at its office. It is unclear how the Authority acts upon these complaints.

Background

On 10 March 2016, the Government of Jharkhand passed a new resolution (No.1411) setting up the State and District Police Complaints Authorities.¹³⁰ This resolution replaced the 2007 resolutions that had first constituted the PCAs in the state. A year later, on 31 March 2017, the Government notified the Rules to govern the functioning of the PCAs.¹³¹ Together, these government resolutions provide the policy framework for PCAs in Jharkhand.

The composition, mandate and powers of the PCAs are at complete odds with the Supreme Court's directive. Both the State and District PCAs consist of five members, all of whom are to be nominated by the State Government. Four 'persons of eminence with experience in public dealing having credible record of integrity and commitment to human rights' are to be appointed as independent members.¹³² At least one of them must be a person belonging to weaker sections of society and another must be a woman. It is good to note that there are clearly specified eligibility criteria for selecting independent members. Jharkhand PCAs are required to have the greatest number of independent members as compared with SPCAs in other states. However, there is no separate criteria or eligibility requirement for the Chairperson; they need not be a retired judge as laid down in the *Prakash Singh* case.

129 Sujeet Kumar Suman, "Jharkhand: पुलिस शिकायत प्राधिकार व जन शिकायत कोषांग में ऐसे दर्ज कराएँ मामला जाने," *Dainik Jagran*, 11 May 2021: <https://www.jagran.com/jharkhand/ranchi-how-to-complain-in-jharkhand-police-grievance-authority-and-public-grievance-cell-know-in-detail-21634008.html>. Accessed on 10 July 2023.

130 Government of Jharkhand, Home, Prison & Disaster Management Department, Resolution No.-13/E-104/2014-1411/Ranchi dated 10.03.2016 (JSPCA Resolution dated 10.03.2016).

131 Jharkhand State Police Complaints Authority Rules, 2017 *vide* Government of Jharkhand, Home, Prison & Disaster Management Department, Notification No.-13/SPCA-105/2016-1835/C dated 31.03.2017 (JSPCA Rules, 2017).

132 JSPCA Resolution dated 10.03.2016, pt. 1.

Further, there is no requirement to adopt a transparent selection process while making any of these appointments as all discretion vests with the State Government, subject to the prescribed eligibility criteria.

The fifth member of the JSPCA, namely, the Member-Secretary, is a serving police officer. For the SPCA, the appointee to this post must be an officer not below the rank of ADGP. At the district level the police officer appointed Member-Secretary of the PCA must not be below the rank of Superintendent of Police.¹³³ The Member-Secretaries do not have any authority to hear complaints received but they (or an officer they designate) are required to authenticate all orders and decisions of the SPCA.¹³⁴ At present the ADGP (Headquarters) is the Member-Secretary of the JSPCA serving as its only member. Even though the Member-Secretary has no role in deciding the complaints, the very presence of a serving police officer in the JSPCA flies in the face of the Court's directive regarding the PCAs' autonomy.

The tenure of the JSPCA's independent members is two years and they are not eligible for reappointment.¹³⁵ It is worthwhile to note that even though the JSCPA was constituted with a membership of five including the Chairperson, it has never had more than three persons serving on it at any point of time.

According to the *Jharkhand State Police Complaints Authority Rules, 2017*, the JSPCA can either initiate a *suo motu* inquiry; or, act on the complaints of victims or persons acting on their behalf, or complaints received from the DPCAs.¹³⁶ The DPCAs on their part have to refer complaints they receive against officers of and above the rank of the Deputy Superintendent of Police and other matters they deem fit to the SPCA.¹³⁷

The SPCA can enquire into allegations of 'serious misconduct' against these police officers of or above the rank of Deputy Superintendent of Police. 'Serious misconduct' is defined as follows:

- (i) any *mala fide* act or omission that amounts to grievous hurt, illegal detention or any other offence for which the prescribed maximum punishment is ten or more years; or
- (ii) extortion.

According to the 2017 Rules, the JSPCA can decide upon its own the rules of procedure in the absence of any rules notified by the State Government. JSPCA is the only Authority to permit (on paper at least) appeals. However, against whose/which decisions and in what form they need to be made, has not been specified. With regard to the follow-up action on recommendations made by the PCAs following an inquiry, the government resolution specifies that the concerned authorities have to act within a period of three months and notify the Authority.¹³⁸ But this provision has been made only with regard to recommendations made by the DPCA and not the SPCA. This is a significant gap as it weakens the effectiveness of the SPCA and is against the Supreme Court's guideline.

After issuing the 2016 resolution, the State Government made the first set of appointments to the JSPCA. Mr. RS Poddar, former Development Commissioner, was appointed Chairperson; he remained at the helm until 2018.¹³⁹ During his term, Mr. Poddar remained practically the

¹³³ Rule 5(ii), JSPCA Rules, 2017.

¹³⁴ Rule 11(d), JSPCA Rules, 2017.

¹³⁵ Rule 13, JSPCA Rules, 2017.

¹³⁶ Rule 11(a)(i), JSPCA Rules, 2017.

¹³⁷ JSPCA Resolution dated 10.03.2016, pt. 2(b)(iii).

¹³⁸ JSPCA Resolution dated 10.03.2016, pt 2(b)(i).

¹³⁹ Government of Jharkhand, Home, Prison & Disaster Management Department, Notification No.-13/E-104/2014-1750/C dated 28.03.2016.

only independent appointee to the JSPCA. Mr. AK Sengupta, former District Judge was briefly appointed in 2016¹⁴⁰ as a Member; however, his appointment was cancelled within six months because he had previously served as the acting Chairperson of the Jharkhand State Public Service Commission. Article 319 of the Constitution of India bars a member of a State Public Service Commission from holding an office of profit under the State Government concerned after laying down office.¹⁴¹ His challenge against this cancellation of appointment did not succeed before the Jharkhand High Court.¹⁴² After Mr. Poddar, Mr. PK Jajoriya (IAS retd.) was appointed Chairperson in 2018 for a period of two years.¹⁴³ No new Chairperson has been appointed since his term ended in 2020. Similarly, no new members have been appointed to the JSPCA since the two-year term of Ms. Nirmal Kaur (IPS retd.) ended in June 2021.¹⁴⁴

Current composition

At the time of writing this report, all non-official posts at the JSPCA are lying vacant. The ADGP (Headquarters) continues to serve as the Member-Secretary with no powers to hear or decide complaints.

Complaints received, status of inquiries and action recommended

According to the information supplied under the RTI Act, the JSPCA received 72 complaints between January 2018 and March 2023. Of these, 69 are categorised as district-level police complaints and only three as state-level complaints (two in 2019 and one in 2023). The Authority has not provided any details regarding the basis for categorising complaints in this manner. Nor did it furnish information about the type or nature of complaints received, or the rank of officers against whom complaints were made.

Two of the three state-level complaints (one each from 2019 and 2023) are said to be pending. In the third (received in 2019), after completing their inquiry, the JSPCA has made a recommendation to the State Government. One recommendation made over a period of five years is a very low figure. The JSPCA did not provide us any details about this recommendation, either.

As for the district level police complaints received, the JSPCA replied that 14 of these had been investigated by the district concerned and 55 complaints were pending inquiry. It did not provide any information about who in the district concerned probed the complaint and the action taken after it.

140 *Ibid.*

141 Government of Jharkhand, Home, Prison & Disaster Management Department, Notification No.-13/SPCA-103/2016-5111/C dated 26.09.2016.

142 *Aloke Kumar Sengupta v. State of Jharkhand & Ors.*, WP(S) 5720/2016, Jharkhand High Court, judgment dated 27.02.2018: https://hcservices.ecourts.gov.in/ecourtindiaHC/cases/display_pdf.php?filename=7yg5D%2FmJmLJFbv9l4Wl3vdtqISlw0Aifo8ShWauOKi2vQVP2TDDCYW2bkV7MDopr&caseno=WPC/5720/2016&cCode=1&appFlag=. Accessed on 22 July 2023.

143 Government of Jharkhand, Home, Prison & Disaster Management Department, Notification No.-13/SPCA-101/2018-6274/C dated 20.11.2018.

144 Government of Jharkhand, Home, Prison & Disaster Management Department, Notification No.-13/SPCA-101/2018-2913/C dated 06.06.2019.

Table 25: Complaints received, investigated and kept pending by Jharkhand SPCA (January 2018 to March 2023)¹⁴⁵

Year	District-level complaints			State-level complaints			
	Total complaints received	Investigated by district concerned	Pending	Total complaints received	Investigated	Pending	Action Recommended
2018	18	3	15	0	0	0	0
2019	24	4	20	2	1	1	1
2020	6	2	4	0	0	0	0
2021	11	2	9	0	0	0	0
2022	9	3	6	0	0	0	0
2023	1	0	1	1	0	1	0
Total	69	14	55	3	1	2	1

The JSPCA did not share information about the number of complaints that were rejected or whether it initiated any *suo motu* action against police officials. It is difficult to attempt an analysis owing to the scanty nature of the information supplied under the RTI Act.

Administrative functioning

- a. Budget: In its RTI response, the JSPCA did not provide the item-wise budget and expenditure sought for each financial year (FY). Instead, it disclosed the overall budget and expenditure figures for the FYs 2018-19 up to FY 2022-23 as below:

Table 26: Budget of Jharkhand SPCA (2018-19 to 2022-23)¹⁴⁶

Year	Budget (Rs.)	Expenditure (Rs.)	Utilisation
2018-2019	38,64,000/-	7,68,398/-	19.88%
2019-2020	54,37,000/-	33,37,332/-	61.38%
2020-2021	64,62,000/-	37,82,023/-	58.52%
2021-2022	63,60,000/-	6,46,767/-	10.16%
2022-2023	62,01,000/-	1,49,643/-	2.41%

During the past five years, the JSPCA budget has gone up by 60 per cent, from Rs. 38.6 lakhs to approximately Rs. 62 lakhs. Since 2021, however, the budget utilisation has fallen sharply. This is not surprising given that all five posts at the JSPCA have remained vacant since June 2021. It is not possible to probe the budget and expenditure figures deeper based on the limited nature of the information supplied under the RTI Act.

- b. Rules of procedures: The JSPCA Rules, 2017 are the only set of rules notified so far. These Rules include provisions on the Authorities' composition, powers, functions, eligibility criteria for independent members and their terms of employment including salaries, housing, leave and other such services. Notably, the Rules indicate that the Chairperson or the State Government have the power to decide the procedure for hearing of complaints and appeals. However, the procedure laid down by the State Government will take precedence over those made by the Chairperson.¹⁴⁷ There are

¹⁴⁵ Based on information provided in response to CHRI's 2023 RTI application.

¹⁴⁶ Based on information provided in response to CHRI's 2023 RTI application.

¹⁴⁷ Rule 14, JSPCA Rules, 2017.

no provisions in the Rules regarding receiving and registering complaints, conducting inquiries and hearings, the manner in which decisions are to be taken.

- c. Website: The JSPCA does not have its own website nor does the Home Department's website display information about the Authority. This despite its own governing rules requiring the SPCA to maintain a functional website that is continuously updated. This responsibility is honoured in the breach.¹⁴⁸
- d. Annual Report: Jharkhand SPCA did not share any of its annual reports. Its reply to the query about annual reports states:
“प्रशासी विभाग द्वारा तैयार किया जाता है” (*Is prepared by the administrative department.*)
It is not clear which administrative department is being referred to here, the JSPCA itself or the State Government.

Summary and Recommendations

With only a senior police official serving as the Member-Secretary and all other posts including that of the Chairperson lying vacant, the JSPCA is failing to function as an oversight body. In the absence of independent members, it is left to the discretion of the police officer to receive and/or admit complaints and forward it to the authorities concerned for further action. Despite constituting the SPCA nearly a decade after the state issued its first resolution in 2007, the Authority is yet to lay down clear procedures for receiving complaints, holding inquiries and recommending action. It is also yet to develop a website or publish annual reports that will provide information about its functioning. Without these foundational measures, the JSPCA lacks credibility and appears as a facade in the name of police oversight.

CHRI recommends

To the Jharkhand Government

- ✓ Re-establish the State and District Police Complaints Authorities in line with the Supreme Court directive and the *Model Police Bill, 2015*. Ensure that serving police officers are not included in any Authority.
- ✓ Once the Authorities have been re-established, follow an independent selection process to make new appointments to the post of the Chairperson and Members without delay.
- ✓ Make recommendations of the Authority binding on the state police and the State Government.
- ✓ Require that detailed annual reports be prepared and placed before the State Legislature. Ensure that adequate time is given to discuss them and their recommendations in the plenary or in an appropriate legislative committee.
- ✓ Allocate sufficient budget and human resources to the Authorities once re-established to enable them to fulfil their mandate effectively.

To the Jharkhand State Police Complaints Authority

Once re-established, the JSPCA must:

- ✓ Update the 2017 Rules of Procedures in accordance with the *Model Police Bill, 2015* as outlined in this report's concluding chapter with a particular focus on protecting the rights of the complainant and predetermined time-frames for completing inquiries.
- ✓ Complete inquiries in all pending complaints at the earliest possible, ensuring adherence

¹⁴⁸ Rule 15(2)-(3), JSPCA Rules, 2017.

with due process.

- ✓ Maintain an up-to-date website along the parameters specified in the concluding chapter of this report that is accessible in English and official state languages, and fulfils the proactive disclosure requirements as per the *RTI Act, 2005*.
- ✓ Monitor pendency at regular intervals and identify solutions within its processes.
- ✓ Conduct regular outreach and awareness programmes across the state.
- ✓ Recommend measures from time to time to the state police department and the State Government on preventing police misconduct and enforcing accountability.

7. KARNATAKA

Source of Information

We had to submit five applications to obtain information about the Karnataka SPCA because of the 150-word limit and one subject matter restriction imposed by the Karnataka Government since 2006. Karnataka SPCA responded to the content of only one of the five RTI applications – providing copies of their annual reports, four copies of Section 20C of the *Karnataka Police Act, 1963* and information regarding their budget and expenditure. The KSPCA did not provide any information on the status of complaints received and recommended action.

The Karnataka State Police Complaints Authority (KSPCA) became operational in 2013, a year after the state enacted the *Karnataka Police (Amendment) Act, 2012* to incorporate the scheme for the SPCA. At present, both the posts of independent Members are vacant. A public interest litigation (PIL) is pending before the Karnataka High Court seeking directions to the State Government to fill these vacancies.¹⁴⁹

Background

The *Karnataka Police (Amendment) Act, 2012* provides for State and District Police Complaints Authorities but their set-up deviates from the Court's directive. Serving and retired government officials dominate these Authorities. While a retired judge is required to serve as the Chairperson of the SPCA, the Regional Commissioner heads the district level Authorities. At both levels, police officers serve as Members of the PCAs. The SPCA includes two serving police officers: the Additional Director General of Police (ADGP) as the Member-Secretary and a woman IPS officer of the rank of Deputy Inspector General of Police and above. At the district level, the Superintendent of Police serves as the Member-Secretary of the PCA.¹⁵⁰

The Chairperson of the KSPCA is selected from a panel of retired High Court judges recommended by the Chief Justice of the High Court of Karnataka.¹⁵¹ The civil society members for both the KSPCA and the DPCAs are selected from a panel of names recommended by a search committee that has one member each from the State Human Rights Commission, State Public Service Commission and Lokayukta.¹⁵² The committee's Convenor is an officer not below the rank of Deputy Secretary, Home Department. Only politically unaffiliated persons of repute having rendered humanitarian service in education, health or upliftment of the poor may be recommended for appointment.

In terms of its mandate, the KSPCA is required to inquire into all complaints of 'serious misconduct'. 'Serious misconduct' includes instances of death in police custody, grievous hurt, rape or attempt to rape and arrest or detention without due process. KSPCA can also initiate *suo motu* action in such cases and call for the views of the Director General of Police or the Inspector General of Police concerned.¹⁵³ While the KSPCA addresses complaints against officers of the rank of Superintendent of Police and above, the DPCAs look into

149 Ambarish B, "Karnataka HC notice to state on plea for appointment to police complaints authority," *Deccan Herald*, 07 January 2021: <https://www.deccanherald.com/state/top-karnataka-stories/karnataka-hc-notice-to-state-on-plea-for-appointment-to-police-complaints-authority-1178629.html>. Accessed on 15 July 2023.

150 Sections 20C & 20D of the Karnataka Police Act, 1963.

151 Section 20C(1), Karnataka Police Act, 1963.

152 Section 20D(1), Karnataka Police Act, 1963.

153 Section 20C(7)&(8), Karnataka Police Act, 1963.

allegations of misconduct and abuse of power against officers of Deputy Superintendent of Police rank and below. The DPCAs forward all complaints against higher ranking police officers and those pertaining to ‘serious misconduct’ against officers who come under their jurisdiction to the KSPCA.¹⁵⁴ On completing the inquiry, both Authorities forward their recommendations to the concerned disciplinary authorities. The KSPCA also has the power to supervise, monitor and control the functioning of the DPCAs.¹⁵⁵

Since inception up to 2019, the KSPCA has served with a full capacity of five members. Its first Chairperson was Justice MP Chinnappa (retd.), a former judge of the High Court of Karnataka, who served for three years.¹⁵⁶ Justice AS Pachhapure (retd.), also a former High Court judge, succeeded Justice Chinnappa in September 2016. After the completion of his tenure, Justice CR Kumaraswamy (retd.) was appointed to succeed him in July 2019. His term ended in July 2022 after which the post remained vacant until July 2023. Notably, Malini Krishnamoorthy, IPS, has been a member of the SPCA since 2013 as the mandated woman police officer.

Current composition

The Karnataka SPCA has appointed a new Chairperson in July 2023, in response to ongoing litigation regarding vacancies at the KSPCA before the Karnataka High Court.¹⁵⁷ However, the remaining posts for a retired bureaucrat and independent members continue to remain vacant. Only the Member-Secretary, and the woman IPS officer are serving as Members. Every non-official member is appointed for a term of three years. So, to avoid the current situation of unfilled vacancies, the State Government must start the process of fresh appointments well in advance of the date on which a post is likely to fall vacant.

Table 27: Current composition of the Karnataka SPCA¹⁵⁸

Designation	Name	Qualification/Profession	Date of Appointment	Tenure
Chairperson	Justice NK Sudhindhra Rao (retd.) ¹⁵⁹	Former High Court Judge	31.07.2023 ¹⁶⁰	3 years
Member	<i>vacant</i>	Retired civil servant - not below the rank of Principal Secretary to Government	-	-
Member	-	ADGP (Grievance & Human Rights)	-	<i>ex-officio</i>
Member	-	Inspector General of Police	04.09.2013	<i>ex-officio</i>
Member	<i>vacant</i>	Civil society representative	-	-

Additionally, the annual reports reveal that the KSPCA has been sanctioned 15 staff posts including the Chairperson’s personal section, the Member’s personal section, administrative staff, typists and other court work related staff.

154 Section 20D(8)(b)-(c), Karnataka Police Act, 1963.

155 Section 20C(10), Karnataka Police Act, 1963.

156 Karnataka SPCA, Annual Report for the State Police Complaints Authority for 2016, pg.1-2.

157 *Sudha Katwa v. State of Karnataka*, WP 239/2023, Karnataka High Court.

158 Based on information available in the public domain.

159 “Submit report on appointment of members to police complaints authority: HC to Govt,” *News Trail*, 10 August 2023: <https://newstrailindia.com/inner.php?id=15232>. Accessed on 13 September 2023.

160 *Ibid.*

Complaints received, status of inquiries and action recommended

The KSPCA did not respond to any of the four RTI applications that sought details regarding the number and types of complaints received, and inquiries conducted by the Authority. However, it provided copies of its annual reports for the years 2016 – 2021. The data table given below is collated from the statistics published by the Authority in its annual reports for the years 2016 - 2021.

Table 28: Complaints received, investigated and kept pending by Karnataka SPCA (January 2016 to December 2021)¹⁶¹

Year	Cases pending at the beginning of the year	Cases received in the year	Total number of cases for consideration	Cases disposed of	Cases pending
2016	83	471	554	145	409
2017	409	357	766	361	405
2019*	404	172	576	206	370
2020	370	139	509	175	334
2021	334	399	733	35	698

*Data for 2018 is not included in this table as the figures mentioned for complaints received in 2018 are the same as those included in the table for 2017.

It is evident from these numbers that due to low disposal rates, the pendency burden of the Authority is quite high in 2021.

Notably, the KSPCA has received complaints from *all districts* across the state. The highest proportion of complaints belongs to Bengaluru Rural district, as shown in Table 29 given below. In fact, very few complaints have been received from other districts. For instance, in 2021, 168 complaints out of 399 were from this district whereas only 24 were received from Mysuru, which is at second place on the list. This pattern is visible across all the years. Other than Bengaluru Rural and Mysuru, Mandya, Tumukuru, Belagavi figure in the top-five list of districts contributing to the workload of the KSPCA. Shivamogga, Uttara Kannada and Kodagu districts are also the source of many complaints. Complaints received from other districts are usually in single digits.

Table 29: Complaints received at Karnataka SPCA from districts (January 2016 to December 2021)¹⁶²

	2016	2017	2019*	2020	2021
Total complaints received by SPCA	471	357	172	139	399
Complaints received from districts (out of total complaints received)					
1. Bengaluru Rural district	175	137	108	59	168
2. Mysuru	31	19	7	17	24
3. Tumukuru	15	33	4	9	20
4. Mandya	26	8	3	3	17
5. Belagavi	15	11	10	5	14

* Data for 2018 is not included as the figures for complaints received are the same as for 2017.

We are using only 2017 data.

161 Based on Karnataka SPCA Annual Reports 2016-2021.

162 Based on Karnataka SPCA Annual Reports 2016-2021.

In terms of the rank of officers against whom complaints are received, according to the annual reports a majority of the complaints are registered against officers of Deputy Superintendent of Police rank or below. Fewer complaints are against officers of Additional Superintendent of Police rank and above.¹⁶³

The KSPCA comments about the nature of complaints received in its annual reports. Between 2016 and 2021, the KSPCA observed in the annual reports that the complaints received could be classified into the following categories:¹⁶⁴

- (a) Negligence of Duty:
 - i. Not accepting complaints and not registering FIR.
 - ii. No action after registering FIR and in some cases, FIR registered after the complaint is made to senior officers and yet no further action taken.
- (b) Abuse of power:
 - i. Abusive behaviour using dirty swearing words [sic].
 - ii. Harassment.
 - iii. Threatening to file false cases.
 - iv. Implicating in false cases.
 - v. Using physical and mental torture.
- (c) Collusion with rivals / opponents of the complainants:
 - i. Not registering FIR.
 - ii. Helping the rival after registering FIR and not investigating properly.
 - iii. Not enforcing court injunction against the rival.
 - iv. Closing complaints against the accused without any action.
 - v. Filing B report on the complaint against the accused.
 - vi. Indulging in unlawful activity along with the rival against the complainant.
- (d) Illegal detention, grievous hurt, death in police custody.
- (e) Corruption and demanding bribes.

The KSPCA further noted that complaints against senior officers were mainly about not taking proper action against their subordinates.

However, the annual reports do not contain detailed information about the complaints disposed. No information is provided about the KSPCA's findings including the number of cases where misconduct on the part of the police official is established, the action recommended against such officials and the status of action taken on these recommendations. Without these details, the effectiveness of the SPCA in pushing for accountability remains unclear.

Administrative functioning

- a. Budget: CHRI looked at three different sets of budgetary statistics which it was able to access: information provided by the KSPCA in response to the RTI applications in 2021 and 2023 and the data published by the KSPCA in its annual reports. The KSPCA's budget and expenditure over the past five years is given in the tables below:

¹⁶³ Karnataka SPCA Annual Reports of the State Police Complaints Authority 2016-2021.

¹⁶⁴ Karnataka SPCA, Annual Report of the State Police Complaints Authority for the year 2021, pg. 6-7.

Table 30: Amount budgeted, received and spent by the Karnataka SPCA (2018-19 to 2022-23)¹⁶⁵

Year	Budgeted amount ¹⁶⁶ (Rs.)	Funds received (Rs.)	Expenditure (Rs.)	Utilisation
2018-19	3,05,00,000/-	1,51,32,233/-	24,68,694/-	16.31%
2019-20	4,17,00,000/-	1,13,81,980/-	74,85,298/-	65.76%
2020-21	3,21,00,000/-	1,61,84,513/-	96,71,356/-	59.75%
2021-22	1,05,13,000/-	84,13,000/-	65,49,259/-	77.84%
2022-23	98,13,000/-	81,63,000/-	79,10,501/-	96.90%

Table 31: Amount budgeted and spent by the Karnataka SPCA (2018-19 to 2020-21)¹⁶⁷

Year	Budgeted amount (Rs.)	Expenditure (Rs.)	Utilisation
2018-19	3,60,00,000/-	1,01,35,000/-	28.15%
2019-20	1,47,88,000/-	89,16,000/-	60.29%
2020-21	3,73,63,000/-	1,19,95,000/-	32.10%

Table 32: Amount budgeted by the Karnataka SPCA (2018-19 to 2021-22)¹⁶⁸

Year	Budgeted amount (Rs.)
2018-19	3,60,00,000/-
2019-20	3,81,90,000/-
2020-21	3,73,00,000/-
2021-22	1,23,00,000/-

First, there is considerable inconsistency between the figures published in the KSPCA's annual reports and the data furnished under the RTI Act. Budgetary figures supplied in response to RTI applications are much lower than those published in the annual reports for the corresponding years.¹⁶⁹ As the information sets do not match with each other, it is not possible to comment on the extent of KSPCA's budget utilisation. However, from the information in both Table 30 and 32 it is observed that between FY 2018-19 and FY 2021-22, the Karnataka SPCA has recorded a decrease in its budget and expenditure. It would be worthwhile to investigate in future whether this was a result of low budget utilisation in previous years which led to a reduction in its budget or there is some other factor responsible for the curtailed budgets.

Other than salaries and allowances paid to officers and staff, the KSPCA budget includes high allocation figures for "general expenses," "subsidiary expenses," "transport expenses" and "outsource". For the year 2021-22, "outsource" itself has an allocation of Rs. 1.42 crores (Rs. 14.2 million), amounting to 37 per cent of the KSPCA budget. No details are provided about activities that have been outsourced for which such a high expenditure was incurred. It is likely that 'outsource' might refer to contractual staff hired by the KSPCA.

- b. Rules of procedures: Karnataka SPCA has separate regulations governing its functioning. The *Karnataka State Police Complaints Authority (Procedure) Regulations, 2014* lay down

¹⁶⁵ Based on information provided in response to CHRI's 2023 RTI application.

¹⁶⁶ Including re-appropriated amounts.

¹⁶⁷ Based on information provided in response to CHRI's 2021 RTI application.

¹⁶⁸ Based on Karnataka SPCA Annual Reports.

¹⁶⁹ In their item-wise budget and expenditure figures for the 2023 RTI applications, the SPCA has listed eight heads of account, whereas in their annual reports they list 13. They have excluded from their RTI responses, the budget and expenditure for payments to officers and staff, dearness allowance, other allowance and reimbursement for medical expenses that were paid out.

the procedure for dealing with complaints, meetings of the Authority, and supervision and monitoring of the district level Authorities. The 2014 Regulations include a number of proformas prescribed for the purpose of office records management including the receipt and the recording of complaints. While the Regulations include instructions for maintaining these registers, details about the inquiry process such as timelines for completing the inquiry, the procedure for conducting hearings, granting adjournments, or types of supporting documents that may be provided along with the complaint are missing.

- c. Website: Karnataka SPCA has a basic website available in both English and Kannada.¹⁷⁰ The website provides information about the Chairperson and Members along with the contact details of the Authority. It also lists the names of the PIO and the First Appellate Authority under RTI Act. A copy of the police act and notifications pertaining to the constitution of the KSPCA are also available. However, it does not provide any information on its mandate & functioning; does not describe how one may file complaints and does not publish copies of its annual reports on the website.
- d. Annual Report: As required under the Act, the KSPCA publishes an annual report every year. The format and general content of the reports have remained largely consistent over the years. However, it would be useful for researchers if the SPCA provides even more detailed case statistics in future, providing information on the nature of complaints and whether any are *suo motu* or referral complaints.

Summary and Recommendations

Since it was first set up over ten years ago, the KSPCA has established a wide reach across the state, as is evident from the volume and the geographical spread of the complaints it has received. But its composition is a problem as it includes serving police officials. This needs to be amended in order to be in consonance with the Supreme Court's directive. The high case pendency calls for a review of factors that are causing delays in completing inquiries, including the extent of (or lack thereof) cooperation provided by the police department in attending hearings as necessary or challenges faced by complainants that could be contributing to the delay. Data on departmental action initiated against police personnel on the basis of KSPCA's recommendations is required to assess its effectiveness. Accordingly, the State Government needs to consider providing additional staff that can assist the KSPCA in conducting inquiries. While the Authority is discharging its obligations towards the legislature, needs to proactively disclose information about itself through its website and reach out to residents of Karnataka in local languages to spread awareness about its duties and powers.

CHRI recommends:

To the Karnataka Government

- ✓ Amend the *Karnataka Police (Amendment) Act, 2012* to re-establish the State and District Police Complaints Authorities and ensure that their composition and mandate is in line with the Supreme Court directive and the *Model Police Bill, 2015*. Serving police officers must not be included in any of the Authorities.
- ✓ Fill vacant positions in the KSPCA without delay and ensure timely appointments to all posts in future.
- ✓ Constitute District Police Complaints Authorities in all districts in line with the Supreme Court's directive.

¹⁷⁰ Karnataka Home Department, Karnataka State Police Complaints Authority: <https://kspca.karnataka.gov.in/en>. Accessed on 15 September 2023.

To the Karnataka State Police Complaints Authority

Once re-established, the KSPCA must:

- ✓ Update the 2014 KSPCA Regulations in accordance with the *Model Police Bill, 2015* as outlined in this report's concluding chapter with particular focus on protecting the rights of the complainant and predetermined time-frames for completing inquiries.
- ✓ Complete inquiries in all pending complaints at the earliest possible, ensuring adherence with due process.
- ✓ Maintain an up-to-date website along the parameters specified in the concluding chapter of this report that is accessible in English and official state languages, and fulfils the proactive disclosure requirements as per the *RTI Act, 2005*.
- ✓ Monitor pendency at regular intervals and identify solutions within its processes.
- ✓ Recommend measures from time to time to the state police department and the State Government on preventing police misconduct and enforcing accountability.
- ✓ Conduct regular outreach and awareness programmes across the state.

8. KERALA

Source of Information

Initially, we did not receive any response to our RTI application sent by post. Upon following up, the Kerala SPCA shared a copy of its response by email. They responded to all points and provided all information with the exception of disaggregated figures about complaints received, the status of inquiries and action recommended.

Kerala set up its SPCA in 2012, nearly a year after the *Kerala Police Act, 2011* came into force.¹⁷¹ The state had also constituted two District Complaints Authorities, for the north and south zones, each having jurisdiction over seven districts. Information about the current composition of the district authorities is not available in public domain.

Background

Section 110 of the *Kerala Police Act, 2011* provides for the establishment of a State Police Complaints Authority with the mandate to inquire into complaints such as:

- a) all types of misconduct against officers of the rank of Superintendent of Police and above; and,
- b) grave complaints against officers of all ranks.¹⁷²

District Complaints Authorities are responsible for inquiring into complaints against officers of the rank of Deputy Superintendent of Police and below.

Government officials dominate the PCAs in Kerala. This is a serious violation of the Supreme Court's directive as well as principles of independent oversight. While the SPCA includes officers of or above the rank of Principal Secretary to the State Government and the Additional Director General of Police (ADGP) as its members, the District Authorities comprise of the District Collector and the District Superintendent of Police. Having serving police officials in an oversight body is likely to deter victims of police abuse from seeking accountability. It also serves to provide an assurance to the police personnel about the protection they may expect to receive in case of misconduct.

There are major gaps in the selection and appointment of members to the Kerala SPCA. Apart from serving government officers as Members, the SPCA does not provide any mandatory representation for civil society organisations or make a provision for women's representation. Further, while the Government appoints the two non-official Members in consultation with the Leader of Opposition from a panel of three candidates, there is no similar requirement of shortlisting candidates for the selection of the Chairperson.

The State Government's resistance to setting up an effective oversight institution is further evident from the unreasonable delay caused in the appointment of an independent investigating officer to assist the SPCA. After having sanctioned the post of a Chief Investigating Officer (CIO) first in March 2016 based on the SPCA's repeated requests, no appointment was made.¹⁷³ Subsequently in 2017, another notification was issued¹⁷⁴ laying

171 Government of Kerala, Home (E) Department, G.O.(Rt.) No. 475/2012/Home dated 17.02.2012.

172 Grave complaints are defined as relating to sexual harassment of women in custody, or death or grievous hurt or rape in custody.

173 "Despite three notifications, no CIO appointed for Kerala State Police Complaints Authority," *The News Minute*, 09 February 2021: <https://www.thenewsminute.com/article/despite-three-notifications-no-cio-appointed-kerala-police-complaints-authority-143073>. Accessed on 22 July 2023.

174 State Police Complaints Authority, Notification, No.646/SPCA/2015.

down the main responsibilities and functions of the CIO such as providing assistance with the investigation of cases of custodial violence “including all types of physical and mental torture” inflicted by the police on persons in their custody. Detailed qualifications and criteria too were specified to invite applications for the post; as a minimum, it specified service in the rank of Superintendent of Police in any central agency as an essential qualification and disallowed those having served in Kerala Police. Even after this detailed notification, no appointment was made, prompting the High Court of Kerala to intervene in response to a petition. Despite repeated orders from the High Court that the appointment be made expeditiously (first within three weeks,¹⁷⁵ then within three months from 11.11.2021,¹⁷⁶ and then again within 60 days from 01.04.2022),¹⁷⁷ the state has not appointed the CIO yet.

Current composition

Justice VK Mohanan (retd.) is the most recent Chairperson of the Kerala SPCA. The two official members are: the Additional Chief Secretary (Home) and the Additional Director General of Police (Headquarters). The two non-official Members are: Mr. PK Aravintha Babu, former Law Secretary, and Mr. KP Somarajan, IPS (retd.), a former DGP. Justice Mohanan was initially appointed in 2017¹⁷⁸ and Mr. Somarajan in 2019.¹⁷⁹ Both their terms have been renewed once. Mr. PK Aravintha Babu was appointed in 2022 within a year of his retirement as the Law Secretary.¹⁸⁰ They have been appointed for a term of three years each.

Table 33: Current composition of the Kerala SPCA¹⁸¹

Designation	Name	Qualification/Profession	Date of Appointment	Tenure
Chairperson	Justice VK Mohanan (retd.) ¹⁸²	Former High Court Judge	27.05.2017	Extended for 3 years from 30.05.2020 ¹⁸³
Member	Mr. KP Somarajan ¹⁸⁴	Former DGP / IPS (retd.)	07.01.2019	Extended for 3 years from 17.03.2022
Member	Mr. Aravintha Babu ¹⁸⁵	Former Law Secretary	17.03.2022	3 years
Member	-	Additional Chief Secretary, Home Department	17.02.2012	<i>ex-officio</i>
Member	-	Additional Director General of Police (HQ)	17.02.2012	<i>ex-officio</i>

175 *Jaffer Khan v. State of Kerala*, WP(C) 14170/2021, Kerala High Court, order dated 13.08.2021.

176 *Jaffer Khan v. State of Kerala*, WP(C) 14170/2021, Kerala High Court, order dated 30.11.2021.

177 *Jaffer Khan v. State of Kerala*, WP(C) 14170/2021, Kerala High Court, judgement dated 07.06.2022.

178 Government of Kerala, Home (Section-A) Department, G.O.(Ms.) No. 110/2017/Home dated 27.05.2017.

179 Government of Kerala, Home (Section-A) Department, G.O.(Rt.) No. 84/2019/Home dated 07.01.2019.

180 “Law Secretary PK Aravindh Babu will retire tomorrow,” *Manorama Online*, 30 May 2021: <https://www.manoramaonline.com/news/kerala/2021/05/30/law-secretary-pk-aravinda-babu-retirement.html>. Accessed on 25 July 2023.

181 Based on information provided in response to CHRI’s 2023 RTI application.

182 Government of Kerala, Home (Section-A) Department, G.O.(Ms.) No. 112/2020/HOME dated 22.05.2020.

183 Justice Mohanan’s term has since ended and it is not clear whether he has been re-appointed as Chairperson of the SPCA. He has, however, been appointed to lead a judicial commission to investigate a boat accident in Tanur, Malappuram. See, “Justice VK Mohanan-led judicial commission to probe Malappuram boat accident,” *Manorama Online*, 10 May 2023: <https://www.onmanorama.com/news/kerala/2023/05/10/kerala-boat-tragedy-malappuram-accident-judicial-commission-probe.html>. Accessed on 25 July 2023.

184 Government of Kerala, Home (Section-A) Department, G.O.(Ms.) No. 727/2022/Home dated 17.03.2022.

185 *Ibid.*

Complaints received, status of inquiries and action recommended

The SPCA only acts on the complaints it receives. It neither has the power to take *suo motu* action, nor does it receive referrals from the State Government or other authorities. On the basis of the complaints it receives, it has recommended departmental action in just a handful of cases in 2019 and 2020.

Details of all the complaints it received between January 2018 and March 2023 are given below:

Table 34: Complaints received, admitted and pending inquiry at the Kerala SPCA (January 2018 - March 2023)¹⁸⁶

Year	Complaints received	Admitted for inquiry	% of complaints admitted for inquiry	Inquiry pending	Pendency Rate	Departmental action recommended
2018	830	435	52.41 %	9	2.06%	0
2019	710	346	48.73 %	9	2.60%	2
2020	642	335	52.18 %	7	2.08%	4
2021	558	272	48.75 %	11	4.04%	0
2022	670	146	21.79 %	66	45.20%	0
2023	141	66	46.81 %	22	33.33%	0

The table above shows up the following patterns:

- ✓ Over the years on an average, the SPCA has admitted 50 per cent of the complaints it has received. In the absence of any rules of procedures governing the SPCA's functioning, the basis and process by which complaints are admitted for inquiry remain unclear. It is quite likely that the SPCA receives complaints of all kinds but admits only those that fall within its legal mandate, such as those relating to allegations of grave misconduct against officers of SP rank and above.
- ✓ Between 2018 and 2022, complaints received by the SPCA declined by over 19 per cent. It is worth noting that the SPCA continued to receive complaints during the pandemic years, and that those admitted for inquiry relate to alleged instances of grave misconduct against officers of SP rank and above.
- ✓ Until 2021, the SPCA maintained a low pendency rate. Inexplicably, there was a sharp jump in 2022, when despite admitting fewer complaints for inquiry, close to half of them remained pending at the end of the year.
- ✓ Of the 1,534 complaints admitted for inquiry between 2018 and 2022, the SPCA has recommended departmental action in only six complaints. No information is provided about other inquiries that might have been completed, whether the complaints were found baseless, or if they were closed for lack of adequate evidence. Despite dealing with serious offences including death and sexual assault in custody, it is worth noting that the SPCA has not recommended initiation of criminal proceedings in any of these cases. A deeper probe into the case papers held by the SPCA is necessary to understand why such a course of action was not recommended.

The Kerala SPCA failed to provide disaggregated details regarding the nature of grave misconduct alleged in the complaints. The RTI reply states:

¹⁸⁶ Based on information provided in response to CHRI's 2023 RTI application.

“The petitions which contains all types of grave misconduct against police officers are registered and further action taken. It is informed that separate list of death, grievous hurt, rape, sexual harassment etc. is not maintained in this Authority.” [sic]

Administrative functioning

- a. **Budget:** In its RTI response, Kerala SPCA provided itemised budget and expenditure. The figures provided show high proportion of utilisation of the allocated funds as compared with other SPCAs included in this study. In some instances, there is overspending under specific budget heads. The budget and expenditure figures are as follows:

Table 35: Amount budgeted and spent by the Kerala SPCA (2018-19 to 2022-23)¹⁸⁷

Year	Budget (Rs.)	Expenditure (Rs.)	Utilisation
2018-2019	1,35,92,500/-	1,22,34,441/-	90%
2019-2020	1,61,00,000/-	1,42,51,086/-	88.51%
2020-2021	1,35,45,724/-	42,84,589/-*	31.63%**
2021-2022	1,68,75,660/-	1,38,95,708/-	82.34%
2022-2023	1,22,94,020/-	1,43,65,881/-	116.85%

*- Expenditure up to 19.08.2020. Kerala SPCA did not provide an expenditure report for the complete financial year.

** - Utilisation % is based on expenditure made up to 19.08.2020.

The major heads of accounts in the Kerala SPCAs budget are: "salary," "wages," "transport allowance," "office expenses," "rent, rates and charges," "motor vehicles," "implementation of official language," "other charges," "petrol, oil and lubricant" and "information technology." Unlike other SPCAs, outreach and publicity are not specified as a separate expense. As with other authorities, salaries and wages make up the biggest portion of the budget (see table below). The distribution of budget among the major heads and the variation in allocation over the years is as follows:

Table 36: Amount budgeted under top five major heads by the Kerala SPCA (2018-19 to 2022-23)¹⁸⁸

Major Heads	2018-2019	2019-2020	2020-2021	2021-2022	2022-2023
Salary	74.70%	75.44%	70.56%	73.33%	77.56%
Wages	10.13%	9.93%	11.69%	15.58%	8.90%
Office Expenses	3.24%	3.42%	3.20%	2.56%	2.58%
Rent	4.41%	4.04%	9.10%	4.35%	5.25%
Petrol, Oil and Lubricants	2.47%	3.42%	2.29%	2.32%	2.77%

- b. **Rules of procedures:** Kerala SPCA does not have any rules of procedure governing its functioning.¹⁸⁹ In its RTI reply, it stated:

“Kerala Police Complaints Authority functions as per provision laid down in Kerala Police Act, 2011, which is available in public domain. However, the extract of the relevant portion is enclosed herewith.”

187 Based on information provided in response to CHRI's 2023 RTI application.

188 Based on information provided in response to CHRI's 2023 RTI application.

189 Beyond the statutory procedure outlined in Section 112 of the Kerala Police Act, 2011.

- c. Website: The Kerala SPCA Authority does not have a website nor is there a page providing key information about it on the website of the Home Department.
- d. Annual Report: Kerala SPCA did not produce annual reports for any of the years included in this study. Their RTI reply states:

“Annual reports for the years 2018, 2019, 2020, 2021 and 2022 has not been prepared.” [sic]

Due to the absence of annual reports, the State Legislature has no material on the basis of which it can discuss the performance of the SPCA.

Summary and Recommendations

The SPCA has been functional for over a decade but it remains ineffective in the face of its skewed composition, weak mandate and lack of independence. Despite receiving a large number of complaints, the fact that it has recommended departmental inquiries in just a handful of cases calls for a review of its processes relating to admitting complaints and conducting inquiries. There is, therefore, need for an independent investigation unit that can assist the PCAs conduct timely and thorough inquiries. Unless the State Government takes steps to establish truly independent Authorities equipped with the power and resources to hold the police accountable, doubts will remain over the credibility and relevance of the SPCA in its existing form.

CHRI recommends:

To the Kerala Government

- ✓ Amend the *Kerala Police Act, 2011* to re-establish the State and District Police Complaints Authorities and ensure that their composition and mandate is in line with the Supreme Court directive and the *Model Police Bill, 2015*. In particular:
 - Serving police officials must not be included in the Authorities;
 - Chairperson and Members should be selected through an independent process; and,
 - Authorities should be vested with *suo motu* powers to take cognizance of an alleged police misconduct and initiate an inquiry.
- ✓ Appoint a Chief Investigating Officer (CIO) to assist the SPCA without any further delay and allocate resources as necessary to enable the CIO to fulfil his/her duties effectively.

To the Kerala State Police Complaints Authority

Once re-established, the KSPCA must:

- ✓ Formulate and adopt rules of procedures in accordance with the *Model Police Bill, 2015* as outlined in this report’s concluding chapter with particular focus on protecting the rights of the complainant and predetermined time-frames for completing inquiries.
- ✓ Complete inquiries in all pending complaints at the earliest possible, ensuring adherence with due process.
- ✓ Publish an annual report each year with detailed statistics about the types of complaints received, their district-wise geographical mapping and types of actions recommended by the Authority following an inquiry. Also provide general recommendations for enhancing police accountability in the state.
- ✓ Maintain an up-to-date website along the parameters specified in the concluding chapter of this report that is accessible in English and official state languages, and fulfils the proactive disclosure requirements as per the *RTI Act, 2005*.
- ✓ Conduct regular outreach and awareness programmes across the state.

9. MAHARASHTRA

Source of Information

Five separate RTI applications were sent to the Maharashtra State Police Complaints Authority (MSPCA) because the state's RTI Rules impose a 150-word limit on each application. The SPCA responded to four of these requests, providing data about the complaints received, the status of inquiries and action recommended. CHRI did not receive a response to the fifth RTI application seeking information about its current composition, budget, copies of annual reports and rules of procedures which govern its functioning.

The MSPCA has been set up along with the divisional-level Police Complaints Authorities as per provisions of the *Maharashtra Police (Amendment and Continuance) Act, 2014*.¹⁹⁰

Background

Maharashtra has had an erratic and irregular implementation experience with Police Complaints Authorities. It first constituted an SPCA through a government resolution issued in July 2013 but the Authority was subsequently reconstituted under the *Maharashtra Police (Amendment and Continuance) Act, 2014* that replaced the 2013 resolution.

The 2014 amendments provide for a state-level PCA and divisional-level complaints authorities covering six divisions: Nashik, Pune, Aurangabad, Nagpur, Amravati and Konkan.¹⁹¹ Authorities at both levels are headed by retired judges and include retired police officers, retired government officers of specified ranks as well as one representative from civil society as Members. They also include serving police officers. While an officer of the rank of Additional Director General/Inspector General of Police serves as the Member-Secretary of the MSPCA, the divisional authorities include an officer of the rank of Deputy Superintendent of Police as the Member-Secretary. Each divisional authority also includes the Deputy Commissioner of Police as one of the Members. With only one independent Member, the Authorities constituted are heavily dominated by government servants (retired and serving) and lack the balanced composition required by the Apex Court directive in the *Prakash Singh* case.

The mandate of the two Authorities is largely similar. MSPCA accepts complaints against officers of or above the rank of Deputy Superintendent of Police and the DPCAs up to the rank of Senior Police Inspector.¹⁹² A complaint can be made by the victim or a representative, the NHRC or the State Human Rights Commission or by the police establishment itself.¹⁹³ However, these complaints must be filed within one year of the alleged incident.¹⁹⁴ These Authorities have the power to receive complaints of death in police custody, grievous hurt, rape/attempt to rape, arrest/detention without due process, corruption, extortion, land/house grabbing or any other serious violation of law or abuse of lawful authority committed

190 Maharashtra Police (Amendment and Continuance) Act 2014: [https://lj.maharashtra.gov.in/site/upload/Acts/the%20Maharashtra%20Police%20\(Amendment%20and%20Continuance\)%20Act,%202014.pdf](https://lj.maharashtra.gov.in/site/upload/Acts/the%20Maharashtra%20Police%20(Amendment%20and%20Continuance)%20Act,%202014.pdf). Accessed on 15 September 2023.

191 Section 22S, Maharashtra Police (Amendment and Continuance) Act, 2014.

192 Rule 3(3), Maharashtra State Police Complaints Authority (Conditions of Service) Rules, 2016 (Maharashtra 2016 SPCA Conditions of Service Rules) and Rule 3(3), Maharashtra Divisional Police Complaints Authority (Conditions of Service) Rules, 2017 (Maharashtra 2017 DPCA Conditions of Service Rules).

193 Section 22Q, Maharashtra Police (Amendment and Continuance) Act, 2014.

194 Rule 4, Maharashtra 2016 SPCA Conditions of Service Rules; Rule 4, Maharashtra 2017 DPCA Conditions of Service Rules.

by police personnel.¹⁹⁵ The PCAs also have the power to take *suo motu* cognizance of such matters.

In addition to conducting inquiries, the MSPCA can also advise the Government to provide witness protection. Its members may visit any police station/lock-up or other place of detention.¹⁹⁶

In a significant departure from the Apex Court's directive, the findings of the MSPCA are not binding on the government. While the Chairperson of the MSPCA is to be chosen from a panel of names proposed by the Chief Justice of the High Court, no process has been outlined for the selection of the civil society member.¹⁹⁷ The term of office for Members is three years. No such term has been specified for the Chairperson.¹⁹⁸

Although the MSPCA was established in 2015,¹⁹⁹ it started functioning only from February 2017 and worked until 31 December 2019. The Authority, however, has struggled with shortage of staff. In early 2019, the Chairperson, Justice AV Poddar (retd.), went on leave for reasons of health.²⁰⁰ In his absence, two members conducted the MSPCA's proceedings and passed orders in violation of its own rules which stipulate that a quorum of three, including the Chairperson, is an essential requirement for passing orders.²⁰¹ The government published an advertisement in two leading newspapers for the vacant post of a member in December 2019. However, it also decided not to reappoint the existing members after their tenure ended on 31 December 2019. This rendered the MSPCA non-functional and ineffective until March 2020.

In March 2020, Justice SP Davare (retd.) was appointed as the Chairperson. In July 2020, Mr. Rajkumar Dhakane was appointed to the post of independent Member. Within a year, however, the State Government terminated Mr. Dhakane's appointment on the ground of pending criminal charges, including a case involving the charge of attempt to murder against him.²⁰² This instance highlights the necessity of following a rigorous and independent selection and appointment process.

In April 2022, social activist Medha Patkar filed a PIL in the Bombay High Court praying for the urgent filling of vacancies in the SPCA. The petitioner also prayed for the MSPCA to be provided with sufficient funds and infrastructure to be able to function effectively.²⁰³ The State Government sought time to file its response. The matter continues to be heard in the court as of date.²⁰⁴

Current composition

MSPCA did not provide this information in response to our RTI application. On 16

195 Section 22Q, Maharashtra Police (Amendment and Continuance) Act, 2014.

196 Section 22Q(8) & (9), Maharashtra Police (Amendment and Continuance) Act, 2014.

197 Section 22P(4), Maharashtra Police (Amendment and Continuance) Act, 2014.

198 Section 22Q(3), Maharashtra Police (Amendment and Continuance) Act, 2014.

199 "First Police Complaints Authority in Maharashtra," *The Times of India*, 29 May 2015: <https://timesofindia.indiatimes.com/maharashtra/first-police-complaint-authority-in-maharashtra/articleshow/47466271.cms>. Accessed on 12 June 2023.

200 This is based on communication between Justice Poddar and CHRI representatives.

201 Rule 5(b), Maharashtra State Police Complaints Authority (Administration and Procedure) Regulations, 2017.

202 "Civilian removed from Maharashtra State Police Complaints Authority due to criminal background," *Mid-Day*, 08 July 2021: <https://www.mid-day.com/mumbai/mumbai-news/article/scerts-twitter-poll-to-help-fyjc-aspirants-23181823?infinite-scroll=1>. Accessed on 12 June 2023.

203 "Activist Medha Patkar approaches Bombay HC over vacancies in the State Police Complaints Authority," *India Today*, 03 April 2022: <https://www.indiatoday.in/law/story/activist-medha-patkar-bombay-hc-vacancies-state-police-complaints-authority-maharashtra-pil-1932835-2022-04-03>. Accessed on 13 June 2023.

204 *Medha Patkar v. State Police Complaints Authority*, PIL/60/2022, Bombay High Court.

March 2023, at a hearing of the aforementioned PIL, the MSPCA submitted that it has a Chairperson, an eminent person as a Member, two retired IAS and IPS officers and a serving Member-Secretary. No names, however, were mentioned before the Court.²⁰⁵ We have not been able to ascertain the names of the newly appointed members.

Complaints received, status of inquiries and action recommended

MSPCA has been receiving complaints despite the erratic appointments to the Authority. Over the past five years, the Authority has received a total of over 4,500 complaints from the public and has initiated three *suo motu* inquiries. Without a bifurcation between fresh complaints received each year and those carried forward from previous years, there is a risk of double counting of complaints. Still, this constitutes one of the largest number complaints an SPCA has received. It has not received any referrals from the police, State Government or other authorities. According to the MSPCA's RTI response, all of the complaints it received fall under the category of serious violations of law or abuse of authority.

Table 37: Complaints received (disaggregated) by the Maharashtra SPCA (January 2018 – March 2023)²⁰⁶

Year	Complaints			
	Public Complaints	<i>Suo Motu</i>	Referrals	Total
2018	665	0	0	665
2019	778	1	0	779
2020	445	0	0	445
2021	867	1	0	868
2022	1400	1	0	1401
2023	357	0	0	357
Total	4512	3	0	4515

Of these complaints, MSPCA closed some complaints without initiating an inquiry. Since 2018, the number of complaints admitted for inquiry has been declining annually. The departure of Justice Poddar witnessed a dramatic fall in the number of complaints that were admitted. In 2020, only 11.7 per cent of the complaints were admitted for inquiry, and by 2023, this percentage has fallen to an abysmal 3.6 per cent.

²⁰⁵ *Medha Patkar v. State Police Complaints Authority*, PIL/60/2022, Bombay High Court, order dated 16.03.2023.

²⁰⁶ Based on information provided in response to CHRI's 2023 RTI application.

Table 38: Admitted complaints, closed complaints, pending complaints and action recommended by the Maharashtra SPCA (January 2018 – March 2023)²⁰⁷

Year	Total Complaints	Disposal					Action Recommended	
		Admitted for Inquiry	% of Complaints Admitted	Closed without inquiry	Pending	Pendency	Departmental Inquiry	Registration of FIR
2018	665	665	100%	0	6	0.90%	11	0
2019	779	210	26.96%	569	9	4.29%	1	0
2020*	445	52	11.69%	404*	4	7.69%	3	0
2021	868	80	9.22%	788	13	16.25%	0	0
2022	1,401	82	5.85%	1,319	44	53.66%	0	0
2023	357	13	3.64%	284*	13	100%	0	0
Total	4,515	1,102	24.41%	3,364	89	8.08%	15	0

* Sum of complaints admitted for inquiry and those closed does not match the total number of complaints the SPCA received that year.

MSPCA continued to receive complaints throughout the pandemic even in the absence of a Chairperson, resulting in a spike in case pendency. No recommendations have been made for initiation of departmental inquiries against police officers during the past three years. Overall, since its inception five years ago, the Authority has recommended initiation of a departmental inquiry in only 15 instances, the highest being in 2018 (11 cases). The MSPCA has not made any recommendation for registration of an FIR against any police officer complained about during the past five years.

Administrative functioning

- Budget:** MSPCA did not provide any information about its budget or expenditure in response to our RTI application. We were not able to locate this information in the public domain either.
- Rules of procedure:** The State Government has notified specific regulations to govern the functioning of both the State and the Divisional PCAs.²⁰⁸ These regulations provide for several procedural matters such as filing and registering complaints, referral of complaints, conduct of inquiries and hearings, issuing decisions of the Authority and the requirements of publishing annual reports about their functioning.
- Website:** In contravention of the requirements stipulated in the police act, MSPCA does not have a functional website. It also does not have a dedicated webpage on the Home Department's website. Setting up of a website is one of the reliefs sought in the on-going PIL before the High Court.
- Annual Report:** As per the provisions of their administration and procedure regulations, both the State and Divisional PCAs in Maharashtra are required to publish their annual reports.²⁰⁹ However, the MSPCA did not provide copies of its annual reports in response to our RTI application. We were unable to locate them in the public domain either.

²⁰⁷ Based on information provided in response to CHRI's 2023 RTI application.

²⁰⁸ Maharashtra 2016 SPCA Conditions of Service Rules; Maharashtra 2017 DPCA Conditions of Service Rules; Maharashtra State Police Complaints Authority (Administration and Procedure) Regulations 2017; and, Maharashtra Division Level Police Complaints Authority (Administration and Procedure) Regulations, 2018.

²⁰⁹ Rule 13, Maharashtra State Police Complaints Authority (Administration and Procedure) Regulations 2017 and Rule 13, Maharashtra Division Level Police Complaints Authority (Administration and Procedure) Regulations, 2018.

Summary and Recommendations

To conclude, MSPCA is floundering after an initial period of stability. It is unacceptable that the Authority has continued to function without a Chairperson for long periods of time, despite continuing to receive complaints. This has likely contributed to the rising case pendency. Although the State Government has submitted before the High Court that the Authority has a Chairperson, it is unclear why the details of the Chairperson as well as the Members have not been made public. Other details such as the Authority's budget, expenditure, staff strength or annual reports as well as disaggregate data on complaints, inquiries and action recommended by types of offence are also not publicly available, posing a question on the extent to which the Authority is fulfilling its statutory mandate.

CHRI recommends:

To the Maharashtra Government

- ✓ Amend the *Maharashtra Police (Amendment and Continuance) Act, 2014* to re-establish the State and District Complaints Authorities and ensure their composition is in line with the Supreme Court directive and the *Model Police Bill, 2015*.
- ✓ Constitute District Police Complaints Authority in all districts as required by the Supreme Court in order to provide an easily accessible forum for people to approach.
- ✓ Ensure timely appointments for all posts at the Authority and make sure the information is easily accessible in the public domain.
- ✓ Review and increase the budgetary and human resources allocated to the Authorities in order to enable them function efficiently.
- ✓ Identify patterns of police misconduct based on a review of complaints received and accordingly issue instructions and guidelines to the police department for strengthening lawful conduct.

To the Maharashtra State Police Complaints Authority

Once re-established, the MSPCA must:

- ✓ Review and update the 2017 SPCA Regulations in accordance with the *Model Police Bill, 2015* as outlined in this report's concluding chapter with particular focus on protecting the rights of the complainant and predetermined time-frames for completing inquiries.
- ✓ Complete inquiries into all pending complaints while adhering to due processes.
- ✓ Publish annual reports with detailed statistics about the types of complaints received, their district-wise geographical mapping and types of actions recommended by the Authority following an inquiry. Also provide general recommendations for enhancing police accountability in the state.
- ✓ Maintain an up-to-date website along the parameters specified in the concluding chapter of this report that is accessible in English and official state languages, and fulfils the proactive disclosure requirements as per the *RTI Act, 2005*.
- ✓ Conduct regular outreach and awareness programmes across the state.

10. TRIPURA

Source of Information

Police Accountability Commission, Tripura (PACT) responded to the RTI application within the stipulated time. It provided information on PACT's current composition, members, copy of the notification that constituted the Commission and the number of complaints as well as details regarding its budget for the period requested. For details on the status of inquiries and action recommended, PACT forwarded the RTI application to the Police Headquarters which further directed the Superintendent of Police of all the districts to provide the details. SPs of all districts except Sipahijala and Dhalai responded to the RTI with information.

Along with Assam, Tripura is the only state in the north-eastern part of India to have had a functional state PCA since 2007, soon after the Supreme Court issued directive in the *Prakash Singh* case.

Background

The state-level authority named Police Accountability Commission, Tripura (PACT) was established under the *Tripura Police Act, 2007*²¹⁰ consisting of a Chairperson and four other Members.²¹¹ The Act does not provide for district level authorities. Consequently, PACT has the mandate to inquire into complaints against police personnel of *all* ranks serving within the state. While this mandate is restricted to only allegations of 'serious misconduct', it also covers instances such as arrest or detention without due process, human rights violations and allegations of corruption apart from death in police custody, grievous hurt and rape or attempt to rape. This definition covers more actions than what the Apex Court spelt out in *Prakash Singh*.²¹² PACT is required to forward any other complaint it receives about 'misconduct' to the Director General of Police for further action.

PACT has also been vested with other crucial functions stipulated in the *Model Police Act, 2006* including monitoring the status of departmental inquiries about complaints of misconduct against gazetted officers; issuing appropriate advice to the police department for the expeditious completion of inquiries; directing fresh inquiry by another officer where the complainant is dissatisfied with the outcome of the earlier inquiry; advising the State Government on measures to ensure protection of witnesses, victims and their families; and visiting any police station, lock-up, or any other place of detention used by the police.²¹³ Notably, the PACT also has the power to recommend to the State Government payment of monetary compensation to the victims if deemed necessary.²¹⁴

While the police act vests the PACT with several crucial responsibilities and functions that would ensure establishing accountability of the police, its selection process fails to meet the standards laid down by the Supreme Court. On paper, PACT has a balanced composition reflecting a mix of experience in public administration, judicial services and civil society: a retired judge, a police officer and a public administration officer along with two civil society members of which at least one must be a woman. However, the Chairperson of PACT along

210 The Tripura Police Act, 2007: <https://tripurapolice.gov.in/files/uploaded-file/TripuraPoliceAct2007.pdf>. Accessed on 15 September 2023.

211 Section 59, Tripura Police Act, 2007.

212 Section 66(2), Tripura Police Act, 2007.

213 Section 66(4)(5) and 67(4)(5), Tripura Police Act, 2007.

214 Section 70(2), Tripura Police Act, 2007.

with the other four Members are all appointed directly by the State Government without any shortlisting process. Mere satisfaction of the Government about their record of integrity and commitment to human rights is deemed to be adequate.²¹⁵ The present composition of the PACT is skewed and devoid of civil society members or mandatory representation of women as is demonstrated below.

The police act is also silent in terms of making the PACT's recommendations binding on the State Government or the police department. These shortcomings limit the possibility of the PACT functioning as an effective oversight body.

Current composition

Table 39: Current composition of PAC Tripura²¹⁶

Designation	Name	Qualification/Profession	Date of Appointment	Tenure
Chairperson	Justice SC Das (retd.)	Former High Court Judge	20.04.2018	Extended 3 years until 19.04.2024
Member	Mr. GK Rao	Former Chief Secretary / IAS (retd.)	01.05.2021	3 years until 30.04.2024
Member	Mr. Y Kumar	Former Principal Secretary / IAS (retd.)	06.07.2020	3 years until 05.07.2023 ²¹⁷
Member	Mr. LH Darlong	Former Principal Secretary / IAS (retd.)	01.12.2022	1 year until 30.11.2023

As stated above, three of the current members are retired public administrators, two more than what is envisioned in the act. Apart from this, State Government officials/staff are posted on deputation basis from other departments. The State Government has also created the following posts:

- o One Deputy Superintendent of Police;
- o One Police Inspector; and
- o Four Sub-Inspectors.

Complaints received, status of inquiries and action recommended

In response to our RTI application, the PACT provided the number of complaints it received between 2018 and 2023. Data on complaints disposed by the Commission is sourced from its annual reports. An overview of the caseload received and disposed is given below:

²¹⁵ Section 60, Tripura Police Act, 2007.

²¹⁶ Based on information provided in response to CHRI's 2023 RTI application.

²¹⁷ His tenure has now come to an end. See, Police Accountability Commission - Tripura, Who is who: <https://pac.tripura.gov.in/who-is-who>. Accessed on 13 September 2023.

Table 40: Complaints received by the PAC Tripura (January 2018 - March 2023)²¹⁸

Year	Complaints received	Complaints disposed
2018	42	36
2019	71	66
2020	50	60
2021	49	53
2022	55	45
2023	11	-
Total	278	260

The Commission did not provide information about the status of the inquiries and the action it recommended. However, a detailed breakdown of cases disposed of by the PACT taken from its annual report is given below:

Table 41: Complaints disposed by the PAC Tripura (January 2018 – December 2022)²¹⁹

Classification of complaints	Number of cases disposed of by the PACT					
	2018	2019	2020	2021	2022	Total
Custodial torture and death	0	1	1	2	1	5
Illegal arrest and detention	1	0	1	0	1	3
Illegal raid/seizure	0	0	0	1	1	2
Refusal or negligence to investigate cognizable offences	2	4	2	2	0	10
Corruption	3	1	4	2	3	13
Non-registration of FIR	9	14	9	9	11	52
Illegal pressure for compromise	0	1	0	0	0	1
Police Inaction	5	11	16	21	14	67
Delay in completing investigation	0	0	1	0	0	1
Police misbehaviour/misconduct and abuse of power	6	12	11	8	4	41
Non-supply of copy of FIR	0	0	2	0	0	2
Lack of knowledge about investigation/enquiry	0	1	4	1	0	6
Miscellaneous complaints	10	21	9	7	10	57
Total	36	66	60	53	45	260

It is worth noting that the PACT looked into allegations beyond those defined as serious misconduct under the *Tripura Police Act, 2007*. These include allegations such as failure to provide copies of FIR, delay in completing investigation and illegal raids/seizures. Among the different complaints, non-registration of FIR, police inaction, miscellaneous and police misbehaviour constitute the highest proportion of complaints. Copies of orders issued in respect of each of these complaints is published in the respective annual report. It is important, however, that further disaggregated information such as district-wise breakdown of complaints received, ranks of personnel against whom complaints are received and the time taken to complete inquiries is also included in the annual reports. These orders need to be probed in order to get a deeper understanding of the manner in which the PACT has

218 Based on information provided in response to CHRI's 2023 RTI application.

219 Based on PAC Tripura Annual Reports 2018-2022.

handled these complaints and whether they further accountability of the police.

There is a statutory obligation on Tripura Police to refer allegations of serious misconduct that have come to its notice to the PACT. However, no such referral has been made till date.

Only two departmental inquiries have been initiated by the Tripura Police on the basis of the recommendations made by the PACT. Details are as follows:

Table 42: Departmental inquiries initiated by Tripura Police on the basis of recommendations made by the PACT (January 2018 – March 2023)²²⁰

Nature of complaint	Departmental inquiries initiated by Tripura Police						
	2018	2019	2020	2021	2022	2023	2023
Death	0	0	0	0	0	0	0
Grievous hurt	0	0	0	0	0	0	0
Rape/Attempt to rape	0	0	0	0	0	0	0
Arrest or detention without due process	0	0	0	0	0	0	0
Violation of Human Rights	0	0	0	0	0	0	0
Corruption	0	0	0	0	0	0	0
Non-registration of FIR	0	0	0	0	0	0	0
Misbehaviour and abuse of power	0	1	0	0	0	0	1
Miscellaneous complaints	0	0	1	0	0	0	1
Total	0	1	1	0	0	0	2

PACT has repeatedly raised concerns over the failure of the police department to act on its recommendations. In its 2019 annual report, the PACT asserts:

“In the cases of recommendations by the Commission to take action against errant police personnel, leniency should not be shown which may ultimately invite public anger and dissatisfaction and may drive public to maintain distance from police.”

In addition to this, the PACT has recommended people-friendly policing practices by suggesting framing of reasonable time limits and then working within them for the delivery of various police services; the capacity building of police officers for the self/localised accountability mechanisms at police station level; and procedures to be followed in case of breach of peace. The Commission has also recommended that internet facilities be provided at each police station to facilitate greater work efficiency.

Administrative functioning

- a. **Rules of Procedure:** PACT was among the first Authorities to adopt Conduct of Business Rules in 2013.²²¹ The Rules specify procedures for filing and registering complaints with the Commission, types of documents that can be submitted along with the complaint, procedure for screening complaints, conduct of inquiries and hearings, time limit for completion of inquiries and quorum required for taking decisions, among other administrative functions. All inquiries are required to be completed within 90 days from the date of taking cognizance *suo motu* or on a complaint. The Rules also require

²²⁰ Based on information provided by Office of DGP Tripura in response to CHRI's 2023 RTI application.

²²¹ Section 65, Tripura Police Act, 2007 read with Tripura Police Accountability Commission (Conduct of Business) Rules, 2013: [https://thc.nic.in/Tripura%20State%20Legislation%20Rules/Tripura%20Police%20Accountability%20Commission%20\(Conduct%20of%20Business\)%20Rules,%202013.pdf](https://thc.nic.in/Tripura%20State%20Legislation%20Rules/Tripura%20Police%20Accountability%20Commission%20(Conduct%20of%20Business)%20Rules,%202013.pdf). Accessed on 15 September 2023.

the PACT to publicise its role and functions widely across the state and maintain a website with up-to-date information about complaints, inquiries and case orders.

- b. Website: The PACT has an active website that even accepts online complaints. But, some of the information has not been updated. Many of the tabs such as the daily cause list, the annual reports under the 'Documents' tab, and the 'RTI' tab have no information displayed. Only complaint details including orders issued by the PACT seem to be updated regularly. The website is also available only in English, limiting its reach among people versed in local languages only.
- c. Budget: There is a steady increase in the funds received by the Commission each year and its expenditure, as shown below:

Table 43: Amount budgeted, received and spent by the PAC Tripura (2018-19 to 2022-23)²²²

Year	Budgeted amount (Rs.)	Funds received (Rs.)	Expenditure (Rs.)	Utilisation
2018-19	1,64,50,000/-	1,47,23,483/-	1,40,43,365/-	95.38%
2019-20	1,58,20,000/-	1,34,78,894/-	1,31,60,303/-	97.64%
2020-21	1,54,58,000/-	1,54,58,000/-	1,46,06,908/-	94.49%
2021-22	1,70,77,000/-	1,61,79,987/-	1,48,60,011/-	91.84%
2022-23	1,97,22,000/-	1,76,06,077/-	1,66,62,178/-	94.64%

Observations:

- Over the past five years, PACT's budget has increased by nearly 20 per cent, from Rs. 1.64 crores to Rs 1.97 crores. Its budget utilisation has consistently remained above 90 per cent.
 - The main budget heads include "salary," "wages," "off/exp," "hiring charges," "other adm. exp." and "adv/publicity." Of these:
 - Salaries have only slightly increased from Rs. 1.03 crores to Rs. 1.23 crores in the past five years and have remained constant in relation to the total budget at 74 per cent;
 - Each year the PACT spends over Rs. 8 lakhs in hiring charges. The purpose of this head of account is not clear. It is the highest non-salary expense item in the PACT budget every year from 2018-19 to 2022-23.
 - The PACT incurs expenditure under its advertising and publicity budget every year. The only exception to this trend is visible in FY 2021-22. Their annual report notes that their outreach activities were halted due to the COVID-19 pandemic.
 - The PACT also has a separate budget for "publication" from which it has spent between Rs 1.5 lakh and Rs. 2 lakh every financial year. This is most likely the budget head used for publishing its annual reports.
- d. Annual Reports: The PACT provided CHRI with a copy of its annual reports for the years 2018, 2019, 2020, 2021 and 2022. However, as stated above, these are not yet available on its website. In each of these reports, the PACT has highlighted that it is still operating from a residential space that is not easily accessible to the public.

Though the PACT has established a practice of publishing each of its orders in the annual reports, it can go a step further by providing tabulated information on the complaints received from each district; ranks of police officers against whom complaints are

²²² Based on information provided in response to CHRI's 2023 RTI application.

received; types of action recommended by it; number of cases of misconduct forwarded by it to the police department; and, the number of cases still pending before it.

Recommendations made by the Police Accountability Commission, Tripura

In its annual reports available online (2011 to 2014), the PACT has put forward several recommendations to the State Government in order to empower the Commission further and implement the Supreme Court's directive better. These are summarised below:

- District complaint authorities should be constituted as per the Supreme Court judgement in *Prakash Singh v. Union of India*.
- *Tripura Police Act, 2007* must be amended to vest the Commission with the power to investigate allegations made against police personnel and to engage prosecutors independently for prosecuting police officers who have been charge sheeted.
- State Government must issue directions to the police department to submit quarterly reports to the Commission about the progress of departmental inquiries recommended against police personnel as well as to refer all cases of serious police misconduct to the Commission, as required by the police act.
- Programmes must be held to raise awareness about the police law, the role of the Police Accountability Commission, principles of community policing and human rights.

- e. Outreach: According to PACT's website, through its efforts to raise police awareness and educate the public, the Commission has translated and disseminated pamphlets covering topics such as PACT's role and functions. The Commission has also reportedly set up display boards to circulate information about itself, its accessibility, complaint procedures, and the straightforward, cost-free process.

Summary and Recommendations

The PAC Tripura is one of the longest functioning Police Complaints Authorities in India. Its administrative set-up, rules of procedures, website, outreach material and annual reports offer important lessons and templates for other Authorities that are just starting out. It continues to receive complaints from across the state, indicating the need for district-level Authorities that will be more accessible to the people. A deeper analysis of PACT's orders will reveal the extent to which the Commission is able to push for accountability where police misconduct is established. Lack of response from the Tripura Police needs to be addressed urgently if PACT is to retain its legitimacy.

CHRI recommends:

To the Tripura Government

- ✓ Ensure representation from civil society while appointing PACT's members.
- ✓ Establish District Authorities, starting initially with districts from where PACT receives the largest proportion of complaints and gradually extending to all districts within a specified time period.
- ✓ Issue clear directions to the Tripura Police to
 - Complete departmental inquiries against the police personnel concerned based on PACT's recommendations within a specified time;

- Submit quarterly reports to PACT informing it about the progress of departmental inquiries recommended by the Commission and the action taken against the police personnel concerned.
- ✓ Conduct a performance audit of the PACT against parameters specified in this report's concluding chapter to determine the extent to which the Authority is functioning efficiently and effectively to meet its objectives, and accordingly, recommend measures for expanding the Commission's reach, mandate, powers, and resources including additional staff and facilities (such as computers, vehicles) that can facilitate just and timely completion of inquiries.

To the Police Accountability Commission, Tripura

- ✓ Review PACT's website to ensure it is up to date and available in all official and/or spoken languages in the state.
- ✓ Make sure the annual reports are uploaded on PACT's website.

11. UTTARAKHAND

Source of Information

Uttarakhand State Police Complaints Authority (USPCA) responded to our RTI application within the stipulated time. However, it did not provide the information requested about the nature of complaints received. The following status report is based on information CHRI has received in response to its RTIs submitted to the Uttarakhand SPCA in 2021 and 2023.

Uttarakhand is one of the states that established a State Police Complaints Authority (USPCA) as early as in 2007. However, its composition and functions were made compliant with the Apex Court's 2006 directive as late as 2018 following amendments incorporated in its police legislation. The state constituted district-level Police Complaints Authorities in 2019 following these amendments.

Background

As part of its compliance efforts with the Court's directive in *Prakash Singh*, the Uttarakhand Government set up three Police Complaints Authorities – one at the state level and two at the regional level – in early 2007.²²³ Following the enforcement of the *Uttarakhand Police Act, 2007*, these Authorities were replaced by a state-level PCA in 2008.²²⁴ The 2007 police act initially did not provide for the establishment of district-level PCAs as required by the Court's 2006 directive. The State PCA consisted of five members of which one was to be appointed as the Chairperson. There was no specific requirement that the Chairperson be a retired High Court judge. Although the Act specified at least one member to be a woman and not more than one member to be a retired police officer, the government nominated all members without the requirement of an independent selection process as required by the Court.

The *Uttarakhand Police (Amendment) Act, 2018*²²⁵ addressed some of the lacunae in the 2007 police act. These amendments require the USPCA to be headed by a retired judge of the Supreme Court or the State High Court. The Chairperson is selected from a panel of names proposed by the Chief Justice of the Uttarakhand High Court. Other Members are selected from a panel of names proposed by a committee comprising representatives of the State Human Rights Commission/Lokayukta/State Public Service Commission from among retired civil servants, police officers and civil society.

The 2018 amendments also provide for the setting up of Police Complaints Authorities below the SPCA. Two Authorities, one for the Kumaon region based in Haldwani covering seven districts and another for the Garhwal region based in Dehradun covering another seven districts, have been created and labelled 'District Police Complaints Authority'. Despite the nomenclature of these Authorities, it must be pointed out that the Court's express directive is to set up a PCA in every district so that they are easily accessible to residents of that district. Given the nature of the terrain in large parts of Uttarakhand, people living in remote Himalayan villages which are not yet linked to the internet will have difficulty accessing these Authorities as and when required.

223 For more details, see Commonwealth Human Rights Initiative, Report: *Uttarakhand State Police Complaints Authority: Analysing Accountability In Action*, 2010: https://www.humanrightsinitiative.org/publications/police/uttarakhand_police_complaints_authority.pdf. Accessed on 15 September 2023.

224 Sections 63 to 76, Uttarakhand Police Act, 2007: https://uttarakhandpolice.uk.gov.in/department1/library_file/file-05-12-2020-12-25-42.pdf. Accessed on 15 September 2023.

225 Uttarakhand Police (Amendment) Act, 2018: <http://www.bareactslive.com/UTR/utr067.htm#0>. Accessed on 29 August 2023.

A retired District judge selected from a panel of names proposed by the Chief Justice of the Uttarakhand High Court or a judge he/she nominates is appointed the Chairperson of each DCA. Two other Members of the DCA are appointed through a selection process similar to that of the selection of Members of the SPCA.

The USPCA has the mandate to inquire into complaints of serious misconduct against officers of the rank of Additional Superintendent of Police and above while the District Authorities are responsible for looking into complaints against officers of the rank of Deputy Superintendent of Police and below. Serious misconduct includes: death in police custody; grievous hurt, as defined under Section 320 of the *Indian Penal Code, 1860*; rape or attempt to commit rape; arrest or detention without due process of law; violation of human rights; and corruption.²²⁶ In addition, the District Complaints Authorities can also inquire into complaints alleging “forceful recovery by police personnel, the illegal possessions on land and buildings and other serious incidents which shows misuse of the post”. The SPCA can also inquire into any other case referred by the State Government or the Director General of Police.

Under the 2018 amendments, the recommendations made by both SPCA and DPCAs have been made binding on the State Government provided an opportunity has been given to the police personnel concerned to be heard.

Current composition

Table 44: Current composition of Uttarakhand SPCA²²⁷

Designation	Name	Qualification/Profession	Date of Appointment	Tenure
Chairperson	Justice Narayan Singh Dhanik (retd.)	Former High Court Judge	21.05.2022	3 years
Member	Mr. Girdhar Singh Dharmshaktu	Former District Judge	04.12.2020	3 years
Member	Mr. Jagatram Joshi	Former Deputy Inspector General/ IPS (retd.)	04.12.2020	3 years
Member	Mr. Jagpal Singh Bisht	Former Joint Director (Law)	07.12.2020	3 years

The current USPCA lacks a balanced composition. It does not have adequate representation of civil society including social workers and grassroots activists who can bring perspectives and lived experiences of communities directly affected by police wrongdoings. The USPCA also does not have a woman member. This was a mandatory requirement under the police act of 2007 but the 2018 amendments inexplicably dropped the compulsory representation of women in the SPCA.

Complaints received, status of inquiries and action recommended

Over a five-year period, between January 2018 and March 2023, USPCA received a total 264 fresh complaints against the police. 2018 recorded the largest number of fresh complaints received at 184 (see table below). By 2022, fresh complaints received fell drastically to

²²⁶ Section 71(2), Uttarakhand Police Act, 2007.

²²⁷ Based on information provided in response to CHRI’s 2023 RTI application.

just 22. Though complaints have come from nearly all districts, the largest proportion is consistently from Dehradun, Haridwar and Udham Singh Nagar. In 2018, for instance, out of the 184 fresh complaints, 70 (38 per cent) were from Udham Singh Nagar, 41 (22.2 per cent) from Haridwar and 37 (20.1 per cent) from Dehradun.

It is worthwhile to note that the USPCA has initiated *suo motu* action in only one instance during the study period.

Table 45: Complaints received, disposed of and pending at the Uttarakhand SPCA (January 2018 - March 2023)²²⁸

Year	Complaints			Disposal			
	Complaints previously pending	Fresh complaints (*)	Total complaints	Complaints disposed of	Pending cases	Pendency rate	Misconduct
2018	99	184(0)	283	123	160	56.54%	3
2019	160	24(2)	184	176	7	3.80%	1
2020	7	18(0)	25	3	22	88%	0
2021	22	11(1)	33	16	17	51.52%	0
2022	17	22(1)	39	23	16	41.03%	0
2023	16	5(0)	21	0	21	100%	0
Total	-	264(4)	-	341	-		4

(*) - Number of complaints forwarded by the Uttarakhand District PCAs in Dehradun and Haldwani

During this period, USPCA disposed of 341 complaints, which include complaints pending from previous years. The largest number of cases was disposed of in 2019 (176). In its RTI response, USPCA clarified that 143 of these complaints were forwarded to the district authorities in Dehradun and Haldwani. **Notably, it has found police misconduct in only four cases out of 341 (1.17 per cent), of which the Authority claims three have been forwarded to the State Government for further action.** This figure is alarmingly low, whichever way this data is interpreted and calls for a review of the Authority's approach to the complaints and the outcome of the inquiries conducted.

USPCA did not furnish disaggregated data despite our specific request in the RTI application. So it is not possible to attempt a category-wise breakup of the complaints of misconduct. The annual reports of the Authority also do not reveal this data. They only provide details of the four cases in which police misconduct was established after making inquiries (see table below) but here too, the annual report only mentions 'negligence' in its broad sense and fails to specify the type of misconduct found.

228 Based on information provided in response to CHRI's 2023 RTI application.

Table 46: Details of cases Uttarakhand SPCA found police misconduct (January 2018 - March 2023)²²⁹

Case No.	Name of the Complainant	Name of Defendant	Case Details	PCA Members	Date of the Decision
13/17	Mohd. Usman S/O Khalid Akbar, Haridwar	SI Lalita Tomar	In the given case, Lalita Tomar has shown carelessness in her investigation. According to the Authority, SSP Dehradun, taking cognizance of the facts of the case, should assign the case to an ASP to conduct an investigation. If Lalita Tomar's mala fide is established in relation to the arrest of the complainant, then order a departmental enquiry against them and inform the Authority about the same.	Chair + 3 Members	07.02.2018
35/16	Madanmohan Kanswal (Advocate), Dehradun	SI Deepak Tiwari	The Authority recommends departmental enquiry and punishment against Deepak Tiwari for being negligent and careless in the performance of his duties. As per Section 74(4) of the Act, the case to be referred to Principal Secretary Home, Uttarakhand.	Chair + 1 Member	17.05.2018
90/17	Majhar Ahmad S/O Late Abdul Kadir, Garhwal	SHO Amit Kumar	Conduct inquiry and take departmental action as per para 500 of UP/UK Police Regulations in light of the adverse comments against Amit Kumar. Refer to Principal Secretary Home, Uttarakhand and DGP, Uttarakhand for information and action.	Chair + 2 Members	04.05.2018
02/19	Nishant Rajaura S/O Shailendra Rajaura, Dehradun	SSP Nivedita Kukreti, SO Arvind Kumar, RI Surendra Prasad	According to the investigation conducted by the IG, <i>pratisar</i> inspector police line and SO were found guilty and action will be taken. After hearing this order, the complainant is satisfied and does not wish to proceed with the complaint.	Chair + 2 Members	30.04.2019

It is important to note that including details such as the types of serious misconduct complained about in the annual report is a requirement under the *Uttarakhand Police Act, 2007*.²³⁰ By failing to include this data in its annual report, the USPCA not only neglects to perform its statutory obligation but also loses an opportunity to enable greater public attention to the patterns of police misconduct visible across the State.

It is also not clear whether the State Government eventually took any action in the cases USPCA forwarded to it. In its annual report, the USPCA itself has raised concern about the lack of action taken on its recommendations. It also points out that strict instructions must be issued to the police department for complying with its orders.

²²⁹ Based on information provided in response to CHRI's 2023 RTI application.

²³⁰ Section 73(1)(a), Uttarakhand Police Act, 2007.

Administrative functioning

- a. **Rules of Procedure:** The *Uttarakhand Police Act, 2007* empowers USPCA to frame rules for the conduct of its business as well as for the functioning of the DPCAs, with the approval of the State Government.²³¹ In its response to our 2021 RTI queries, USPCA stated that procedures (“*Karya Sanchalan Niyamawali 2021*”) for the functioning of the police are pending with the Uttarakhand Home Department for approval. Notably, the rules for USPCA have reportedly been in the making since 2008. Its Chairperson at the time, Justice Shrivastava (retd.), had said that they had framed the rules in September 2008 and sent them to the Government for approval.²³² He further claimed to have written to the Government several times asking for an update about its status but received no response.
- b. **Annual Reports:** In response to our RTI application, USPCA shared copies of its annual reports for the years 2018, 2020, 2021 and 2022. It stated that no annual report was sent to the State Legislature for 2019.

As explained above, the annual reports do not provide details about the types of complaints received and specific action – departmental inquiry or criminal proceedings – recommended where misconduct was found. However, the annual reports do bring out the concerns and key recommendations made by USPCA.

Key recommendations made by the Uttarakhand SPCA in its Annual Reports

Regarding its own functioning

The Uttarakhand SPCA has made several recommendations in its annual report to strengthen its role and effectiveness. Some of them reiterate provisions laid down by the Supreme Court for the effective functioning of SPCAs, such as having independent investigators to assist the Authority for conducting inquiries or making the PCA's recommendations, following an inquiry, binding on the State Government and the police leadership. These measures are important for the Authority to be able to push for greater accountability. Some recommendations such as allowing appeals against inquiries held by the District PCAs to be filed with the SPCA will require further legislative amendments, and warrant a collective dialogue among all stakeholders (State Government, police, PCAs, and civil society) to better understand their implications.

The USPCA's recommendations are summarised below:

- *Following an inquiry conducted by the District PCA, there needs to be a provision allowing either party to appeal against its decision and the outcome of an inquiry with the SPCA.*
- *Since the Authority does not have an investigating agency to conduct inquiries, such an agency should be made available to it. It should have a panel of retired officials from judicial services and public civil services or the Central Bureau of Investigation or the Intelligence Bureau. Further, there is a common complaint about the fairness of the process as the USPCA orders investigation of a misconduct to the same Authority against which the complaint has been made. Therefore, the SPCA must be provided an independent agency to ensure that it is able to arrive at fair/unbiased decisions.*

²³¹ Section 70, Uttarakhand Police Act, 2007.

²³² Commonwealth Human Rights Initiative, Report: *Uttarakhand State Police Complaints Authority: Analysing Accountability In Action*, 2010, pg.13: https://www.humanrightsinitiative.org/publications/police/uttarakhand_police_complaints_authority.pdf. Accessed on 29 August 2023.

- To conduct independent investigations into complaints of police misconduct, the SPCA should have a dedicated police force consisting of a Police Superintendent, two Inspectors or one Inspector and one Sub-Inspector, and four Constables. There should be separate service rules for these personnel.
- Keeping in mind the increased work of the SPCA and to ensure timely and effective functioning, the temporary staff posts should be made permanent. The existing staff should be re-appointed to these positions and additional appointments should be made considering the increased workload. Also, the Authority should have the right to make timely appointments to permanent posts. The SPCA should have the ownership/ autonomy to make appointments and be given more rights to make decisions to be able to fulfil the objectives of the Authority.
- The SPCA must be given full powers as envisioned in the Prakash Singh judgement to make it a strong institution that dispenses justice. For this, suitable amendments should be made to the Uttarakhand Police Act, 2007 (as amended in 2018).
- Often the police department disregards the recommendations of the SPCA, which is a matter of serious concern. Police officials must be given strict orders to comply with the recommendations of the Authority in a timely manner. There should be provisions enabling the SPCA to impose appropriate punishment if an official/personnel does not comply with a decision or order of the Authority.
- The Police Board, the Police Complaint Authority and the Police Establishment Board, all bodies responsible to improve policing, should meet periodically.
- State Police Headquarters should ensure that the Police Manual, government orders/ gazette notifications as well as the guidelines issued by the Supreme Court and the High Court on policing should be uploaded on the Uttarakhand Police's website so that police personnel do not face any difficulties when they encounter violations of laws / human rights.
- The SPCA should assign a Chief Standing Counsel²³³ to represent it before the High Court.
- The annual report of the PCA should be presented in the State Legislative Assembly with adequate time given to discuss the report and its recommendations.

To enhance Police Accountability

The Uttarakhand SPCA has also made recommendations under Section 73(e) of the police act to increase police accountability in the state. It has placed emphasis on public disclosure and compliance with the Apex Court's directive in various cases and other legal provisions. Its recommendations are summarised below:

- Emphasis should be placed on the publicity of all relevant laws and rules at every police station, and on coordination with the District Legal Services Authorities.
- All notifications issued by the Central and State Government with regard to the implementation of criminal law, investigations, police reports, cognizance by courts etc. should be displaced on the Police Portal.
- Police should comply with the directives for registration of FIRs and zero FIRs as laid down in *Lalita Kumari v. State of UP*, AIR 2014 SC 187.²³⁴

233 मुख्य स्थाई अधिवक्ता.

234 The SCI laid down that once a cognizable offence is made out under Section 154 of the CrPC, the police has to mandatorily register the FIR.

- Verification of bail bond of accused approved by the court should be done by the police at its own level to ensure the person who has furnished the surety is held responsible if the accused absconds.
- Police should comply with the guidelines laid down in *Arnesh Kumar v. State of Bihar*, AIR 2014 SC 2756²³⁵ and *Rajesh Sharma v. State of UP*, AIR 2017 SC 3869 and Section 41A of the Code of Criminal Procedure, 1973 (CrPC) in cases of arrests for offences punishable with less than seven years of imprisonment.
- In circumstances where a woman has been reported missing but an FIR has not been registered, the police should follow Sections 97/98 of the CrPC and obtain a search warrant from the Executive Magistrate so that the statement of the woman can be recorded by the Magistrate once she is found.
- Guidelines need to be in place at the police station level for the rehabilitation of victims of crimes and compensation given to them.
- Police should follow the guidelines and regulations for the protection of prosecution witnesses.

- c. Website: The Uttarakhand SPCA does not have its own website. Among the two district PCAs, only the Haldwani DPCA has an operational website.²³⁶ It provides details about the Authority's functions, its Chairperson and Members, contact details and steps to file a complaint including the complaints form. It also includes a copy of the *Uttarakhand Police (Amendment) Act, 2018*. Information is available in both Hindi and English. Although it has a "Case Updates" tab, this page consistently did not open each time we tried to access it between June and September 2023.
- d. Budget: The budget and expenditure for five financial years, from 2018-19 to 2022-23, is as follows:

Table 47: Amount budgeted, expenditure and utilisation by Uttarakhand SPCA (2018-2019 to 2022-2023)²³⁷

Year	Budgeted amount (Rs.)	Expenditure (Rs.)	Balance (Rs.)	Utilisation
2018-19	1,22,87,000/-	1,04,62,842/-	18,24,158/-	85.15%
2019-20	86,70,000/-	68,31,134/-	18,38,866/-	78.79%
2020-21	63,28,000/-	57,68,332/-	5,59,668/-	91.16%
2021-22	54,10,000/-	53,64,900/-	45,100/-	99.17%
2022-23	68,63,000/-	62,44,845/-	6,18,155/-	90.99%

Observations:

- The USPCA's budget over the past five years has changed considerably. Till 2018-2019, the budget included over 20 item heads including salary, wages/honorarium, office expenses, rent, rates and charges, computer expenses, motor vehicles and maintenance of machines. From 2019-20 onwards, budget items vary every year, and are lesser in number. Salary, for instance, is no longer specified in the budgets provided for 2019-20 onwards; instead terms that broadly translate into

²³⁵ The SCI stated that arrests should be an exception in cases where the punishment is less than seven years of imprisonment and laid guidelines for arrests in such offences.

²³⁶ District Police Complaints Authority, Haldwani: <https://www.dpcahaldwani.com/index.php>. Accessed on 15 September 2023.

²³⁷ Based on information provided in response to CHRI's 2021 and 2023 RTI applications.

“professional services” or “remuneration” are used.

- Difference in terminology aside, salaries or remuneration typically constitute the largest proportion of the budget. In 2018-2019, it constituted 39 per cent (Rs. 48 lakhs) of the total budget. By 2022-23, although the absolute value of “remuneration” came down to Rs. 45.5 lakhs, it constituted 66.29 per cent of the total budget.
- Expenditure under the head professional services has come down drastically. It stood at Rs. 21 lakhs in FY 2018-19 and even increased to Rs. 48 lakhs in FY 2019-20. However, in FY 2020-21 it went down to Rs. 14 lakhs and no expenditure was made in FY 2021-22. In FY 2022-23, only Rs. 30,000 was spent under this head for reasons not disclosed in the RTI documents we received.
- The USPCA had funds for advertising and publicity irregularly in three out of the five FYs covered in this study i.e., in 2018-2019, 2019-2020 and 2022-2023. While no expenditure was incurred under this head in 2018-2019, 38.7 per cent and 45.3 per cent of the allocated funds was utilised in 2019-2020 and 2022-2023, respectively. This budget head should become a regular part of the budget for the Authority and be utilised even further for dissemination of information about the work of the SPCA and DPCAs.

Summary and Recommendations

The Uttarakhand Government has taken steps in the right direction by creating two division-level Authorities for the state, ensuring that retired judges head the Authorities, and making their recommendations binding on the State Government under the 2018 amendment act. But several demands made by the SPCA towards strengthening its functioning remain unaddressed. The Government is yet to approve rules of procedures for the SPCA that will help streamline its operations. The SPCA has not been given any investigation wing that can assist it in conducting inquiries on its own without depending on the police department. The SPCA has also raised concern over the lack of action by the police department when the Authority has recommended departmental action against the concerned police officials. With these gaps, the SPCA’s effectiveness in pushing for accountability remains limited.

CHRI recommends:

To the Uttarakhand Government

- ✓ Review and approve the draft rules of procedures shared by the SPCA at the earliest.
- ✓ As the term of the three Members is coming to an end by December 2023, make sure that:
 - The posts are filled on time and that no post remains vacant;
 - At least one Member is from civil society;
 - At least one Member is a woman.
- ✓ Constitute District Police Complaints Authority in all districts as required by the Supreme Court in order to provide an easily accessible forum for people to approach.
- ✓ Conduct a performance audit of the USPCA against parameters specified in this report’s concluding chapter to determine the extent to which the Authority is functioning efficiently and effectively to meet its objectives, and accordingly, recommend measures for expanding the Authority’s reach, mandate, powers and resources including additional staff and facilities (such as computers, vehicles) that can facilitate just and

timely completion of inquiries.

- ✓ Provide a team of independent investigators to the USPCA that can assist in conducting inquiries against police personnel.

To the Uttarakhand State Police Complaints Authority

- ✓ Update the annual reports to include disaggregate data on complaints received by types of offence, rank of personnel and grounds on which complaints are disposed of.
- ✓ Maintain a dedicated website with up-to-date information on the Authority's Chairperson and Members, contact details, guidance on filing complaints, status of complaints, orders issued and other educational resources on the Authority's functions and powers.
- ✓ Conduct regular awareness programmes across the state.

B. STATES/UTs WITH NEWLY SET UP SPCAs

1. ANDHRA PRADESH

Source of Information

Andhra Pradesh's Home Department responded to our RTI application within the stipulated time and addressed all questions. We did not send a follow up application to the State PCA as it has been reconstituted as recently as in April 2023.

Andhra Pradesh has recently constituted police complaints authorities at the state and district levels. The decision to constitute PCAs was taken by the State Government as a result of a direction issued by the erstwhile High Court for the States of Andhra Pradesh and Telangana (see box below). Notably, undivided Andhra Pradesh had issued an executive order in 2013, seven years after the *Prakash Singh* judgement, to establish PCAs at the state and district levels without following it up by making appointments.²³⁸

Background

Andhra Pradesh has not yet enacted a new police law.²³⁹ The basis for the establishment of the state and district-level PCAs is the proceedings before the erstwhile High Court for the States of Andhra Pradesh and Telangana pending since 2016. In 2017, while pronouncing a judgement on three writ petitions related to police misconduct, the Court pulled up the state for not having complied with the Supreme Court's direction to set up a PCAs.²⁴⁰ It directed the state to set up the PCAs within three months. Later that year, taking cognizance of a letter highlighting the state's contempt of this order, the Court initiated contempt proceedings *suo motu* (see box).

Contempt Proceedings before the erstwhile High Court for the States of Andhra Pradesh and Telangana

In October 2017, the erstwhile High Court for the States of Andhra Pradesh and Telangana received a letter petition from Mr. NS Chandrasekhar Rao alias Srinivasa Rao. The letter pointed out the non-constitution of the State Security Commission (SSC) and Police Complaints Authorities (PCAs) by the Governments of Andhra Pradesh and Telangana, as required by the 2006 directive of the Supreme Court and as per the direction of the High Court in *PS Kumar v. State of AP* earlier that year.²⁴¹ Pursuant to the said letter, the High Court initiated *suo motu* contempt proceedings against the two State Governments. Since then, several opportunities were given to both governments to constitute PCAs: first in July 2018, the Telangana Government was given two months' time to constitute the authorities;²⁴² then in December 2019, both AP

238 Government of Andhra Pradesh, Home (Legal II) Department, G.O.Ms.No.191, dated 08.08.2013.

239 The Police Act, 1861 continues to govern the Andhra Pradesh Police. In 2014, the state enacted the Andhra Pradesh Police (Reforms) Act 2014 that deals only with the selection and appointment of the Director General of Police. See, https://www.indiacode.nic.in/bitstream/123456789/10535/1/a_p_police_reforms_act%2C_2014.pdf. Accessed on 14 September 2023.

240 *Pabbiseti Suresh Kumar v. State of Andhra Pradesh & Ors.*, 2017 4 ALD 239.

241 *Ibid.*

242 "Andhra Pradesh, Telangana get four weeks to set up Police Complaints authority, security panel," *New Indian Express*, 22 January 2021: <https://www.newindianexpress.com/states/telangana/2021/jan/22/andhra-pradesh-telangana-get-4-weeks-to-set-up-police-complaints-authority-security-panel-2253455.html>. Accessed on 05 August 2023.

and Telangana were given 20 days for this purpose;²⁴³ and finally, in January 2021, they were given four weeks' notice to establish the PCAs at the earliest. Both states finally constituted the PCAs by July 2021 and the contempt case was closed.²⁴⁴

On 20 June 2021,²⁴⁵ the Government of Andhra Pradesh appointed Justice V Kanagaraj (retd.), as the Chairperson of the Andhra Pradesh State Police Complaints Authority (APSPCA). Another order was issued on 08 July 2021²⁴⁶ appointing the following Members for a period of three years:

- i. Mr. KVV Gopala Rao, IPS (retd.)/ former Inspector General of Police;
- ii. Mr. B Kishore, IAS (retd.); and,
- iii. Ms. B Udayalakshmi, IAS (retd.).

Further, the Government also set up **four District PCAs** – with jurisdiction over three to four districts each.²⁴⁷ The districts were clubbed as follows:

1. Visakhapatnam, Srikakulam and Vizianagaram
2. East Godavari, West Godavari and Krishna
3. Guntur, Prakasam and Nellore
4. Kurnool, Kadapa, Ananthapur and Chittoor

These appointments were made following the adoption of the *Andhra Pradesh State/District Level Police Complaints Authority (Administration and Procedure) Rules, 2020* (2020 AP Rules).²⁴⁸ However, in September 2021, the Telangana High Court suspended the appointment of Justice Kanagaraj as the Chairperson.²⁴⁹ This was in response to a petition challenging his appointment on two grounds: first, because Justice Kanagaraj was 77 years old, well above the maximum age limit of 65 years prescribed for the Chairperson; and second, because the Government did not follow the shortlisting procedure laid down by the Supreme Court before appointing the PCA Chairpersons and Members. On these grounds, the High Court suspended the government order on the basis of which the appointments had been made and sought its response.

On 1 August 2022, nearly a year later, the AP Government withdrew the previous government orders and issued new rules namely, *Andhra Pradesh State/District Level Police Complaints Authority (Administration and Procedure) Rules, 2022* (2022 AP Rules).²⁵⁰ Under these rules, the PCA Chairperson is appointed from a panel of names proposed by the Chief Justice of the High Court, as required under the *Prakash Singh* judgement and the Members of the SPCA and DPCAs are to be selected from a panel of names prepared by representatives of the State Human Rights Commission/Lokayukta/State Public Service Commission.²⁵¹ By

243 "Telangana HC directs government to set up 'State security panel' by December 27," *The New Indian Express*, 5 December 2019: <https://www.newindianexpress.com/states/telangana/2019/dec/05/telangana-hc-directs-government-to-set-up-state-security-panel-by-december-27-2071637.html>. Accessed on 06 August 2023.

244 *In re: Principal Secretary, Home Department & Anr.*, CC 2209/2017, Andhra Pradesh and Telangana High Court, judgement dated 12.07.2021.

245 Government of Andhra Pradesh, Home (Legal II) Department, G.O.Ms.No.57, dated 20.06.2021.

246 Government of Andhra Pradesh, Home (Legal II) Department, G.O.Ms.No.71, dated 08.07.2021.

247 Government of Andhra Pradesh, Home (Legal II) Department, G.O.Ms.No.72, dated 08.07.2021.

248 Government of Andhra Pradesh, Home (Legal II) Department, G.O.Ms.No.125, dated 05.11.2020.

249 "Andhra Pradesh high court suspends V Kanagaraj's appointment as chairman of police complaints body," *The Times of India*, 17 September 2021: <https://timesofindia.indiatimes.com/city/vijayawada/hc-suspends-kanagarajs-appointment-as-chairman-of-police-complaints-body/articleshow/86274888.cms>. Accessed on 06 August 2023.

250 Government of Andhra Pradesh, Home (Legal II) Department, G.O.Ms.No.112, dated 01.08.2022.

251 "Andhra Pradesh Complies With Supreme Court Order On Police Complaints Authority," *NDTV*, 12 August 2022: <https://www.ndtv.com/india-news/andhra-pradesh-complies-with-supreme-court-order-on-police-complaints-authority-3248449>. Accessed on 06 August 2023.

notifying the 2022 AP Rules, the Government addressed a serious lacuna in the 2020 AP Rules where appointments had been left to the sole discretion of the State Government.²⁵²

Under the 2022 AP Rules, the APSPCA and DPCAs must have four and six members, respectively, including the Chairpersons. The Members are to be selected from amongst retired civil servants, police officers, other retired government officers, or from civil society²⁵³ with proven credentials.²⁵⁴ They have a fixed term of three years.²⁵⁵

There is rank-wise segregation between the jurisdiction of the SPCA and the DPCAs. The APSPCA inquires into complaints of serious misconduct against officers of or above the rank of Additional Superintendent of Police. ‘Serious misconduct’ is defined as including death, grievous hurt or rape in police custody. DPCAs, on the other hand, can also inquire into allegations of extortion, land/house grabbing or any other incident involving serious abuse of authority.²⁵⁶ These inquiries can be initiated on the basis of complaints received from the public (by post, email, online or in person), action initiated *suo motu* or through referral from other authorities such as the NHRC, SHRC, the Lokayukta and other similarly placed bodies.²⁵⁷

Current composition

Following the 2022 AP Rules, the current composition of the Andhra Pradesh SPCA is:

Table 48: Current composition of Andhra Pradesh SPCA²⁵⁸

Designation	Name	Qualification/ Profession	Date of Appointment	Tenure
Chairperson	Justice J Uma Devi (retd.) ²⁵⁹	Former High Court Judge	15.02.2023	3 years
Member	Ms. Udayalakshmi ²⁶⁰	IAS (retd.)	25.04.2023	3 years
Member	Mr. KVV Gopala Rao ²⁶¹	IPS (retd.)	25.04.2023	3 years
Member	Mr. B Srinivasulu ²⁶²	IPS (retd.)	25.04.2023	3 years

APSPCA does not have any members representing civil society.

Complaints received, status of inquiries and action recommended

As our study is limited to reviewing the performance of PCAs up to March 2023 only, we did not seek information about the status of complaints received and disposed of. APSPCA reached its full membership only by April 2023.

252 Rule 3 (1)(a)-(e), Andhra Pradesh State/District Level Police Complaints Authority (Administration and Procedure) Rules 2020.

253 Rule 3(1)(e), Andhra Pradesh State/District Level Police Complaints Authority (Administration and Procedure) Rules 2022 (2022 AP Rules).

254 ‘Proven credentials’ is not defined in the 2022 AP Rules.

255 Rule 4(a)-(b), 2022 AP Rules.

256 Rule 3(2)(a)-(b), 2022 AP Rules.

257 Rule 8(iv) & (vi), 2022 AP Rules.

258 Based on information provided in response to CHRI’s 2023 RTI application.

259 Government of Andhra Pradesh, Home (Legal II) Department, G.O.Ms.No.37, dated 15.02.2023.

260 Government of Andhra Pradesh, Home (Legal II) Department, G.O.Ms.No.75, dated 25.04.2023.

261 *Ibid.*

262 *Ibid.*

Administrative functioning

- a. Rules of Procedure: The 2022 AP Rules govern the conduct of business at the APSPCA. Apart from the constitution, mandate and powers of the state and district authorities, they specify the procedures for filing and registering complaints, conduct of inquiries, conduct of hearings and decisions of the Authorities. The Rules specify that the complaint should be submitted preferably in Telugu or English and be accompanied by a self-attested declaration. They may also be accompanied by documents or records in support of the allegations. The Rules also lay down timelines for every stage of the inquiry process. It requires all inquiries to be completed within of 90 days from the receipt of complaint, and reasons for delay to be recorded in writing. In conducting hearings, the Rules prescribe a limit of three adjournments during the pendency of a complaint. The Chairperson of the SPCA also has the power to issue administrative orders, circulars and clarifications for the smooth functioning of the SPCA.²⁶³ However, these Rules fail to make the recommendations of these authorities binding on the State Government.
- b. Website: The SPCA has to develop and maintain a website in English or the official language of the Authority.²⁶⁴ This website will display case status and all the decisions of the Authority.²⁶⁵
- c. Annual Reports: The SPCA has to submit an annual report to the State Government with figures of complaints received, misconduct cases inquired into, cases referred to other agencies, findings, identifiable patterns of police misconduct and general recommendations for enhancing police accountability within the state.²⁶⁶

Summary and Recommendations

To conclude, it is encouraging that Andhra Pradesh has addressed major lacunae that existed initially with regard to the process of selecting the Chairperson and Members of the PCAs. However, a feature missing in the Rules is the binding nature of the SPCA's recommendations. As experience from other states reveals, this lapse allows governments and the police leadership to ignore *prima facie* evidence of police misconduct or illegality gathered by the PCA on the basis of which it proceeds to recommend action against the officers concerned. This increases the chances of errant officers going scot-free. In the long run, this will only discourage the public from approaching these authorities.

CHRI recommends:

To the Andhra Pradesh government

- ✓ Make recommendations of APSPCA binding on AP Police and the State Government.
- ✓ Appoint at least one additional member to the APSPCA as a representative from civil society in line with the criteria for membership and selection process of the SPCA Members as laid down in the *Model Police Bill, 2015*.
- ✓ Require that detailed annual reports be prepared and placed before the State Legislature. Ensure further that adequate time is given to discuss the annual reports prepared by the Authority along with their recommendations in the State Legislature or an appropriate legislative committee.

²⁶³ Rule 16, 2022 AP Rules.

²⁶⁴ Rule 14, 2022 AP Rules.

²⁶⁵ *Ibid.*

²⁶⁶ Rule 15, 2022 AP Rules.

Andhra Pradesh State Police Complaints Authority

- ✓ Formulate additional rules in the form of orders or circulars, in accordance with the *Model Police Bill, 2015* as outlined in this report's concluding chapter with particular focus on protecting the rights of the complainant.
- ✓ Maintain an up-to-date website with copies of annual reports and outreach materials, that is accessible in English as well the official language of the Authority; and, fulfil the proactive disclosure requirements of Section 4(1)(b), RTI Act by publishing, for example, the budget and expenditure of the Authority on the website.
- ✓ Publish annual reports regularly with detailed statistics about the types of complaints received, their district-wise geographical mapping and types of actions recommended by the Authority following an inquiry. Also provide general recommendations for enhancing police accountability in the state.
- ✓ Conduct publicity of its work and hold regular outreach and awareness programmes across the state.

2. ARUNACHAL PRADESH

Source of Information

We did not receive any response from the Home Department of Arunachal Pradesh to our RTI application. In August 2023, it was publicly reported that appointments had finally been made to the SPCA and DPCAs.²⁶⁷ CHRI did not send an RTI to the SPCA requesting statistics because it was operationalised after the period covered in this study (January 2018 to March 2023).

Arunachal Pradesh has not yet passed a new police act.²⁶⁸ In December 2006, the Home Department issued a notification setting up a multi-tier mechanism to act on complaints against the police along the lines of the Supreme Court's directive in the *Prakash Singh* case.²⁶⁹ However, no effective action was taken subsequently to activate this mechanism.

In 2022, Advocate Gamken Bam filed a public interest litigation suit before the Gauhati High Court seeking the constitution of police complaints authorities in Arunachal Pradesh.²⁷⁰ The Itanagar Bench of the High Court took a note of the State Government notification dated 18.12.2006 and directed its implementation within a period of six months. Finally, in August 2023, the Government constituted the Arunachal Pradesh State Police Complaints Authority (Arunachal SPCA) and DPCAs.²⁷¹

A former judge of the Gauhati High Court has been appointed as Chairperson of the SPCA along with two retired government officers as members, one of whom is a woman.²⁷² A serving official of the Home Department will serve as the Member-Secretary.²⁷³ The Government has not appointed any independent Member to represent civil society. We were not able to get hold of a copy of the notification; so, it is not possible to figure out the procedure laid down for appointments made to the Arunachal SPCA.

In addition to the state-level Police Complaint Authority, the government also made appointments to two DPCAs - for two zones namely, eastern and central.

Eastern Zone comprises of:

- Namsai zone (having jurisdiction over Namsai, Lohit, Changlang, Tirap, Longding and Anjaw); and,
- Pasighat Zone (having jurisdiction over East Siang & Siang)

Central Zone comprises of:

- Aalo Zone (having jurisdiction over West Siang, Leparada, Upper Subansiri, Shi-Yomi and Lower Siang)

Every DPCA comprises a Chairperson, three members and a Member-Secretary who is

267 Pradeep Kumar, "GoAP constitutes State Police Complaints Authority, DPCAs," *Arunachal Observer*, 24 August 2023: <https://arunachalobserver.org/2023/08/24/goap-constitutes-state-police-complaints-authority-dpcas/>. Accessed on 01 September 2023.

268 Arunachal Pradesh Police is governed by The Police Act, 1861.

269 State of Arunachal Pradesh, Home Department, Notification No. HMB(A)/23/06(pt-V) dated 18.12.2006.

270 *Gamken Bam v. State of Arunachal Pradesh & Ors.*, PIL 09/2022, Gauhati High Court (Itanagar Bench), order dated 23.08.2022.

271 Pradeep Kumar, "GoAP constitutes State Police Complaints Authority, DPCAs," *Arunachal Observer*, 24 August 2023: <https://arunachalobserver.org/2023/08/24/goap-constitutes-state-police-complaints-authority-dpcas/>. Accessed on 01 September 2023.

272 *Ibid.*

273 *Ibid.*

a serving government official. The Chairpersons of both the DPCAs are required to be retired District Judges. Two of the three members in each DPCA are said to be retired state services officers and the Member-Secretary holds the rank of Deputy/Joint Secretary. It is encouraging to note that unlike the membership of the Arunachal SPCA, the third member of DPCA is a civil society representative.²⁷⁴

The Arunachal SPCA has the mandate to inquire into complaints of serious misconduct against officers of and above the rank of Superintendent of Police. DPCAs, on the other hand, can receive complaints against officers up to the rank of Deputy Superintendent of Police. ‘Serious misconduct’ includes causing death, grievous hurt, and rape/attempt to rape in police custody. The DPCAs, in addition to the serious misconduct defined above, can also inquire into allegations of extortion, land/house grabbing or any other incident involving serious abuse of authority. Both the SPCA and DPCAs can initiate inquiries on the basis of complaints received from the public or by initiating *suo motu* action. They have to submit their recommendations within 90 days of receiving a complaint.

Current composition

The current composition of the Arunachal SPCA, is as follows:

Table 49: Current composition of Arunachal SPCA²⁷⁵

Designation	Name	Qualification/ Profession	Date of Appointment	Tenure
Chairperson	Justice Dinendra Biswas (retd.)	Former High Court Judge	<i>not available</i>	<i>not available</i>
Member (Woman)	Ms. Remo Kamki	IAS (retd.)	<i>not available</i>	<i>not available</i>
Member	Mr. Somcha Lawang	APCS (retd.)	<i>not available</i>	<i>not available</i>
Member-Secretary	-	Home Under/ Deputy/ Joint Secretary	<i>not available</i>	<i>not available</i>

The current composition of the Arunachal SPCA lacks balance. It lacks adequate representation of independent members from civil society, social workers and grassroots activists who can bring perspectives and lived experiences of communities directly affected by police wrongdoings.

Complaints received, status of inquiries and action recommended

We did not send an RTI application to the Arunachal SPCA because it was constituted only in August 2023, which is beyond the period covered in this study.

Administrative functioning

- a. **Rules of Procedures:** We did not receive any response from the State Home Department in relation to this RTI query.
- b. **Annual Reports:** We did not seek this information from the Home Department as the Arunachal SPCA has been in existence for less than a year at the time of writing this report.

²⁷⁴ *Ibid.*

²⁷⁵ *Ibid.*

- c. Website: The Arunachal SPCA does not have its own website yet and no information is available about it on the website of the Home Department.
- d. Budget: We did not seek this information from the Home Department as the SPCA was set up only recently and falls outside the period covered by this study.

Summary and Recommendations

Arunachal Pradesh is yet another example where public interest litigation has spurred the Government to set up the PCAs. This is a promising development. However, the performance of these oversight bodies will become clearer in a year's time. Scant information is publicly available regarding these authorities. The case filed by Advocate Gamken Bam remains pending before the Itanagar Bench of the High Court. We hope it will continue to monitor the developments and correct any attempts to deviate from the 2006 mandate of the Supreme Court including those with regard to the criteria for membership of the SPCA and the requirement to create in each district.

CHRI recommends:

To the Arunachal Pradesh Government

- ✓ Establish the SPCA ensuring the composition and selection is in line with the Supreme Court directive and the *Model Police Bill, 2015* as also specified in this report's concluding chapter with particular emphasis on:
 - o Appointment of at least one person as a civil society representative; and
 - o Removal of the serving government official from the membership of the Authorities.
- ✓ Disclose in public domain the foundational documents for the Authorities.
- ✓ Provide the Authorities with the resources needed - staff, office, funds etc. - to function effectively and immediately.

3. RAJASTHAN

Source of Information

Initially, our RTI application to the Rajasthan State Police Accountability Committee (RSPAC) was returned undelivered by the Department of Posts. So, we submitted a fresh RTI application to the State Home Department, which transferred it to the Committee. We received a response from the Personal Secretary to the Chairperson of the RSPAC stating that the term of the PIO had ended with the previously set-up RSPAC. In its present state of having been freshly reconstituted, RSPAC does not have appropriate staff, office or resources and therefore no new PIO has been appointed so far. The RSPAC did not provide the information requested on several points.

The Government of Rajasthan has reconstituted the Rajasthan State Police Accountability Committee (RSPAC) recently. The newly set up RSPAC held its first sitting on 09 May 2023.²⁷⁶ It was initially constituted in 2016, nearly a decade after the *Rajasthan Police Act, 2007* enabled the State Government to do so. Unfortunately, its term lasted only for two years. Four years after its term ended in 2018, the Government reconstituted the SPAC *vide* an executive order issued in October 2022.²⁷⁷

Background

Like several other states, Rajasthan, too, enacted a new police legislation – *Rajasthan Police Act, 2007* – soon after the *Prakash Singh* judgement. Chapter IX (Police Accountability) of this law provides for the establishment of state and district-level Police Accountability Committees (DPACs). When the SPAC was first constituted in 2016, Justice GL Gupta (retd.), a former Judge of the Rajasthan High Court was appointed as its Chairperson. The term of office of the Chairperson and Members was two years without the possibility of renewal.²⁷⁸ In 2018, when fresh appointments were not made, the work of the State Committee came to a halt.

New appointments were made after more than four years. Justice HR Kuri (retd.), former Judge of the Rajasthan High Court and former member of the Rajasthan State Human Rights Commission, has been appointed as the Chairperson. Mr. Goparam Meghwal, a former member of the Rajasthan Legislative Assembly, has also been appointed to the State Committee as a Member. He had served as the Chairperson of the Rajasthan State Commission for Scheduled Castes earlier. Two other Members appointed to the Rajasthan SPAC are members/office bearers of the ruling political party,²⁷⁹ in violation of the Police Act. Section 69(e) of the police act disqualifies any person who is or has been a Member of Parliament or the State Legislature from being appointed to the SPAC or the DPACa.

276 “पुलिस जवाबदेही समिति की पहली बैठक, जाने किन-किन मामलों पर हुई चर्चा,” *ETV Bharat (Rajasthan)*, 10 May 2023: <https://www.etvbharat.com/hindi/rajasthan/state/jaipur/first-meeting-of-state-level-police-accountability-committee-held-in-jaipur/rj20230510071021087087278>. Accessed on 8 August 2023.

277 Government of Rajasthan, Home (Group-I) Department, Order No. F18(6)Home-1/2017 pt, dated 14.10.2022.

278 Government of Rajasthan, Home (Group-I) Department, Order No. F12(9)Home-1/2011, dated 30.05.2016: <https://home.rajasthan.gov.in/content/dam/homeportal/homedepartment/pdf/CircularNotificationOrder/Gr1/Order/05.pdf>. Accessed on 08 August 2023.

279 Ms. Sunita Bhati self-identifies as “Congress Leader Smt Sunita Bhati Assembly Constituency Jaisalmer” on her Instagram page: https://www.instagram.com/sunita_bhati_official/?hl=en. Accessed on 13 September 2023. She posted new reports of the first RSPAC meeting held on 09 May 2023 on her Facebook page: https://www.facebook.com/photo?fbid=787090832773236&set=pcb.787090879439898&locale=hi_IN. Accessed on 13 September 2023; Mr. Aziz Dard self-identifies as “सदस्य प्रदेश कांग्रेस कमेटी, पूर्व जिला अध्यक्ष कांग्रेस पाली पूर्व बिसुका जिला उपाध्यक्ष पाली, पूर्व उप सभापति नगर परिषद पाली” (Member State Congress Committee, Former District President Congress Pali, Former Bisuka District Vice President Pali, Former Deputy Chairman City Council Pali) on his Twitter page: <https://twitter.com/DardAziz>. Accessed on 13 September 2023.

Similarly, Section 69(f) of the act bars any person with current or past affiliation with any political party from being considered for appointment to these bodies.²⁸⁰

The Rajasthan SPAC's composition is at odds with the Supreme Court's 2006 directive. Both the state and district PACs consist of five members, all of who are to be nominated by the State Government. This framework is in disregard of the principle of independent oversight of the police. Four of its members, including the Chairperson, are not government servants. They must be required to be 'persons of eminence with experience in public dealing and having credible record of integrity and commitment to human rights to be considered eligible for appointment.'²⁸¹ At least one of them must be a person representing the weaker sections of society. At least one member must be a woman. The fifth member of the SPAC is a serving officer of the rank of Additional Director General of Police. At the district-level the fifth member must be of the rank of Additional Superintendent of Police. Both of them serve as the Member-Secretary of the respective PACs.

The SPAC has the power to inquire into allegations of serious misconduct against police officers in the supervisory ranks that includes officers from Assistant and Deputy Superintendent of Police and above.²⁸² 'Serious misconduct' is defined as causing grievous hurt, illegal detention, extortion or any other offence for which the maximum punishment is ten years imprisonment or more.²⁸³ Notably, death in custody has been excluded from its mandate. District Committees inquire into allegations of serious misconduct as defined for the SPAC against officers in the subordinate ranks that includes officers below the rank of Assistant and Deputy Superintendent of Police.²⁸⁴ Additionally, District Committees are also responsible for monitoring departmental enquiries against officers in the subordinate ranks.

Current composition

The current composition of the SPAC is given below:

Table 50: Current composition of Rajasthan SPAC²⁸⁵

Designation	Name	Qualification/ Profession	Date of Appointment	Tenure
Chairperson	Justice HR Kuri (retd.)	Former High Court Judge	14.10.2022	2 years
Member	Mr. Goparam Meghwal	Former Member of Legislative Assembly	14.10.2022	2 years
Member	Ms. Sunita Bhati	<i>not available</i>	14.10.2022	2 years
Member	Mr. Aziz Dard	<i>not available</i>	14.10.2022	2 years
Member-Secretary	-	ADGP (Law and Order)	14.10.2022	<i>ex-officio</i>

Following its reconstitution, the RSPAC held its first meeting on 09 May 2023 after which it started receiving complaints. In its RTI response, the RSPAC informed us that it had not

280 Sections 69(e) and 69(f), Rajasthan Police Act, 2007, accessible on the website of the Rajasthan Police at: <https://www.police.rajasthan.gov.in/Rajpolice/pdf/policeact-english.pdf>. Accessed on 17 September 2023.

281 Section 63(1)(a), Rajasthan Police Act, 2007.

282 Section 2(v), Rajasthan Police Act, 2007.

283 Section 64(c), Rajasthan Police Act, 2007.

284 Section 67, Rajasthan Police Act, 2007.

285 Based on information provided in response to CHRI's 2023 RTI application.

yet been assigned staff, office space or other facilities and that it did not have a designated public information officer.

Notably, government representatives do not dominate the SPAC. However, there is no transparent selection process for the appointments. The result of this opacity is starkly visible – three politically affiliated persons are a part of this committee- a blatant violation of the express provisions relating to disqualification criteria specified in the police act. It must be pointed out that despite the police act not containing a specific requirement that the Chairperson of the SPAC must be a retired High Court Judge, the present and former Chairpersons have been retired judges. This practice, to some extent, adds to the gravitas and prestige of the SPAC.

Complaints received, status of inquiries and action recommended

Since its reconstitution in May 2023, the SPAC has received 90 complaints. These statistics are tabulated below:

Table 51: Complaints received, dismissed for lack of jurisdiction and pending enquiry at the Rajasthan SPAC (October 2022 – June 2023)²⁸⁶

Year	Complaints received	Dismissed for lack of jurisdiction	Enquiry pending
2022-2023	90	36	54

The RSPAC did not provide any information regarding the status of complaints and action recommended in 2018 when it was operational. Reportedly, the new committee is yet to complete any inquiry and therefore no action has been recommended so far. As the RTI reply we received is dated 15 June 2023 it is interesting to note that within less than one month of the SPAC holding its first meeting, 90 complaints had been lodged. About 40 per cent of these complaints were dismissed on grounds of lack of jurisdiction while enquiry is pending in the remaining cases. The fact that complaints were submitted at a rate of more than three per day indicates the significant levels of public expectation on the ground for some form of independent oversight over the functioning of the police.

Administrative functioning

- a. **Budget:** In its RTI response, the RSPAC stated that information regarding its budget is available only with the Financial Advisor, Rajasthan Police HQ and that it had not been allocated any budget as yet. It stated:

“उक्त सूचना वित्तीय सलाहकार, पुलिस मुख्यालय के स्तर पर ही उपलब्ध हो सकती है। वर्तमान समिति को अभी तक बजट आवंटित नहीं किया गया है।”

- b. **Rules of procedure:** The RSPAC does not have any rules governing its conduct other than the provisions laid down in the act. In its response, the RSPAC shared a copy of Sections 62-69 of the act.
- c. **Website:** The RSPAC does not have a functional website or even a dedicated webpage on the website of the State Home Department.
- d. **Annual Report:** The RSPAC has not published any annual report. It stated:

“आज दिनांक तक शून्य है।” (As of today, it is zero.)

²⁸⁶ Based on information provided in response to CHRI's 2023 RTI application.

Summary and Recommendations

To conclude, the Rajasthan Government has failed to act with urgency in setting up state and district PACs that are well equipped and can function independently. Following years of delay and neglect, the Government has once again activated the SPAC but at the time of writing this report, the Committee was yet to be assigned staff, office space or a budget. Without basic resources, the Committee will not be able to function effectively, belying the legislative intent of creating an independent mechanism for police oversight.

CHRI urges necessary legislative amendments to the police act in order to strengthen the composition of the state and district Committees by appointing independent Members without affiliations to any political party, and excluding serving police officials from functioning as Member-Secretaries. We further recommend the State Government to allocate budgetary and human resources to the SPAC as needed without delay in order to assist the Committee fulfil its mandate.

CHRI recommends:

To the Rajasthan Government

- ✓ Amend the *Rajasthan Police Act, 2007* to re-establish the State and District Police Complaints Authorities and ensure their composition and mandate is in line with the Supreme Court directives and the *Model Police Bill, 2015*. Serving police officers and politically affiliated persons must not be included in any of the Authorities.
- ✓ Provide the Authority with the resources needed - staff, office, funds etc. - to start functioning effectively and immediately.

C. STATES/UTs THAT HAVE ASSIGNED POLICE OVERSIGHT FUNCTIONS TO OTHER AUTHORITIES OR SERVING OFFICIALS

1. HIMACHAL PRADESH

Source of Information

CHRI sent RTIs to both the Himachal Pradesh Home Department and the Lokayukta. The Home Department RTI application was returned undelivered to CHRI. However, the HP Lokayukta responded with the information requested on complaints received, status of inquiries and action taken. We did not request the Lokayukta to provide information on its rules of procedure, budget or sought copies of its annual reports.

The Himachal Pradesh (HP) Government assigned police oversight responsibilities to the existing Lokayukta while enacting the *Himachal Pradesh Police Act, 2007*. This is in complete violation of the Supreme Court's *Prakash Singh* directives which require the establishment of specialised bodies for the purpose of independent oversight of the police.²⁸⁷

The HP Lokayukta while functioning as the SPCA is empowered to receive and inquire into allegations of 'criminal misconduct' by police officers. Criminal misconduct is merely defined as follows:

*"misconduct which is an offence under any criminal law in force."*²⁸⁸

'Misconduct' is defined as follows:

*"an act or omission of a police officer which is prohibited under this Act or by the rules made thereunder or is not in accordance with the standard of conduct specified under this Act or is not in accordance with the role, functions or responsibilities cast on a police officer under this Act."*²⁸⁹

The police act also creates district level police complaint authorities to receive complaints of misconduct including 'criminal misconduct'. However, the DPCAs do not have the power to conduct inquiries and make recommendations as per the *Prakash Singh* directives.²⁹⁰ They, however, have the power to monitor departmental enquiries initiated against non-gazetted police officers in their respective districts upon authorisation from the SPCA.²⁹¹ The DPCAs are headed by the Divisional Commissioner and have three non-official Members selected from among retired senior police officers, prosecutors and judicial officers.²⁹² On the other hand, the SPCA/Lokayukta must be a retired judge of the Supreme Court or a former Chief Justice of the High Court.²⁹³ Other Members are nominated by the State Government after

287 Section 93, Himachal Pradesh Police Act, 2007: https://www.indiacode.nic.in/bitstream/123456789/5671/1/the_himachal_pradesh_police_act%2C_2007.pdf. Accessed on 30 August 2023.

288 Section 2(e), Himachal Pradesh Police Act, 2007.

289 Section 2(n), Himachal Pradesh Police Act, 2007.

290 Section 96, Himachal Pradesh Police Act, 2007.

291 Section 94(1), Himachal Pradesh Police Act, 2007.

292 Section 95, Himachal Pradesh Police Act, 2007.

293 Section 3-4, Himachal Pradesh Lokayukta Act, 2014.

consultation with the SPCA.²⁹⁴ At the end of each year, the DPCAs have to submit an annual report to the SPCA about their working.²⁹⁵

As the DPCAs cannot conduct any enquiries into criminal misconduct, the act does not segregate the complaints the DPCAs and the HP SPCA/Lokayukta are empowered to receive according to the rank of the police officer complained against.

The act does not lay down the procedures which the SPCA must observe while enquiring into complaints received under the act. However, the SPCA's recommendations are binding on the Government.²⁹⁶ Any authority which is obliged to execute these recommendations may communicate to the State Government that it is not advisable to execute them, along with its reasons, within 30 days of receiving the recommendation.²⁹⁷

Complaints received, status of inquiries and action recommended

In their response, the HP SPCA shared that they received only two complaints over the last five years.²⁹⁸

Table 52: Complaints received, disposed of and pending at the Himachal Pradesh Lokayukta (January 2018 - March 2023)²⁹⁹

Year	Complaints received	Suo motu action	Complaints admitted for inquiry	Complaints where action recommended	Pending cases
2018	0	0	0	0	6
2019	1	0	1	0	14
2020	0	0	0	0	14
2021	0	0	0	0	9
2022	1	0	1	0	19
2023	0	0	0	0	4
Total	2	0	2	0	-

As can be seen in the table above, both complaints were admitted for enquiry. However, it is worth noting here that as per the information provided by them, the Office of the Lokayukta and hence the SPCA remained vacant from 03.02.2017 to 02.11.2022.

Further, the complaint receipts data does not correspond with the data they have provided about pending cases. The number of complaints pending enquiry rose from 6 in 2018 to 14 in 2019, when only one complaint was received that year. The number of pending cases also decreased in 2021 to 9 but increased in 2022 to 19, all while there was no SPCA/Lokayukta. This irregularity in the number of complaints being received and the number of complaints pending enquiry casts doubt over the reliability of the data furnished under the RTI Act.

If on the other hand, the number of complaints the SPCA received is indeed only two over the five-year period, this very low. The reasons for the same need to be probed.

²⁹⁴ *Ibid.*

²⁹⁵ Section 97, Himachal Pradesh Police Act, 2007.

²⁹⁶ Section 93(1), Himachal Pradesh Police Act, 2007.

²⁹⁷ Section 99(2), Himachal Pradesh Police Act, 2007.

²⁹⁸ One each in 2019 and 2022.

²⁹⁹ Based on information provided in response to CHRI's 2023 RTI application.

In conclusion, we can say that the HP Lokayukta is ill-equipped to address the specific challenges of police accountability that go above and beyond the scope of corruption. The HP Lokayukta is a body created to look into complaints of corruption within the government and the police does fall within its jurisdiction but only to inquire into allegations of bribery or other forms of corruption as defined in anti-corruption laws and complaints of maladministration as defined in the Lokayukta's parent legislation. The institution of SPCAs, on the other hand, is designed specially, keeping in mind the nature of the duties and functions performed by police personnel. By appointing an existing ombudsman-type authority as the SPCA, perhaps as a cost-cutting measure, the government has diluted the intent and purpose of the Supreme Court's directive and continues to remain non-compliant with it.

2. ODISHA

Source of Information

We sent RTIs- one each to the Home Department and the office of the Odisha Lokayukta. The Home Department first rejected the application for not being in the prescribed format and also demanded identity proof of the applicant. So, we sent a fresh application complying with these requirements. Thereafter the Home Department responded that the information sought was phrased as a question and as such was not in the scope of the RTI Act, 2005.³⁰⁰ It provided a copy of Central Information Commission's decision dated 21.04.2006 to the effect, and provided the name of the officer in charge of the office for the Odisha SPCA along with a copy of office order through which they were appointed. Given the tight deadline for completing this study, we did not prefer an appeal against these responses clearly intended to frustrate RTI applicants.

Meanwhile the Odisha Lokayukta responded to the RTI application in relation to queries about complaints received and action taken on them.

Odisha did not enact a new police legislation following the Supreme Court's 2006 judgement in the *Prakash Singh* case. In 2007, Odisha entrusted the role of the State's PCA to the Lokpal as established under the *Orissa Lokpal and Lokayuktas Act, 1995*.³⁰¹ In 2014 the *Odisha Lokayukta Act* was passed changing the nomenclature of this ombudsman. From July 2018 the Lokpal was replaced by the Lokayukta.

At present the Lokayukta has four members - Justice Ajit Singh (retd.), former Chief Justice Gauhati High Court serves as its Chairperson, with three other members, namely Justice Bijaya Kumar Nayak (retd.), former Judge, High Court of Orissa, Dr. Debabrata Swain, former Principal Chief Conservator of Forests, and Dr. Rajendra Prasad Sharma, former Director General of Police.³⁰²

The Odisha SPCA/Lokayukta has the power to inquire into and investigate allegations of corruption, including those against police personnel.³⁰³ These must be based on complaints received from the public; the Lokayukta cannot initiate *suo motu* action. Further, this inquiry may be conducted by its own inquiry wing or it may be assigned to another authority.

300 The RTI query was as follows: "Whether an independent police complaints authority has been constituted at the state level as required by the Supreme Court of India in *Prakash Singh & Ors. v. Union of India & Ors.* dated 22 September 2006."

301 Government of Odisha, Notification, S.R.O. No. 272/18 dated 07.07.2018.

302 Odisha Lokayukta, Directory: https://lokyukta.odisha.gov.in/all_directory/. Accessed on 13 August 2023.

303 Section 14, Odisha Lokayukta Act, 2014.

Complaints received, status of inquiries and action recommended

In their response, the SPCA/Lokayukta informed us that they did not receive any complaint in 2018. Starting 2019, the SPCA/Lokayukta has received a total of 322 complaints until March 2023 against the police. Only one of these was admitted for inquiry in 2019. All the remaining complaints were reportedly closed without inquiry. In 2022, only 45 of the 52 complaints were closed while none were admitted and up till 31.03.2023 only 6 of the 11 complaints filed had been closed without inquiry. The SPCA/Lokayukta does not explain what happened to the remaining complaints from those years, as they are not classified as pending.

Table 53: Complaints received, disposed of and pending at the Odisha Lokayukta (January 2018 - March 2023)³⁰⁴

Year	Complaints received	Suo motu action	Complaints admitted for inquiry	Complaints closed without inquiry	Where action recommended	Pending cases
2018	0	0	0	0	0	0
2019	98	0	1	97	0	0
2020	87	0	0	87	0	0
2021	74	0	0	74	0	0
2022*	52	0	0	45	0	0
2023**	11	0	0	6	0	0
Total	322	0	1	309	0	0

* & ** - number of complaints received does not match the number of complaints disposed of or pending for that year.

In conclusion, the manner of implementation of the Supreme Court's directive in *Prakash Singh* with regard to independent oversight over the Odisha Police has many drawbacks. Firstly, there is no multi-tier system. The Government has not established district level police complaint authorities. Secondly, the Odisha Lokayukta has a very limited jurisdiction under its parent law; it can only investigate allegations of corruption. This in itself is a major dampener on the efforts to ensure police accountability because other types of misconduct, such as, custodial deaths, rape/attempt to rape, and grievous hurt do not fall within the jurisdiction of the Lokayukta, while the SPCAs in several other states have the power to inquire into such complaints. Further, even with regard to the complaints received, the action taken by the SPCA/Lokayukta does not inspire confidence. During the past five years, it has admitted only one complaint for investigation and here too it did not recommend any action to be taken against the police personnel concerned. Odisha continues to remain mostly non-compliant with the *Prakash Singh* directive.

³⁰⁴ Based on information provided in response to CHRI's 2023 RTI application.

3. TAMIL NADU

Source of Information

Initially we sent an RTI application to Tamil Nadu's Home Department. In its response it stated that the TNSPCA was functional since 2019 and provided a copy of the notification along with the *Tamil Nadu Police (Reforms) Act, 2013*. However, it did not provide a contact address for TNSPCA. These details are also not available publicly. Consequently, we sent another RTI application seeking information about TNSPCA to the Home Department, requesting that it be transferred to the former under the *RTI Act 2005*. CHRI received a one-page response from the Home Department with some information that we requested about TNSPCA. The following report is based on the information provided by the Home Department against both our RTIs.

The Tamil Nadu State Police Complaints Authority (TNSPCA) was set up under Section 10 of the *Tamil Nadu Police (Reforms) Act, 2013*. After this legislation was passed, it took another six years for the TNSPCA to be constituted.

Background

In 2013, the *Tamil Nadu Police (Reforms) Act, 2013* was enacted to carry out the directions laid down in the *Prakash Singh* judgement. The act envisages the setting up of a multi-tier police complaint authority system in the State. Both state and district-level PCAs have a Chairperson and two Members each. In a significant departure from the Court's directive, the SPCA has as its Chairperson the Secretary in-Charge of the Home Department. The District Collector/District Magistrate is the Chairperson of the district level Authority. Two serving police officers, namely, the Director General of Police and the Additional Director General of Police (Law and Order) are the remaining members of the SPCA. The Superintendent of Police and the Additional Superintendent of Police are the other members of the DPCAs.³⁰⁵ The PCAs in Tamil Nadu are comprised of only government officials; do not have any independent members.

TNSPCA can inquire into complaints of serious misconduct against police personnel of or above the rank of Deputy Superintendent of Police. The DPCAs which receive such complaints are required to forward them to TNSPCA for inquiry. However, they can inquire into complaints of misconduct they receive. Both the TNSPCA and DPCAs do not have *suo motu* powers and can only proceed on the basis of complaints received on a notarised affidavit from the victim.³⁰⁶ This is a severe restriction on their powers as directed by the Supreme Court and makes the authorities difficult to approach for 'victims' who often belong to the disadvantaged and marginalised segments of society.

'Serious misconduct' as defined in the police act includes death in police custody, rape or grievous hurt. This definition fails to meet the standard set by the Apex Court. It does not include offences such as attempt to rape and illegal arrest or detention. 'Misconduct' includes extortion, land/house grabbing or any other incident involving serious abuse of authority.³⁰⁷

The act requires that the complaints be submitted in the form of a sworn affidavit duly attested

305 Section 10 read with Section 14(2), Tamil Nadu Police (Reforms) Act, 2013: <http://www.stationeryprinting.tn.gov.in/extraordinary/2013/328-Ex-IV-2.pdf>. Accessed on 29 August 2023.

306 Section 12(1) read with Section 15(a), Tamil Nadu Police (Reforms) Act, 2013. A legal heir/close relative of the victim can approach the authority in cases of death of the victim in police custody.

307 Section 15(a), Tamil Nadu Police (Reforms) Act, 2013.

by a Notary Public.³⁰⁸ This is a cumbersome requirement that only deters complainants from approaching the TNSPCA. Simple procedures are necessary if the SPCA wants to become easily accessible to victims. The Act does not permit third party complaints to be submitted on behalf of victims. This is another discouraging factor for an affected person who is not literate or who does not have the means to hire a lawyer to draw up an affidavit and then get it notarised.

Once received, these complaints are sent to an entity called the ‘Police Complaints Division’ (PCD) established under the police act for investigating and reporting after the examination of the complainant and other persons. While it is good to note that the act has created a separate investigations unit for the PCAs, it works under the control of the police department and consists of both serving and retired officers from the police, vigilance, intelligence and/or crime branch departments.³⁰⁹ At present, the Crime Branch’s CID Wing has been vested with the role and responsibility of the PCD.³¹⁰ Not only does this overburden an already burdened investigation agency, it also effectively nullifies the purpose of an independent oversight authority which must have its own investigations unit.

Another deviation from the Supreme Court's directive, is that the recommendations of the PCA are not binding on the Government or the police department.

The deviations from the directive in *Prakash Singh* and the manner of the constitution of PCAs under the police act were challenged in the Madras High Court. However, in 2022, the High Court dismissed the petition with liberty to approach the Supreme Court.³¹¹

Current composition

The current composition of the TN SPCA is given below:

Table 54: Current composition of Tamil Nadu SPCA³¹²

Designation	Name	Qualification/Profession	Date of Appointment	Tenure
Chairperson	-	Secretary-in-charge of the Home Department, Government of Tamil Nadu	14.11.2019	<i>ex-officio</i>
Member	-	Director General of Police/ Head of Police Force, Tamil Nadu	14.11.2019	<i>ex-officio</i>
Member	-	Additional Director General of Police, Law and Order, Tamil Nadu	14.11.2019	<i>ex-officio</i>

Complaints received, status of inquiries and action recommended

According to the Home Department’s response to our RTI queries, TNSPCA has started receiving complaints only in 2023. Six complaints have been received so far. It did not specify the reason for not having received complaints prior to 2022 despite the existence of a functional TNSPCA since 2019. In its reply it furnished the following data:

“1. Year-wise number of Complaints received by the TN PCA against police personnel during:

308 Section 15(a), Tamil Nadu Police (Reforms) Act, 2013.

309 Section 19, Tamil Nadu Police (Reforms) Act, 2013.

310 Rule 19, Tamil Nadu Police (Reforms) Rules, 2022.

311 *Saravanan Dakshinamurthy v. State of Tamil Nadu*, WP 22532/2014, Madras High Court, judgement dated 24.06.2022.

312 Based on information provided by Tamil Nadu home department in response to CHRI’s 2023 RTI application.

01 January 2018 to December 2022 – Nil

01 January 2023 to 31 March 2023 – 6 (others)

2. Nil

3. Nil

4. Out of 6 complaint received from 1st January 2023 to 31st March 2023, five were rejected as the same were not in the format prescribed under the Tamil Nadu (Reforms) Act, 2013 and one was forwarded to the Police Complaint Authority, Puducherry and Villupuram Districts for appropriate action.”[sic]

Not only has the SPCA received an unusually low number of complaints, its unreasonably restrictive standard of requiring sworn & notarised affidavit to accompany a complaint has resulted in rejection of all but one of the complaints it has received this year up till March 2023.

Administrative functioning

a. Budget: The Home Department in its RTI response stated:

“No such details available.”

b. Rules of procedure: The Home Department in its RTI response stated:

“Not available at present”

However, in 2022, the State Government notified the *Tamil Nadu Police (Reforms) Rules, 2022*. They only have one provision concerning police complaints authorities. As stated earlier, this is about assigning the role of the PCD to the Crime Branch CID wing.

c. Website: The TNSPCA does not have a website or even a dedicated webpage on the website for the Tamil Nadu Home Department.

d. Annual Report: The Home Department in its RTI response stated:

“Not available.”

As is the case with several other PCAs, the inadequate statutory provisions in the police legislation is a major constraining factor in the implementation of the PCA-related directive of the Supreme Court. To ensure that there is meaningful police accountability through oversight functions performed by the TNSPCA, it must be aligned with principles laid down by the Supreme Court. At present it has a limited mandate and is being headed by serving officials, with no semblance of independence and without any consequential oversight. The functioning of the TNSPCA can be made more robust by appointing a retired judge as the Chairperson and non-official independent Members, including those from civil society through a transparent selection process; enhancing the definition of serious misconduct; providing binding powers to the SPCA and granting it an independent investigation unit. Examples of good practice are available in other jurisdictions across the country as illustrated earlier in this study.

4. WEST BENGAL

Source of Information

We sent an RTI application to the West Bengal Home Department, asking for the status of compliance with the *Prakash Singh* judgement with respect to PCAs. The Department's PIO responded well after the reply deadline of 30 days stating that an SPCA had been constituted in West Bengal as recently as in June 2023. We did not send an RTI application to the SPCA seeking the usual data because it was operationalised much after the period determined for our study - January 2018 to March 2023.

The West Bengal State Police Complaints Authority (WBSPCA) was first constituted in 2015 through a government notification for a term of three years.³¹³ In June 2023, the WBSPCA was reconstituted on the same terms.³¹⁴

Background

West Bengal did not enact a new police legislation after the *Prakash Singh* judgement. In 2015, the Government established the WBSPCA fixing a three-year term for its Chairperson and Members *vide* a notification.³¹⁵ It is not known whether the Government made any appointments following the notification and was indeed functional for any duration. At any rate it ceased to exist after 2018 when its three-year term expired. In June 2023, the Home Department re-notified the WBSPCA along the lines of the 2015 order.³¹⁶

The composition, mandate and functioning of the WBSPCA is completely contrary to the 2006 directives of the Supreme Court. First, the Chairperson of the West Bengal Human Rights Commission (a retired judge of the High Court) has been made the Chairperson of the WBSPCA. Justice Jyotirmay Bhattacharya (retd.), former Chief Justice of the Calcutta High Court, is the current Chairperson of the WBSPCA.

Second, two high ranking members of the State Police are members of the SPCA. The Director General of Police is the Member-Convener while the Police Commissioner of Kolkata is its third member.

Third, the Home Secretary of the State is also a member of the SPCA. All members and the Chairperson of the WBSPCA are serving officials and have been nominated in their official capacity. There is no independent member and therefore there is no selection process required to appoint them.

Fourth, the WBSPCA has the authority to take cognizance of only cases of serious police misconduct. 'Serious misconduct' has been defined as causing death, grievous hurt or rape in police custody.³¹⁷ By limiting the mandate of the Authority to look into complaints about serious misconduct, the Government has excluded complaints about 'misconduct' which in other states falls under the jurisdiction of district level complaints authorities. So even the

313 Government of West Bengal, Home & Hill Affairs Department, Notification No. 3605-PL/PE/16S-36/05 dated 03.11.2015.

314 Government of West Bengal, Home & Hill Affairs Department, Notification No. 731-H (Law)/PE/16S-36/05(Pt-I) dated 06.06.2023.

315 Government of West Bengal, Home & Hill Affairs Department, Notification No. 3605-PL/PE/16S-36/05 dated 03.11.2015.

316 Government of West Bengal, Home & Hill Affairs Department, Notification No. 731-H (Law)/PE/16S-36/05(Pt-I) dated 06.06.2023.

317 Government of West Bengal, Home & Hill Affairs Department, Notification No. 731-H (Law)/PE/16S-36/05(Pt-I) dated 06.06.2023.

definition of serious misconduct is restrictive and does not meet the standards laid down by the Supreme Court in *Prakash Singh*.

Fifth, the requirement for creating a multi-tier authority has also been dispensed with as West Bengal has not created district-level authorities.

Sixth, the WBSPCA is required to formulate its working procedures in consultation with the State Human Rights Commission. Therefore, in functioning too, it does not have the appearance of an independent body.

Seventh, the recommendations of the WBSPCA are not binding on the government. Although the notification does not provide limits to the SPCA's recommendations, presumably, the Authority will be able to recommend the initiation of departmental inquiries and the registration of FIRs, as envisioned by the Apex Court. However, this aspect requires independent confirmation.

Eighth, the State Police Directorate is responsible for providing secretarial services to the WBSPCA. This may not appear problematic at first glance, but requiring an oversight body to take secretarial support from the body over which it exercises oversight also casts doubts over the Authority's ability to function independently.

Last but not the least, the WBSPCA is constituted only for a three-year period every time. Fixing its term is arbitrary. The WBSPCA should be an independent oversight body that operates in perpetuity or at least so long as there is a police department to oversee.

In conclusion, the WBSPCA is a police complaints authority only in name. It is a body with no teeth. The barebones notification leaves much to be desired. It does not give the WBSPCA power to monitor departmental inquiries. It is also not clear whether the Authority has the power to initiate *suo motu* inquiries. It is dominated completely by the political executive on the one hand and controlled by the police department on the other with no representation from civil society. The government must withdraw the notification and formulate a new SPCA and DPCAs in compliance with the Apex Court's directive. In a state of its size, West Bengal must establish PCAs at the district level so that people can access this police accountability mechanism with greater ease.

D. STATES/UTs WITH NON-OPERATIONAL SPCAs

1. BIHAR

Source of Information

CHRI had sent an RTI to the Home Department of the Government of Bihar. They transferred the application to the Bihar Police stating that they are the relevant public authority to respond to the information request Bihar Police responded to our RTI saying that they do not have any of the information we requested.

In 2007, Bihar passed a new *Bihar Police Act*. Chapter VIII of this law pertains to the responsibility of police, but it does not provide for the creation of a state level police complaints authority. Instead it creates a framework for the establishment of district accountability authorities (DAAs). These DAAs are not independent, and are comprised of government officials serving as *ex-officio* members. DAAs are headed by the respective District Magistrates with the local Superintendent of Police, Senior Additional District Magistrate as other members and the Additional District Collector serving as the Member-Secretary.³¹⁸

As far as the mandate is concerned, these DAAs are significantly different from PCAs. The DAAs cannot receive complaints from the public or initiate *suo motu* action. They are empowered to monitor ongoing departmental inquiries pertaining to complaints of misbehaviour by officers below the rank of Deputy Superintendent of Police. This oversight is carried out using quarterly reports submitted periodically by the District Superintendent of Police. So, the DAAs do not entertain any complaints; instead they monitor departmental proceedings and coordinate with the Deputy Superintendent of Police for the speedy completion of such inquiries.³¹⁹ Even when a complainant submits a complaint to the DAAs citing violation of natural justice during a departmental enquiry, the DAA can only ask for the report of the inquiry and suggest that a different officer complete the enquiry. Such a request is not binding on the Superintendent of Police. Essentially, the DAAs are not empowered to look into the substance of misbehaviour and must continue to act in a 'monitoring capacity'.³²⁰

The DAAs are, however, required to submit an annual report to the State Government every year. They must outline the number of complaints of misbehaviour received from complainants and those forwarded to the state authorities; inquiries monitored and those where it issued instructions to the police authorities; along with recommendations to generally enhance the responsibility of the police. This provision is similar to the provision of annual reports contained in the *Model Police Bill, 2015*, except that it is restricted to meet the mandate of the DAAs as created.

To conclude, the bodies created by Bihar at the district level cannot be called as police complaint/accountability authorities that are required to be set up as per the 2006 directives of the Supreme Court. They are neither independent nor have any real powers of oversight on the police department; they have no power to receive complaints about and inquire into

318 Section 59, Bihar Police Act, 2007: https://www.indiacode.nic.in/bitstream/123456789/11209/1/1094_bihar_bihar_police_act_2007.pdf. Accessed on 28 August 2023.

319 Section 60, Bihar Police Act, 2007.

320 Section 62, Bihar Police Act, 2007.

acts of misconduct, which was the primary purpose of the Apex Court's directive in *Prakash Singh*. Further, Bihar has not created a state-level body to enquire into complaints against officers above the rank of Deputy Superintendent of Police. The state is not compliant with the *Prakash Singh* directives in any manner.

2. CHANDIGARH

Source of Information

In a response to our RTI applications filed in 2021 and 2023, the Chandigarh Police Complaint Authority (Chandigarh PCA) responded that it is not functional at present and its re-constitution is under process with the Home Department, Administration of the Union Territory of Chandigarh. The Chandigarh PCA did not provide any information regarding complaints received, status of inquiries and action recommended by it in the past. The following report is based on the responses Chandigarh PCA shared against the twin RTI applications.

The Union Territory (UT) of Chandigarh had a functional PCA from 2010 to 2013 and then again from 2017 to 2020. However currently, it is yet to be reconstituted. The Chandigarh Police Reform Commission had recommended the reconstitution of the PCA.

Background

The Chandigarh PCA was formed *vide* Notification No. 14040/45/2009-UTP dated 23.03.2010 issued by the Union Ministry of Home Affairs, read with Section 54 of the *Punjab Police Act, 2007*. Chandigarh was the first among the UTs to have a PCA. Justice NK Aggarwal (retd.) was appointed its first Chairperson along with two other Members- a retired IPS officer and a civil society representative.³²¹ After three years, Mr. Pradip Mehra, former Adviser to the UT Administration, was appointed Chairperson.³²² However, his appointment was challenged before the High Court of Punjab and Haryana for failing to meet the eligibility criterion laid down by the Apex Court in *Prakash Singh*; only a retired judge may be appointed Chairperson of a PCA. Consequently, the High Court set aside his appointment in 2015 while quashing the MHA notification to the extent that it allows the appointment of a retired civil services officer as the Chairperson.³²³

In 2017, the PCA was reconstituted.³²⁴ Justice MS Chauhan (retd.), former Judge of the Punjab and Haryana High Court, was appointed Chairperson while Mr. Amarjot Singh Gill, IPS (retd.) and former DGP, Rajasthan, was appointed a Member. Their term of office was fixed at three years.

The Chandigarh PCA was empowered to inquire into allegations of 'serious misconduct'³²⁵ either *suo motu* or on the basis of complaints received.³²⁶ 'Serious misconduct' is defined as any act or omission of a police officer that leads to- (a) death in police custody; (b)

321 Chandigarh Administration, Home Department, Notification No. 1/1/114-HIII(1)-2010/11667 dated 23.06.2010.

322 "Police Complaint Authority yet to start functioning," *The Tribune*, 28 March 2017: <https://www.tribuneindia.com/news/archive/features/police-complaint-authority-yet-to-start-functioning-383419>. Accessed on 25 August 2023; "With PCA locked, complainants a harried lot," *The Tribune*, 14 March 2016: <https://www.tribuneindia.com/news/archive/features/with-pca-locked-complainants-a-harried-lot-208654>. Accessed on 13 September 2023.

323 *HC Arora & Anr. v. Union of India & Ors.*, CWP 508/2014, Punjab and Haryana High Court, judgement dated 20.08.2015.

324 Chandigarh Administration, Home Department, Notification No. 1/1/114-HIII(1)-2017/3300 dated 14.02.2017.

325 *Ibid.*

326 *Ibid.* "Point 3. Complaint can be received from: (a)(i)(a) a victim or any person on his/her behalf; (b) the National or the States Human Rights Commission; (c) the police; or, (d) any other source".

grievous hurt, as defined in Section 320 of the *Indian Penal Code, 1860*; (c) rape or attempt to commit rape; (d) arrest or detention without due process of law; (e) extortion; (f) land/house grabbing; or, (g) any incident involving serious abuse of authority. Upon being satisfied *prima facie* with the facts mentioned in the complaint, the PCA could proceed to inquire into it. No provision was made for a separate investigation unit to be set up within the PCA. Before finalising its decision, the Chandigarh PCA was required to give the Chandigarh Police an opportunity to respond to the complaint. It was required to submit its findings within 60 days of receiving the complaint. However, the recommendation of the Chandigarh PCA was not binding on the Chandigarh Administration.

The reconstitution of the Chandigarh PCA was recommended by the single-member Chandigarh Police Reform Commission. The Commission was formed in September 2020 in compliance with the *Prakash Singh* guidelines.³²⁷ The Commission recommended reconstitution of the PCA due to absence of a separate investigative unit within the PCA and on the basis of the reports of non-cooperation from the Chandigarh Police.³²⁸ The PCA members had previously written to the UT Administrator citing Chandigarh Police's non-compliance with their orders and instructions.³²⁹ It also recommended including former police officers within the PCA's team. Meanwhile in 2020, Justice MS Chauhan (retd.) also resigned as Chairperson for personal reasons.³³⁰

Current composition

The Chandigarh PCA is not functional at present.

Complaints received, status of inquiries and action recommended

The Chandigarh PCA did not provide any information about complaints received and action recommended after conducting inquiries. It responded to our RTI application as follows:

“The information sought is not specific one in terms of section 2(f) of the RTI Act, hence the same cannot be supplied.” [sic]

Administrative functioning

- a. Budget: According to the Chandigarh Administration, no specific budget was allocated to the PCA for FY 2018-19 and 2019-20 and therefore it was not able to provide any information. For FY 2020-21, 2021-22, 2022-23 since the PCA was not functional, no budget was allocated.
- b. Rules of procedure: The Chandigarh PCA did not provide this information despite our specific RTI query.
- c. Website: While the Chandigarh PCA does not have a website of its own, important information about its jurisdiction and how to submit complaints is available on a webpage of the Chandigarh Administration's official website.³³¹ It is worth noting here that names of previous Chairpersons and Members continue to be available on this page indicating that the information is not kept up to date.

³²⁷ Chandigarh Administration, Home Department, Notification No. F/329-HIII(1)-2020/9068 dated 01.09.2020: <https://chandigarh.gov.in/sites/default/files/documents/home20-9068-0109.pdf>. Accessed on 25 August 2023.

³²⁸ Saurabh Parasher, “Chandigarh: Police Reform Commission urges Admin to reconstitute PCA,” *Indian Express*, 03 September 2021: <https://indianexpress.com/article/cities/chandigarh/chandigarh-police-reform-commission-urges-admin-to-reconstitute-pca-7485769/>. Accessed on 25 August 2023.

³²⁹ *Ibid.*

³³⁰ *Ibid.*

³³¹ Chandigarh Administration, Police Complaint Authority: <https://chandigarh.gov.in/departments/other-departments/police-complaints-authority>. Accessed on 25 August 2023.

- d. Annual Report: In their response, the Chandigarh PCA stated that no annual reports had been prepared.

It is promising to note that the Chandigarh Administration is reconstituting the PCA in light of the recommendations of the Chandigarh Police Reform Commission. In order to have effective oversight on the police, the PCA must be able to investigate complaints of misconduct independently. The UT administration must reconstitute the PCA in line with the directions of the Supreme Court and make its recommendations binding. The Chandigarh Administration must also remain vigilant about the tenures of the Chairperson and Members of the PCA so that appointments are made well in time to prevent the occurrence of vacancies. This will ensure that the work of the Chandigarh PCA is not affected on account of vacant posts.

3. JAMMU & KASHMIR AND LADAKH

Source of Information

We sent a common RTI application seeking information about PCAs required to be set up in the UTs of Jammu & Kashmir, Ladakh and Lakshadweep to the Union Ministry of Home Affairs (MHA). The MHA transferred the RTI internally to the JK & Ladakh and UT Divisions. The JK & Ladakh Division responded that the said information was not available with the CPIO and transferred it to the UT Division. The UT Division responded similarly and transferred the application to the J&K and Ladakh Administrations. The J&K Administration transferred the RTI to the J&K Home Department, which in turn transferred it to the J&K Police Department. We have not received any response from either the J&K Police Department or the UT Administration of Ladakh till date.

The erstwhile State of Jammu and Kashmir was dissolved and bifurcated into the UTs of Jammu & Kashmir and Ladakh *vide* the *Jammu and Kashmir Reorganisation Act, 2019*. Following this status change, MHA has not issued any notification about compliance with the Prakash Singh judgement relating to the establishment of police complaint authorities.

4. LAKSHADWEEP

Source of Information

As explained above, our RTI application sent to MHA seeking information about PCAs in the UTs was transferred internally to the UT Division. The ANL Desk of the UT Division responded saying that the information sought was not available with it and transferred the RTI application to the Lakshadweep Administration. We did not receive any response from the Lakshadweep Administration. However, the CPIO for Delhi and Delhi Police Division at the MHA responded to the RTI by providing a copy of the 2010 MHA notification setting up PCAs in the UTs.

The MHA in its 2010 notification had directed the establishment of a PCA in the UT of Lakshadweep as in other UTs.³³² Lakshadweep was to have a single member PCA who was to be selected from among candidates belonging to any one of the following categories:

³³² Government of India, Ministry of Home Affairs, Notification No. 14040/45/2009-UTP dated 23.03.2010: <https://www.mha.gov.in/sites/default/files/2022-08/PCA-230310%5B1%5D.pdf>. Accessed on 13 September 2023.

- ✓ A retired High Court/District Judge or retired civil services officer of the rank of additional secretary and above;
- ✓ A person having ten years of experience in law, either as judicial officer, public prosecutor, lawyer, professor or law; and,
- ✓ A retired officer with experience in public administration.

The PCA has the power to inquire into complaints of serious misconduct against all police personnel. This can be either done *suo motu* or on receiving a complaint from a victim or someone on behalf of the victim, the NHRC or the SHRC concerned, the police or any other source. 'Serious misconduct' has been defined as causing custodial death, grievous hurt, rape/attempt to rape, arrest/detention without due process, extortion, land/house grabbing, or any incident involving serious abuse of authority. After completing an inquiry into a complaint, the PCA may direct the registration of an FIR or the initiation of a departmental inquiry against the police personnel concerned. However, the directions of the PCA are not binding on the UT Administration.

The Lakshadweep PCA does not have a website/webpage of its own, nor is any information about it publicly available. Further, despite the MHA notification for the PCA, no appointments were made and the PCA does not appear to have been operationalised.

5. MADHYA PRADESH

Source of Information

We sent an RTI application to the Home Department, Government of Madhya Pradesh (MP). In its response, the Department provided a 2007 order pertaining to the state's compliance with the Supreme Court's other directives in *Prakash Singh* and a 2010 order setting up DPCAs in MP. They also provided copies of notifications constituting police commissionerates in Indore and Bhopal in 2022 presumably because of the effect the change in police hierarchy in those two districts would have had on the DPCAs.

Madhya Pradesh has not yet passed a new police act following the *Prakash Singh* judgement; *The Police Act, 1861* is still in force and is the basis of policing in the state. In February 2007 the State Government passed an order to implement some of the Supreme Court's 2006 directives.³³³ However, it did not contain any measures setting up PCAs. In 2010, vide another government order, MP set up District Police Complaints Boards (DPCBs).³³⁴

These DPCBs comprise of the Minister in-Charge of the district as the Chairperson, a woman member from the *Zila* (district) *Panchayat*, and the District Magistrate as Members. The Superintendent of Police serves as the Member-Secretary. All Members of the board are appointed in their official capacity. There is no independent member representing civil society selected through a transparent selection process.

The DPCB has the power to receive complaints from the public regarding misconduct, harassment, land/house grabbing, obscene comments, refusal or delay in investigation, abuse of power, death, rape or grievous hurt in custody, unlawful arrest or detention, and any other topic authorised by the State Government. But these Boards cannot initiate *suo motu* action. Upon receiving a complaint, the Boards can initiate an enquiry and refer the

³³³ Madhya Pradesh, Home Department Order No. F 1-73/1998/B-2/II dated 14.02.2007.

³³⁴ Madhya Pradesh, Home Department Order No. F 1-7/2010/B-2/II dated 30.08.2010.

case to the jurisdictional authority or to the Economic Offences Wing for investigation into allegations of corruption or to the competent authority to initiate departmental inquiry. The findings of the Boards are not binding on the Government.

Madhya Pradesh remains non-compliant with regard to the Apex Court's directives for setting up police complaints authorities; not only is there no SPCA, but also the DPCBs as constituted are non-compliant with the principles laid down in *Prakash Singh*.

6. MANIPUR

Source of Information

We did not receive any response to the RTI application sent to Home Department of Manipur. The following report is based on publicly available information.

Manipur has not yet passed a new police Act; *The Police Act, 1861* is still in force and is the basis of policing in the state. In 2007 the Government passed an executive order constituting both state and district level complaint authorities. The SPCA's Chairperson is selected from a panel of names recommended by the Chief Justice of the High Court of Manipur. However, all other members are retired bureaucrats. Further, the recommendations of the Authority are not binding on the Government.³³⁵

7. MEGHALAYA

Source of Information

The Meghalaya Home Department replied to our RTI via email within the stipulated time and furnished information on the basis of which this report is prepared.

Meghalaya enacted its new police law in 2010.³³⁶ Chapter XII of the Act empowers the Government to create a State-level Police Accountability Commission in Meghalaya (Meghalaya PAC).³³⁷ As per the response of the Home Department, the state has not yet constituted the PAC. However, the framework of the Meghalaya PAC, as provided under the Act can still be discussed to identify compliance-related issues.

The Meghalaya PAC comprises of a Chairperson and at least one Member but the act does not put a cap on the number of members on the PAC.³³⁸ The Chairperson has to be a retired officer of the rank of Principal Secretary to the Government or above; the appointee need not be a retired judge. Other Members may be selected from a pool of candidates who are either retired police officers of the rank of Inspector General of Police or above, or a person with minimum ten years of experience as a judicial officer, or a practising advocate in the High Court, or a professor of law, or a retired government officer with experience in public administration. Both the Chairperson and Members are to be selected from a panel of recommendations made by a committee comprising the Home Minister, the Chief Secretary, the Home Secretary and the Director General of Police. They are appointed for

335 Government of Manipur, Home Department, GO No. 2/8(32)/2006-H dated 31.03.2007.

336 Meghalaya Police Act, 2010.

337 Section 73, Meghalaya Police Act, 2010: <https://megpolice.gov.in/meghalaya-police-act-2010-act-no-7-2011>. Accessed on 17 August 2023.

338 Section 73 read with 74, Meghalaya Police Act, 2010.

a term of three years with the possibility of reappointment for a second term.³³⁹ While it is good to note that the police act lays down such a selection process the composition of the committee is not aligned with the directions of the Apex Court and tilts completely in favour of the government of the day.

The PAC has the mandate to inquire into allegations of ‘serious misconduct’ against *all* police personnel serving in the state.³⁴⁰ ‘Serious misconduct’ includes death in custody, grievous hurt, rape/attempt to rape, or arrest/detention without due process. Inquiries may be initiated *suo motu*, or on a complaint from a victim or someone on their behalf, the NHRC/SHRC, the police, or any other source. Meghalaya does not have a multi-tier complaints mechanism, so all complaints against all ranks of police officers go to the PAC. Further, in the absence of a district level accountability commission, allegations of ‘misconduct’ relating to extortion, land/house grabbing or any other incident involving serious abuse of authority cannot be inquired into because they are excluded from the jurisdiction of the state level PAC.

The Meghalaya PAC also has the power to monitor departmental inquiries on complaints of police misconduct by seeking quarterly reports; direct a fresh inquiry upon hearing from a complainant who is dissatisfied with the outcome of a departmental inquiry or by inordinate delay in completing a departmental inquiry.³⁴¹ The Commission can also lay down general guidelines for the state police to prevent misconduct by its personnel.³⁴² The PAC can advise the State Government on witness protection measures and also visit police stations, lock-ups or other places of detention used by the police.³⁴³

Significantly, the recommendations of the Meghalaya PAC to register an FIR or initiate departmental inquiry are binding on the Government provided the Director General of Police is given an opportunity to present his/her views and any additional facts and that such information is considered by the PAC before arriving at its decision.³⁴⁴ The PAC can also recommend that the Government pay monetary compensation to victims.³⁴⁵

The Meghalaya PAC is required to publish annual reports with details about the number of cases of serious misconduct it inquires into; the number of misconduct cases referred to it by complainants dissatisfied with the departmental inquiries and where it recommended action; the number of complaints received by the range accountability authorities³⁴⁶ and the manner in which they were dealt; identifiable patterns of police misconduct; and, general measures to enhance police accountability in the state.³⁴⁷

The act also provides for ensuring regular training for Members and staff of the PAC on technical and legal issues relating to departmental inquiries, specific forms of human rights abuses and ways of handling victims of police abuse.³⁴⁸

While the framework for the Meghalaya PAC, its binding powers and the requirement for training its members and staff are positive elements, the act needs to comply with the *Prakash*

339 Section 76, Meghalaya Police Act, 2010.

340 Section 80, Meghalaya Police Act, 2010.

341 Section 80(3)-(4), Meghalaya Police Act, 2010.

342 Section 80(5), Meghalaya Police Act, 2010.

343 Section 81(5)-(6), Meghalaya Police Act, 2010.

344 Section 84(1), Meghalaya Police Act, 2010.

345 Section 84(2), Meghalaya Police Act, 2010.

346 As per Section 8, Meghalaya Police Act, 2010, ‘range’ is defined as a jurisdictional unit comprising two or more police districts. However, the Act does not mention any range accountability authorities anywhere else in the Act.

347 Section 85(1), Meghalaya Police Act, 2010.

348 Section 89, Meghalaya Police Act, 2010.

Singh directives regarding the eligibility criteria for the appointment of the Chairperson and Members. Further, Meghalaya must actually enforce these parts of its police act by making appointments to the PAC.

8. MIZORAM

Source of Information

We did not receive any response to the RTI application sent to the Home Department of Mizoram. The following report is based on publicly available information.

Mizoram provides for the establishment of police complaints authorities under the *Mizoram Police Act, 2011*. Chapter XII of the Act empowers the Government to establish both state and district-level police complaints authorities.³⁴⁹ The state-level authority is named the Mizoram Police Accountability Commission (Mizoram PAC) whereas those set up in the districts are named district-level accountability authorities (DAAs). Their roles with regard to ensuring police accountability within their respective jurisdictions are quite different as will be shown below.

In May 2023 the Government issued a notification establishing/constituting these authorities.³⁵⁰ However, for the purpose of this report, these authorities are treated as non-functional because no appointments have been made till date. Nonetheless, examining the framework of the proposed Mizoram PAC, as outlined in the Act and notification, can be useful to point out concerns with regard to compliance with the Supreme Court's 2006 directives.

As per the 2011 police act, the Mizoram PAC is to have five members including the Chairperson. The Chairperson should be a retired High Court judge or a retired IPS officer who held the rank of Director General of Police from another state cadre. Other members can be selected from a pool of candidates who are either retired police officers with the rank of Deputy Inspector General of Police or above, or persons with a minimum of ten years' experience as judicial officers, or a public prosecutor, or a practising advocate, or a law professor; or persons of repute and standing representing civil society; or a retired officer with a background in public administration from another state. There is a statutory bar on the PAC from having more than one retired police officer at any time as a Member. Also, one of the Members must be a woman.³⁵¹ The DAAs on the other hand must have three Members with credible record of integrity and commitment to human rights. The Chairperson can be either retired district or sessions judges, or a retired senior police officer. Members are to be selected from among persons with legal background, retired senior civil servants or eminent persons from civil society.³⁵²

The act also provides for a cooling off period of 12 months for superannuated officers before they are considered for appointment to these bodies.³⁵³ The initial term of appointment for the Chairperson/Member of both authorities is three years, with the possibility of reappointment for another like term.³⁵⁴ However, in a significant departure from the Apex

349 Sections 101 and 114, Mizoram Police Act, 2011: <https://police.mizoram.gov.in/wp-content/uploads/2018/12/The-Mizoram-Police-Act-2011.pdf>. Accessed on 13 September 2023.

350 Government of Mizoram, Notification No. C. 18018/18/2022-HM dated 22.05.2023.

351 Section 102, Mizoram Police Act, 2011.

352 Section 114(2), Mizoram Police Act, 2011.

353 Section 103(c), Mizoram Police Act, 2011.

354 Section 104, Mizoram Police Act, 2011.

Court's directives, the appointment of the Chairperson and Members is not required to be made through an independent and transparent selection process.

The PAC's mandate includes investigating allegations of 'serious misconduct' against all police personnel within the State. The definition of 'serious misconduct' encompasses instances of custodial deaths, grievous hurt, rape/attempted rape, and arrest/detention without due process. This inquiry can be initiated either via *suo motu* action, or complaints by victims or their representatives, human rights commissions, the police, or other sources.³⁵⁵ There is no rank-wise segregation of complaints against police personnel between the state and district level authorities.

The DAAs have different jurisdiction as they have been empowered to forward complaints of serious misconduct to the state-level PAC and the complaints of misconduct to the state police authorities.³⁵⁶ Additionally, the DAAs can monitor ongoing departmental inquiries about police misconduct and issue appropriate advice to the DSP for their expeditious completion. 'Misconduct' is defined as wilful breach or neglect of any law that adversely affects the rights of any person.³⁵⁷ In other words, the DAAs cannot conduct inquiries into the complaints they may receive.

The Mizoram PAC can also monitor departmental inquiries into complaints of police misconduct by seeking quarterly reports. It can direct a fresh inquiry after hearing from dissatisfied complainants in a departmental inquiry. The PAC is also empowered to provide general guidelines to the state police to prevent misconduct of personnel.³⁵⁸ Additionally, it can advise the Government on measures for safeguarding witnesses and can conduct visits to police stations, lock-ups and other detention facilities used by the police.³⁵⁹

Significantly, the findings of the PAC, which determine whether to register an FIR or commence a departmental inquiry, are legally binding on the Government.³⁶⁰ However, the Director General of Police must be provided with an opportunity to present their perspective and supplementary information, if any, and such information must be taken into consideration by the PAC before it makes a recommendation in a case. The PAC can also recommend payment of monetary compensation to victims from the State's coffers.³⁶¹

Both the Mizoram DAAs and PAC are required to prepare annual reports. The DAAs submit their reports to the PAC and the PAC, in turn, submits its report to the State Legislature. These reports must contain details such as the number of serious misconduct cases the PAC investigated during the reporting year, the number of cases which the DAAs forwarded to the PAC and the State Police, instances where misconduct cases were referred to the PAC/DAAs by dissatisfied complainants and where they led to recommendations, the number of complaints received by the PAC from the DAAs and their resolution, recurring patterns of police misconduct, and general strategies to enhance police accountability within the State.³⁶²

Furthermore, the Act mandates regular training for PAC and DAA members and staff on technical and legal matters concerning departmental inquiries, specific forms of human

355 Section 108, Mizoram Police Act, 2011.

356 Section 115(1)(a), Mizoram Police Act, 2011.

357 Section 108(3), Mizoram Police Act, 2011.

358 Section 108, Mizoram Police Act, 2011.

359 Section 109, Mizoram Police Act, 2011.

360 Section 112(1), Mizoram Police Act, 2011.

361 Section 112(2), Mizoram Police Act, 2011.

362 Sections 113 and 116, Mizoram Police Act, 2011.

rights violations, and approaches for assisting victims of police abuse.³⁶³

The Mizoram PAC has been given significant powers over the entire police personnel serving in the State. However, without a transparent appointment process, the framework of the Authority does not adhere to the Apex Court's directives. The compliance failure due to the different kind of role the DAAs play in the police accountability system of Mizoram. They do not have any powers to conduct inquiries on their own and only have a monitoring function without any actual oversight powers. Furthermore, more than a decade has passed since this legislation was enacted but no appointments have been made to either Authority. A legislation and a notification reiterating it, cannot by themselves give meaning to the directions of the Supreme Court. The State needs to make appointments to these positions expeditiously.

9. PUDUCHERRY

Source of Information

In response to our RTI application submitted to the Puducherry Police Complaint Authority, the Puducherry Home Department responded stating that there was no functional PCA in the UT. The Department did not supply any other information including data about complaints received by the PCA. The RTI response reads as follows:

“Sl. No. (2) to (13) – the Section (8)(j) of the Right to Information Act, 2005 clearly envisages that there shall be no obligation to give any citizen information which relates to personal information, the disclosure of which has no relationship to any public activity or interest.

The information sought for contains third party information. The RTI Act also clearly envisages that only supply of available information with the PIO and the PIO cannot work to compile and furnish information to the applicant in a complete shape. Hence, the undersigned could not furnish any further information on this point.”[sic]

CHRI did not prefer a first appeal. The following is based on publicly available information.

The Puducherry Police Complaints Authority (Puducherry PCA) was first constituted *vide* a notification issued by the UT Administration in 2011.³⁶⁴

It was a single-tier authority with powers to investigate allegations of ‘serious misconduct,’ including death, grievous hurt, rape/attempted rape, arrest or detention without due process, extortion, land/house grabbing, or any other instance involving serious abuse of authority. These inquiries could be initiated either *suo motu* by the Authority or in response to complaints filed by victims or their representatives, the National or State Human Rights Commission, the police, or any other credible source. Although the Puducherry PCA was required to submit its findings/recommendations within 60 days of receiving the complaint, its recommendations are not binding on the UT Administration. The term of the Puducherry PCA expired in January 2014 after a span of three years.

In December 2016, the Authority was reconstituted with Justice G. Rajasuria (retd.), a former Judge of the Madras High Court, as Chairperson.³⁶⁵ Two independent Members

³⁶³ Section 121, Mizoram Police Act, 2011.

³⁶⁴ Government of Puducherry, Home Department, G.O.MsNo.1 dated 03.01.2011.

³⁶⁵ Government of Puducherry, Home Department, G.O.MsNo.71 dated 09.12.2016: <https://www.py.gov.in/sites/default/files/police09122016.pdf>. Accessed on 15 September 2023.

were appointed along with the Additional Secretary (Home), nominated as the Convenor-cum-Secretary.³⁶⁶ The mandate and powers of the Puducherry PCA remained unchanged from 2011 to 2016. The term of this second Puducherry PCA expired in December 2019. Since 2020, the UT has had no functional PCA.

10. UTTAR PRADESH

Source of Information

We sent an RTI application to Uttar Pradesh's Home Department. The Department transferred the application to the UP Police citing it as the public authority which holds the information about the subject matter of our request. UP Police responded saying that they do not have the information requested.

Uttar Pradesh is yet to draft a new police legislation. Till date, it has taken no action to constitute state or district level police complaints authorities in compliance with the Supreme Court's directive in the *Prakash Singh* case.

In 2021, Advocate Gautam Tyagi filed a public interest litigation before the Allahabad High Court seeking implementation of the Court's directive in the *Prakash Singh* case, including the setting up of a state-level police complaints authority in UP. The High Court issued notice in December 2021 to the Government regarding the implementation of the 2006 directives.³⁶⁷ However, we have not been able to find updates about this case in the public domain.

³⁶⁶ *Ibid.* See also, "Police Complaints Authority reconstituted," *The Hindu*, 06 January 2017: <https://www.thehindu.com/news/cities/puducherry/Police-Complaints-Authority-reconstituted/article16994896.ece>. Accessed on 15 September 2023.

³⁶⁷ "यूपी में पुलिस शिकायत प्राधिकरण के गठन को याचिका स्वीकृत," *Hindustan*, 23 December 2021: <https://www.livehindustan.com/uttar-pradesh/saharanpur/story-petition-approved-for-the-formation-of-police-complaints-authority-in-up-5397171.html>. Accessed on 15 September 2023.

E. STATES/UTs LACKING IN CLARITY OF INFORMATION ABOUT THE FUNCTIONING OF SPCAs

1. ANDAMAN AND NICOBAR ISLANDS

Source of Information

We did not receive any response from the Andaman & Nicobar Islands PCA to our RTI application. Upon attempts to follow-up,³⁶⁸ the PCA remained unresponsive. The following is based on information publicly available.

The MHA in its 2010 notification had directed the formation of PCAs in all the UTs including in the Andaman and Nicobar Islands (A&N PCA).³⁶⁹ As per the notification, there must be a three-member body and each of them must be selected from one of the following categories:

- ✓ A retired High Court/District judge or retired civil services officer of the rank of secretary;
- ✓ A person having ten years of experience in law, either as judicial officer, public prosecutor, lawyer, professor of law;
- ✓ A person of repute and stature from civil society;
- ✓ A retired officer with experience in public administration; and,
- ✓ A retired police officer of appropriate rank.

One of the Members must be appointed Chairperson and at least one Member must be a woman.

The A&N PCA became functional on 23 October 2012 with Captain Kundan Lal Mahajan appointed as its first Chairperson.³⁷⁰ The current status of the PCA is not known.

The A&N PCA has the power to inquire into complaints of serious misconduct against all police personnel. This can be either *suo motu* or on receiving a complaint from a victim/ someone on the behalf of the victim, the national or state human rights commission, the police or any other source. Serious misconduct has been defined as custodial death, grievous hurt, rape/attempt to rape, arrest/detention without due process, extortion, land/house grabbing, or any incident involving serious abuse of authority. After its inquiry, the A&N PCA may direct the registration of an FIR or initiation of a departmental inquiry. However, the directions of the A&N PCA are not binding on the UT Administration.

The A&N PCA does not have a website/webpage of its own, nor is there a webpage dedicated to it on the official website of the UT Administration. Hence, publicly available information about this PCA is insufficient to comment about its functioning.

³⁶⁸ CHRI called on phone numbers we had on file and those available in public domain all through the months of April, May and July 2023 at least once every two weeks. No one answered the calls.

³⁶⁹ Government of India, Ministry of Home Affairs, Notification No. 14040/45/2009-UTP dated 23.03.2010: <https://www.mha.gov.in/sites/default/files/2022-08/PCA-230310%5B1%5D.pdf>. Accessed on 13 September 2023.

³⁷⁰ "Police Complaints Authority invites complaints from the public," *Andaman Sheekha*, 13 June 2013: <http://www.andamansheekha.com/15804>. Accessed on 17 August 2023.

2. CHHATTISGARH

Source of Information

The Police Complaints Authority of Chhattisgarh did not respond to our RTI application filed in 2023 despite multiple telephonic follow-up attempts.³⁷¹ Previously, in 2021, our RTI application sent to them was returned to us with the comment that the postal address was not correct. The following report is based on information available in the public domain.

Section 38 of the *Chhattisgarh Police Act, 2007*, provides for the constitution of a State Police Accountability Authority - (Chhattisgarh SPAA). The Act does not provide for the establishment of district-level authorities. The SPAA was established more than five years later in April 2013.³⁷²

Very little information is available in the public domain about Chhattisgarh's State Police Accountability Authority. News reports from April 2023 indicate that Mr. Anand Kumar Masih, an IAS officer, and former Secretary of the State Information Commission, has been appointed Secretary of the Chhattisgarh SPAA.³⁷³ A brief notice is available on the website of the Chhattisgarh State Legal Services Authority (CGSLA) that mentions the name of Mr. RC Patel as a member of the SPAA along with a contact number and address.³⁷⁴ There is no mention of the SPAA's Chairperson in this notice although a legal petition in the Chhattisgarh High Court filed in 2018 mentions Justice Inder Singh Uboweja (retd.), (former judge of the Chhattisgarh High Court) as its Chairperson.³⁷⁵

The notice on the CGSLA's website further specifies its mandate as inquiring into complaints alleging serious misconduct against police personnel of all ranks. This is based on the Authority's mandate as specified under Section 43 of the 2007 Police Act. 'Serious misconduct' has been defined to include any *mala fide* act of omission or commission by a police officer resulting in death, rape/attempt to rape and grievous hurt, or any other act as specified by the State Government through an order. The notice further specifies that a complaint:

- ✓ may be made by a victim or a close relative of the victim, or referred by the State Government;
- ✓ must be made within six months of the alleged incident;
- ✓ must be made on an affidavit; and
- ✓ the Authority will not inquire into complaints already pending with either the National/ State Human Rights Commissions or which are *sub-judice*.

In 2013, the State Government notified the *Chhattisgarh State Police Accountability Authority (Salaries, Allowances and Other Conditions of Service) Rules*.³⁷⁶ These deal with

371 CHRI spoke with staff at the SPAA in July 2023; they acknowledged receipt of our RTI request and stated that a reply would be sent to us. When we did not receive any reply, we tried calling the SPAA again through the months of July and August 2023 but this time no one answered our calls.

372 Chhattisgarh State Police Accountability Authority: <http://cgslsa.gov.in/CGSPAA/CGSPAA.pdf>. Accessed on 17 August 2023.

373 "IAS अफसरों का ट्रांसफर: जीआर चुरेंद्र राज्य सूचना आयोग के सचिव बनाए गए, एके मसीह का विभाग बदला," *Dainik Bhaskar*: <https://www.bhaskar.com/local/chhattisgarh/raipur/news/ias-officers-of-the-state-were-transferred-in-raipur-transfer-of-gr-churendra-ak-masih-131131207.html>. Accessed on 17 August 2023.

374 *Ibid.*

375 *Inder Singh Uboweja v. State of Chhattisgarh*, Chhattisgarh High Court, WPS No. 4782 of 2017, Order dated 05.01.2018: <https://indiankanoon.org/doc/144910726/>. Accessed on 17 August 2023.

376 Chhattisgarh State Police Accountability Authority (Salaries, Allowances and Other Conditions of Service) Rules, 2013, <http://www.bareactslive.com/Ch/cg205.htm>. Accessed on 17 August 2023.

service conditions namely salary and allowances of the SPAA's Chairperson and Members, their leave related policies, travel allowances and other service conditions including accommodation, conveyance and medical facilities.

The composition, mandate and powers of the Chhattisgarh SPAA as specified in the *Chhattisgarh Police Act, 2007* are largely non-compliant with the Supreme Court's 2006 directive. The Act provides for only a state-level authority, with jurisdiction over police personnel of *all* ranks,³⁷⁷ rather than adhering with the rank-wise segregation between the state and district level authorities as required by the Apex Court. The mandate of the SPAA is restricted to inquiring into complaints of serious misconduct only and does not extend to other types of misconduct that police personnel are known to commit often.³⁷⁸ It fails to specify any shortlisting process for the appointment of the Chairperson who must be a retired High Court judge and other members that include a retired police officer, a retired government servant and a member from civil society.³⁷⁹ Their term of office is two years (with a one-time possibility of reappointment). In the case of the Chairperson, the incumbent's term is extendable for an additional six-month period to allow for a successor to be appointed.³⁸⁰ The police act not only fails to specify the types of recommendations the SPAA may make following the completion of an inquiry but also fails to make the recommendations binding on the Government.³⁸¹

Overall, the design of the SPAA is not at all equipped to perform any effective oversight over the police and is in contravention of the principles and standards laid down by the Supreme Court in 2006.

3. DADRA AND NAGAR HAVELI AND DAMAN AND DIU

Source of Information

Our first RTI application, addressed to the PCA of Dadra Nagar Haveli, Daman and Diu, was returned undelivered. Our second RTI application seeking information about the PCA sent to the Home Department of the UT Administration was transferred to the PCA. However, this effort also drew no response. Despite multiple follow-up attempts telephonically and via email,³⁸² the PCA remained unresponsive. The following report is based on information available in the public domain.

The MHA in its 2010 notification had directed the formation of PCAs in all the UTs including in both Dadra & Nagar Haveli and Daman & Diu (DNH&DD PCA) which were then two separate UTs.³⁸³ As per the notification, both UTs would have a single-member PCA that would be appointed by the UT Administration in consultation with the Union Government. The Chairperson/Member of the PCA is required to be selected from amongst the following categories of candidates:

- ✓ A retired District judge or retired civil services officer of the rank of Additional Secretary and above;

377 Section 38, Chhattisgarh Police Act, 2007: https://www.indiacode.nic.in/bitstream/123456789/12603/1/chhattisgarh_police_act%2c_2007.pdf. Accessed on 17 August 2023.

378 Section 43, Chhattisgarh Police Act, 2007.

379 Section 39, Chhattisgarh Police Act, 2007.

380 Section 41 as amended by Chhattisgarh Police (Amendment) Act, 2019.

381 Section 43(5), Chhattisgarh Police Act, 2007.

382 CHRI called on phone numbers we had on file and those available in public domain all through the months of April, May and July 2023 at least once every two weeks. No one answered the calls. We also sent an email in July 2023 that drew no response.

383 Government of India, Ministry of Home Affairs, Notification No. 14040/45/2009-UTP dated 23.03.2010: <https://www.mha.gov.in/sites/default/files/2022-08/PCA-230310%5B1%5D.pdf>. Accessed on 13 September 2023.

- ✓ A person having ten years of experience in law, either as judicial officer, public prosecutor, lawyer, professor of law; and,
- ✓ A retired officer with experience in public administration.

In August 2011, the UT Administrations jointly notified a single PCA for Daman & Diu and Dadra & Nagar Haveli even though the MHA Notification did not specify that there was to be only one PCA amongst the two UTs.³⁸⁴ Mr. SM Parmar, an advocate, was appointed Chairperson. The PCA began functioning in November 2011.³⁸⁵

The DNH&DD PCA has the power to inquire into complaints of serious misconduct against all police personnel. This can be initiated either *suo motu* or upon receiving a complaint from a victim/someone on the behalf of the victim, the national or state human rights commission, the police or any other source. ‘Serious misconduct’ is defined as custodial death, grievous hurt, rape/attempt to rape, arrest/detention without due process, extortion, land/house grabbing, or any incident involving serious abuse of authority. After its inquiry, the PCA may direct the registration of an FIR or initiation of a departmental inquiry. However, its directions were not binding on either UT Administration.

In 2020, the two UTs were merged to form a new UT of Dadra and Nagar Haveli and Daman and Diu. At present, Mr. Gaurav Singh Rajawat, a serving IAS officer, posted as the Finance Secretary to the UT Administration, has been given the additional charge of Chairperson of this PCA.³⁸⁶ Having a serving official as the chairperson of the PCA is a blatant violation of not only the Apex Court’s directives, but also the MHA’s notification.

Current composition

Table 55: Current composition of DNH & DD PCA³⁸⁷

Designation	Name	Qualification/Profession	Date of Appointment	Tenure
Chairperson	Mr. Gaurav Singh Rajawat ³⁸⁸	Finance Secretary / IAS (serving)	05.10.2022	<i>not available</i>

Complaints received, status of inquiries and action recommended

In the initial years, the PCA would upload copies of its orders on the website of Daman district. However, this website does not display any orders issued between January 2018 and March 2023. A quick reading of the publicly available orders indicates the following grounds for complaints: non-registration of FIRs; improper/delay in investigation; misbehaviour by police; and unlawful arrest.

384 UT Administration of Daman & Diu and Dadra and Nagar Haveli, Home Department, Notification no. 1/95/Home/2011-12/418, dated 10.08.2011.

385 Administration of Daman, Police Complaint Authority: <https://www.daman.nic.in/police-complaint-authority.aspx>. Accessed on 10 August 2023.

386 UT Administration of Dadra & Nagar Haveli and Daman & Diu, Department of Personnel and Administrative Reforms, Order No. 1/6/93-PER/Part/1159 dated 05.10.2022: https://daman.nic.in/persdd/downloads/2022/UploadPer_20221006_123823.pdf. Accessed on 10 August 2023.

387 Based on publicly available information.

388 *Ibid.*

Administrative functioning

- a. Rules of Procedure: No information about any rules of procedure is available in the public domain.
- b. Annual Report: Annual reports of the DNH&DD PCA are not available in the public domain.
- c. Budget: Budgetary information of the DNH&DD PCA is not available in the public domain.
- d. Website: The PCA does not have a dedicated website. It had a dedicated webpage on the official website of the Daman district where its mandate was displayed.³⁸⁹ This webpage also displays a copy of the format for filing a complaint in English, Hindi and Gujarati. However, ever since the two UTs were merged, this website has been archived and the new website for the DNH&DD Administration neither has a dedicated page for the DNH&DD PCA nor does any other webpage contain information about it.

Despite being established in 2010, the DNH&DD PCA was inactive for a long period of time. Its current composition with a serving IAS Officer of the UT administration is a blatant violation of the Supreme Court's 2006 directives. The UT Administration must immediately take steps to rectify this error and appoint an independent PCA and facilitate the inflow of public complaints against police misconduct.

4. NAGALAND

Source of Information

We initially sent an RTI application to the Government of Nagaland's Home Department. In its response, the Home Department stated that the SPCA and DPCAs have been functional since 2016. It provided copies of appointment notices for these authorities.

In order to follow up on the working of the SPCA, CHRI sent a second RTI application to the Home Department with a request to transfer it to the Nagaland SPCA as their address is not available.

Subsequently, we received copies of Home Department's correspondence with the Nagaland SPCA and DPCAs to furnish the information requested by CHRI and a response from a DPCA Chairperson.³⁹⁰ However, we did not receive any response from the SPCA. The analysis below is based on information publicly available and that which was shared by the Home Department and the DPCA Chairperson in response to our RTI application.

Nagaland was one of the first states to issue government orders constituting 11 district police complaint authorities in 2007.³⁹¹ However, it did not make any appointments at that stage. In 2016, through two separate executive orders, the Government established the State Police Complaints Authority and appointed its members in addition to making appointments to the district police complaints authorities.³⁹²

389 Administration of Daman, Police Complaint Authority: <https://www.daman.nic.in/police-complaint-authority.aspx>. Accessed on 10 August 2023.

390 Mr. Veprasa Nyekha, District and Sessions Judge (retd.), Chairperson of the District Police Complaint Authorities for Kohima, Phek and Kiphire districts.

391 Government of Nagaland, Home Department, Notification No. POL-9/SF/20/2000 dated 30.03.2007.

392 Government of Nagaland, Home Department, Notification No. POL-1/ESTT/17/2013 dated 23.08.2016.

Background

Nagaland has not created a new police act after the Supreme Court issued the 2006 directives. Both the SPCA and DPCAs have been constituted *vide* executive orders.

The government notifications provide very little information. The qualifications and manner of selection of the Chairperson and Members of the SPCA is not specified. So, the appointment process remain opaque and publicly unknown. However, the manner of selection of the Chairperson and the Members of the DPCAs is specified in the government notifications and it is in line with the Supreme Court's directives in the *Prakash Singh* case. There is also a rank-wise segregation of complaints between the SPCA and the DPCAs. The DPCAs can inquire into complaints against officers of or below the rank of Deputy Superintendent of Police only. The SPCA can take cognizance of complaints of police officers of higher ranks but only in cases of serious misconduct which encompasses death, grievous hurt, or rape in police custody.³⁹³ Further, the DPCAs can only inquire into allegations of extortion, land/house grabbing or any incident involving serious abuse of authority.³⁹⁴ The definition of serious misconduct and the scope for DPCAs are more restrictive than those provided by the Supreme Court in 2006.

Further, in a significant dilution of the Apex Court's directive, the SPCA does not have binding powers to get its recommendations implemented by the Government.

As mentioned above, we received a response from a DPCA Chairperson. According to this response in relation to the DPCAs set up in Kohima, Phak and Kiphire:

“no fund / budget office & staff was provided for the functions of the authority. Due to the reasons stated above no follow up action could be carried out besides no complaint were file nor refer to the authority by the police or by the victim”[sic]

It must be noted that this response cannot be construed as being applicable to all the DPCAs or the SPCA. However, it goes to show that even after setting up authorities on paper, or even after making appointments, State Governments can still scuttle efforts towards police accountability by depriving these authorities of the much-needed resources to carry out their functions.

Current composition

According to the information supplied by the Home Department, the SPCA continues to function with the Chairperson and Members appointed in 2016. The composition of the Nagaland SPCA is as follows:³⁹⁵

393 *Ibid.*

394 Government of Nagaland, Home Department, Notification No. POL-9/SF/20/2000 dated 30.03.2007.

395 Government of Nagaland, Home Department, Notification No. POL-1/ESTT/17/2013 dated 23.08.2016.

Table 56: Current composition of Nagaland SPCA³⁹⁶

Designation	Name	Qualification/ Profession	Date of Appointment	Tenure
Chairperson	Justice HK Sema (retd.)	Former Supreme Court of India Judge	23.08.2016	<i>not available</i> ³⁹⁷
Member	Dr. Pongsing Konyak	<i>not available</i>	23.08.2016	<i>not available</i>
Member	Mr. VK Whiso Angami	<i>not available</i>	23.08.2016	<i>not available</i>
Member	Mr. Bendang Longchari	<i>not available</i>	23.08.2016	<i>not available</i>
Member	Ms. Lungcule Ndang	<i>not available</i>	23.08.2016	<i>not available</i>
Member	Mr. Achumbemo Kikon	<i>not available</i>	23.08.2016	<i>not available</i>

Complaints received, status of inquiries and action recommended

No information is available publicly about the number and the nature of complaints received and the actions recommended by the Nagaland SPCA upon inquiry. Nor did our RTI application succeed in securing this information from the SPCA.

Administrative functioning

- Budget:** Neither the SPCA nor the Home Department furnished information about the budget and expenditure of the SPCA. This information is also not available in the public domain.
- Rules of procedure:** No information about the conduct of business of the SPCA is available in the public domain.
- Website:** The Nagaland SPCA does not have a website. It also does not have a dedicated webpage on the Home Department's website.
- Annual Report:** The government notifications do not mention the obligation of the SPCA to come out with annual reports. Nor are they available in public domain.

It is difficult to comment on the Nagaland SPCA as there is very little information available publicly. The State Government must ensure that the SPCA has adequate funds and human resources to operate effectively. The SPCA for its part must endeavour to publish more information about its working, particularly to educate the residents of Nagaland. Nagaland also needs to do a lot more work to enhance the independence, and strengthen the diluted mandate of its SPCA.

5. PUNJAB

Source of Information

We did not receive any response to our RTI application from the Punjab Police Complaint Authority despite telephonic follow-up where they asked us to send them an email instead. The analysis below is based on information publicly available.

Punjab has a multi-tier police complaint inquiry mechanism. Although the state had enacted the *Punjab Police Act, 2007* soon after the Supreme Court judgement in *Prakash*

³⁹⁶ Based on information provided in response to CHRI's 2023 RTI application.

³⁹⁷ Chairperson, District Police Complaint Authorities for Kohima, Phek and Kiphire districts responded that the Notification No. POL-1/ESTT/17/2013 dated 23.08.2016 was without tenure.

Singh, it did not contain provisions for establishing police complaints authorities. Only an enabling provision was included for the State Government to consider setting up state and district complaints authorities through executive orders.³⁹⁸ However, an amendment incorporated to the police act in 2014 provided for the establishment of PCAs at state and divisional levels.

Background

After the 2014 amendment to the act, the Home Department constituted the Punjab SPCA with the state's former Home Secretary, Mr. D S Bains, as the Chairperson. Thereafter, his appointment was challenged before the High Court of Punjab and Haryana on the ground that he was not a retired judge- an essential requirement laid down by the Supreme Court in the *Prakash Singh* case.³⁹⁹ The Government withdrew his appointment subsequently.⁴⁰⁰

In 2019, the Government notified the rules for the manner of appointment of the Chairperson and Members of the SPCA.⁴⁰¹ Circumventing the *Prakash Singh* guidelines, these Rules allowed the Government to appoint civil servants as Chairpersons of the SPCA.⁴⁰² Thereafter, on 24 January 2020, the Government appointed a retired bureaucrat, Dr. Nirmaljeet Singh Kalsi, former Additional Chief Secretary, as the Chairperson of the SPCA.⁴⁰³ Although he was appointed for a period of three years, he resigned soon after completing a year to take over as the Chairperson of the Skill Development Council established by the Central Government. Before demitting office in 2020, he put in place the rules of conduct for the SPCA.⁴⁰⁴

Notably, the composition and mandate of the authorities under the 2014 amendments are not in conformity with the Supreme Court's 2006 directive. Instead of retired judges, retired bureaucrats or police officers head the complaints bodies both at the state and district levels.⁴⁰⁵ At both levels, the authorities comprise of a Chairperson and two Members. While one of the Members or the Chairperson must be a woman at both levels, the Chairperson must either be a retired civil services officer of or above the rank of Chief Secretary or a former Director General of Police for the state authority and a former Secretary or Deputy Inspector General for the district authority. Notably, the appointment of a civil society representative, i.e., "*persons belonging to the State of Punjab with repute and contribution in the field of academia, social work, public affairs or law*", is optional at the state level. The Act lists three categories from which two of the SPCA members can be appointed;⁴⁰⁶ the remaining two are: a retired civil service officer of or above the rank of Principal Secretary, and a retired police officer of or above the rank of Additional Director General of Police. At the district level, only two categories – a civil society representative and a retired police

398 Section 54, Punjab Police Act 2007: <https://www.indiacode.nic.in/bitstream/123456789/15439/1/policeact2007.pdf>. Accessed on 07 August 2023.

399 *HC Arora v. State of Punjab & Ors.*, CWP 4839/2014, Punjab & Haryana High Court, order dated 07.04.2014.

400 *HC Arora v. State of Punjab & Ors.*, CWP 4839/2014, Punjab & Haryana High Court, order dated 05.05.2014. See also, "Punjab withdraws appointment of chairman, members," *Hindustan Times*, 06 May 2014: <https://www.hindustantimes.com/chandigarh/punjab-withdraws-appointment-of-chairman-members/story-4jP1QOSipx7spXF34WhMMO.html>. Accessed on 07 August 2023; "Bains's appointment as Punjab PCA chairman revoked, govt tells HC," *Times of India*, 06 May 2014: <https://timesofindia.indiatimes.com/city/chandigarh/bainss-appointment-as-punjab-pca-chairman-revoked-govt-tells-hc/articleshow/34701867.cms>. Accessed on 07 August 2023.

401 Punjab Police (Appointment of Chairperson and Members of Complaint Authorities) Rules, 2019.

402 Sanjeev Verma, "Punjab notifies rule to appoint retired bureaucrat as PCA head," *Times of India*, 11 December 2019: <https://timesofindia.indiatimes.com/city/chandigarh/punjab-notifies-rule-to-appoint-retired-bureaucrat-as-pca-head/article-show/72465816.cms> Accessed on 07 August 2023.

403 "Nirmaljeet Singh Kalsi is first Punjab SPCA chairperson," *Times of India*, 24 January 2020: <https://timesofindia.indiatimes.com/city/chandigarh/kalsi-is-first-punjab-pca-chairperson/articleshow/73565305.cms> Accessed on 07 August 2023.

404 The Rules for Conduct of Business of the Punjab State Police Complaints Authority, 2020 (2020 Rules).

405 Section 54(2)(3), Punjab Police (Amendment) Act, 2014: <https://www.humanrightsinitiative.org/download/1460453597Punjab%20Police%20Amenedment%20Act,%202014.pdf>. Accessed on 07 August 2023.

406 Section 54(2)(ii)(c) and 54(3)(b)(iii), Punjab Police (Amendment) Act 2014.

officer of or above the rank of Senior Superintendent of Police - are specified.

Selections at both levels are made by the State Government on the recommendations of a selection committee formulated under the 2019 Rules but it is dominated by government representatives. This committee comprises the Chief Secretary, the Additional Chief Secretary (Home Department), a nominee of the Advocate General of Punjab, and the Secretary or Special Secretary (Home Department). A person eligible for appointment may submit his/her candidature for a vacant post in the SPCA or Divisional PCAs. The Government also has the power to remove the Chairperson or any Member for reasons to be recorded in writing.⁴⁰⁷ In principle, the Chairperson and Members of the Punjab SPCA hold office at the pleasure of the Government.

Further, when the office of the Chairperson is vacant, the senior-most member can officiate as the Chairperson. The Chairperson can act as the SPCA even if all Members' posts fall vacant.⁴⁰⁸ Such concentration of power in the hands of one person is undesirable considering the fact that the appointment process is government-controlled.

Both the state and divisional-level authorities have the mandate to inquire into complaints of serious misconduct. While the SPCA has jurisdiction over officers of and above the rank of Senior Superintendent of Police, the divisional authorities have jurisdiction over police officers of the rank of Superintendent of Police and below.⁴⁰⁹ The jurisdiction of the PCAs includes officers of the Home Guard and Civil Defence working in aid of the police, as also officers of the Forensic Science Laboratory.⁴¹⁰ While the Act does not specifically refer to the SPCA as having any *suo motu* powers, the 2020 Rules clarify that the SPCA can indeed initiate *suo motu* action.

In a significant dilution of the Apex Court's directives, the definition of 'serious misconduct' does not include death in custody nor does it include rape/attempt to rape in custody. The authorities are also constrained from hearing complaints that pertain to incidents that occurred more than a year before the date of filing the complaint.⁴¹¹ The recommendations of the SPCA are not binding on the Government,⁴¹² although the 2020 Rules require the Government to issue an order in writing where it decides to deviate from the recommendation.⁴¹³

The Punjab 2020 Rules lay down detailed procedures for filing, registering and screening of complaints that guide complainants for filing in a comprehensive manner. For instance, Rule 7(4) specifies supporting documents such as the copies of complaints filed with the police, or of the arrest memo, or any medical record that may be submitted along with the complaint. Where the complaint cannot be submitted in writing, the Rules allow the Authority to provide assistance to the complainants to transcribe a verbal complaint and get them to affix their signature or thumb impression on the complaint letter after reading its contents back to them.

Clear timelines are stipulated for various stages of the inquiry process: 48 hours for the complaint received to be laid before the Authority; 15 days for the Authority to take a

407 Section 54C(2), Punjab Police (Amendment) Act, 2014.

408 Rule 3(7) and 5(4), The Rules for Conduct of Business of the Punjab State Police Complaints Authority, 2020 (2020 Rules).

409 Section 54D, Punjab Police (Amendment) Act, 2014.

410 Rule 18, 2020 Rules.

411 Section 54E, Punjab Police (Amendment) Act, 2014.

412 Section 54H(4) of the Amendment Act only requires the Government to consider the findings and recommendations of the State Police Complaints Authority and the Divisional Police Complaints Authority for taking appropriate action.

413 Rule 14(7), 2020 Rules.

decision on whether it has jurisdiction to inquire into the complaint after reviewing it along with the supporting documents; 48 hours from the date of deciding to inquire to issue notice to every respondent officer or officers to show cause; 14 days for the respondent officers to submit their response; and ten days' notice in advance before each hearing. Overall, the entire inquiry process is to be completed within 90 days.⁴¹⁴

Upon receiving a complaint, the Punjab SPCA first screens it using multiple criteria including making a determination as to whether it is within the limitation period.⁴¹⁵ When satisfied *prima facie* that there are grounds to proceed, the Authority undertakes the inquiry. This inquiry can be conducted by an in-house team, any other officer, a committee or government agency directed by the SPCA.⁴¹⁶ Throughout the process, the complainant has to be kept informed by supplying free duly authenticated copies of the orders of the Authority.⁴¹⁷ While not specified for the inquiries in general, the language of the hearings in these inquiries is Punjabi or English. If the complainant is not familiar with either language and cannot arrange for a translator, interpretation facility must be provided at the Authority's expense.⁴¹⁸ If neither party appears at the hearing, the Authority can proceed *ex-parte*.⁴¹⁹ It is worth noting here that in addition to recommending the registration of an FIR, or initiation of a departmental inquiry, the SPCA can direct the government to provide monetary compensation to the victim.⁴²⁰ Further, although the recommendations of the Punjab SPCA are not binding, the Department of Home Affairs is required to provide monthly status reports to the SPCA about the progress made on the recommendation or other appropriate action that is being taken.⁴²¹

Current composition

Six months after Dr. Kalsi's departure, the government appointed former Home Secretary Satish Chandra as the Chairperson in September 2021.⁴²² It followed an open process where applications were invited from eligible candidates.⁴²³ The current composition of the SPCA is as follows:

Table 57: Current composition of Punjab SPCA⁴²⁴

Designation	Name	Qualification/Profession	Date of Appointment	Tenure
Chairperson	Mr. Satish Chandra ⁴²⁵	Former Home Secretary / IAS (retd.)	14.09.2021	3 years

The posts of Members appear to be vacant as on date.

414 Rules 7-13, 2020 Rules.

415 Rule 8(3)(a), 2020 Rules.

416 Rule 8(6), 2020 Rules.

417 Rule 8(7), 2020 Rules.

418 Rule 11(3)-(4), 2020 Rules.

419 Rule 13(6), 2020 Rules.

420 Rule 14(6), 2020 Rules.

421 Rule 16(2), 2020 Rules.

422 "Ex-home secy Satish Chandra appointed Punjab Police complaint body chairperson," *Indian Express*, 15 September 2021: <https://indianexpress.com/article/cities/chandigarh/ex-home-secy-satish-chandra-appointed-punjab-police-complaint-body-chairperson-7509493/>. Accessed on 07 August 2023.

423 See notice of advertisement issued by Government of Punjab, Department of Home Affairs and Justice: <https://punjab.gov.in/wp-content/uploads/2021/06/Detailed-Notice-1.pdf>. Accessed on 07 August 2023.

424 Based on publicly available information.

425 "Satish Chandra to head police complaints authority," *The Tribune*, 15 September 2021: <https://www.tribuneindia.com/news/punjab/satish-chandra-to-head-police-complaints-authority-311234>. Accessed on 07 August 2023.

Complaints received, status of inquiries and action recommended

No information is available publicly about the nature of complaints actually received and action recommended by the Punjab SPCA. Further, as we did not receive a response to our RTI application, it is not possible to attempt any analysis about the performance of the SPCA.

Administrative functioning

- a. Budget: No information about the budget and expenditure of the Authority is available in the public domain.
- b. Rules of procedure: As mentioned above, the Punjab SPCA has made its own rules governing conduct of business. The Rules proactively outline the action the Authority needs to take for outreach. This includes preparing a guide on the powers and functions of the Authority and making it available at all police stations across Punjab.⁴²⁶ Civil society activists, the media or academia might like to probe compliance with this requirement to find out whether the public is able to access information about the SPCA and the Divisional PCAs easily.
- c. Website: In contravention of the 2020 Rules, the Punjab SPCA does not have a functional website. It also does not have a dedicated webpage on the Home Department's website.
- d. Annual Report: Although statutorily the Punjab SPCA is required to submit an annual report each year, they are not available in the public domain.

To conclude, in effect, the authorities lack independence and powers to emerge as an effective remedy against police wrongdoings. While its rules of procedure stand out as a good example of implementation of the *Model Police Bill, 2015*, whether they are implemented on the ground is a question that can only be addressed by further study. There is much work to be done in the state in increasing the independence of and strengthening the diluted mandate of the Authority. We hope that the SPCA will engage with researchers and civil society in the future to make police more accountable within the state.

6. SIKKIM

Source of Information

We did not receive a response to our RTI application from the Sikkim Police Accountability Commission. There was no response when we tried to follow up telephonically. The following report is based on publicly available information.

The Sikkim Police Accountability Commission (Sikkim PAC) was constituted under the *Sikkim Police Act, 2008*.⁴²⁷ Contrary to the Apex Court's directive of setting up multi-tier complaints authorities, Sikkim only has a state-level Commission.

Background

Sikkim was one of the states to pass a new police act soon after the *Prakash Singh* judgement. Chapter XII (Police Accountability) of the 2008 police act provides for the establishment of the Sikkim PAC. When it was first constituted, Justice RK Patra (retd.), a retired High Court

⁴²⁶ Rule 19(2) read with Rule19(4), 2020 Rules.

⁴²⁷ Section, 132, Sikkim Police Act, 2008: https://www.indiacode.nic.in/bitstream/123456789/11163/1/the_sikkim_poice-edited.pdf. Accessed on 09 August 2023.

Judge was appointed Chairperson.⁴²⁸ The Commission was reconstituted in 2016 and Justice Malay Sengupta (retd.) was appointed Chairperson.⁴²⁹ Sikkim PAC is currently headed by Justice Sonam Phinsto Wangdi (retd.).

The Sikkim PAC consists of one Chairperson and two other Members – one from civil society and the other a retired officer of or above the rank of Secretary/Commissioner to the State Government or an Inspector General of Police. Only a retired judge may be appointed the Chairperson and one of the three members must be a woman.⁴³⁰ The Chairperson is selected from a panel of names recommended by the Chief Justice of the High Court of Sikkim. The remaining members are selected by a panel comprising the Chief Justice of the High Court, the Chairperson of the State Public Service Commission and the Chairperson of the State Election Commission.⁴³¹ While this is not in complete alignment with the Supreme Court's guidelines that the selection panel include representatives of the State Human Rights Commission and the Lokayukta, it is better than most other states where the selection panel is government-dominated. The term of appointment of the Chairperson and Members is three years.⁴³²

The Sikkim PAC has the jurisdiction to inquire into allegations of 'serious misconduct' against all police personnel serving in the State.⁴³³ 'Serious misconduct' encompasses cases of death in custody, grievous hurt, rape/attempt to rape or arrest/detention without due process. The Sikkim PAC may initiate an inquiry *suo motu*, or based on a complaint from a victim or made by someone on their behalf, the human rights commissions, the police, or any other authority. As Sikkim does not have a multi-tier authority, there is no rank-wise segregation of police personnel that the Sikkim PAC needs to adhere to while exercising its jurisdiction. Further, instances of 'misconduct' such as extortion, land/house grabbing or any other incident involving serious abuse of authority which are included in the jurisdiction of the district-level PCAs in several States are not part of the Sikkim PAC's mandate.

Additionally, the Sikkim PAC can also monitor ongoing departmental inquiries, direct a fresh inquiry upon hearing from a complainant who is dissatisfied with the outcome of a departmental inquiry or by inordinate delay in completing a departmental inquiry.⁴³⁴ The Sikkim PAC can also lay down general guidelines for the state police to prevent misconduct by their personnel.⁴³⁵

In a significant deviation from the Supreme Court's directive, the recommendations of the Sikkim PAC do not bind the Government. As a result, the Sikkim PAC acts merely as an advisory body without any teeth even in cases of serious misconduct.

The Sikkim PAC also has the function of serving as a welfare officer/welfare committee for members of the Sikkim police.⁴³⁶ However, how this role plays out for the State Commission is not known.

428 "Sikkim becomes first state to enforce police act," *DNA*, 19 November 2013: <https://www.dnaindia.com/india/report-sikkim-becomes-first-state-to-enforce-police-act-1189099>. Accessed on 09 August 2023.

429 Nayanjothi Medhi, "Sikkim restarts Police Accountability Commission," *InShorts*, 20 July 2016: <https://inshorts.com/en/news/sikkim-restarts-police-accountability-commission-1468955784989>. Accessed on 09 August 2023.

430 Section 133, Sikkim Police Act, 2008.

431 Section 134(2) read with Section 41, Sikkim Police Act, 2008.

432 Section 136 as amended by Sikkim Police (Amendment) Act, 2022: https://sikkim.gov.in/uploads/Gazette/ACT_NO_14_20220928.pdf. Accessed on 09 August 2023.

433 Section 140, Sikkim Police Act, 2008.

434 Section 140(3) & (4), Sikkim Police Act, 2008.

435 Section 140(5), Sikkim Police Act, 2008.

436 Sikkim Police (Amendment) Act, 2022.

Current composition

The current composition of the Sikkim PAC is given below:

Table 58: Current composition of Sikkim PAC⁴³⁷

Designation	Name	Qualification/ Profession	Date of Appointment	Tenure
Chairperson	Justice Sonam Phinsto Wangdi (retd.)	Former High Court judge	02.05.2022 ⁴³⁸	3 years ⁴³⁹

The posts of Members appear to be vacant as on date.

Complaints received, status of inquiries and action recommended

This information is not available in the public domain.

Administrative functioning

- Budget: This information is not available in the public domain.
- Rules of procedure: The Sikkim PAC does not have any rules governing its conduct other than the provisions laid down in the Act.
- Website: The Sikkim PAC does not have a website or even a dedicated webpage on the Home Department's website.
- Annual Report: The Sikkim PAC has not shared any annual reports in the public domain.

To conclude, even though the Sikkim PAC has been operationalised, very little information about its functioning is available in the public domain. The lack of a multi-tier authority has diluted the efficacy of the police accountability mechanisms that must be established in accordance with the Supreme Court's 2006 directives. The commission must also take steps to provide information about itself in the public domain, including in the languages popularly spoken across the State.

7. TELANGANA

Source of Information

We did not receive any response to our RTI application sent to the Telangana Government's Home Department. The following report is based on publicly available information.

For Telangana, the decision to constitute PCAs was forced as a result of a long drawn litigation process before the High Court for the States of Andhra Pradesh and Telangana which held both Andhra Pradesh and Telangana State Governments in contempt for

⁴³⁷ Based on publicly available information.

⁴³⁸ Government of Sikkim, Home Department, Notification No. 32/Home/2022 dated 02.05.2022: [https://sikkim.gov.in/uploads//Notifications/GOVERNMENT_OF_SIKKIM_\(1\)_58_20220504.pdf](https://sikkim.gov.in/uploads//Notifications/GOVERNMENT_OF_SIKKIM_(1)_58_20220504.pdf). Accessed on 09 August 2023.

⁴³⁹ Government of Sikkim, Home Department, Notification No. 100/Home/2022 dated 29.09.2022: https://sikkim.gov.in/uploads//Notifications/Appointment_of_Chairperson,Police_Accountability_Commission,Sikkim_58_20221101.pdf. Accessed on 09 August 2023.

failing to comply with its order (see box in Andhra Pradesh, pg. 92). Earlier in 2013, the undivided State of Andhra Pradesh had issued an executive order establishing PCAs at the state and district levels but no appointments were made to these bodies.⁴⁴⁰ In 2017, while pronouncing a judgement on three writ petitions related to police misconduct, the High Court pulled up the two successor states for not having complied with the SCI direction to set up a PCA within their jurisdiction.⁴⁴¹ It directed both Telangana and AP to set up their PCAs within a period of three months. Later in the year, taking cognizance of a letter highlighting Telangana's non-compliance of this order, the High Court initiated *suo motu* contempt proceedings.

The Government of Telangana issued orders in November 2020 providing for the constitution of state and district level police complaints authorities.⁴⁴² The orders comply with the Supreme Court's directive with regard to the selection process for the Chairperson (retired judges both for the state and district level authorities) as well as the Members at both levels. However, the orders deviate from the 2006 directives with regard to the composition of these authorities. Unlike Andhra Pradesh, Telangana has chosen to have serving police officers in the authorities. While an officer of the rank of Additional Director General of Police/Inspector General of Police serves as the Member-Secretary of the state-level PCA, the Commissioner of Police/District Superintendent of Police fulfils the same role in the DPCA in every district.

In terms of functions, the Telangana Government adheres to rank-wise segregation of jurisdiction with the state level authority being responsible for complaints of serious misconduct against officers of the rank of Additional Superintendent of Police and above, and the district authorities being responsible for inquiring into complaints against officers of the rank of Deputy Superintendent of Police and below.⁴⁴³ The district level authorities can inquire into complaints alleging serious misconduct as well as those relating to extortion, land-grabbing or any incident involving serious abuse of authority alleged against officers falling within their jurisdiction.

Appointments to the PCAs followed in July 2021 a few months after the notifications establishing them were issued. Justice Vilas V Afzulpurkar (retd.) was appointed Chairperson of the Telangana SPCA and Mr. V Naveen Chand, a retired IPS officer, formerly IG (Intelligence), was appointed member.⁴⁴⁴ Despite these appointments, the Authority remained non-functional for some time due to the lack of support staff. Consequently, two more writ petitions were filed before the High Court of Telangana to make the SPCA and the Hyderabad and Warangal region DPCAs operational.⁴⁴⁵ The High Court also directed the Home Department to make the authorities functional by providing office space, support staff, vehicles etc without delay.⁴⁴⁶ The Home Department is in the process of complying with this order.⁴⁴⁷

440 Government of Andhra Pradesh, Home (Legal II) Department, G.O.Ms.No.191 dated 08.08.2013.

441 *Pabbiseti Suresh Kumar v. State of Andhra Pradesh & Ors.*, 2017 4 ALD 239.

442 Government of Telangana, Home (Legal) Department, G.O.Ms.No.43 dated 27.11.2020.

443 Government of Telangana, Home (Legal) Department, G.O.Ms.No.44 dated 27.11.2020.

444 "Telangana State govt constitutes State Security Commission," *Telangana Today*, 8 July 2021: <https://telanganatoday.com/telangana-state-govt-constitutes-state-security-commission>. Accessed on 19 July 2023.

445 *MV Madhav v. State of Telangana & Ors.*, WP 10223/2023 & *M Padmanabha Reddy v. State of Telangana & Ors.*, WP(PIL) 103/2022, Telangana High Court.

446 *Ibid.*, order dated 23.06.2023.

447 *MV Madhav v. State of Telangana & Ors.*, WP 10223/2023 & *M Padmanabha Reddy v. State of Telangana & Ors.*, WP(PIL) 103/2022, Telangana High Court, order dated 24.08.2023.

III. CONCLUSION

FINDINGS & RECOMMENDATIONS

In the course of this State study, we have examined the status, manner of functioning and challenges that Police Complaints Authorities (SPCAs) are facing in India even after seventeen years have lapsed since the Supreme Court required them to be set up across all States and UTs.

FINDINGS

Governments have shown little or no will to establish SPCAs that are equipped to function in an impartial and effective manner. Vacancies that remain unfilled for years, lack of independent resources and neglect of their recommendations for initiating disciplinary action against police personnel characterise the journey of most SPCAs. Where SPCAs have been able to function with some semblance of autonomy, the political executive is taking measures to curtail their jurisdiction and powers. SPCAs themselves have been reluctant to take *suo motu* cognizance of reported police misconduct or ensure timely completion of inquiries initiated on the basis of complaints received, calling into question their relevance for, and credibility in the minds of, the people. SPCAs are yet to have any measurable impact on police accountability. Overall, there is an urgent need to repurpose their role and composition such that they can truly fulfil the mandate of independent oversight to enhance police accountability.

Our main findings from the study are summarised below:

1. **Police Complaints Authorities operational in less than half of the States/UTs in India:**

Since the Supreme Court directive in 2006, only 26 of the 28 States (except Uttar Pradesh and Bihar), and six of the eight Union Territories except Jammu and Kashmir and Ladakh, have put in place a legal and/or a policy framework for setting up Police Complaints Authorities.⁴⁴⁸ (See Table 3, Legal and Policy Framework). Out of these:

- ✓ Only **eleven States/UTs** – Assam, Delhi, Goa, Gujarat, Haryana, Jharkhand, Kerala, Karnataka, Maharashtra, Tripura and Uttarakhand have an operational **State Police Complaints Authority**;
- ✓ **Three States** – Andhra Pradesh, Arunachal Pradesh and Rajasthan – **have newly appointed** Authorities that are yet to become fully operational;
- ✓ **Four States** have either assigned PCA functions to the State's Lokayukta (Odisha and Himachal Pradesh) or have constituted Authorities made up only of serving government/police officials (West Bengal and Tamil Nadu) in direct contravention of the 2006 Supreme Court directive;
- ✓ **Eleven States/UTs** have non-operational State Police Complaints Authorities. UP and Bihar which have larger populations than most other States and the newly created UTs of Jammu and Kashmir and Ladakh are yet to enact a legal or policy framework for establishing SPCAs. Chandigarh and Puducherry had operational

448 See, Table 3, Chapter 1- Police Complaints Authorities: Legal & Policy Framework, pg. 14.

SPCAs for a few years but these are no longer functioning as fresh appointments have not been made. The others – Lakshadweep, Madhya Pradesh, Manipur, Meghalaya and Mizoram – have established SPCAs either through legislation or government orders but are yet to make appointments to activate them.

- ✓ For the remaining States/UTs, clear information is not publicly accessible about the status and functioning of the PCAs. Although Punjab and Sikkim have set up SPCAs and recently appointed Chairpersons, it remains unclear whether they are functional and handling complaints because little information is available publicly.

Table 59: State Police Complaints Authorities in India

State/UT	Year of constitution	Current Chairperson	Year of appointment of the current Chairperson
Operational Authorities			
Assam	2008	Justice BP Katakey (retd.)	2017
Haryana	2008	Ms. Navraj Sandhu, IAS (retd.)	2021
Uttarakhand	2008	Justice NS Dhanik (retd.)	2022
Tripura	2008	Justice SC Das (retd.)	2018
Goa	2010	Justice ND Sardessai (retd.)	2021
Kerala	2011	Justice VK Mohanan (retd.)	2017
Karnataka	2012	Justice NK Sudhindhra Rao (retd.)	2023
Gujarat	2013	Mr. Balwant Singh, IAS (retd.)	2018
Delhi	2018	Justice PS Teji (retd.)	2018
Operational authorities without a Chairperson			
Maharashtra, Jharkhand			
Newly appointed PCAs			
Andhra Pradesh	2023	Justice J Uma Devi (retd.)	2023
Arunachal Pradesh	2023	Justice Dinendra Biswas (retd.)	2023
Rajasthan	2007; 2023	Justice HR Kuri (retd.)	2022
Authorities with serving government officials as PCA Chairperson/Members			
Dadra and Nagar Haveli and Daman and Diu	2010	Finance Secretary, given additional charge of PCA Chairperson	2022
Tamil Nadu	2013	Home Secretary is the Chairperson; Members are the Director General of Police and Additional Director General of Police, Law and Order	2019
West Bengal	2015; 2023	Chairperson of the West Bengal State Human Rights Commission is made Chairperson of the SPCA	2023
PCAs with no clear information regarding their operation			
Punjab	2020	Mr. Satish Chandra, IAS (retd.)	2021
Sikkim	2013	Justice SP Wangdi (retd.)	2022
Nagaland	2016	Justice HK Sema (retd.)	2016
Telangana	2020	Justice VV Afzulpurkar (retd.)	2021

2. **Serving government or police officials are members of Police Complaints Authorities:**

In direct violation of the 2006 Supreme Court directive that emphasised the importance of independent police oversight, at least **nine States/UTs** have serving government or police officials on their SPCAs. In Jharkhand, Arunachal Pradesh and Rajasthan, serving government officers have been appointed Member-Secretary of the respective PCAs. In Gujarat, Karnataka and Kerala, two officials each have been appointed to the Authority as either Member or Member-Secretary. SPCAs in Tamil Nadu, West Bengal and Dadra & Nagar Haveli and Daman & Diu, all have only official Members but no independent Members. The intent and credibility of an independent body inquiring into complaints against police personnel gets defeated by having only serving officials in the Authority.

3. **Lack of members with judicial background and gender diversity in the Police Complaints Authorities:**

None of the 26 States and six UTs that have put in place a legal/policy framework establishing PCA comply fully with the Supreme Court guidelines for creating balanced and independent PCAs.

- ✓ Only **13 Authorities** currently have **retired judges** from either the Supreme Court or High Court serving as their Chairpersons. These are: Andhra Pradesh, Arunachal Pradesh, Assam, Delhi, Goa, Karnataka, Kerala, Nagaland, Rajasthan, Sikkim, Telangana, Tripura and Uttarakhand;
- ✓ Only **seven Authorities** have fulfilled the requirement of **mandatory representation for women**. These are: Andhra Pradesh, Arunachal Pradesh, Assam, Delhi, Haryana, Karnataka and Rajasthan. In Andhra Pradesh and Haryana, a woman is the Chairperson of the Authority; while in the former it is a retired judge, in the latter it is a former government servant. In Karnataka, a woman IPS officer serves as a permanent *ex-officio* Member of the Authority.
- ✓ Only **two Authorities** – Delhi and Rajasthan – have **civil society representatives** serving at present. However, the civil society members in Rajasthan have not shed their political affiliations as required by law. Therefore Delhi is the only Authority with a Member who is not politically affiliated and independent.

4. **Diluted mandate:**

In several states, the mandate of the SPCAs has been narrowly defined from the very beginning. The state police laws, under which PCAs are established, have diluted the definition of ‘serious misconduct’ into which they must inquire, thereby limiting the jurisdictional powers of the Authorities in checking police illegalities. For instance: Rajasthan, Gujarat and Punjab police laws and legislative amendments do not include ‘deaths in police custody’ within the definition of ‘serious misconduct’, despite being required by the 2006 directives of the Supreme Court as well as the *Model Police Bill, 2015*. Five states – Chhattisgarh, Gujarat, Kerala, Tamil Nadu and Uttarakhand – do not vest their SPCAs with the power to take *suo motu* notice of any police misconduct.

Instead of augmenting their resources and powers, more States and UTs are diluting the PCAs' mandate than ever before. As highlighted in our findings from Assam,⁴⁴⁹ the *Assam Police (Amendment) Act, 2021* has curtailed the definition of ‘serious misconduct’ by excluding the following: arrest or detention without due process; forceful deprivation of rightful ownership or possession of property; blackmail or extortion; and non-registration of FIRs. Consequently, the SPCA will no longer be able to address complaints alleging such serious misconduct. It is no surprise that the data from Assam shows non-registration of FIRs as the second largest category of complaints the SPCA has received

till date.⁴⁵⁰ It is noteworthy that the Assam SPCA itself has been seeking an expansion of its mandate in order to address the wide range of complaints it receives. Despite evidence supporting an expansion, the Assam Government has chosen to restrict the SPCA's mandate. Similarly, Haryana has recently proposed legislative amendments to curtail its SPCA's powers to initiate *suo motu* inquiries, although the proposed changes are yet to be passed by the State Assembly.⁴⁵¹

These developments reveal the deep political resistance to enforcing police accountability.

5. **Vacancies:**

Delays in appointments and prolonged vacancies, particularly of the Chairperson's post, is a common occurrence across several SPCAs. Only four Authorities – Assam, Tripura, Kerala, and Uttarakhand – have been active since 2008 and have had regular appointments. Goa and Haryana were active initially but vacancies remained unfilled for three and seven years, respectively. The post of Chairperson in the SPCAs of Jharkhand and Maharashtra are vacant, yet they continue to receive public complaints. SPCAs in Andhra Pradesh, Arunachal Pradesh and Rajasthan were constituted as recently as 2023.

6. **Only half of the operational SPCAs have adopted Rules of Procedures:**

Assam, Andhra Pradesh, Haryana, Jharkhand, Karnataka, Maharashtra and Tripura SPCAs have adopted rules of procedures to govern their functioning. Arunachal Pradesh, Delhi, Goa, Gujarat, Kerala, Rajasthan and Uttarakhand are yet to formulate and/or publish their set of rules.

7. **High number of public complaints received against police personnel:**

To some extent, the PCAs have become a forum people find comfortable approaching, as is evident from the hundreds of complaints the active PCAs receive year after year not just from select pockets but from across the state. This is telling of the demand on the ground for an independent police accountability body. Among the operational authorities, Delhi stands out as having received the highest number of complaints consistently. Since 2020, it has dealt with over 2,000 complaints per year. Maharashtra and Kerala come a distant second with an average of 600-700 complaints per year from 2018 and 2022. During the pandemic years (2020 and 2021), complaints against police personnel either recorded a jump or remained broadly as high as previous years in several states. Delhi received and admitted 2,146 in 2020-21 and 2,440 in 2021-22,⁴⁵² Karnataka 370 in 2020 and 334 in 2021;⁴⁵³ Kerala, 335 in 2020 and 272 in 2021,⁴⁵⁴ and Assam 223 in 2020 and 237 in 2021.⁴⁵⁵ Instances of alleged misconduct by the police during a time of tremendous hardship for everyone point to the urgent necessity for broader reform in police training, orientation and supervision.

8. **Small percentage of complaints received are admitted for inquiries:**

Not all complaints received are admitted for inquiry by the Authorities. Gujarat accepted less than two per cent (just 68 out of 3,502) of complaints it received between January 2018 and December 2022. From January 2018 till March 2023, Maharashtra admitted less than a quarter (1,102) of the 4,515 complaints it recorded for inquiry. During the same period, Kerala accepted only 45 per cent of the total complaints for inquiry. Complaints are admitted for inquiry when the Authority decides that they fall within its mandate. **This underscores the need to review and expand the mandate of**

450 *Ibid*, pg. 17.

451 Chapter II, Section 5 – Haryana, pg. 46.

452 Chapter II, Section 2 – Delhi, pg. 27.

453 Chapter II, Section 7 – Karnataka, pg. 59.

454 Chapter II, Section 8 – Kerala, pg. 66.

455 Chapter II, Section 1 – Assam, pg. 17.

PCAs in order to address a wider range of grievances against police personnel that at present go unattended.

9. Limited use of *suo motu* powers to initiate inquiries

Despite the legal mandate, SPCAs are hardly using their *suo motu* powers to initiate an inquiry into reported instances of police misconduct, choosing instead to rely on public complaints. Assam and Maharashtra are the only Authorities to have initiated *suo motu* inquiries. From 2018 till March 2023, Assam initiated 58 complaints in total, although the number of instances in which the Authority invoked this power has fallen from 21 in 2018 to 8 in 2022. Maharashtra has used it in only three cases since 2018.

10. Very few referrals by state institutions

Assam, Haryana and Maharashtra are the only states where SPCAs inquired into complaints received from other state institutions. Referrals in Haryana from the State Government, in particular, have increased substantially from two (out of total 134 complaints) in 2019 to 74 (out of 443) by 2022. The RTI data reveals that the majority of the referrals are about alleged misconduct not defined in the mandate of the PCA.⁴⁵⁶ The Government's initiative of approaching the SPCA to look into cases of police misconduct that come to its notice, is a positive development.

11. Police inaction and non-registration of First Information Report constitute the largest proportion of public complaints

Where information about the classification of offences inquired into by the SPCAs is available (Assam, Haryana, Tripura), the largest number of complaints belonged to the category of "police inaction". Every year from 2018 to 2022, Assam has had around 200 complaints about police inaction such as delay in investigation, negligence and/or misbehaviour. In Haryana, complaints categorised as "others" have increased from 60 in 2019 to 278 in 2022 making it impossible to reckon as to what kind of 'misbehaviour' is being complained about. In Tripura, "police inaction" complaints have gone up from 5 in 2018 to 14 in 2022. "Non-registration of FIR" is the other category that has seen a large number of complaints. While the Tripura PCA received between 9 and 15 complaints of non-registration every year, Assam received nearly 30 complaints every year till 2020. However, this figure has fallen to around 15 every year. Once again, this underscores the need to review the mandate of SPCAs for the purpose of empowering them to address grievances being reported most commonly.

12. High case pendency and inquiries lasting several years

A rising trend of case pendency even as the number of complaints is falling is a matter of concern in several SPCAs. In Maharashtra, the pendency rate went up from less than one per cent in 2018 to 54 per cent in 2022 while complaints fell from 665 to 82. Similarly, in Kerala, the rate of pendency increased hugely from two per cent in 2018 to 45 per cent in 2022 while the number of complaints admitted for inquiry fell from 435 to 146 during this period. There is an urgent need to increase the availability of human resources to PCAs, including by providing for a team of independent investigators to assist them, in order to address people's grievances in a timely manner. The time taken to complete inquiries is another matter of concern. Although Assam is the only Authority which maintains and furnished this data, our analysis reveals a grim picture. The Assam SPAC has as many as 40 complaints received since 2018 which remain pending as on 31 March 2023. They have not been resolved even after five years. Further the PCA has 11 cases pending since 2019, 16 from 2020, 49 from 2021 and 16 from 2022.

13. PCAs recommended action against police personnel in very few complaints

The proportion of complaints in which the PCAs established misconduct and

⁴⁵⁶ Chapter II, Section 5 – Haryana, pg. 46.

recommended action against the police personnel remains very small. Following an inquiry, SPCAs have the mandate to either recommend initiation of a departmental inquiry or registration of First Information Report (FIR) to initiate criminal proceedings against the police officials concerned. Based on available data, no Authority has recommended the registration of FIR in any case since 2018. As regards recommendation for instituting departmental inquiries against police personnel for established misbehaviour, our main findings are as follows:

- ✓ Despite receiving public complaints in the thousands, Delhi has recommended departmental action in just 17 cases so far. Notably, the annual reports indicate that the Lieutenant Governor of Delhi approved all these 17 recommendations for action. Whether action was taken on these recommendations or not remains unclear as this information is not publicly accessible.
- ✓ Assam PCA had recommended action in 46 cases in 2018 and 15 in 2019, but these have come down over the years. In 2021, it recommended action in just two cases whereas in 2022, it did not recommend action in even one case.
- ✓ Kerala has recommended action in just six cases- two in 2019 and four in 2020.

In order to evaluate the effectiveness of SPCA inquiries, it is important to categorise cases according to the following criteria: where complaints were either found baseless; or where they lacked adequate supporting documentation. It is also possible that grievances may exist, such as, where the complainant families either felt they were not provided adequate notice to prepare for hearings or were unable to follow through their complaint for any other reason and the PCA subsequently closed the case. Such an exercise could help identify the barriers to establishing 'misconduct' as alleged in the complaints.

14. Poor implementation of PCA recommendations by State Governments

A major gap in the accountability process remains the poor response from State Governments as well as the state police leadership in terms of acting on the Authorities' recommendations. Assam, Tripura and Uttarakhand Authorities each have repeatedly raised concerns about this issue in their annual reports. The Tripura PCA has emphasised:

"In the cases of recommendations by the Commission to take action against errant police personnel, leniency should not be shown which may ultimately invite public anger and dissatisfaction and may drive public to maintain distance from police"⁴⁵⁷

Yet, action against police officers found guilty of misconduct by the PCAs is hardly initiated by the police departments. Moreover, when this information was requested from the Authorities, they transferred the requests to the police departments, implying that the Authorities are not being informed about the action taken on the basis of their recommendations. This feedback is necessary for the Authorities to monitor the progress they and the states are making towards police accountability.

15. Utilisation of SPCA budgets

SPCAs for the most part are utilising their sanctioned budgets. However, their funds are mostly allocated for salaries/wages/allowances and other office expenditure. The budgets have also for the most part adjusted to the change in membership of the Authorities, coming down when there are more vacancies and rising when vacancies are filled up. As is expected, authorities like Delhi which get a larger number of complaints also have more staff and therefore bigger budgets. Assam and Tripura have been incurring high costs associated with renting office space and have requested repeatedly that they be given their own premises from which to operate. Additionally, not all Authorities

⁴⁵⁷ Police Accountability Commission, Tripura, Annual Report 2019, pg. 171

have funds earmarked for outreach, publicity and publishing activities in their budget. Haryana has utilised its budget for advertising and publicity, but without any additional information, such as an annual report where their activities would be outlined, it is difficult to conclude that it was money well spent.

16. Only five SPCAs publish annual reports

Assam, Delhi, Karnataka, Tripura and Uttarakhand Authorities stand out for preparing and publishing annual reports regularly through the years since their constitution. The reports from Assam, Karnataka and Tripura in particular are detailed and provide a statistical breakdown of the complaints received and inquiries conducted. In contrast, the Delhi PCA's annual report provides only basic information, namely, total complaints received and complaints disposed of during the year. Assam also provides a description of its annual outreach activities targeting the public in its reports. Karnataka stands out for publishing annual reports both in English and the local language (Kannada), therefore making them accessible to a wider audience.

17. Separate investigation cell constituted in very few authorities:

The Authorities for Assam and Tripura are also notable for having set up a separate investigation cell to assist the respective PCAs. Having a dedicated team of investigators is crucial in preventing the PCAs' dependence on the police departments to conduct inquiries into complaints against police personnel. Other PCAs such as in Punjab have been struggling in the past to get cooperation from the police while inquiring into complaints. The Kerala PCA has been demanding independent investigators for a long time but the State Government has failed to provide them despite committing to doing so in 2017, and despite the subsequent order of the High Court of Kerala in this regard.

IMPLICATIONS

The limitations, challenges as well as the potential of SPCAs highlighted in this report throw up several policy implications. That dedicated and localised police oversight bodies such as the SPCAs are needed is evident by the number of complaints the operational authorities have been receiving. But this research shows that the SPCAs as they exist today are unable to provide justice to the people. Their structure, mandate and powers need to be enhanced if they are to emerge as an effective remedy for police misconduct and wrongdoings.

To begin with, a balanced composition with three to five competent persons from diverse fields including the judiciary, police, public administration, law, civil society and human rights is central to upholding SPCAs' independence and integrity. Establishing single-member Authorities or Authorities with serving bureaucrats and police officers as members of PCAs fails to inspire public confidence. Adequate human and budgetary resources will equip the Authorities with the staff and facilities required to function efficiently. Independent investigation wings within PCAs will give them more teeth to conduct inquiries that are – and are seen to be – fair and impartial. Expanding the definition of police “misconduct” and “serious misconduct” to include a wider range of police negligence and wrongdoings, as is emerging from the types of complaints PCAs are receiving, will enable the Authorities address common grievances experienced by the people and recommend preventive measures to the state police and State Governments.

In conducting inquiries, it is important the PCAs keep the process accessible, fair to complainants and police officers complained about, transparent, timely, thorough and impartial. These can be accomplished by adopting comprehensive rules of procedures.

In addition to inquiring into complaints alleging police misconduct, vesting the PCAs with additional powers such as monitoring police departmental inquiries for complaints relating to negligence and misconduct, conducting regular inspections of police stations, ordering protection of witnesses, victims and their families who might face threat or harassment for making a complaint, and recommending payment of monetary compensation to victims for the alleged misconduct will increase their effectiveness.

The recommendations flowing from the PCA inquiry must be binding on State Governments/ police departments after having followed a due appeal process. Without this, PCA inquiries carry little meaning. Practical measures such as specifying time limits within which the Government or the police department must take action on the PCAs' recommendations and making it mandatory for them to inform, in writing, the Authority of their action may help address gaps in follow-up action.

Finally, robust data and independent research on PCAs' activities, complaints, inquiries and recommendations are crucial to demonstrate what works and what needs to be changed. The website and annual reports provide some information and can serve as a foundation for deeper research. Commissioning independent research, engaging regularly with the local media and maintaining linkages with grassroots groups, social activists and human rights defenders can provide the Authorities with a level of legitimacy.

Only a proactive approach of checking police misconduct and working with all stakeholders to push for accountability will help the Authorities gain public respect, foster a culture of accountability, and drive cultural changes in policing that stand to benefit the people as much as police personnel themselves.

RECOMMENDATIONS

Each state section in past of this report includes specific recommendations aimed at the respective State Government and the SPCA. In this section, we summarise broad recommendations that hold true for *all* states in establishing and/or strengthening their State PCAs.

For State Governments

1. **Establish Police Complaints Authorities both at the state, divisional and/or district level.** Depending on the state's population, geography, and number of complaints, consider establishing a multi-tier system of PCAs in order to provide an effective oversight system, as required in the Supreme Court's directive. Where Authorities have been constituted at the divisional level overseeing districts clubbed together such as in Kerala, Maharashtra, Uttarakhand and Andhra Pradesh, states must gradually work to constitute Authorities in each district to enable easier access for residents of every district to seek accountability for police wrongdoings.
2. **Adopt the standards and criteria for membership laid down in the *Model Police Bill, 2015*, namely**
 - a. State and District Police Complaints Authorities to be headed by retired judges of the High Court and District Courts respectively;
 - b. The Chairpersons of both such Authorities to be chosen from a panel of names suggested by the state High Court;
 - c. No serving government and/or police officer be included in the Authorities;

- d. No person with any political affiliation to be included in the Authorities;
 - e. Not more than one retired police officer from a different state cadre to be included as a Member of the State Police Complaints Authority;
 - f. At least three independent Members to be included in every Authority, drawn from varied fields including judicial services, public administration, criminology, law and human rights;
 - g. At least one Member in every Authority to be a woman;
 - h. At least one Member in every Authority to be from a marginalised community;
 - i. The Members be appointed through an independent selection process in a transparent manner, and against objective criteria; and
 - j. The Members be appointed on a full-time basis and enjoy a tenure of three years, with grounds of removal kept to the minimum and specified in clear terms.
3. **Provide an investigation wing to the Police Complaints Authorities:** To assist the Authorities inquire into allegations of police misconduct in an impartial manner and without extraneous pressure from the executive, PCAs must be provided with an investigation wing as required under the *Model Police Bill, 2015*. This is important to put an end to the current practice where, in the absence of a team of investigators, the PCAs are relying on the state police department to inquire into complaints of misconduct against its own personnel. An officer not below the rank of Inspector General of Police can head the wing.
 4. **Fill vacancies:** Existing vacancies must be filled without delay. Keeping in mind that appointment of Members and Chairperson through an independent selection process requires time, the States should track the end of tenures and start the renewal/appointment processes at least six months in advance. The absence of Chairperson/Members restricts the functioning of the Authorities; while they continue to receive complaints, no action of consequence is taken on them, thus increasing pendency and future workload. Making timely appointments also prevents needless litigation seeking such appointments before the High Courts.
 5. **Expand the mandate of State Police Complaints Authorities:** Given the difficulties in holding the police to account for misconduct, the role and mandate of the SPCAs needs to be strengthened in line with the *Model Police Bill, 2015*. The SPCA should, specifically, be empowered to:
 - a. Take *suo motu* notice of police misconduct;
 - b. Inquire into serious misconduct which must include, at the minimum, death in custody, grievous hurt, rape/attempt to rape and illegal arrest and detention, along with any other misconduct as prescribed by State Governments from time to time as needed;
 - c. Monitor the progress of departmental inquiries and/or criminal investigation on complaints of misconduct forwarded by the SPCA through a quarterly report received from the Director General of Police;
 - d. Inspect any police station, lock-up, or any other place of detention used by the police;
 - e. Advise the Government on measures to ensure protection of witnesses, victims and families in any inquiry conducted by the complaints body; and
 - f. Recommend payment of monetary compensation to victims of alleged misconduct.
 6. **Refrain from restricting SPCAs' mandate:** Recent attempts by States to shrink/narrow down the SPCAs' mandate, either by taking away the power to initiate *suo motu* action

or limiting the definition to serious misconduct, render the States non-compliant with the *Prakash Singh* judgment. Having created these authorities, the State Governments must stay away from interfering with their working.

7. **Make recommendations of Police Complaints Authorities binding on state police and State Governments:** The decision of the Police Complaints Authorities to either register a criminal case against the police officials concerned or initiate a departmental inquiry or both, must be made binding on the state police and the State Governments. Unless police departments are given strict instructions to take necessary action where *prima facie* evidence of misconduct is found, PCA inquiries amount to a waste of public resources and only add to the struggles of the complainant/victim and their family in seeking accountability. Towards this, provisions of the *Model Police Bill, 2015* need to be adopted, as follows:
 - a. the State Police Chief shall submit a quarterly progress report of any investigation or departmental inquiry initiated on complaints of misconduct to the State Police Complaints Authority; and
 - b. any unexplained failure or unreasonable delay in the submission of progress reports be construed as misconduct, as defined in the state police acts/government orders for the function of the Police Complaints Authorities, and shall also be reported by the State Police Complaints Authority to the State Government.
8. **Annual Reports to be placed before the State Legislature:** All PCAs must be encouraged to prepare detailed annual reports with information on the Authorities' functioning as well as the volume, type and status of complaints received and the manner of their disposal. State Governments must table them in the State Legislature and ensure that adequate time is given to discuss the annual report and its recommendations in the plenary or in an appropriate legislative committee. This is a crucial way of ensuring that the work of the PCA and the response of the Government is subjected to scrutiny by elected representatives of the citizens. It is also the way through which the Authority communicates its needs to the legislature and is able to share its working with the public at large.
9. **Audits of State Police Complaints Authorities:** Where SPCAs have been operational for more than five years, a performance audit can help identify ways in which the Authorities can better meet their objectives. The audit may review the SPCAs' activities including:
 - ✓ The volume, types and patterns of public complaints received from all sources;
 - ✓ Due process followed for holding inquiries including steps taken to ensure both parties are given a fair opportunity to present their case, the hearings are in a language that is understood by both parties, and inquiries are completed in an impartial and timely manner;
 - ✓ Challenges in conducting inquiries including the requirement to travel across the state and cooperation of the police department;
 - ✓ Extent to which the police department is taking action on the Authority's recommendations including those on witness protection and victim compensation, and
 - ✓ Frequency, reach and impact of its outreach work and training of its own staff.

Accordingly, the audit may recommend measures for expanding the SPCA's reach, mandate, powers, and resources including additional staff and facilities (such as computers, vehicles) that can facilitate just and timely completion of inquiries.

For Police Complaints Authorities

- 10. Develop Rules of Procedure:** Each SPCA must develop rules to govern its functioning and that of the district Authorities within the state. As recommended by the *Model Police Bill, 2015*, “such rules shall be framed with a view to establishing easily understood procedures involving minimal obligations on the part of the complainant, and encouraging ease of access and participation of all parties.”⁴⁵⁸ In formulating rules of procedure, States must ensure that the rights of the complainant as listed in the *Model Police Bill, 2015* are protected. These include the right to be informed from time to time of the progress of the inquiry by the SPCA or DPCAs looking into any complaint; of the findings of any such inquiry as well as final action taken in the case; and to attend all hearing in any inquiry related to the complaint. Additional safeguards such as providing the services of an interpreter where hearings are held in a language the complainant does not know and laying down a process whereby a complainant may appeal the finding of an inquiry will further strengthen the credibility of these accountability bodies.⁴⁵⁹
- 11. Specify timeframe for completing inquiries:** It is important for the police complaints authorities to complete their inquiries as expeditiously as possible because their findings will then set in motion other steps for holding the police to account. Each State must specify a clear timeframe for completing inquiries, which must be no later than 90 days from the receipt of complaint, as specified in the *Model Police Bill, 2015*. States must further consider the *Model Police Bill, 2015* recommendations that any complaint concerning the life or liberty of any person shall be attended to immediately and within 24 hours of the receipt of the complaint.
- 12. Share information about the functioning of the Authority proactively on the website:** To inspire public confidence in the independent working of the Authority, we recommend that each SPCA maintain an up-to-date website where the following information is available in the official language(s) of the state:
 - ✓ Name, postal address, phone number and email addresses of the SPCA and DPCAs (if any) along with their working hours;
 - ✓ Names and profiles of its current Chairperson and Members;
 - ✓ History, mandate, powers and functions of the Authority;
 - ✓ Foundational documents, including police acts, rules & regulations and relevant government orders & notifications.
 - ✓ Modes for filing complaints (by post, online or in person) and a brief explanation of the process that follows;
 - ✓ Tracking of complaints along with copies of orders and decisions;
 - ✓ Publications including outreach materials and annual reports;
 - ✓ Outreach activities being undertaken within the state, including information about upcoming sessions that are open to public;
 - ✓ Answers to "frequently asked questions"; (FAQs);
 - ✓ Case statistics including volume, types and patterns of complaints & referrals received from all sources and *suo motu* action undertaken;
 - ✓ Budget and expenditure reports of the Authority as specified under Section 4(1) (b) of the *Right to Information Act, 2005*; and,
 - ✓ Contact details of the Public Information Officer and the Appellate Authorities under the *Right to Information Act, 2005*.

⁴⁵⁸ Clause 86(5)(b), Model Police Bill, 2015.

⁴⁵⁹ These were included in the Model Police Act, 2006 under Clause 177(5) and (6).

For the Police Department

13. Prioritise action on the recommendations of Police Complaints Authorities including:

- ✓ Timely departmental inquiries against the concerned personnel;
- ✓ Regular updates to the Authorities on action taken and status of departmental inquiries including reasons for delay in implementing and/or disagreement with the SPCA's recommendations where necessary;
- ✓ Review patterns of misconduct based on the reported complaints before the SPCA, and accordingly evaluate and strengthen policies, processes, procedures and training for all personnel with a view to reducing the causes for the emergence of complaints from the people.

14. Awareness about Police Complaint Authorities' role with the public: Take steps to ensure up-to-date information about the state and district/division level PCAs – their role, mandate, procedure to make a complaint & contact details – is made available in English and in local languages at all administrative units including the police headquarters, district headquarters and police stations; is widely shared through social media including the state police website; and disseminated through other state institutions such as the State Human Rights Commission and the State/District Legal Services Authorities for wider public knowledge.

For Civil Society

15. Monitor the independent working of the Police Complaints Authorities:

- ✓ Draw public attention to appointments not in line with the Supreme Court's directive and long periods of vacancies at the Authorities;
- ✓ Engage with the recommendations issued by the SPCA in its annual reports for enhancing police accountability;
- ✓ Spread awareness about the role, mandate and functioning of the Authorities and support victims in filing complaints;
- ✓ Raise public attention at attempts to limit the mandate of the Authorities through government intervention; and,
- ✓ Facilitate sharing of best practices being adopted at the Authorities across states.

APPENDIX I: DETAILED METHODOLOGY

The paper is based on information secured in two phases through Right to Information (RTI). Information has been kept up to date until September 2023.

First Phase

The first phase involved sending RTI applications to 12 state authorities between February-March 2021- Chandigarh, Daman & Diu, Delhi, Goa, Gujarat, Haryana, Karnataka, Kerala, Maharashtra, Punjab, Tripura and Uttarakhand-via speed post.

The applications sought information about the current composition of the Authority and the Public Information Officer, copies of the order constituting it, annual reports, rules of procedure, its budget & expenditure and information on the complaints received, their status and action recommended by the Authority over a period of three years (2018-2020). A sample copy of an RTI application sent out in 2021 is attached as the [Appendix II.A](#).

The RTI process, however, was deeply impacted by the second wave of the COVID-19 pandemic that hit India from April 2021 onwards. There were considerable delays in receiving responses, and we at our end were unable to follow-up on the applications. This is also the reason why we were unable either to interview PCA Chairpersons/Members or pursue RTI with District Police Complaints Authorities that have been established in select States. A draft version of this report was prepared but could not be published.

Second Phase

The second phase of research began in 2023. Between April and July 2023, CHRI sent 40 RTI applications to cover all States and UTs- to Police Complaint Authorities, Home Departments and the Offices of Lokayuktas (where they have been vested with the role of the PCA) via speed post. Keeping a focus on state level PCAs, CHRI did not pursue RTI applications for functional district level PCAs.

1. RTIs to state-level Police Complaint Authorities

Between April and May 2023, CHRI revised its list of functioning PCAs and sent RTI applications to 19 authorities- Andaman & Nicobar, Assam, Chandigarh, Chhattisgarh, Daman & Diu and Dadra and Nagar Haveli, Delhi, Goa, Gujarat, Haryana, Jharkhand, Karnataka, Kerala, Maharashtra, Puducherry, Punjab, Rajasthan, Sikkim, Tripura and Uttarakhand. For two authorities, Rajasthan and Daman & Diu and Dadra and Nagar Haveli, the applications came back undelivered. These were then sent to their respective Home Departments with a request to redirect them to the Authority. An application each was sent to Nagaland and Tamil Nadu (via their Home Department requesting them to transfer the application to the Authority) in July 2023 in response to the reply received from their respective Home Departments. Overall RTI applications were sent to 21 Authorities.

The applications largely followed the same format as the applications sent out in 2021 with one major change; the period of time for which we sought information was now revised to January 2018 – March 2023. To prevent duplication, CHRI did not repeat the request for copies of documents such as government orders, notifications, annual reports etc. where the Authority had previously provided that information in 2021. A sample copy of an RTI application sent out to PCAs in 2023 is attached as the [Appendix II.B](#).

CHRI did not receive any response from five authorities – Andaman & Nicobar Islands, Chhattisgarh, Dadra & Nagar Haveli and Daman & Diu, Punjab and Sikkim – despite follow-up. Other authorities responded in varying degrees, the extent of which is recorded in detail in their respective "Source of Information" box at the start of each State/UT section.

II. RTI to Home Departments

In addition to the PCAs, CHRI also requested an update from the Home Departments of the remaining states and the Ministry of Home Affairs (for the UTs), on the status of their compliance with the *Prakash Singh* judgement that required them to set up PCAs. In May 2023, RTI applications were sent to 15 Home Departments – Andhra Pradesh, Arunachal Pradesh, Bihar, Himachal Pradesh, Madhya Pradesh, Manipur, Meghalaya, Ministry of Home Affairs (Government of India), Mizoram, Nagaland, Odisha, Tamil Nadu, Telangana, Uttar Pradesh and West Bengal.

These applications requested copies of orders/notifications constituting or otherwise related to the functioning of the state level PCAs, information about the composition of the Authorities (if available) and any rules of procedure that may have been framed. A sample copy of an RTI application sent out to Home Departments in 2023 is attached as the [Appendix II.C](#).

CHRI did not receive any response from four states – Arunachal Pradesh, Manipur, Mizoram and Telangana. The application came back undelivered from Himachal Pradesh. Nagaland and Tamil Nadu responded that the PCAs in their states were functional; as a follow-up, RTI applications were sent to their PCAs requesting information on complaints received against police personnel, their status and action recommended by the Authority between January 2018 and March 2023. Andhra Pradesh and West Bengal responded that their respective PCAs had been recently operationalised (in 2023) and provided the relevant documents. No follow-up RTI applications were sent to these newly formed authorities because they could not provide any functional information from January 2018-March 2023. Other Home Departments responded in varying degrees the extent of which is recorded in detail in their respective "Source of Information" box at the start of each State/UT section in this report. CHRI did not follow up with any Home Department.

III. RTIs to Lokayuktas

CHRI also sent RTI applications to two offices of the Lokayukta – Himachal Pradesh and Odisha in May 2023. In these states the Lokayukta has been vested with the function of a PCA in contravention with the Supreme Court direction that calls for a separate and independent oversight body. An RTI application had also been sent to their home departments as mentioned in the previous section, seeking an update on their status of compliance. The applications to the Lokayukta requested information on the complaints received against police personnel, their status and action recommended by the Authority between January 2018 and March 2023. Both Lokayuktas responded with the information. A sample copy of an RTI application sent out to the Lokayuktas in 2023 is attached as the [Appendix II.D](#).

APPENDIX II: CONTENT OF THE RTI APPLICATIONS

Appendix II.A – RTI sent to Delhi PCA in 2021 (first phase)

FROM

26 March, 2021

XXXX

55A, 4th Floor, Siddharth Chambers,
Kalu Sarai, New Delhi - 110016
Tel. No. 43180200

TO

Public Information Commission
Delhi Police Complaints Authority
C/o Public Grievances Commission
Govt. of NCT of Delhi, M-Block,
10th floor, Chandralok Building, Janpath
New Delhi -110001
Phone: 21400977/21400976

Application for information under Section 6(1), Right to Information Act, 2005

Dear Sir/Madam,

Please provide me with the following information -

1. Please specify the composition of the Delhi Police Complaints Authority in the following format:
 - a. CHAIRPERSON

Name	Qualification/Profession	Date of Appointment	Tenure

- b. MEMBERS

S.No.	Name	Qualification/Profession	Date of Appointment	Tenure
1				
2				
3				
4				

2. Please provide a certified copy of government order constituting the Delhi Police Complaints Authority.
 3. Please specify (*in numbers*) the following from 1st January 2019 to 15 March 2021 on complaints in the format provided below. Please provide year wise data separately.

1 JANUARY 2019 - 31ST DECEMBER 2019

Nature	Total Complaints						Response of PCA			Action recommended by PCA after inquiry			
	Public Complaints Received	Suo motu inquiry initiated	Referred by the Government/ Director General of Police	Referred by District accountability authorities	Any Other	Male section	Total complaints (Col 1+2+3+4+5)	Complaints Admitted for inquiry by PCA (out of total complaints specified in Column (6) (8)	Closed without inquiry by PCA (out of total complaints specified in Column 6)	Registration of FIR	Departmental inquiry	Pending inquiry	Any other
	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)					
Death													
Grievous hurt													
Molestation													
Rape/attempt to Rape													
Arrest or detention without due process													
Blackmail/Extortion													
Deprivation of property													
Non-registration of FIR													
Any other (Please specify the nature)													
Total													

1 JANUARY 2020 – 31ST DECEMBER 2020

Nature	Total Complaints						Response of PCA			Action recommended by PCA after inquiry			
	Public Complaints Received (1)	Suo motu inquiry initiated (2)	Referred by the Government/ Director General of Police (3)	Referred by District accountability authorities (4)	Any Other (5)	Male section (6)	Total complaints (Col 1+2+3+4+5) (7)	Complaints Admitted for inquiry by PCA (out of total complaints specified in Column (6)) (8)	Closed without inquiry by PCA (out of total complaints specified in Column 6)	Registration of FIR Departmental inquiry	Pending inquiry	Any other	
Death													
Grievous hurt													
Molestation													
Rape/attempt to Rape													
Arrest or detention without due process													
Blackmail/Extortion													
Deprivation of property													
Non-registration of FIR													
Any other (Please specify the nature)													
Total													

1 JANUARY 2021 – 15 MARCH 2021

Nature	Total Complaints						Response of PCA			Action recommended by PCA after inquiry			
	Public Complaints Received (1)	Suo motu inquiry initiated (2)	Referred by the Government/ Director General of Police (3)	Referred by District accountability authorities (4)	Any Other (5)	Male section (6)	Total complaints (Col 1+2+3+4+5) (7)	Complaints Admitted for inquiry by PCA (out of total complaints specified in Column (6) (8)	Closed without inquiry by PCA (out of total complaints specified in Column 6)	Registration of FIR Departmental inquiry	Pending inquiry	Any other	
Death													
Grievous hurt													
Molestation													
Rape/attempt to Rape													
Arrest or detention without due process													
Blackmail/Extortion													
Deprivation of property													
Non-registration of FIR													
Any other (Please specify the nature)													
Total													

4. Please specify the status of action recommended by the PCA:

	2019		2020		2021 (up to 15 March 2021)	
	Action recommended on complaints from previous years	Action recommended on complaints during the year	Action recommended on complaints from previous years	Action recommended on complaints during the year	Action recommended on complaints from previous years	Action recommended on complaints during the year
FIR registered						
Departmental enquiry initiated						
Departmental inquiry completed						
Any other action taken (please specify the nature)						

5. Please provide a certified copy of the PCA Annual Reports for 2018, 2019 and 2020.

6. Please provide a certified copy of the rules of procedure governing the PCAs, if any.

7. Please specify the source of budget for the State PCA.

8. Please specify (in numbers) the following:

	Budget (in Rs)	Expenditure (in Rs)
2016-2017		
2017-2018		
2018-2019		
2019-2020		
2020-2021		

9. Please provide the following details of Public Information Officers (PIO) at the State PCA:

State	Name & Designation	Date of Appointment	Tenure

I am a citizen of India and I would like to obtain the information by registered post at the address mentioned above. If possible, I would like to have the information in English. I am enclosing the required fee of **Rs. 10 via Indian Postal Order No. 47F 391788** with this request. Kindly inform me of any additional fees payable towards obtaining this information.

Thanking you,

-Sgd

XXX

Appendix II.A – RTI sent to Delhi PCA in 2021 (first phase)

FROM

_____ April, 2023

XXX

55A, 3rd Floor, Siddharth Chambers,

Kalu Sarai, New Delhi - 110016

XXX@humanrightsinitiative.org

TO

Public Information Commission

Delhi Police Complaints Authority

C/o Public Grievances Commission

Govt. of NCT of Delhi,

10th floor, Chandralok Building, Janpath

New Delhi -110001

Phone: 21400977/21400976

Application for information under Section 6(1), Right to Information Act, 2005

Dear Madam/Sir,

Please provide me with the following information -

1. Names, date of appointment, qualification(s) and tenure of the current Chairperson and all Members of the Delhi Police Complaints Authority (Delhi PCA), along with a copy of all notifications relating to their appointment.
2. Year-wise number of **complaints** received by the Delhi PCA against police personnel during the period **01 January 2018 to 31 March 2023**. Please provide this data by type of allegations specified under Notification No. F/28/1/2017/HP-I/Estt./Part File/635-641 dated 29.01.2018 of the Govt. of NCT of Delhi (Home Dept.) as follows:
 - i. Death;
 - ii. Grievous hurt;
 - iii. Rape/attempt to rape;
 - iv. Arrest or detention without due process;
 - v. Extortion;
 - vi. Land/house grabbing;
 - vii. Serious abuse of authority; or
 - viii. Any other (*please specify the nature*); *
3. Year-wise number of **suo motu inquiries** instituted by the Delhi PCA against police personnel during the period **01 January 2018 to 31 March 2023** by type of allegations specified in Point #2 above; *
4. Year-wise number of inquiries instituted by the Delhi PCA against police personnel on the basis of referral from the a) Government (of India *and* of NCT of Delhi); **b) Director General of Police; c) District Police Complaints Authorities; and d) any other authority** during the period **01 January 2018 to 31 March 2023** by type of allegations specified in Point #2 above; *
5. Of the complaints received under Points 2, 3 and 4 above, the year-wise number of **complaints admitted for inquiry** by the Delhi PCA during the period **01 January 2018 to 31 March 2023** by type of allegations specified in Point #2 above; *
6. Year-wise total number of complaints (by type of allegations specified in Point #2) in

which the Delhi PCA recommended the following actions during the period **01 January 2018 to 31 March 2023**:

- a. Initiation of Departmental Inquiry; or
 - b. Registration of First Information Report; *
7. Year-wise total number of complaints (by type of allegations specified in Point #2) pending inquiry during the period **01 January 2018 to 31 March 2023**; *
 8. Year-wise total number of **departmental inquiries initiated** by the Delhi Administration/ Delhi Police Department **against police personnel** (by type of allegations specified in Point #2) based on the recommendation of the Delhi PCA during the period **01 January 2018 to 31 March 2023**.
 9. Year-wise total number of **First Information Reports registered** by the Delhi Administration/Delhi Police Department **against police personnel** (by type of allegations specified in Point #2) based on the recommendation of the Delhi PCA during the period **01 January 2018 to 31 March 2023**.
 10. Copy of the Delhi PCA Annual Reports for the years 2018-2019, 2020-2021, 2021-2022, and 2022-2023.
 11. Copy of the item-wise budget sanctioned and the item-wise expenditure incurred by the Delhi PCA for financial years 2018-2019, 2019-2020, 2020-2021, 2021-2022 and 2022-2023.

I am a citizen of India and I would like to obtain the information by registered post at the address mentioned above. If possible, I would like to have the information in English. I am enclosing the required fee of Rs. 10 via IPO No. _____ with this request. Kindly inform me of any additional fees payable towards obtaining this information.

Thanking you,

-Sgd

XXX

** A suggested format for addressing Points #2-7 of the Application is attached in the Annexure*

Annexure - Suggested format for addressing Points #2-7 (for one sample year)

1 JANUARY 2018 – 31 DECEMBER 2018												
Nature	Total Complaints						Response of PCA			Action recommended by PCA after inquiry		
	Complaints Received (1)	Suo motu inquiry initiated (2)	Referred by the Government/ Director General of Police (3)	Referred by District Police Complaints Authority (4)	Referred by any other authorities (5)	Total complaints (Col 1+2+3+4+5) (6)	Complaints Admitted for inquiry by PCA (out of total complaints specified in Column 6) (7)	Closed without inquiry by PCA (out of total complaints specified in Column 6) (8)	Initiation of departmental inquiry (9)	Registration of FIR (10)	Pending inquiry (11)	
Death												
Grievous hurt												
Rape/Attempt to rape												
Arrest or detention without due process												
Extortion												
Land/house grabbing												
Serious abuse of authority												
Any other (please specify the nature)												
Total												

**Appendix II.C – RTI sent to Home Department, Andhra Pradesh in 2023
(second phase)**

FROM

_____ April, 2023

XXX

55A, 3rd Floor, Siddharth Chambers,

Kalu Sarai, New Delhi - 110016

XXX@humanrightsinitiative.org

TO

Public Information Officer,

Home Department, Government of Andhra Pradesh

A.P Secretariat Office,

Velagapudi – 522503

Guntur Dist.,

Andhra Pradesh

Application for information under Section 6(1), Right to Information Act, 2005

Dear Madam/Sir,

Please provide me with the following information -

1. Whether an independent Police Complaints Authority has been constituted at the state level as required by the Supreme Court of India in *Prakash Singh & Ors. v. Union of India & Ors.* dated 22 September 2006.
2. If yes, a certified copy of all government notifications, circulars, orders or any other documents till date relating to the constitution and functioning of the Andhra Pradesh State Police Complaints Authority (Andhra Pradesh SPCA);
3. Names, date of appointment, qualification(s) and tenure of the current Chairperson and all Members of the Andhra Pradesh SPCA, along with contact details including postal address (with pin code), phone number and email address of the Andhra Pradesh SPCA;
4. Copy of the rules of procedure and/or standard operating procedures governing the Andhra Pradesh SPCA, if any.

I am a citizen of India and I would like to obtain the information by registered post at the address mentioned above. If possible, I would like to have the information in English. I am enclosing the required fee of Rs. 10 via IPO No. _____ with this request. Kindly inform me of any additional fees payable towards obtaining this information.

Thanking you,

-Sgd

XXX

Appendix II.D – RTI sent to Lokayukta, Himachal Pradesh in 2023 (second phase)

FROM

_____ April, 2023

XXX

55A, 3rd Floor, Siddharth Chambers,
Kalu Sarai, New Delhi - 110016
Tel. No. 011- 43180200

TO

Public Information Officer
Lokayukta Himachal Pradesh
Pines Grove Building,
Shimla-171002
Himachal Pradesh

Application for information under Section 6(1), Right to Information Act, 2005

Dear Madam/Sir,

Please provide me with the following information -

1. Year-wise number of **public complaints** received by the Himachal Pradesh Lokayukta against police personnel for criminal misconduct (as specified in Section 93 of the Himachal Pradesh Police Act, 2007) during the period **01 January 2018 to 31 March 2023**;^{*}
2. Year-wise number of **suo motu inquiries** instituted by the Himachal Pradesh Lokayukta against police personnel for criminal misconduct (as specified in Section 93 of the Himachal Pradesh Police Act, 2007) during the period **01 January 2018 to 31 March 2023**;^{*}
3. Of the complaints received under Points 1 and 2 above, the year-wise number of **complaints admitted for inquiry** by the Himachal Pradesh Lokayukta during the period **01 January 2018 to 31 March 2023**;^{*}
4. Year-wise total number of complaints in which the Himachal Pradesh Lokayukta recommended the following actions during the period **01 January 2018 to 31 March 2023**:
 - c. Initiation of Departmental Inquiry; or
 - d. Registration of First Information Report; ^{*}
5. Year-wise total number of complaints pending inquiry during the period **01 January 2018 to 31 March 2023**; ^{*}
6. Year-wise total number of **departmental inquiries initiated** by the Himachal Pradesh Government/Himachal Pradesh Police Department **against police personnel** for criminal misconduct (as specified in Section 93 of the Himachal Pradesh Police Act, 2007) based on the recommendation of the Himachal Pradesh Lokayukta during the period **01 January 2018 to 31 March 2023**.
7. Year-wise total number of **First Information Reports registered** by the Himachal Pradesh Government/Himachal Pradesh Police Department **against police personnel** for criminal misconduct (as specified in Section 93 of the Himachal Pradesh Police Act, 2007) based on the recommendation of the Himachal Pradesh Lokayukta during the period **01 January 2018 to 31 March 2023**.

I am a citizen of India and I would like to obtain the information by registered post at the address mentioned above. If possible, I would like to have the information in English. I am enclosing the required fee of Rs. 10 via IPO No. _____ with this request. Kindly inform me of any additional fees payable towards obtaining this information.

Thanking you,

-Sgd

XXX

** A suggested format for addressing Points #2-7 of the Application is attached in the Annexure.*

APPENDIX III: SPCAs – CONTACT DETAILS

<p>Assam Police Accountability Commission Hno. - 95 "Amitabh" Dr. B.K. Kakati Road, Ulubari, Guwahati Assam-7811007 Phone: 0361-2462407 Email: aspolacct@gmail.com Website: https://spac.assam.gov.in/</p>	<p>Chhattisgarh State Police Accountability Authority Behind State Guest House Pahuna Canal Road, Shanti Nagar, Raipur Chhattisgarh-492001 Phone: 0771-2429854 More information: https://cgslsa.gov.in/CGSPAA.htm</p>
<p>Delhi Police Complaints Authority Govt. of NCT of Delhi, 10th Floor, Chanderlok Building, Janpath, New Delhi-110001 Phone: 011-21400977/21400976 Email: pca.delhi@nic.in Website: https://pca.delhi.gov.in/</p>	<p>Goa State Police Complaints Authority Serra Building, Near All India Radio, Altinho, Panaji Goa - 403001 Phone: 832-2424850, 2230179 Email: spcapanajigoa@rediffmail.com More information: https://www.goa.gov.in/departments/state-police-complaints-authority/</p>
<p>Gujarat State Police Complaints Authority Karmayogi Bhavan, Block No.1, 6th Floor, Gandhinagar. Gujarat-382010 Phone: 079-232-55801, 55803, 55805 Email: so-spca-home@gujarat.gov.in Website: https://gspca.gujarat.gov.in/</p>	<p>Haryana State Police Complaints Authority Old PWD(B&R) Building, Sector 19B, Chandigarh Haryana-160019 Phone: 0172-2772244, 7888338787 (Mob) Email: spca.haryana@nic.in Website: https://spcahry.nic.in/</p>
<p>Himachal Pradesh Lokayukta Pines Grove Building, Shimla Himachal Pradesh-171002 Phone: 0177-2624908 Email: hplokayukta@gmail.com Website: https://lokayukta.hp.gov.in/</p>	<p>Jharkhand Police Complaints Authority E-4/8, Saket Nagar, Behind Indira Palace, Hinoo, Ranchi, Jharkhand-834002 Phone: 0651-2253860 Email: jspca2016@gmail.com</p>
<p>Karnataka State Police Complaints Authority Third Floor, VV Main Tower, Dr. B.R. Ambedkar Veedhi, Bengaluru, Karnataka-560001 Phone: 080-22868302/22868303 Email: spca@karnataka.gov.in Website: https://kspca.karnataka.gov.in/en</p>	<p>Kerala State Police Complaints Authority TC No. XV/1402, Tagore Nagar, Vazhuthacaud, Thiruvananthapuram, Kerala-695014 Telefax – 0471 – 2336939 Email: spcakerala@gmail.com</p>
<p>Maharashtra State Police Complaints Authority, Cooperage Telephone Exchange, 4th Floor, Maharshi Karve Road, Nariman Point, Mumbai Maharashtra-400021 Phone: 022-22820089/45/46 Email: mahaspc@gmail.com</p>	<p>Odisha Lokayukta (Police Complaint Authority) B-2, Ground floor, Toshali Bhawan, Satyanagar, Bhubaneswar Odisha-751007 Phone: 0674-2952237 Email: lokayukta.odisha@gov.in Website: https://lokayukta.odisha.gov.in/</p>

<p>Punjab State Police Complaints Authority Room No. 222, 2nd Floor, Punjab Mini Secretariat Sector 9, Chandigarh, Punjab-160001 Phone: 0172-2741173 Email: pbpca21@gmail.com</p>	<p>Tripura Police Accountability Commission Govt. Qtr. No. VI/14, Shyamalibazar, Kunjaban Township, Agartala, Tripura (W)-799006 Phone: 0381-2350056/2565, 6033029883(Mob) Email: tripurapolicecommission@rediffmail. com Website: https://pac.tripura.gov.in/</p>
<p>Uttarakhand State Police Complaint Authority 28, Park Road Near Deep Lodge Laxman Chowk, Dehradun Uttarakhand-248001 Phone: 0135-2520317</p>	

CHRI Programmes

CHRI seeks to hold the Commonwealth and its member countries to high standards of human rights, transparent democracies and Sustainable Development Goals (SDGs). CHRI specifically works on strategic initiatives and advocacy on human rights, Access to Justice and Access to Information. Its research, publications, workshops, analysis, mobilisation, dissemination and advocacy, informs the following principal programmes:

1. Access to Justice (ATJ)

Police Reforms: In too many countries the police are seen as an oppressive instrument of state rather than as protectors of citizens' rights, leading to widespread rights violations and denial of justice. CHRI promotes systemic reform so that the police act as upholders of the rule of law rather than as enforcers of a regime. CHRI's programme in India and South Asia aims at mobilising public support for police reforms and works to strengthen civil society engagement on the issues. In Tanzania and Ghana, CHRI examines police accountability and its connect to citizenry.

Prison Reforms: CHRI's work in prisons looks at increasing transparency of a traditionally closed system and exposing malpractices. Apart from highlighting systematic failures that result in overcrowding and unacceptably long pre-trial detention and prison overstay, it engages in interventions and advocacy for legal aid. Changes in these areas can spark improvements in the administration of prisons and conditions of justice.

2. Access to Information

* **Right to Information:** CHRI's expertise on the promotion of Access to Information is widely acknowledged. It encourages countries to pass and implement effective Right to Information (RTI) laws. It routinely assists in the development of legislation and has been particularly successful in promoting Right to Information laws and practices in India, Sri Lanka, Afghanistan, Bangladesh, Ghana and Kenya. In Ghana, CHRI as the Secretariat for the RTI civil society coalition, mobilised the efforts to pass the law; success came in 2019 after a long struggle. CHRI regularly critiques new legislation and intervenes to bring best practices into governments and civil society knowledge both at a time when laws are being drafted and when they are first being implemented. It has experience of working in hostile environments as well as culturally varied jurisdictions, enabling CHRI bring valuable insights into countries seeking to evolve new RTI laws.

***Freedom of Expression and Opinion -- South Asia Media Defenders Network (SAMDEN):** CHRI has developed a regional network of media professionals to address the issue of increasing attacks on media workers and pressure on freedom of speech and expression in South Asia. This network, the South Asia Media Defenders Network (SAMDEN) recognises that such freedoms are indivisible and know no political boundaries. Anchored by a core group of media professionals who have experienced discrimination and intimidation, SAMDEN has developed approaches to highlight pressures on media, issues of shrinking media space and press freedom. It is also working to mobilise media so that strength grows through collaboration and numbers. A key area of synergy lies in linking SAMDEN with RTI movements and activists.

3. International Advocacy and Programming

Through its flagship Report, *Easier Said Than Done*, CHRI monitors the compliance of Commonwealth member states with human rights obligations. It advocates around human rights challenges and strategically engages with regional and international bodies including the UNHRC, Commonwealth Secretariat, Commonwealth Ministerial Action Group and the African Commission for Human and People's Rights. Ongoing strategic initiatives include advocating for SDG 16 goals, SDG 8.7 (see below), monitoring and holding the Commonwealth members to account and the Universal Periodic Review. We advocate and mobilise for the protection of human rights defenders and civil society spaces.

4. SDG 8.7: Contemporary Forms of Slavery

Since 2016, CHRI has pressed the Commonwealth to commit itself towards achieving the United Nations Sustainable Development Goal (SDG) Target 8.7, to 'take immediate and effective measures to eradicate forced labour, end modern slavery and human trafficking and secure the prohibition and elimination of the worst forms of child labour, including recruitment and use of child soldiers, and by 2025 end child labour in all its forms.' In July 2019 CHRI launched the Commonwealth 8.7 Network, which facilitates partnerships between grassroots NGOs that share a common vision to eradicate contemporary forms of slavery in Commonwealth countries. With a membership of approximately 60 NGOs from all five regions, the network serves as a knowledge-sharing platform for country-specific and thematic issues and good practice, and to strengthen collective advocacy.

Seventeen years ago, in its landmark judgement on police reforms-Prakash Singh & Ors. v. Union of India & Ors, (2006), the Supreme Court of India directed all States and Union Territories to set up Police Complaints Authorities (PCAs) at the state as well as the district level. Envisaged as independent and dedicated oversight bodies that would inquire into the functioning of the police, they also function as a forum for citizens to seek redress against police wrongdoings.

CHRI has monitored and reported on the status of PCAs since inception. Our first national-level report on the PCAs was published in 2009 in which we pointed to gaps, both in the legal framework constituting them as well as in their functioning. Subsequently we published similar status reports in 2012 and 2020. Building on these efforts, in our latest report we examine the current status of PCAs at the state level with the aim of highlighting both their potential, as well as limitations in enforcing greater police accountability across the country. Information was collected for this analytical study through requests made under the Right to Information Act, 2005, in two phases- first in 2021 and later in 2023.

The findings from our study and recommendations are primarily intended to encourage policy and legal review of the PCAs' role and relevance in the context of police accountability. Additionally, we hope the research will inspire deeper probing of the efficacy of these institutions, increase civil society and media engagement with them and mobilise public pressure on governments that are yet to set up such authorities.



Commonwealth Human Rights Initiative
55A, Third Floor, Siddhartha Chambers - I,
Kalu Sarai, New Delhi 110 016, India
Tel/Fax: +91 11 2696 8605
E-mail: info@humanrightsinitiative.org
Website: www.humanrightsinitiative.org
Twitter/X: [@CHRI_INT](https://twitter.com/CHRI_INT)

